



Department
of Energy &
Climate Change

POWERS OF ENTRY REVIEW

November 2014

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Presented to Parliament pursuant to section 42 of the Protection
of Freedoms Act 2012

November 2014



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Ministerial foreword

I am pleased to lay this report of my Department's review of its Powers of Entry before Parliament.

The Department of Energy and Climate Change (DECC) has reviewed its 58 Powers of Entry to see whether they can be scrapped, consolidated, or improved, for example by introducing additional safeguards. Overall, I found that the majority of the Powers of Entry are necessary, proportionate and contain appropriate safeguards. However, I have identified that four Powers of Entry can be improved and one removed from the statute book. These reforms are additional to DECC's revocation of five Powers of Entry and the introduction of one Power of Entry prior to the review's completion.

This has been an important exercise, providing an opportunity for the department to review and assess its Powers of Entry. My officials will continue to keep the remaining Powers under review to ensure that they remain fit for purpose and necessary in light of policy and technological changes.

Baroness Verma
Parliamentary Under Secretary of State

DECC Review of Powers of Entry: Executive Summary

1. DECC (with Ofgem where applicable) reviewed its Powers of Entry to meet the requirement in section 42 of the Protection of Freedoms Act 2012 that each Minister of the Crown who is a member of the Cabinet must review relevant Powers of Entry and report to Parliament.

Our approach

2. DECC reviewed 58 Powers of Entry. These powers sit across energy and climate change policy, for example:
 - Energy suppliers and network operators have Powers of Entry to maintain their infrastructure;
 - Others are exercised in emergency situations;
 - Some Powers of Entry are used by DECC to monitor the environmental standards of offshore oil and gas facilities.
3. Each power was reviewed separately to determine whether it was still necessary and, if so, could be improved by introducing additional safeguards. In addition, the department also considered whether Powers of Entry could be consolidated. In some cases, the department engaged with affected stakeholders to ensure that their views were taken into account.
4. This review followed DECC's Red Tape Challenge Energy Theme which had already identified that three Powers of Entry could be scrapped.

Outcome

5. There are 58 Powers in scope of the review. The table below sets out the summary outcomes of the review of the Powers of Entry owned by DECC.

Total Powers of Entry in Scope of Review	58
Powers already scrapped or to be scrapped	6
Powers no longer available for use	2
Powers where additional safeguards will be added	4
Powers identified for consolidation	0
Powers of entry to remain unchanged	45
New Powers of entry introduced	1
Total Remaining Powers of Entry	52

Detail

6. The six Powers of Entry that have or will be scrapped are:

Power	Detail
Coal Mining Subsidence Act 1991, s.42: Disputes about access to premises	Allows the Coal Authority access to land, when denied by occupier, to inspect and remedy subsidence damage caused by former coal mine workings. It will be scrapped as the Authority can exercise other Powers of Entry.
Nuclear Industries Security Regulations 2003, Regs 23 and 24	To help ensure the UK has a strong, effective and robust nuclear regulatory framework to ensure the security of our existing and future nuclear facilities. These powers were repealed in the Energy Act 2013 but comparable powers of entry are included in the 2013 Act which ONR security inspectors can utilise instead.
Nuclear Safeguards Act 2000, s.4: Rights of entry in relation to Additional Protocol Information. Power to issue warrant under 4(1) & (2)	These provisions are no longer necessary as they were replicated in the Energy Act 2012.
Radioactive Material (Road Transport) Act 1991, s.5(1): Powers of entry	This Act makes provision in relation to the transport of radioactive material by road. This legislation is redundant as the powers exist in the Health and Safety at Work Act 1974. The Power of Entry in section 5(1) allowed an inspector to enter any vehicle used to transport radioactive material.
Radioactive Material (Road Transport) Act 1991, s.5(2): Powers of entry	This Act makes provision in relation to the transport of radioactive material by road. This legislation is redundant as the powers exist in the Health and Safety at Work Act 1974. The Power of Entry in section 5(2) allowed a justice of the peace to issue a warrant when access to the vehicle has been denied or when to apply for access would defeat the object of entering the vehicle.
Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005, Regulation 11(3):	This Power of Entry is being scrapped to ensure the preparation of a national emissions inventory will not result in an excessive, disproportionate burden for businesses and individuals. The Secretary of State, however, will still have the power to request inventory information. This is to ensure the UK can comply with its reporting obligation under the United Nation Framework Convention on Climate Change (UNFCCC).

7. The four Powers of Entry to have additional safeguards are:

Power	Detail	Reform
Electricity Act 1989, s.10 and Sch. 4, para. 9	This Power of Entry permits electricity licence holders to cause tree-felling, lopping or root cutting where trees obstruct or interfere with the installation, maintenance or working of electric lines or electrical plant or constitute an unacceptable source of danger to persons. If a landowner, within 21 days of receiving a notice from a electricity licence holder requiring tree-felling, lopping or root cutting for the above listed reasons, serves a counter-notice objecting to the requirement, the matter is referred to the Secretary of State. The Secretary of State may make an order permitting the work to be carried out by the licence holder, but after the licence holder gives such notice to the landowner as the order directs.	The period of notice required to be given by a licence holder to a landowner before carrying out work, to be specified in an order by the Secretary of State will be set at a minimum of 7 days (except in cases of imminent danger). We intend to introduce this notice requirement via a public policy statement.
The Petroleum Licensing (Production) (Seaward Areas) Regulations 2008 Schedule 1, clause 34:	A person authorised by the Minister can enter the Licensee's installations or equipment used in connection with searching, boring for or getting Petroleum in the Licensed Area for the purposes of examining or executing permitted works.	Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.
The Offshore Gas Storage and Unloading (Licensing) Regulations 2009, schedule 1 para. 22	An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.	Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.
The Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009, Schedule, para 16	An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.	Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.

8. The one power that was introduced while the review was underway is:

Power	Detail
The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 Sch 2, clause 34 Sch 3, clause 14	An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.

9. In addition, two powers relating to Model Clauses in energy licences cannot be formally repealed or revoked, because licences are still in place that rely on them; and repealing or revoking the Regulations would not succeed in amending the terms of the licences, which take the form of agreements between the Secretary of State and the licensee that Secretary of State cannot forcibly amend.
10. The 45 remaining Powers of Entry already have adequate safeguards. We found no opportunity to consolidate these powers any further, given they are specific to their respective circumstances. If we were to write more generic powers, that could be used in a wide range of situations, they would need to be drawn more widely than our current narrow, targeted powers.

DECC Review of Powers of Entry: Report

11. Each Minister of the Crown who is a member of the Cabinet is required under Section 42 of the Protection of Freedoms Act 2012 to review relevant Powers of Entry and report to Parliament. This report represents DECC's review of our Powers of Entry.
12. To achieve this, DECC has reviewed all 58 Powers of Entry in scope of the review. The purposes of these powers are varied, and for this review have been grouped into eight themes:
 1. Oil Stocking and Energy Supply Emergency powers
 2. Safeguarding Atomic Energy powers
 3. Protections against Chemical Weapons: Obligations under the Chemical Weapons Convention
 4. Safeguarding Nuclear Security: Powers of the Civil Nuclear Constabulary and international nuclear inspectors
 5. Licensing Oil and Gas Exploration and Extraction; and Protecting the Environment Offshore powers
 6. Environmental and Safety Powers relating to Former Coal Workings
 7. Powers of Entry relating to Gas and Electricity supply and transportation
 8. Infrastructure consents
13. This review built on the Red Tape Challenge Energy theme through which DECC had already committed to scrap three Powers of Entry. We evaluated each power individually to determine whether it could be scrapped or improved, for example, by adding new safeguards. We also assessed the scope to consolidate any Powers.
14. The outcome of the exercise is:

Total Powers of Entry in Scope of Review	58
Powers already scrapped or to be scrapped	6
Powers no longer available for use	2
Powers where additional safeguards will be added	4
Powers identified for consolidation	0
Powers of entry to remain unchanged	45
New Powers of entry introduced	1
Total Remaining Powers of Entry	52

15. Using the themes set out in paragraph 12, the findings from DECC's review are as follows.

Oil Stocking and Energy Supply Emergency Powers

16. The Energy Act 1976, which is primarily for use in event of emergencies, enables the government to exercise powers for the purpose of energy conservation and control in the event of serious threat to fuel or other energy supplies, as well as implementing international rules and commitments from the European Commission and International Energy Agency on emergency oil stocking. In order to take into account requirements in the 2009 EU Directive on oil stocking, the Oil Stocking Order 2012 was also implemented.

Title	Power of Entry	Outcome of Review	Rationale
Energy Act 1976, s.18(1), Sch. 2, para. 3	Access to Premises for Enforcement (<i>without a warrant</i>). To ensure compliance with orders and directions made under the Act.	Retain	Required to enable effective enforcement and compliance with emergency orders and directions made under the Energy Act 1976. This includes monitoring and enforcement of implementation of tools/policies to limit fuel demand or supply in event of severe fuel shortages. It also includes enforcement of such measures as may need to be developed in response to unexpected energy emergency challenges and to ensure that Government is able to inspect companies' on-going compliance with oil stocking obligations.
Energy Act 1976, s18(1), Sch. 2, para. 4	Access to Premises for Enforcement (<i>with a warrant</i>). To ensure compliance with orders and directions made under the Act.	Retain	Required to enable effective enforcement and compliance with emergency orders and directions made under the Energy Act 1976. This includes monitoring and enforcement of implementation of tools/policies to limit fuel demand or supply in event of severe fuel shortages. It also includes enforcement of such measures as may need to be developed in response to unexpected energy emergency challenges and to ensure that Government is able to inspect companies' on-going compliance with oil stocking obligations. Exercised through a warrant.
The Oil Stocking Order 2012, Sch.2, para. 3	Schedule 2, paragraph 3 provides a Power of Entry with warrant to secure compliance with regards specific Articles (9 and 11) of the EU Directive on oil stocking concerning the holding and release of emergency stocks on behalf of other EU Member States.	Retain	The power is primarily to be used in emergencies (i.e. an emergency release of stock to market in response to an international or national oil supply crisis).

Safeguarding Atomic Energy

17. The Atomic Energy Act 1946 provides the Secretary of State with control for the promotion and development of atomic energy in the UK. Section 5 allows any person authorised by the Secretary of State to enter and inspect any premises where there are reasonable grounds for believing that any work is being carried out for the unauthorised production or use of atomic energy or for any connected research. The powers may also be exercised where there are reasonable grounds for believing that certain prescribed substances or minerals, or any plant listed in the Act, are situated on the premises. The circumstances which trigger the powers give rise to clear risks to health and public safety and are likely to require an urgent response due to the extreme nature of those risks.

Title	Power of Entry	Outcome of Review	Rationale
Atomic Energy Act 1946, s.5	Power for Ministers to authorise entry into any place which is believed to be involved in the unauthorised production/research of atomic energy.	Retain	This power enables the Secretary of State to act swiftly to investigate and take action to prevent inevitably severe circumstances stemming from the unauthorised production of atomic energy. The powers may only be used when the Secretary of State has reasonable cause to believe a location is being used in relation to production or use of atomic energy, and related matters.

Protections against Chemical Weapons: Obligations under the Chemical Weapons Convention

18. These powers allow the UK to meet its obligations under the Chemical Weapons Convention (CWC), including allowing Organisation for the Prohibition of Chemical Weapons (OPCW) inspectors' access to chemical industry sites in the UK; and to deal with offences relating to chemical weapons.

Title	Power of Entry	Outcome of Review	Rationale
Chemical Weapons Act 1996, s.25	Provides for the Secretary of State to issue an authorisation giving international inspectors and their in-country escort (DECC officials) rights of access and entry to any site in the UK which is subject to an inspection under the Chemical Weapons Convention.	Retain	This Power of Entry provides powers to stop action preventing the UK from meeting its obligations under the CWC. Without it, the UK may not be able to ensure that the requirements of the CWC are met.
Chemical Weapons Act 1996, s.29	Power to enter and search premises which can only be exercised under warrant where a justice of the peace is satisfied that there is reasonable ground for suspecting that an offence under this Act is being, has been or is about to be committed or that evidence of the commission of such an offence is to be found there.	Retain	This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC. Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.
Chemical Weapons Act 1996, s.5(1)	Power to enter and search premises, if the Secretary of State has reasonable cause to believe a chemical weapon is present.	Retain	This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC. Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.

Chemical Weapons Act 1996, s.5(2)	Power to enter and search premises, if a justice of the peace is satisfied that there is reasonable cause to believe a chemical weapon is present.	Retain	<p>This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC.</p> <p>Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.</p>
Chemical Weapons Act 1996, s.7(6)	Power to enter premises & destroy objects where warning has been affixed under s.5.	Retain	<p>This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC.</p> <p>Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.</p>
Chemical Weapons Act 1996, s.7(7)	Power to enter premises & destroy objects where warning has been affixed under s.5.	Retain	<p>This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC.</p> <p>Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.</p>
Chemical Weapons Act 1996, s.14	Power to take remedial action under this section where notice requiring destruction of a chemical weapon has been served.	Retain	<p>This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC.</p> <p>Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.</p>

<p>Chemical Weapons Act 1996, s.15</p>	<p>Power to take remedial action where no notice under s.13 can be served.</p>	<p>Retain</p>	<p>This Power of Entry provides powers to deal with offences relating to chemical weapons or stop action preventing the UK from meeting its obligations under the CWC.</p> <p>Without it, the UK may not be able to ensure that the requirements of the CWC are met and to take the necessary action to seize, make safe and destroy chemical weapons.</p>
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Safeguarding Nuclear Security: Powers of the Civil Nuclear Constabulary and international nuclear inspectors

19. These Powers allow inspectors from the Office for Nuclear Regulation (ONR) to gain access to civil nuclear sites in order to fulfil their obligations with respect to nuclear security legislation; and International Atomic Energy Agency (IAEA) inspectors access to sites for the UK to comply with international nuclear treaties with respect to nuclear safeguards.

Title	Power of Entry	Outcome of Review	Rationale
Energy Act 2004, s.56	The Civil Nuclear Constabulary (CNC) have police powers and right of entry anywhere in Great Britain to protect nuclear material.	Retain	Retention is necessary to enable the Civil Nuclear Constabulary (CNC) to investigate onsite/ licensed nuclear sites security incidents and, offsite, for the recovery of any unlawfully removed nuclear material.
Energy Act 2004, Sch.13, para 2(1)(h)	Allows the Secretary of State to direct inspections of the Constabulary and thereby allows them access to CNC premises.	Retain	To help ensure the UK has a strong, effective and robust nuclear regulatory framework to ensure the security of our existing and future nuclear facilities.
Nuclear Industries Security Regulations 2003, Regs 23 and 24	Powers of entry for ONR security inspectors.	Scrapped and restated in Energy Act 2013	To help ensure the UK has a strong, effective and robust nuclear regulatory framework to ensure the security of our existing and future nuclear facilities. These powers were repealed in the Energy Act 2013 but comparable powers of entry are included in the 2013 Act which ONR security inspectors can utilise instead.
Nuclear Safeguards Act 2000, s.4	Rights of entry in relation to Additional Protocol Information. Power to issue warrant under 4 (1) & (2).	Scrap	These provisions are no longer necessary as powers of entry are replicated in the Energy Act 2013.
Nuclear Safeguards Act 2000, s.8	Power to search and obtain evidence.	Retain	These provisions remain necessary to ensure compliance with international obligations.

Nuclear Safeguards Act 2000, s.5	Powers of entry for inspectors of the International Atomic Energy Authority.	Retain	These provisions remain necessary to ensure compliance with international obligations. The provision gives IAEA inspectors rights of access to locations in the UK that they are entitled to visit under the terms of the UK's Additional Protocol agreement with the IAEA and European Atomic Energy Community.
Nuclear Safeguards and Electricity (Finance) Act 1978, s.2	Rights of agency inspectors - for inspectors of the International Atomic Energy Agency.	Retain	These provisions remain necessary to ensure compliance with international obligations. The provision gives IAEA inspection rights and powers of access to nuclear facilities in the UK for the purposes required by the UK's safeguards agreement with the IAEA.
Radioactive Material (Road Transport) Act 1991, s.5(1)	This Act makes provision in relation to the transport of radioactive material by road. The Power of Entry in section 5(1) allowed an inspector to enter any vehicle used to transport radioactive material.	Scrap	This legislation is redundant as the powers exist in the Health and Safety at Work Act 1974.
Radioactive Material (Road Transport) Act 1991, s.5(2)	This Act makes provision in relation to the transport of radioactive material by road. This legislation is redundant as the powers exist in other legislation. The Power of Entry in section 5(2) allowed a justice of the peace to issue a warrant when access to the vehicle has been denied or when to apply for access would defeat the object of entering the vehicle.	Scrap	This legislation is redundant as the powers exist in the Health and Safety at Work Act 1974.

Licensing Oil and Gas Exploration and Extraction; and Protecting the Environment Offshore

20. These Powers allow appointed Inspectors to conduct inspections and investigations, both onshore and offshore. Inspectors are required to gain assurances that Oil and Gas operations are undertaken with due consideration of environmental aspects and impacts and with effective controls to minimise the likelihood of releases of chemicals and hydrocarbons to the environment.
21. There are also three Powers of Entry set out in Petroleum Model Clauses and relevant licensing regulations. These model clauses contain the terms and conditions of Petroleum Act licences. The licences are essentially agreements between the Secretary of State and the Licensee. In signing the Licence, the Licensee is making a series of commitments to the Secretary of State and accepting certain obligations and liabilities. This includes giving access to the Secretary of State's nominee (at reasonable times) to the Licensee's installations for examination of the Licensee's wells, installations, equipment, etc, and to execute any works or install equipment necessary to secure compliance with the clauses set out in the licence. There is a related clause entitled "Power to execute works" which entitles the Secretary of State, in certain circumstances, to recover the cost of that work from the Licensee. Corresponding powers appear in Gas Storage and Unloading Licences and Exploration Licences issued under the Energy Act 2008.
22. This category also includes Powers of Entry related to the Greenhouse Gas Emissions Trading Scheme.

Title	Power of Entry	Outcome of Review	Rationale
The Offshore Chemical Regulations 2002. Reg 16, para. 1	The Secretary of State may, if she thinks fit, appoint one or more inspectors to investigate compliance with requirements, restrictions or prohibitions imposed by or under these Regulations.	Retain	These Regulations establish a regime for the purpose of implementing the United Kingdom's obligations under the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) Decision (2000/2) on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals in relation to offshore activities.
The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended)	The Secretary of State may, if she thinks fit, appoint one or more inspectors to investigate whether the requirements, restrictions or prohibitions imposed by or under these Regulations have been, or are being complied with.	Retain	These regulations provide that, in order for operators of offshore installations to discharge oil into relevant waters, a permit must be granted to them. The regulations deal with the procedure for the granting by the Secretary of State of permits, any conditions which may be attached to permits and the requirements for permit applications.

<p>The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013, Reg. 25</p>	<p>An inspector may at any reasonable time (or in case of emergency, at any time) board any relevant platform, together with any equipment or material as may be required, and may be accompanied by any other person authorised by the Secretary of State.</p>	<p>Retain</p>	<p>These Regulations form part of the implementation by the United Kingdom of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(Recast) (OJ No L 334, 17.12.2010, p17) (“the 2010 Directive”).</p> <p>These Regulations transpose obligations of the 2010 Directive insofar as those obligations apply to offshore combustion installations installed on petroleum platforms, on gas storage or unloading platforms in the waters around the UK, or on a carbon dioxide storage or unloading platform in the waters adjacent to the UK. Under the new regulations, a permit from the Secretary of State will be required to operate such an offshore combustion installation.</p>
<p>The Offshore Installations (Emergency Pollution Control) Regulations 2002, Reg 3(4)(c)</p>	<p>The Secretary of State may undertake operations which involve the taking over of control of the offshore installation under certain circumstances set out in legislation.</p>	<p>Retain</p>	<p>The Regulations give the Government powers to intervene in the event of an incident or accident involving an offshore installation where there is, or may be a risk of, significant pollution, or where an operator is failing or has failed to implement effective control and preventative operations.</p>
<p>The Storage of Carbon Dioxide (Inspections etc) Regulations 2010 as amended, Sch.3</p>	<p>Powers of Entry for inspectors to enter premises which the inspector has reason to believe it is necessary to enter. Premises include any carbon storage installation b) any land, vehicle, vessel, aircraft, hovercraft or movable structure, excluding any such thing or part thereof that is used as a dwelling.</p>	<p>Retain</p>	<p>These Regulations form part of the implementation by the United Kingdom of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p.114.) (“the Directive”). In particular, they implement Article 15 of the Directive on the inspection of carbon dioxide storage complexes.</p>

<p>The Petroleum Licensing (Production) (Seaward Areas) Regulations 2008, Schedule, para. 34</p>	<p>A person authorised by the Minister can enter the Licensee's installations or equipment used in connection with searching, boring for or getting Petroleum in the Licensed Area for the purposes of examining or executing permitted works.</p>	<p>Retain; Improve</p>	<p>Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.</p>
<p>The Petroleum Licensing (Exploration and Production) (Seaward and landward Areas) Regulations 2004, Sch. 1, para. 16</p>	<p>Right of access to an installation by any person appointed by the minister is provided in a number of different exploration scenarios.</p>	<p>No longer available for use, but retain, as included in existing licences – to which guidance will apply</p>	<p>These clauses have always appeared in Petroleum Act licences, and give the Secretary of State the right to enter land or installations used for licensed activities to examine the same and to execute works there in the event that the Licensee fails to meet certain obligations.</p>
<p>The Petroleum Licensing (Exploration and Production) (Seaward and landward Areas) Regulations 2004, Sch. 6, para. 29</p>	<p>Right of access to land or installation by any person appointed by the minister is provided in a number of different exploration and production scenarios.</p>	<p>No longer available for use, but retain, as included in existing licences – to which guidance will apply</p>	<p>These clauses have always appeared in Petroleum Act licences, and give the Secretary of State the right to enter land or installations used for licensed activities to examine the same and to execute works there in the event that the Licensee fails to meet certain obligations.</p>
<p>The Offshore Gas Storage and Unloading (Licensing) Regulations 2009, Sch. 1, para. 22</p>	<p>An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.</p>	<p>Retain; improve</p>	<p>Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.</p>

<p>The Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009, Schedule, para 16</p>	<p>An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.</p>	<p>Retain; improve</p>	<p>Guidance has been published on how this Power of Entry will be exercised, specifically that prior notice should be given with access by agreement where it is possible to do so without prejudicing the purpose of the visit.</p>
<p>Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 – Reg 11(3)</p>	<p>The Inventory Regulations provide the Secretary of State with the power to require a person to supply information for the purposes of compiling a national emissions inventory, including powers of entry and inspection when such information needs to be recovered.</p>	<p>Scrap</p>	<p>This Power of Entry is being scrapped to ensure the preparation of a national emissions inventory will not result in an excessive, disproportionate burden for businesses and individuals. The Secretary of State, however, will still have the power to request inventory information. This is to ensure the UK can comply with its reporting obligation under the United Nation Framework Convention on Climate Change (UNFCCC).</p>
<p>The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (as amended) – Reg 17</p>	<p>The Regulations require certain specified activities that emit specified greenhouse gases to be the subject of a permit. Permit applications must include information concerning the specified activities and technically, associated activities.</p> <p>This regulation allows the Secretary of State to authorise a person to exercise a Power of Entry to ensure compliance with the permit.</p>	<p>Retain</p>	<p>This Power of Entry is required to ensure compliance with the Greenhouse Gas Emissions Trading Scheme.</p>

<p>The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 Sch2, clause 34 Sch 3, clause 14</p>	<p>An authorised person can enter Licensee's installations and equipment to examine the installations, wells, plant, appliances and works made or executed by the Licensee, and execute works or provide and install equipment necessary to secure the performance of the obligations imposed by the licence.</p>	<p>Introduce</p>	<p>The measure was introduced for consistency with existing licences, and so that DECC can ensure that all licensees' obligations (for example, to seal wells after use and to avoid harmful methods of working) are discharged.</p>
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Environmental and Safety Powers relating to Former Coal Workings

23. The relevant provisions in the two Acts enable the Coal Authority, which has the regulatory responsibility for the environmental and public safety liabilities arising from former UK coal mine workings, to exercise powers to gain access to land to inspect potential environmental or safety hazards on land above or near former coal mine workings.

Title	Power of Entry	Outcome of Review	Rationale
Coal Industry Act 1994, Sch. 1A	Supplemental provisions with respect to Powers of Entry.	Retain	Schedule 1A contains supplemental provisions with respect of powers of entry. It provides more detail on the issue of warrants, duty to secure premises and compensation to any person who has sustained loss or damage as a consequence of the exercise of the Power of Entry.
Coal Industry Act 1994, Pt.1 Reorganisation of Coal Industry, s.4(b)	This Power allows the Coal Authority access to private property to investigate where there is potential water pollution caused by former coal mine.	Retain	Access is required to enable the Coal Authority to undertake its functions. A warrant is required. This Power applies to England & Wales.
Coal Industry Act 1994, s4(e)	This Power allows the Coal Authority access to private property to investigate where there is potential water pollution caused by former coal mine.	Retain	Access is required to enable the Coal Authority to undertake its functions. A warrant is required. This Power applies to Scotland.
Coal Industry Act 1994, Pt. 3, Rights and obligations in connection with Coal mining, s.51	This allows the Coal Authority to issue a licence for the extraction of coal underground as the mine operator requires the power to enter land underground.	Retain	Access is required to enable the Coal Authority to undertake its functions.
Coal Mining Subsidence Act 1991, s.42	Disputes about access to premises.	Scrap	Allows the Coal Authority access to land, when denied by occupier, to inspect and remedy subsidence damage caused by former coal mine workings. It will be scrapped as the Authority can exercise other Powers of Entry.

Powers of Entry relating to Gas and Electricity supply and transportation

24. The Gas Act 1986 has eight Powers of Entry provisions and the Electricity Act 1989 three. One Power under the Gas Act 1986, the Gas (Calculation of Thermal Energy) Regulations 1996, has been reviewed by Ofgem, as the regulations were made by (and are administered by) Ofgem. Ten of these Powers cover areas where there are potential gas/electricity safety issues to domestic and non-domestic properties, such as in relation to gas/electricity supply, equipment. All are underpinned by the Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant). The remaining Power of Entry under the Gas Act 1986 under DECC's remit relates to surveying and taking levels of any of the land subject to compulsory purchase, of probing or boring to ascertain the nature of the soil and of setting out the line of the works. Relevant safeguards are in place for this Power of Entry including use of warrant, a minimum notice for entry, compensation for any damage and any disputes to be referred to the Upper Tribunal (Lands Chamber).

Title	Power of Entry	Outcome of Review	Rationale
Gas Act 1986, s18	The Secretary of State authorises an officer to enter premises where there is a service pipe connected with a gas main, for the purpose of inspecting fittings and apparatus, and disconnecting the premise in order to avert danger.	Retain	This Power of Entry is necessary to maintain public safety.
Gas Act 1986, s18(a)	If a gas transporter has reasonable cause to suspect that there is or may be a gas leak an officer (authorised by the gas transporter) can enter the premises to carry out any work necessary to prevent the escape of gas and take any other steps necessary to avert danger to life or property.	Retain	This Power of Entry is necessary to maintain public safety.
Gas Act 1986, Sch.3, para.10 Modifies s.11 Compulsory Purchase Act 1965	For the purpose of surveying and taking levels of any of the land subject to compulsory purchase, of probing or boring to ascertain the nature of the soil and of setting out the line of the works.	Retain	Required as it underpins the application (with modification) of section 11, section 12 & section 13 of the Compulsory Purchase Act 1965 in respect of gas transporters. It is an important part of the compulsory purchase process to determine what land should be subject to a Compulsory Purchase Order and the value ascribed to such land.

Gas Act 1986, Sch. 2b, para.23	Power for a gas licence holder for inspecting, maintaining, removing, re-installing, adjusting, disconnecting, testing (where applicable) gas fittings; gas meters; service pipes; burners; appliances. Inspecting premises where there is reason to believe that a compressor or compressed air or extraneous gas is being used; cutting off supply, or installing a pre-payment meter where payment has not been made.	Retain	Necessary in order to ensure safety (in order to avert danger to life and property) and to prevent fraud.
Gas Act 1986, Sch.2b, para.24	If the supply of gas to particular premises needs to be disconnected, an officer can enter premises to disconnect the supply.	Retain	Required to ensure that the gas network can function properly and supply can be disconnected if necessary. Also required for safety and consumer protection.
Gas Act 1986, Sch.2b, para.25	This power allows an officer authorised by a transporter/supplier to access a premises if they believe the gas supply has been re-connected without the relevant consent.	Retain	Required for charging, fraud prevention and the safe supply of gas.
Gas Act 1986, sch.2b, para.26	If gas was previously supplied but ceases to be to a property that contains a meter/gas fitting owned by a transporter/supplier, an officer authorised by the transporter/supplier can enter the premises to remove the meter/fitting.	Retain	Required to ensure that gas companies are able to retrieve their property (fittings and meters) where gas is no longer supplied to the premises.
Gas Act 1986, Sch.2b, para.27	If pipes are required to be replaced or fixed, an officer authorised by a gas transporter can enter premises to make alterations or remove and replace existing pipe.	Retain	Required to ensure that the gas network can function safely. Also has a benefit to the consumer to have safer pipes/fittings.

Electricity Act 1989, s.24, Sch.6, para.7	Inspection of any electric plant or electric line; ascertaining the register of any electric meter; removal of any money or tokens from a pre-payment meter; removing, inspecting, or re-installing any meter; or installing a substitute meter.	Retain	To allow energy businesses to access property so they can ensure that electrical plant and apparatus is safe.
Electricity Act 1989, s.24, Sch.6, para.8	Where authorised to disconnect any premises or to remove any electricity meter, any officer or other person authorised may at all reasonable times enter premises for these purposes. Also to remove any electric plant or line on disconnection.	Retain	To allow energy businesses to access property so they can ensure that electrical plant and apparatus is safe.
Electricity Act 1989, s.24, Sch.6, para.9	Any officer or authorised person may at all reasonable times enter premises to place an electric line or plant in the place of or in addition to existing equipment lawfully placed. Also to repair or alter existing line or plant.	Retain	To allow energy businesses to access property so they can ensure that electrical plant and apparatus is safe.
Gas (Calculation of Thermal Energy) Regulations 1996, Regulation 14	An independent person is appointed in order to test that the calorific value measurement equipment that is owned by the gas transporter is being operated and maintained appropriately so that they can ensure that the calorific value of the gas being conveyed complies with the regulations.	Retain (Ofgem Power of Entry)	Necessary in order for calorific values to be measured accurately. Also for safety, fraud prevention and consumer protection.

Infrastructure Consents

25. Most of these Powers of Entry provide licensed gas transporters or electricity licence holders to access land that might be suitable for energy infrastructure, to install and maintain energy infrastructure or for safety reasons.
26. One Power of Entry is enforceable on a Sherriff's Warrant. Another permits a tribunal appointed by the Secretary of State to inspect places and buildings when investigating an accident involving a gas storage facility
27. After reviewing the powers for tree-felling, looping or root-pruning, we will be introducing public guidance providing for a notice period of at least 7 days.

Title	Power of Entry	Outcome of Review	Rationale
Electricity Act 1989, s.10, Sch.4, para.10	Permits electricity licence holders entry on land for the purpose of exploration (ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of licensed activities).	Retain	This Power of Entry is necessary for licence holders to carry out their business. It already has some safeguards: 14 days' notice must be given, and evidence of authority must be produced if required. The power is not exercisable in relation to land with a building on it. Any damage to the land must be made good.
Electricity Act 1989, Sch.3, para.11	Permits licence holders to enter onto land for the purpose of taking possession of it, in respect of land subject to compulsory purchase orders.	Retain	This Power of Entry is necessary for licence holders to carry out their business. It already has some safeguards: 14 days' notice must be given, and compensation is paid for the land purchased compulsorily. If the landowner refuses to give up possession, enforcement is by way of warrant for possession.
Electricity Act 1989, s.10, Sch.4, para.9	Permits electricity licence holders to cause the felling, lopping or root pruning of trees that interfere with the installation, maintenance or operation of electricity lines or plant, or are a source of unacceptable danger to persons.	Retain - Improve	This Power of Entry is necessary for licence holders to carry out their business. The period of notice which the licence holder must give, specified by the Secretary of State, before an order made in respect of this Power of Entry may be acted upon will be set at a minimum of 7 days (except in cases of imminent danger).
Gas Act 1965, Sch.6, para.2	Permits gas licence holders to enter on land for the purpose of finding or proving a site for underground gas storage.	Retain	This Power of Entry is necessary for licence holders to carry out their business. It is subject to the provisions of the Rights of Entry (Gas and Electricity Boards) Act 1954, and a justice's warrant is required to authorise entry.

Gas Act 1965, Sch.6, para.3	Permits gas licence holders to enter land for purposes of survey to progress potentially suitable sites for underground gas storage (including assessing claims for compensation).	Retain	This Power of Entry is necessary for licence holders to carry out their business. It is subject to the provisions of the Rights of Entry (Gas and Electricity Boards) Act 1954, and a justice's warrant is required to authorise entry.
Gas Act 1965, Sch.6, para.4	Permits gas licence holders to enter land to supervise and inspect "controlled operations" (which might endanger underground gas storage).	Retain	This Power of Entry is necessary for licence holders to carry out their business. It is subject to the provisions of the Rights of Entry (Gas and Electricity Boards) Act 1954, and a justice's warrant is required to authorise entry.
Gas Act 1965, Sch.5, para.4	Enables the Secretary of State to direct an inquiry (called a 'Tribunal') to investigate in the event of an accident involving gas, i.e leakage from an underground gas storage facility. The Tribunal can inspect premises or land.	Retain	This Power of Entry is necessary to enable a Tribunal appointed by the Secretary of State to inspect premises or land to find out the causes of an accident. It is not part of an investigation into criminal activity. The tribunal has a quasi-judicial role. Refusal to permit inspection of premises can be treated as contempt of court to enforce compliance.

Next Steps

28. Five of the six Powers of Entry to be scrapped have already been taken off the statute book:

- Nuclear Industries Security Regulations 2003, Regs 23 and 24
- Nuclear Safeguards Act 2000, s.4: Rights of entry in relation to Additional Protocol Information. Power to issue warrant under 4(1) & (2)
- Radioactive Material (Road Transport) Act 1991, s.5(1): Powers of entry
- Radioactive Material (Road Transport) Act 1991, s.5(2): Powers of entry
- Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005, Regulation 11(3)

29. We will also endeavour to scrap the Coal Mining Subsidence Act 1991, s.42 Power of Entry by the end of Parliament.

30. Of the Powers of Entry to be improved, we expect to introduce the revised policy on periods of notice relating to the Power of Entry enabling electricity licence holders to fell trees shortly and publish guidance requiring consent where possible for the three Powers of Entry relating to petroleum licensing by the end of 2014.

31. The Power of Entry introduced during the review came into force in July 2014.

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