



Welcome to our Winter Newsletter and a Happy New Year to all our Readers

Having experienced our busiest December in the company's history (this is usually a quiet time in the legal profession), DSL starts the new year with considerable purpose and a workload to match. All departments are busy and we continue to look at ways in which we can improve our already exemplary service to our clients.

The traditional view of the legal profession is one of a reactive service i.e. a client will only ever contact a solicitor when his or her expertise is required. At DSL, although we appreciate that our reactive work will always play a big part in our activities, we are also trying to dispel the traditional view by becoming more proactive with our clients. To this end we have introduced some new services, specifically on the Transport side (see below). To have the legal expertise of a solicitor 'on tap' at a pre-determined fixed fee has to be an attractive proposition, not only because it will provide stability and security for the client but will also facilitate greater efficiency in the client's business.

I have recently joined DSL as Commercial Director, having successfully owned and run several businesses during my career and I am pleased to say that I join a very innovative company that is not just in good health but looking forward to expanding and progressing in 2013.

We are always interested in your feedback on our newsletters and would welcome your comments and views. Enjoy the Newsletter!

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New Transport Services.....

Transport Advice Line

In 2012 we launched our Transport Advice Line service (TAL). The service is designed to cover everyday transport legal issues that crop up. The advice is telephone based and for a fixed fee you and your managers receive unlimited Road Transport legal advice. Terms and conditions apply but once signed up there is no longer any need to fear the Solicitor's hourly rate! One of the benefits of the advice line will be to encourage clients to contact us early at the first whiff of a legal issue. We can then either deal with the matter over the telephone or alert you to an impending legal problem that might otherwise have escaped detection until a much later date, with consequential knock on liabilities and costs.

“Is your transport operation fit for purpose?”

DSL has set up an independent organisation to help your organisation save money. Efficiencies4Transport was launched in 2012 and has already helped several of our haulage and logistics clients. The service offered here is an objective audit of a client's transport operation, the purpose being to make the operation more efficient and to SAVE MONEY for the client.

For further details please contact Hugh Megarrell, EFT's Commercial Director on 0844 3245301

Operator Licensing

In 2012 we developed a micro site 100% devoted to Operator Licensing issues. You will find the site a useful resource but don't just take our word for it. Please visit www.solicitors4transport.com for more information. If you have any Road Transport or Operator Licensing related issues please ask to speak to one of our Transport Legal Team.

LITIGATION ISSUES....

Recent Changes to Defence Costs rules will hurt

In the good old days (i.e. prior to 1st October 2012), when we successfully defended criminal regulatory cases for clients we would apply for a defence costs order. In relation to proceedings brought after 1st October 2012 the rules have changed as a consequence of Government cost cutting. Successful defendant companies can no longer apply for a defence costs order. Individuals can still apply for a defence costs order but will only be entitled to recover costs at legal aid rates. In other words a successful individual litigant might recover just a third of the actual costs outlay. In the past more often than not, we successfully recovered almost all the defence costs from the Government.

This will not be the case in future. One solution is to ensure you have legal expenses insurance cover but more importantly to have cover that is right for your needs. We have acted for clients who thought they had legal expenses cover, but only to find they were not covered for the offences charged or where the insurers would have embarrassed Houdini himself with their cover escapology techniques. We are currently working with reputable insurance partners to develop and launch what we hope will be a comprehensive legal expenses insurance package for our clients. We will not have any financial interest in the schemes. Our desire is to ensure that our clients have value for money policies and effective cover for the defence of any regulatory action taken by the regulators (e.g. VOSA, EA and HSE).

Happy “renew” year to all our readers!



In among the press coverage of the usual new year’s resolutions, what does 2013 hold for the renewable industry? Will the Green Deal offer the sort of boost to business that the solar panel companies enjoyed before the FIT rates were cut? Noting that we are in a global economy, will the US commit to more renewable energy and help provide the economies of scale that have enabled prices of solar panels and wind turbines to drop? Back at home, will our £12 annual energy bill hike actually enable the sort of infrastructure change that is essential to deliver a national grid that will enable large scale renewable projects?

Might some bright spark find the holy grail for those seeking to promote wind and solar power – a cheap and reliable form of energy storage that will silence the criticisms that renewable = unreliable? Will the UK commit to decarbonising the economy? What’s the future for fuel cells? How will the paucity of finance affect the large capital investments required by businesses such as ports to exploit new developments? Will Donald Trump and John Hayes mount a coup at DECC and bury Ed Davey in a fracking hole?

Here at DSL we can’t answer these questions – our Professional Indemnity Insurance doesn’t cover crystal ball gazing – but all we can do is hope to guide our clients, large and small, through this changing landscape. We can’t promise that our solutions will be future proof but we certainly try.

Finally, proof that where there’s a will, there’s a way – check this out (pic). Originally designed to offer off-grid charging for those undertaking remote expeditions, a frog’s Revolver portable wind turbine can generate up to 35W; and it folds down just like a compact umbrella. Now it’s seen a new use; after Hurricane Sandy devastated the East Coast of the US last October, residents who found themselves without power quickly realised that no mains = no way of living our electronic lives and charging up those phones and computers. Another example of an emerging market for renewable technologies? We promise you they’re not paying us – we just thought this was great!

The Winds of Change

Dyne Solicitors Limited specialise in several areas of law including Renewable Energy and more particularly Wind Energy. We are able to advise either Landowners or Developers in respect of potential wind farm developments.

For Landowners, we can assist by checking title to the land, to ensure it will be suitable for the Development. We can then provide advice on the suitability of the Heads of Terms (including usual terms in such projects) and then on draft documentation, usually an Option for Lease.

As we have a large amount of experience of wind farm development advice (over 34 separate projects) we are able to work closely with Landowners to advise on usual terms and to get the best outcome achievable for them.



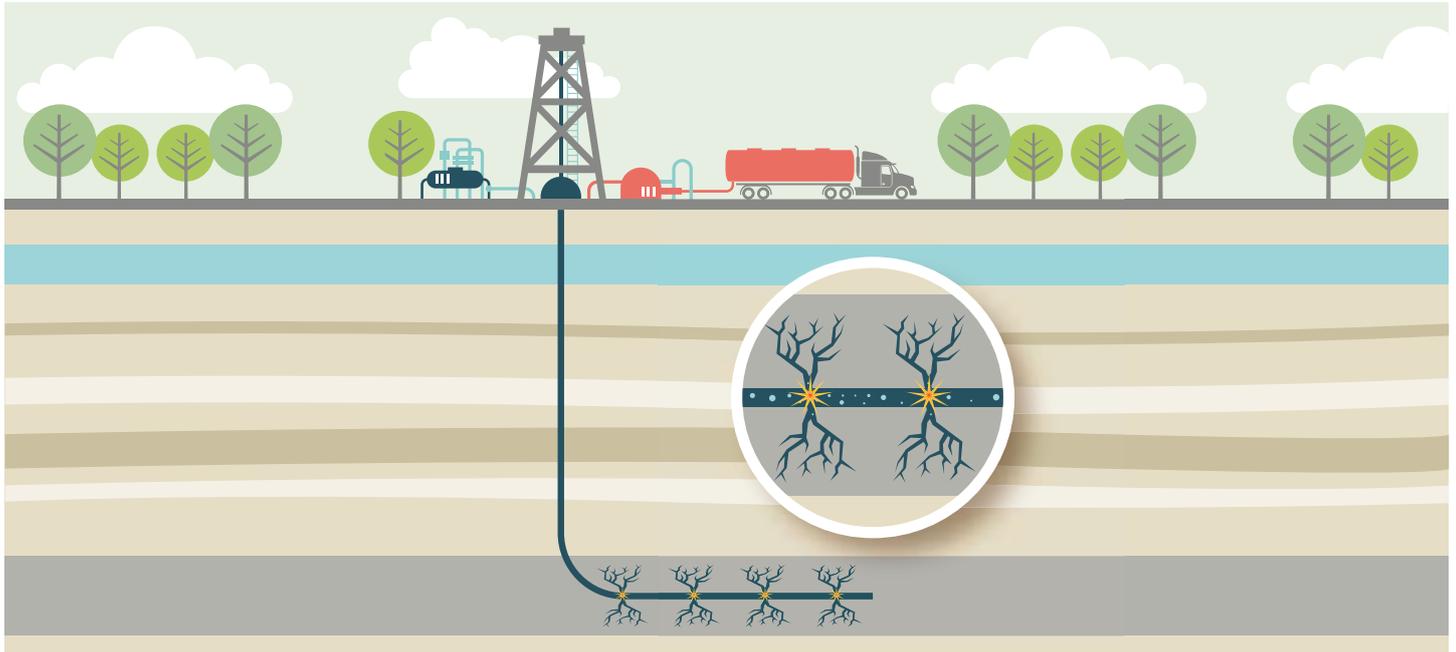
For Developers, we will do the same, but also carry out additional investigations as the client will be taking an interest in the Land in the same way as they would for a purchase. This will include advice on other ancillary documentation required for such projects, including substation leases, highways agreements, cable easements and section 106 planning agreements.

One such site we have recently advised upon is a wind farm development in Accrington, Lancashire. This project was a 12 turbine project for wind turbines to be sited on Oswaldtwistle Moor. The construction of the wind farm has recently completed – see below for a view from the top of one of the turbines!



If you are a Landowner who has a Developer interested in siting a turbine (or several) on your property, or if you are a Developer who has located a suitable site, then **please contact Hugh Megarrell on 01829 773100** to discuss matters further.

Fracking and the Future of gas supplies



Readers will be aware of the recent furore over the proposed resumption of “fracking” operations by Cuadrilla in the Fylde area of Lancashire, following its suspension last year when earth tremors were felt during investigative drilling.

The British Geological Survey estimates that Cuadrilla’s six sites in Lancashire alone could contain 300 trillion cubic feet of gas – 17 times the remaining reserves of North Sea Gas. In addition, it estimates the British shale gas reserves could be worth £15 Trillion.

Other areas of the country which could be developed are the major coalfields of the East Midlands, North and South Wales, and in Sussex (Balcombe), so it is a national resource and could become a process requiring national specialist advice.

The process of “fracking” involves drilling deep wells from the surface into the shale strata (often associated with coal measures). The drilling is then horizontal into the shale measures which are then fissured, and a mixture of water and chemicals is forced into the fissures from the drill casing, widening the fissures. The water is then pumped back out, which allows the gas to flow into the drill casing and be recovered at the surface.

The process is widely used in the USA, but fears have been expressed in the UK that mini earthquakes could continue to be caused, and surface and underground resources could be severely damaged in the event of an accidental spillage or system failure. We shall have to wait and see whether, and if so, to what extent any of this is true, but of course similar fears are often directed at new proposals for mineral and waste sites, and we continue to see those developed (although perhaps not in the numbers we were used to in the 1980’s!)

For landowners, the potential income from fracking could be substantial, although surface facilities are relatively limited. There is case law (some relatively recent) involving onshore drilling for oil and gas which establishes that the rent which surface owners may charge for such facilities may not be as high as they would have liked, but it is still likely to be higher than agricultural rents, and therefore well worth considering if an approach is made by an operator.

The usual procedure of an option for investigative works, followed by applying for planning and other environmental permits, and the grant of an eventual long term lease, is one with which we at DSL are very familiar, having been involved in major developments for mineral, waste and renewable energy projects since (in some cases) 1981. We would urge any landowners or agents who are approached by a developer, to seek specialist advice to ensure the maximum benefit and protection is obtained for them or their clients in connection with such a development.

Brian D Wake
Consultant

Help Stop Property Fraud!

Lenders, the police and the Land Registry are becoming increasingly concerned at the level of property fraud taking place. As we all know, the value of land has mushroomed over the last 15 years and despite the current downturn, it has become an attractive target for fraudsters.

One simple way to protect yourself from fraud is to check that the Land Registry have the correct contact details for you. This is particularly important where you have property that you let out, or do not occupy.

For a fee of £25.00 + VAT per property we will check the details held by the Land Registry and can apply for them to be updated for you. Contact us for a quotation if you have a number of properties.

If you are interested in this service or in finding out whether your land is registered, please contact Hugh Megarrell on 01829 773100.



The Energy Bill 2012



The Energy Bill ("EB") seeks to aid the achievement of targets set by the Climate Change Act 2008 by establishing a new legal framework for delivering "secure, affordable and low carbon energy." The 2008 Act set out certain carbon reduction targets, which resulted in the EU imposing a legally binding target that by 2020, 15% of the UK's energy supplies should be from renewable sources.

The Energy Bill introduces a major "Electricity Market Reform", encourages investment in low carbon technologies by introducing "Contracts for Difference" and also aims to tackle risks to the security of electricity supplies by introducing a "Capacity Market". It also includes provisions relating to regulation of the nuclear industry, changes to the longstanding government pipeline and storage system, and introduces a new "strategy and policy statement", which will "set out the Government's strategic priorities for the energy sector in Great Britain, describe the roles and responsibilities of various player who implement, or are affected by GB energy policy and describe policy outcomes which are to be achieved by the regulator and the Secretary of State when regulating the sector."

Part 1 of the Energy Bill deals with this, which is set out as a "cornerstone" of the Bill. It sets out the Electricity Market Reform ("EMR") objectives to which the Secretary of State is to have regard (e.g. the carbon reduction targets mentioned above) when dealing with the other matters in the Bill (i.e. contracts for difference, capacity market etc.)

Contracts for difference ("CFD") introduce a support mechanism in the form of long term contracts with terms set out in regulations which will in due course accompany the Energy Act. These terms will include price terms which are intended to be enough to fund the generating technologies.

The capacity market is intended to mitigate future risks to the security of our electricity supplies. The market will work by inviting bids to supply against forecasts of demand, in return for a guaranteed income stream, over and above the normal income stream that a generator may obtain, but subject to penalties for failure to perform.

Other aspects of EMR include provisions to deal with conflicts of interest, contingency arrangements, investment contracts (i.e. contracts between the Secretary of State and generators), pending the entering into full force of CFD, and provisions aimed at increasing and maintaining market liquidity.

There are also important transitional provisions intended to prevent volatility of market prices for Renewable Obligations Certificates as they come to the end of their intended life, from 2027.

Part 2 of the Bill deals with the nuclear industry, including the Office for Nuclear Regulation, gives power to the Secretary of State to make appropriate regulations etc.

Part 3 of the Bill could be the most important part of it for landowners – the review and reform of the Government Pipe-line and Storage System, including the rights of the Secretary of State, registration of those rights, transfer of them, compensation, and the application of the Pipe-lines Act 1962 to the system.

There are miscellaneous provisions such as consumer redress orders (which force energy suppliers to compensate consumers if the company breaches its licence conditions etc.) provisions relating to the transfer of offshore production assets, and nuclear decommissioning costs.

It should of course be borne in mind that the Bill is likely to be the subject of intense debate on its passage through Parliament, and therefore the Energy Act is almost certain to be different in detail to the current Bill, and we will publish further notes on the Bill and the Act in future newsletters.

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