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STATUTORY INSTRUMENTS

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**2002 No. 1861**

**ENVIRONMENTAL PROTECTION**

**The Offshore Installations (Emergency  
Pollution Control) Regulations 2002**

*Made - - - - 17th July 2002*

*Coming into force in accordance with regulation 1*

Whereas the Secretary of State has consulted the persons required to be consulted by section 3(4) of the Pollution Prevention and Control Act 1999<sup>(1)</sup>;

And whereas a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 3(6) of that Act;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 3 and 7(9) of that Act, hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Offshore Installations (Emergency Pollution Control) Regulations 2002 and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“accident” means any occurrence causing material damage or a threat of material damage to an offshore installation;

“operator” in relation to an offshore installation means any person who operates the offshore installation and includes any person who owns it at the time any powers conferred by these Regulations are exercised in relation to the offshore installation;

“pollution” includes pollution by oil or any other substance liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, or by any other substance listed in the Schedule to the Merchant Shipping (Prevention of Pollution: Substances Other than Oil) (Intervention) Order 1997<sup>(2)</sup>; and

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(1) 1999 c. 24.

(2) S.I.1997/1869.

“United Kingdom waters” has the same meaning as in the Merchant Shipping Act 1995<sup>(3)</sup>.

### **Intervention powers**

3.—(1) The powers conferred by this regulation shall be exercisable where—

- (a) an accident has occurred; and
- (b) in the opinion of the Secretary of State the accident will or may cause significant pollution in the United Kingdom, United Kingdom waters or in any designated area within the meaning of the Continental Shelf Act 1964<sup>(4)</sup>; and
- (c) in the opinion of the Secretary of State the use of the powers conferred by this regulation is urgently needed,

but those powers are subject to the requirements of paragraph (6) below.

(2) For the purpose of preventing or reducing pollution, or the risk of pollution, the Secretary of State may give directions as respects any offshore installation—

- (a) to the operator of the offshore installation; or
- (b) to the manager of the offshore installation; or
- (c) to any servant or agent of the operator of the offshore installation.

(3) Directions under paragraph (2) above may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of this paragraph, directions may require that person—

- (a) to move or not to move the offshore installation, or any part of it, to or from a specified place or area, or over a specified route; or
- (b) to unload or discharge, or not to unload or discharge, any oil or other substance; or
- (c) to take or not to take specified remedial measures.

(4) If in the opinion of the Secretary of State the powers conferred by paragraph (2) above are, or have proved to be, inadequate for the purpose, the Secretary of State may, for the purpose of preventing or reducing pollution, or the risk of pollution, take, as respects the offshore installation or its contents, any action of any kind whatsoever, and without prejudice to the generality of this paragraph the Secretary of State may—

- (a) take any such action as she has power to require to be taken by a direction under this regulation;
- (b) undertake operations for the sinking or destruction of the offshore installation, or any part of it, of a kind which is not within the means of any person to whom she can give directions; or
- (c) undertake operations which involve the taking over of control of the offshore installation (whether by boarding the offshore installation or entering and using any premises which appear to her to be premises from which the operations of the offshore installation may be controlled).

(5) The powers of the Secretary of State under paragraphs (2) and (4) above shall also be exercisable by such persons as may be authorised for the purpose by or on behalf of the Secretary of State.

(6) Every person concerned with compliance with directions given, or with action taken, under this regulation shall use his best endeavours to avoid any risk to human life.

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<sup>(3)</sup> 1995 c. 21.

<sup>(4)</sup> 1964 c. 29.

(7) In this regulation, “specified” in relation to a direction under this regulation, means specified by the direction.

### **Compensation for unreasonable loss or damage**

4.—(1) If any action duly taken by a person in pursuance of a direction given to him under regulation 3 above, or any action taken under paragraph (4) or (5) of that regulation—

- (a) was not reasonably necessary to prevent or reduce pollution or the risk of pollution; or
- (b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered as a result of the action,

a person incurring expense or suffering damage as a result of, or by himself taking, the action shall be entitled to recover compensation from the Secretary of State.

(2) In considering whether any person shall be entitled to recover compensation from the Secretary of State under paragraph (1) above, account shall be taken of—

- (a) the extent and risk of pollution if the action had not been taken;
- (b) the likelihood of the action being effective; and
- (c) the extent of the damage which has been caused by the action.

(3) Any reference in this regulation to the taking of any action includes a reference to a compliance with a direction not to take some specified action.

(4) The Admiralty jurisdiction of the High Court and of the Court of Session shall include jurisdiction to hear and determine any claim arising under this regulation.

### **Offences**

5.—(1) A person who contravenes or fails to comply with any requirement of a direction given to him under regulation 3 above shall be guilty of an offence.

(2) A person who intentionally obstructs any person who is—

- (a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under regulation 3 above;
- (b) acting in compliance with a direction under that regulation; or
- (c) acting under paragraph (4) or (5) of that regulation,

shall be guilty of an offence.

(3) In proceedings for an offence under paragraph (1) above, it shall be a defence for the accused to prove—

- (a) that, subject to regulation 3(6) above, he has used all due diligence to ensure compliance with the direction; or
- (b) that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4) A person guilty of an offence under paragraph (1) or (2) above shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.

### **Service of directions**

6.—(1) If the Secretary of State (or a person authorised under regulation 3(5) above) is satisfied that a company or other body, which is the operator of an offshore installation, is not one to whom section 695 (service of documents on overseas company) or 725 (service of documents) of the

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Companies Act 1985<sup>(5)</sup> applies so as to authorise the service of a direction on that body under either of those sections, she may give a direction under regulation 3 above to that body, by serving the direction on any person, being a servant or agent of that body, who appears to the Secretary of State to be in charge of the offshore installation.

(2) For the purposes of giving or serving a direction under regulation 3 above to or on any person on a ship or offshore installation, a person acting on behalf of the Secretary of State shall have the right to go on board the ship or offshore installation.

(3) In the application of paragraph (1) above to Northern Ireland, for references to sections 695 and 725 of the Companies Act 1985 there shall be substituted references to Articles 645 and 673 of the Companies (Northern Ireland) Order 1986<sup>(6)</sup>.

17th July 2002

*Brian Wilson*  
Minister of State for Energy and Construction,  
Department of Trade and Industry

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<sup>(5)</sup> 1985 c. 6.

<sup>(6)</sup> S.I. 1986/1032 (N.I. 6).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 3 of the Pollution Prevention and Control Act 1999 and provide for powers (corresponding to those under sections 137 to 140 of the Merchant Shipping Act 1995 in relation to ships) to prevent and reduce pollution and the risk of pollution following an accident involving an offshore installation.

These Regulations implement the recommendations of Lord Donaldson's Review of Salvage and Intervention and their Command and Control (Cm. 4193: Presented to Parliament by the Secretary of State for the Environment, Transport and the Regions, March 1999) in relation to oil and gas activities carried out wholly or partly on the United Kingdom Continental Shelf.

Regulation 2 deals with definitions. Regulation 3 sets out when the powers are exercisable, to whom the Secretary of State may give directions and what the persons may be directed to do. This regulation also allows the Secretary of State in certain circumstances to take action as respects an offshore installation and provides for the appointment of persons to exercise powers on the Secretary of State's behalf. Regulation 4 provides for compensation for persons incurring expense or suffering damage in certain circumstances in connection with the exercise of powers under these Regulations. Regulation 5 deals with offences and penalties and regulation 6 with the service of directions.

These Regulations come into force on 18th July 2002.

A regulatory impact assessment has been prepared and copies can be obtained from Oil and Gas Directorate, Department of Trade and Industry, Atholl House, Guild Street, Aberdeen, AB11 6AR (Tel. 01224 254103). Copies have been placed in the Libraries of both Houses of Parliament.