

EXPLANATORY MEMORANDUM TO

THE OFFSHORE INSTALLATIONS (OFFSHORE SAFETY DIRECTIVE) (SAFETY CASE ETC.) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 406

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Health and Safety Executive for Northern Ireland on behalf of the Department for the Economy (“DfE”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Regulations are made under section 2(2) of the European Communities Act 1972 in relation to measures relating to employers’ obligations in respect of the health and safety of workers and the environment, and under Articles 17(1) to (6) and 55(2) of, and paragraphs 1(1) and (2), 7, 8, 13, 14 and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978, section 23 (1) of the Petroleum Act 1987 and Article 3(2) of the Offshore and Pipelines Safety (Northern Ireland) Order 1992. The Regulations are subject to the negative resolution procedure.

2. Purpose

- 2.1. On 28 June 2013, the European Commission published the Directive on the safety of offshore oil and gas operations (OSD). This was followed on 22 October 2014 by the publication of an Implementing Regulation addressing the detail of two OSD requirements: a common format for the sharing of information on major hazard indicators by operators and owners of offshore oil and gas installations; and a common format for the publication of this information by Member States.
- 2.2. These regulations will transpose the majority of the Directive’s requirements in Northern Ireland and introduce measures to ensure the Implementing Regulation can be enforced. (Whilst it is directly applicable under the law of the United Kingdom, it is not enforceable in Northern Ireland without further provision.)

3. Background

- 3.1. The UK’s offshore oil and gas regulatory regime was introduced as a result of the Piper Alpha disaster. Although Northern Ireland has the equivalent offshore health and safety legislation as Great Britain, there are not, at present, any Northern Ireland offshore oil and gas operations. Nevertheless, in order for the UK to comply fully with the OSD, Northern Ireland is required to introduce implementing legislation.
- 3.2. Many of the OSD’s requirements are matched by similar requirements of the existing Offshore Installations (Safety Case) Regulations (Northern Ireland) 2007 (SCR 2007). The SCR 2007 apply to internal waters – essentially tidal waters within Northern Ireland – and external waters – the territorial sea and areas designated by order under the [Continental Shelf Act 1964](#). However, the OSD does not apply to internal waters and its requirements in external waters are often more detailed or more onerous than the similar requirements of the SCR 2007. Some of the OSD requirements are entirely new.
- 3.3. Rather than create a complex single set of implementing regulations that apply to internal and external waters, it was considered appropriate to limit the application of the SCR 2007 to internal waters and create a new set of regulations – the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations (Northern Ireland) 2016 (SCR 2016) – for external waters based on the SCR 2007 but with appropriate modifications. As such, the SCR 2016 retain much of the wording of the SCR 2007.

- 3.4 The OSD's licensing and environmental requirements that are not dealt with by the SCR 2016 are introduced by the following Department of Business, Energy and Industrial Strategy (BEIS) legislation: the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) (Amendment) Regulations 2015; and the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015, which apply UK wide.
- 3.5 As the Implementing Regulation is directly applicable, it does not need to be transposed. However, to ensure it can be used effectively for regulation, the regulators must have enforcement powers and appropriate penalties must be put in place. This is achieved by treating the Implementing Regulation as a health and safety regulation (relevant statutory provision) under the Health and Safety at Work (Northern Ireland) Order 1978 which means it may be enforced by health and safety inspectors and BEIS's Departmental inspectors. There is also a need to remove any conflict between the Implementing Regulation and existing domestic provisions. The only area of conflict is in terms of the deadline for operators and owners to submit notifications. This is to be overcome by adopting the slightly longer period for compliance in the Implementing Regulation within the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997.

4. Consultation

- 4.1 A consultation exercise ran from 15 December 2014 to 6 February 2015. There were approximately 500 consultees, including individuals and bodies representative of section 75 of the Northern Ireland Act 1998 and other organisations with an interest in equality and related issues (including each member of the Northern Ireland Assembly).
- 4.2 HSENI received 4 responses to the consultation. None of the respondents made any adverse comments.

5. Equality Impact

- 5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

- 6.1 As there are no Northern Ireland offshore oil or gas operations, it is anticipated that implementation of the OSD will result in negligible regulatory impact.

7. Financial Implications

- 7.1 As there are no Northern Ireland offshore oil or gas operations, it is anticipated that financial impact from implementation of the OSD will be negligible.

8. Section 24 of the NI Act 1998

- 8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 The Statutory Rule implements EU Directive 2013/30/EU.

10. Parity or Replicatory Measure

10.1 In Great Britain the corresponding Regulations are the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015 No. 398), which were made on 19 March 2015 with a coming into force date of 19 July 2015.

11. Additional Information

11.1 N/a.

Department for the Economy

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