

<p><b>Title:</b> The Works Detrimental to Navigation (Powers and Duties of Inspectors) Regulations 2018</p> <p><b>PIR No:</b> DESNZ040(PIR)-23-OPRED</p> <p><b>Original IA/RPC No:</b> N/A</p> <p><b>Lead department or agency:</b> Department for Energy Security and Net Zero (OPRED)</p> <p><b>Other departments or agencies:</b> None</p> <p>Contact for enquiries: Sarah Mclean; 01224 254134 <a href="mailto:sarah.mclean@energysecurity.gov.uk">sarah.mclean@energysecurity.gov.uk</a></p>	<b>Post Implementation Review</b>
	<b>Date:</b> 14/12/2023
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 27/03/2018
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> Choose an item.	

### 1. What were the policy objectives of the measure?

The policy objective of the Works Detrimental to Navigation (Powers and Duties of Inspectors) Regulations 2018 (“the 2018 Regulations”) was to achieve a high level of compliance by operators of offshore hydrocarbon facilities with the requirements of Part 4A of the Energy Act 2008, including compliance with the conditions of Consents to Locate, through offshore inspections, the investigation of breaches and the imposition of enforcement notices and penalties where appropriate.

### 2. What evidence has informed the PIR?

A call for evidence was made to industry, resulting in three responses. In addition, The Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) sought feedback from OPRED inspectors, and reviewed internal data about, among other things, reports of non-compliance with the requirements of Part 4A of the Energy Act 2008.

### 3. To what extent have the policy objectives been achieved?

The policy objectives have been achieved.

Since the 2018 Regulations came into force, OPRED inspectors have highlighted 113 findings across 79 installations inspected relating to breaches of the requirements of Part 4A of the Energy Act 2008, requiring the operator to respond and take steps to remediate. Two formal investigations have been also raised in respect of breaches of the requirements of Part 4A of the Energy Act 2008.

Sign-off for Post Implementation Review by the Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***The Rt Hon Graham Stuart MP***

Date: 28/12/2023

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?**

It was assumed that the 2018 Regulations would not place extra burdens on the offshore sector as the requirements of the Consents to Locate regime were already in place. The 2018 Regulations would allow OPRED to charge for offshore inspections and other regulatory engagement relating to the Consents to Locate regime. The annual cost of the 2018 Regulations to each offshore operator was estimated at £2,900.

### **5. Were there any unintended consequences?**

Two of the responses from industry suggest that the cost of compliance to be above £10,000 a year, but a closer examination of the responses show that the costs cited had been conflated with the costs of compliance with the requirements of Part 4A of the Energy Act 2008. This conflation means we have not been able to determine a comprehensive overview.

### **6. Has the evidence identified any opportunities for reducing the burden on business?**

While limited in number, the responses from industry suggest that the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 and the Consents to Locate regime often impose similar requirements in areas such as navigational aids but apply different standards of compliance. Further analysis of the overlap between the two regimes might therefore identify opportunities for reducing overlap and / or harmonising requirements, thereby reducing burden on business.

### **7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?**

The 2018 Regulations relate to the enforcement of conditions contained in Consents to Locate. The Consents to Locate regime enables, amongst other things, the UK to meet the international obligations under Article 60 of the UN Convention of the Law of the Sea (UNCLOS) which requires the UK to ensure that permanent means for giving warning of the presence of offshore facilities are maintained by operators. Consequently, the UK's approach (via the Consents to Locate regime) to meeting the UNCLOS obligations in respect to the requirement for offshore oil and gas installations in waters under UK jurisdiction to have properly functioning navigational aids should essentially result in parity with EU Member States (MS) and EEA States that have an offshore hydrocarbons industry, because the UNCLOS obligations apply equally to the UK, MS and EEA States.

## ANNEX

### THE WORKS DETRIMENTAL TO NAVIGATION (POWERS AND DUTIES OF INSPECTORS) REGULATIONS 2018

#### **What were the policy objectives of the measure?**

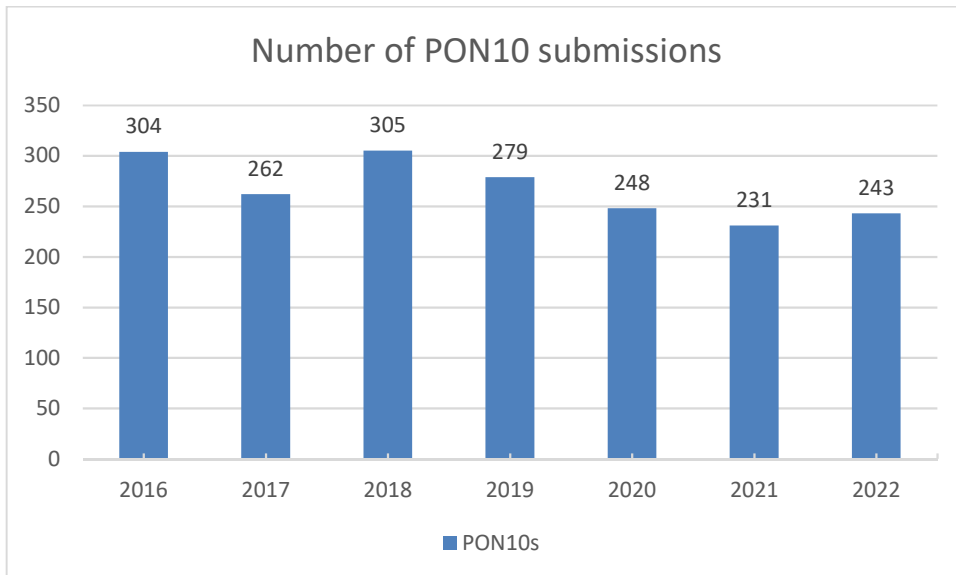
Section 82A of the Energy Act 2008 requires the written consent (Consents to Locate) of the Secretary of State before activities likely to result in obstruction or danger to navigation are carried out at sea by oil and gas operators. A key condition of Consents to Locate is the obligation on operators to maintain properly functioning navigational aids and ancillary equipment on offshore facilities (i.e. lighting, signage and other signals to warn shipping of the presence of offshore facilities in low visibility conditions). Other offshore operations to which the requirements of Consents to Locate apply include the construction, alteration, maintenance, improvement, dismantling or abandonment of any works; and the deposit or removal of any substance or article.

Prior to the coming into force of the 2018 Regulations, OPRED inspectors did not have formal powers to proactively inspect and investigate breaches of these requirements. The 2018 Regulations sought to fill that gap by providing OPRED inspectors with powers to, in summary, board and access offshore facilities, require the provision of relevant information and obtain evidence of breaches.

#### **To what extent have the policy objectives been achieved?**

OPRED inspectors spend, on average, about 16 hours a year inspecting against the requirements of Part 4A of the Energy Act 2008, and a further 12 hours a year engaging with operators about these requirements.

PON10 reports are used by operators of offshore facilities to report non-compliances with conditions of Consents to Locate or any other breaches of Part 4A of the Energy Act 2008. A review of the available internal OPRED data suggests that the number of PON10 reports have trended down since 2018 showing a higher level of compliance.



**Has the evidence identified any opportunities for reducing the burden on business?**

Updated guidance to industry on the requirements of the Consent to Locate regime and what needs to be reported as a PON10, and better data sharing with industry about common faults and trends might help reduce uncertainty for business.

One respondent suggested that a move to a risk-based rather than a compliance focussed inspection approach would reduce burden on business while addressing risks to navigation.