

**EXPLANATORY MEMORANDUM TO
THE OFFSHORE INSTALLATIONS (SAFETY CASE) REGULATIONS 2005**

2005 No. 3117

1. This explanatory memorandum has been prepared by the Health and Safety Executive on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These regulations revoke and replace the Offshore Installations (Safety Case) Regulations 1992 (save in respect of transitional arrangements). They continue the requirement for those responsible for offshore oil and gas installations to submit safety cases to the Health and Safety Executive (HSE) for acceptance as a condition of operating in UK waters. They update the 1992 Regulations to take account of changes in the offshore industry, including the increasing reliance on contractors, and streamline the process of preparing and assessing safety cases.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None.

4. **Legislative Background**

4.1 These Regulations are made under the Health and Safety at Work etc. Act 1974.

4.2 These Regulations are intended to improve on the 1992 Regulations, in line with the Government's principles of 'Better Regulation' by speeding up and simplifying the safety case process, and providing greater stimulus for continuous improvement in safety. The Regulations will be supported with Guidance.

4.3 The key changes brought about by the Regulations are:

- 4.3.1 Installation duty holders will have to carry out a thorough review of the safety case at least every 5 years or as directed by HSE. This replaces the present requirement for resubmission of safety cases every 3 years, which has proven to be costly and of diminishing safety value.
- 4.3.2 There are new duties on licensees to ensure that anyone they appoint as an installation operator is capable of carrying out effectively the operator's legal responsibilities for health and safety.
- 4.3.3 The definition of installation operator has been amended to take account of greater contractorisation in the industry since 1992. The definition confirms to operators that they cannot avoid their health and safety responsibilities by delegating them to a contractor.

- 4.3.4 Requirements under the 1992 Regulations for separate safety cases for installation design and for combined operations will be replaced by notifications. Notifications will not require formal acceptance by HSE.
- 4.3.5 The Regulations introduce a statutory right of appeal to the Secretary of State against an HSE decision not to accept a safety case and other related matters.
- 4.3.6 The Regulations make consequential amendments to other health and safety regulations to ensure consistency. They amend the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 to extend consultation with safety representatives to revising and reviewing a safety case as well as preparing one.

4.4 The 1992 Regulations implemented Article 3(2) Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (OJ No. L348, 28.11.92, p.9) ("the Directive"), which obliges the employer to draw up and keep a document concerning safety and health, and specifies certain basic particulars that the document must demonstrate. These Regulations continue to provide for the implementation of Article 3(2) of the Directive in Great Britain. They also contain a number of requirements additional to those specified in Article 3(2). Schedules 2 and 3, for example, add to Article 3(2) by requiring more detailed descriptions of the measures that need to be taken before the safety case is accepted by the Executive.

4.5 Regulation 23 of the Regulations gives the Executive a power to grant exemptions from any requirement or prohibition imposed by or under the Regulations. However, regulation 23(2) includes limitations on this power. The relevant limitation for the purposes of this Memorandum provides that, before being able to grant an exemption, the Executive must be satisfied that "the exemption will be compatible with the requirements of Article 3(2) of the Directive". This is because the Directive does not make provision for a power to grant exemptions from the requirements of Article 3(2). On the other hand, an exemption could, in principle, be granted by the Executive in relation to the additional requirements.

4.6 This general formulation for ensuring that any exemption does not breach the requirements of Article 3(2) of the Directive, rather than a precise identification of individual provisions which the exemption applies to, was considered appropriate for the reason that the additional national requirements are scattered throughout the Regulations, are included, or mixed in, with provisions which implement the obligations under Article 3(2) and are thus not practicably identifiable.

5. Extent

5.1 This instrument applies to installations in the coastal waters of Great Britain, in the territorial sea adjacent to Great Britain and in designated areas of the United Kingdom Continental Shelf.

6. European Convention on Human Rights

No statement is required..

7. Policy background

7.1 The 1992 Regulations were introduced to implement a central recommendation of Lord Cullen's Inquiry into the Piper Alpha disaster of July 1988. The 1992 Regulations have proven successful in controlling major accident risks offshore, but they need to be updated to keep pace with changes in the industry and to adopt the lessons of experience. These Regulations are intended to simplify the regulatory process, reducing the overall number of safety case submissions so as to ensure duty holders give full attention to controlling significant health and safety risks. This also allows HSE to redirect resources from assessing safety cases to front line inspection. The Regulations apply to approximately 250 offshore installations, both fixed and mobile.

7.2 The Regulations were developed in consultation with key stakeholders, including the Offshore Industry Advisory Committee. A conference in November 2003 allowed stakeholders to contribute their views and experiences to a 2004 Consultation Document (CD) that sought comments over a 12-week period. There were 39 comments on the CD, which were generally supportive, though raising several points of detail. So far as possible these points have been accommodated in changes to the draft of the Regulations or in the supporting guidance that HSE will publish to assist duty holders. Further meetings were held with stakeholders to agree the way forward.

7.3 The Regulations are unlikely to attract public interest outside the offshore oil and gas industry.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is negligible.

9. Contact

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The Offshore Installations (Safety Case) Regulations 2005

Revision Of The Offshore Installations (Safety Case) Regulations 1992 (OSCR)

Regulatory Impact Assessment

Purpose And Intended Effect

Issue

1. The Offshore Installations (Safety Case) Regulations (OSCR) came into effect, for most purposes and subject to transitional arrangements, on 31 May 1993. They require operators and owners of offshore oil and gas installations to submit safety cases to HSE for acceptance as a condition of operating in UK waters.
2. After 10 years in operation it is legitimate to review the purpose and effectiveness of the OSCR. They have already been subject to independent evaluation. An interim evaluation of the OSCR in 1994/95 found that the regulations had a positive impact on offshore safety, but there was criticism of excessive bureaucracy. These findings were endorsed by a full evaluation of the offshore regime, including the OSCR, published in 1999 by Aberdeen University. Most stakeholders felt that the new legal framework aided effective management of risks, but again there were doubts about excessive regulatory complexity.
3. HSE has done much to streamline the processes, but operational experience indicates that further improvements require changes to the regulations themselves. Problems of excessive bureaucracy remain. In particular, much of the effort required of duty holders by the regulations to prepare safety cases – and therefore of the effort required of HSE to assess them – is not directed at useful safety objectives. There are indications that the safety case is seen as intended purely for HSE, with limited benefit to the duty holder.

Objectives

4. Revising the OSCR is intended to relieve unnecessary burdens on duty holders and on HSE, to enhance the safety case's value to the duty holder and to provide a greater stimulus for continuous improvement. As a minimum, HSE wants to redeploy a significant proportion of resources currently devoted to safety case assessment to increasing related inspection and verification, with expected greater benefits for safety.

Risk Assessment

5. The OSCR address the risks of a major incident offshore. These include the potential for fire and explosion since offshore activity involves the extraction of highly flammable hydrocarbons

from the UK Continental Shelf (UKCS). Offshore installations also face a number of other potential hazards such as ship collision, worsening environmental conditions and platforms' structural integrity (especially among ageing platforms). Further information about the risks faced by offshore installations is provided under option 1 below.

Options

Option 1: Revoke the regulations without replacement.

6. The HSC's view is that the original rationale for the regulations remains valid. While offshore safety standards have greatly improved since the Piper Alpha disaster in 1988, the potential for a major incident remains. This is evident from other offshore provinces, for example the loss of the installation P36 off Brazil in 2001 in which 11 died. To control that potential, and to ensure public confidence that the risks are being controlled, demands constant close attention from duty holders and from HSE. The benefits of a safety case approach to controlling activities with such potential were endorsed by the 1999 Aberdeen University evaluation and more recently by Lord Cullen's 2001 report. The OSCR still meet the key criteria set out in the HSC's 2003 Policy Statement on Permissioning Regimes, though there is scope for better alignment with the principles.
7. The HSC therefore considers the OSCR approach to be still fundamentally sound, though it needs to be updated to meet the circumstances of a mature regime.

Option 2: Leave the regulations unaltered.

8. This would perpetuate a situation in which the effectiveness of the regulations is diminishing while the costs to industry and HSE of implementing them is increasing. To reverse this situation requires amending the existing regulations.

Option 3: Revise the regulations.

9. This would improve the effectiveness of the Regulations, reduce the cost to industry and release inspector resource to carry out frontline inspection and verification instead of being tied down assessing safety cases. The HSE regards these changes as critical to the future effectiveness of Offshore Division (OSD).

Information Sources And Background Assumptions

10. Information on the costs and benefits of revising the OSCR have been obtained from relevant industry representatives and from within HSE.
11. The costs and benefits have been discounted following Treasury guidance at a rate of 3.5%. Costs and benefits have been calculated over a ten year appraisal period starting in 2003, which is also the price base year. The choice of base year does not affect the balance of costs and benefits or the conclusions that flow from them.
12. The number of fixed installations is taken to be equal to 146 in anyone year. The figures for mobile installations and Combined Operations Safety Cases (COSCs) are 77 and 131, respectively. These figures are average per year estimates and have been extrapolated from the number of three-yearly resubmissions received by HSE over the period 1997-2003.
13. There is a wide range in the cost information received from industry representatives for the cost of a fixed installation safety case resubmission. The range is from £40,000 to £260,000 per resubmission. For this reason a range of £75,000 to £150,000 has been used for the calculations in this RIA. The range was constructed by excluding the top and bottom four data points from a total of 13 data points.
14. Some costs are opportunity costs reflected by lost output as a result of performing new duties. It has been assumed that the value of lost output is equal to the time spent carrying out the new duty multiplied by the average wage of the worker (adding 30% for non-wage labour costs including superannuation and employers' National Insurance contributions). The wage rate of £19.20 per hour for duty holders has been taken from the New Earnings Survey 2003 for 'Managers and Senior Officials'.
15. It has been assumed that there will be full compliance with the proposed regulations. This is a reasonable assumption because all installations operating on the UKCS are required to have a safety case.
16. Where figures are presented as ranges they have been calculated using a methodology similar to the following. The lower bound of total costs is the lower cost bound minus the upper cost saving bound. The upper bound of total costs is the upper cost bound minus the lower cost saving bound.

Equity And Fairness

17. No equity and fairness issues have been identified for the three options. Each option will have equal impact on all groups.

Atypical Workers

18. No issues affecting atypical workers have been identified for the three options.

Benefits

Health And Safety Benefits

Option 1

19. Health and safety disbenefits are expected from the revocation of the OSCR. It has not been possible to quantify the health and safety disbenefits because the evaluations of the offshore safety regime did not separate the benefits of the OSCR from the other parts of the safety regime. The Partial RIA used benefits in the OSCR cost benefit analysis to estimate the scale of the disbenefits but responses to the consultation indicated that these may have been inflated. The disbenefits of option 1 are unquantified, but expected to be substantial.

Option 2

20. There will be no additional benefits from retaining this option.

Option 3

21. The principal health and safety benefits will result from HSE resources being shifted away from work on assessing safety cases and towards front line inspections. This is expected to reduce risks in the sectors affected by increasing compliance with other elements of the offshore safety regime and therefore reducing the frequency of health and safety failures in the sector. It has not been possible to quantify the health and safety benefits that will result from option 3.

Other Benefits

22. No other benefits have been identified for options 1,2 or 3.

Table 1: Total Quantified Benefits To Society

	Present Value (£ Million)	Annualised Value¹ (£ Million)
<i>Option 1</i>	Unquantified (Negative)	Unquantified (Negative)
<i>Option 2</i>	£0	£0
<i>Option 3</i>	Unquantified (Positive)	Unquantified (Positive)

Sectors Affected

23. There are two sectors affected by these proposals. The first is offshore oil and gas extraction from the UKCS, and the second is offshore exploration for oil and gas in the North Sea. There are no additional businesses brought under the safety case regulations by these proposals.
24. The sector currently employs 19,000 people offshore and supports 300,000 jobs onshore.
25. 146 fixed installations, 77 mobile installations and 131 COSCs will be affected by the proposed regulations (see paragraph 12 above).

Costs

Costs For A 'Typical' Firm

Option 1

26. There is only one cost that will be imposed on installations from option 1: familiarisation costs. It has been estimated that familiarisation will take 2 hours for each duty holder. The estimated cost of familiarisation for a duty holder is £50.

Cost Saving

27. It has not been possible to identify the cost saving for a typical installation because there is insufficient information available from the evaluations of the offshore regime. Assuming that the costs of the OSCR are spread evenly across mobile and fixed units, the average cost saving per installation is £2.5 to £3.4 million over the appraisal period.

Net Cost

28. The net cost of option 1 for a typical installation is minus £3.4 million to minus £2.5 million over the appraisal period.

Option 2

29. There will be some additional costs from retaining this option. Costs increase because each cycle of assessment tends to build on the previous assessment. There are also further costs due to developments in improved health and safety infrastructure and equipment.

Option 3

¹ The annualised benefit is the fixed annual sum which when discounted over the appraisal period equals the present value.

30. It is difficult to estimate the costs for a 'typical' firm because there is a diverse range of firms in the sector. Firms operate fixed or mobile installations, they vary in size and in number of installations operated and some require COSCs. Since the largest number of submissions is made by fixed installations the average costs for a fixed installation are set out. This will not reflect the position of any given firm in the sector but it will provide an indication of the costs installations may face as a result of the proposed regulations.

31. A fixed installation will face the following costs: (1) familiarisation, (2) a five year review, and (3) an increase in non-routine resubmissions. Familiarisation has been estimated to take 16 hours at a cost of £400 over the appraisal period. The cost of a five year review has a present value of between £50,000 and £80,000² over the appraisal period. The cost of increased non-routine resubmissions has been estimated at between £0 and £380,000³ over the appraisal period.

Cost Savings⁴

32. A fixed installation will have cost savings from the abolition of the three year resubmission. The present value cost of three year resubmissions is £190,000 to £380,000 over the appraisal period.

Net Cost

33. The net present cost for a fixed installation is minus £330,000 to £270,000 over the appraisal period.

Total Compliance Costs To Firms

Option 1

34. The only cost to firms of option 1 is the cost of familiarisation with the revoked regulations i.e. identifying what duties have been removed. It has been estimated that duty holders will take 2 hours to familiarise themselves with the revoked regulations. The present value cost of familiarisation is £11,000⁵ over the appraisal period.

35. This is a one-off implementation cost.

² The present value cost of the five year review has been calculated as follows: the cost of a five year review has been incurred in years 5 and 10 of the appraisal period. The estimated cost of a five year review is £30,000 to £50,000.

³ This cost has been calculated as follows: (1) for the lower bound it has been assumed that no material changes are made to the safety case during the appraisal period, (2) for the upper bound it has been assumed that a material change is made to the safety case every three years with the changes being made in years 3, 6 and 9 of the appraisal period. The estimated upper bound cost of a material revision is £150,000.

⁴ This cost saving has been calculated as follows: the cost of a three year resubmission has been saved in years 3, 6 and 9 of the appraisal period. The estimated cost of a three year resubmission is £75,000 to £150,000.

⁵ This cost has been calculated as follows: the number of installations (fixed and mobile) has been multiplied by the number of hours required for familiarisation and the wage rate (adding 30% for non-wage labour costs).

Cost Savings⁶

36. There will be cost savings from revoking OSCR as firms will no longer be required to produce safety cases. The partial RIA estimated the cost savings from revoking OSCR assuming that they would be equal to the costs of OSCR. All of the costs of the OSCR were included in the estimate of the potential cost savings from revoking OSCR. It is however unlikely that cost savings of option 1 would equal the cost of the existing regulations because many of the costs of the existing regulations are sunk costs.
37. The 'Evaluation of the Offshore Legislative Regime'⁷ estimated that the ongoing cost of the OSCRs between 1996 and 1998 was £56.7⁸ to £77.0⁹ million (money of the day prices). Assuming that these ongoing costs are incurred evenly over the three year period, the present value of cost savings from option 1 is £188.5 to £256.0 million over the appraisal period.

Net Cost

38. The net cost to firms of option 1 is minus £256.0 to minus £188.5 million over the appraisal period.

Option 2

39. There will be additional costs for firms from retaining the current safety case regime (see paragraph 29 above).

Option 3

Familiarisation¹⁰

40. It has been estimated that duty holders will take up to 16 hours to familiarise themselves with the proposed regulations. The present value cost of familiarisation is £89,000 over the appraisal period.
41. This is an implementation cost.

Replacement Of Combined Operations Safety Cases (COSC)

42. Producing a notification costs significantly less than producing a COSC. The cost of submitting a notification to HSE is low and the cost to firms collecting the relevant information is also expected to be relatively low. A conservative estimate of the full cost of a notification is £1,000

⁶ To estimate the cost savings of option 1 it has been assumed that costs estimated by AUPEC are incurred evenly over the three year period from 1996 to 1998. The annual cost of OSCR has then been discounted over the appraisal period.

Costs have been updated using GDP deflator to 2003 prices assuming that the costs in the evaluation are in 1997 prices. This assumption is necessary because the evaluation provides costs in money of the day prices and only aggregate costs for the period from 1996 to 1998 are presented.

⁷ AUPEC Limited, 'Evaluation of the Offshore Legislative Regime' (1999).

⁸ *Ibid* Page 5-37

⁹ *Ibid* Page 5-38

¹⁰ This cost has been calculated as follows: the number of installations (fixed and mobile) has been multiplied by the number of hours required for familiarisation and the wage rate (adding 30% for non-wage labour costs).

to £2,000 (10% to 20% the cost of producing a COSC). The present value cost of notifications has been estimated at £376,000 to £752,000¹¹ over the appraisal period.

43. The cost of safety case revisions is higher than the cost of notifications but they should not be necessary for most firms. A conservative estimate of £10,000, or the full cost of a COSC, has been used to estimate the cost of revisions and it has been estimated that one-third of firms could require revisions. The present value cost of producing revisions is £1,253,000¹² over the appraisal period.

44. This is an implementation cost.

Five Year Reviews¹³

45. The HSC has proposed that the three year resubmission should be replaced by a five year review. It has been estimated that a review will cost between £30,000 and £50,000 for fixed and mobile installations. The present value cost of introducing five year reviews is between £7.5 and £12.6 million for fixed units and between £4.0 and £6.6 million for mobile units over the appraisal period.

46. This is an implementation cost.

Non-Routine Resubmissions¹⁴

47. Non-routine resubmissions are made when there is a material change to a safety case. Their number is expected to increase with the introduction of 5 year reviews because some firms bundle together non-routine resubmissions and 3 year resubmissions.

48. It is estimated that the number of non-routine resubmissions will increase by 20% of the number of routine resubmissions because about 20% of routine resubmissions contain material changes.

49. Assuming that the cost of a non-routine resubmission is the same as a routine 3 year resubmission, the cost of an increase in the number of non-routine resubmissions has a present value of between £6.3 and £12.6 million for fixed units and £2.0 million for mobile units over the appraisal period.

50. This is an implementation cost.

Increased Inspections

¹¹ This cost has been calculated by discounting the product of the cost of making a notification and the average number of COSCs per year over the appraisal period.

¹² This is calculated by discounting the product of the average number of COSCs per year, the cost of a revision and the proportion of installations per year expected to require revisions.

¹³ This cost has been calculated by discounting over the appraisal period, the product of the cost of a five year review and the number of reviews per year. The expected number of five year reviews is the number of resubmissions made over a three year period (since all installations are required to make a submission every three years) divided by five.

¹⁴ This has been calculated by discounting over the appraisal period the product of the cost of a non-routine resubmission, the number of three year resubmissions per year and the expected increase in the number of non-routine submissions (a proportion of three year resubmissions).

51. Two costs will be imposed upon the sector by an increase in the frequency of inspections: increased inspection costs and increased compliance costs.
52. The increase in the cost of inspections for duty holders will be completely offset by the reduction in HSE charges for having safety case resubmissions assessed.
53. There may be additional costs to business from inspectors highlighting additional areas for improvement as a result of the increased number of inspections. It has not been possible to estimate the increase in compliance costs but they are likely to be offset by improvements in health and safety.

Cost Savings

Abolition Of Routine 3-Year Resubmission¹⁵

54. There is a cost saving for firms from abolishing the requirement to resubmit their safety case every three years. The cost of a three year resubmission has been estimated at between £75,000 and £150,000 for a fixed installation and £45,000 for a mobile installation¹⁶.
55. The present value cost savings from the abolition of the three year resubmission is £31.4 to £62.8 million for fixed installations and £9.9 million for mobile installations.
56. This is an implementation cost saving.

Abolition Of Special Safety Case For Combined Operations¹⁷

57. There will be cost savings for industry from the abolition of the requirement to produce a Combined Operations Safety Case (COSC). The estimated cost of a COSC is £10,000¹⁸. The present value cost saving is £3.8 million over the appraisal period.
58. This is an implementation cost saving.

Net Cost

59. The net cost to firms of option 3 is minus £55.0 to minus £9.3 million over the appraisal period.

Costs to HSE

Option 1

60. HSE staff would be required to familiarise themselves with the consequences of revoking the regulations under option 1. The following are the estimated number of days for providing and receiving communications: 13 band 2 days, 26 band 3 days and 4 support staff days. The

¹⁵ The annual cost saving has been calculated by multiplying the average number of three year resubmissions per year by the cost of a resubmission.

¹⁶ £45,000 has been used in calculations for the cost of a mobile installation resubmission but it may not be representative because only one data point was provided.

¹⁷ The annual cost has been calculated by multiplying the average number of COSCs per year and the cost of producing a COSC.

¹⁸ UKOOA, an industry representative body, provided only one data point for this cost.

present value cost of HSE staff familiarisation is £14,000 to £15,000 over the appraisal period (this is a one-off cost)

- 61. There will be no other additional costs to HSE from option 1.
- 62. This is an implementation cost.

Option 2

- 63. There will be unquantifiable additional costs from retaining the current safety case regime.

Option 3

Training HSE Staff

- 64. HSE staff will be required to familiarise themselves with the changes to the regulations proposed under option 3. The following are the estimated number of days for providing and receiving training: 46 band 2 days, 103 band 3 days and 13 support staff days. The present value cost of HSE staff familiarisation is £52,000 to £57,000 over the appraisal period (this is a one off cost).
- 65. This is an implementation cost.

Increased Inspections

- 66. The proposed changes in the OSCR will be cost neutral. The HSE currently recovers all of its costs associated with the OSCR through a system of charging and it will continue to do so after the changes to the OSCR have been implemented.
- 67. The HSE will continue to seek to improve efficiency and reduce charging costs.

Other Costs

- 68. No other costs have been identified for options 1, 2 or 3.

Environmental Impacts

- 69. Option 1, revoking the OSCR, would likely increase the risk of a major incident offshore. Though the OSCR are not intended to protect the environment, a major incident is likely to lead to considerable environmental damage from the uncontrolled release of hydrocarbons to the sea, threatening marine life, for example. The costs of such damage cannot be quantified, but could be substantial.
- 70. No additional environmental impacts are expected from option 2.
- 71. Option 3 is expected to deliver some risk reduction (see benefit section). Hence, correlated environmental benefits can be expected. These benefits, though potentially substantial, are

unquantifiable.

Total Costs To Society

Table 2: Total Quantified Costs To Society¹⁹

	Present Value (£ Million)	Annualised Value (£ Million)
<i>Option 1</i>		
Familiarisation	*	*
Abolish OSCR	- £188.5 to - £256.0	- £21.9 to - £29.7
HSE Costs	*	*
Total	- £256.0 to - £188.5	- £29.7 to - £21.9
<i>Option 2</i>		
Total	Unquantified(positive)	Unquantified(positive)
<i>Option 3</i>		
Familiarisation	£0.1	*
Notifications	£0.4 to £0.8	* to £0.1
Revisions	£1.3	£0.1
5 Year Reviews		
Fixed	£7.5 to £12.6	£0.9 to £1.5
Mobile	£4.0 to £6.6	£0.5 to £0.8
Non-Routine Resubmissions		
Fixed	£6.3 to £12.6	£0.7 to £1.5
Mobile	£2.0	£0.2
Additional Inspections	Unquantified	Unquantified
3 Year Revision Abolition		
Fixed	-£31.4 to -£62.8	-£3.7 to -£7.3
Mobile	-£9.9	-£1.2
Abolition of COSC	-£3.8	-£0.4
HSE Costs	£0.1	*
Total	- £55.0 to - £9.2	- £6.4 to - £1.1

Small Firms' Impact Test

72. None of the firms affected by this proposal is small.

Competition Assessment

Option 1 and 2

73. No negative impact on competition is expected to result from these options.

Option 3

74. There are two markets affected by option 3, the market for offshore oil and gas exploration and the market for offshore oil and gas production.

¹⁹ A negative number indicates cost savings. Figures may not add up due to rounding.

* indicates figure is less than £50,000.

Offshore Oil And Gas Exploration

75. The market comprises a small number of large and mainly global drilling companies. They contract out the use of mobile offshore drilling units (MODUs) to oil and gas production companies. It is expected that the proposals will promote competition by slightly reducing the fixed costs of operation in this market.
76. The market is assumed to be limited to the UK regulated UKCS and MODU usage is used to calculate market share. At least one firm has a market share greater than 10% but no firm controls over 20% of the market and no three firms have a combined market share exceeding 50%. This indicates that there is not a market concentration concern in this industry.
77. The proposals are not expected to have differential impacts on different firms nor on potential entrants vis-à-vis incumbents. It is not expected that the proposals will constrain the ability of firms to choose their price or quality.

Offshore Oil And Gas Production

78. This market is dominated by a small number of large to very large companies with an increasing number of smaller entrants that often take over old acreage and/ or assets. Production share of oil, gas and condensate combined is used as a proxy for market share. These figures, although not fully representative of the entire market, are easily available and indicate that competition concerns are not raised by these proposals. There is not a problem using this data because it is likely that the wider market is more competitive than the UKCS alone and the proposals reduce the costs faced by firms.
79. There is a degree of market concentration with at least one (maybe three) firms having a market share exceeding 10%. At least one firm has a market share exceeding 20% and the three largest firms have a combined market share exceeding 50%. However, majors are shedding less productive assets to smaller newcomers.
80. The proposals will not have a differential impact on firms, nor will they have a differential impact on potential entrants vis-à-vis incumbents.
81. The market is currently characterised by technological change, but it is unlikely that the proposals will stifle this.
82. The UKCS is a relatively high cost oil and gas province and regulatory costs (including the costs of compliance with the OSCR) contribute to this. Reducing OSCR costs should increase the UKCS's attractiveness to prospective new entrants, though the overall effect may be negligible.

Balance Of Costs And Benefits

83. Option 3 will produce an estimated cost saving of between £55.0 and £9.2 million over a ten years period. The benefit of refocusing HSE resources towards front line inspections has not been quantified but should be taken into consideration when comparing the costs and benefits of the proposals.

Table 3: Present Value Of Costs And Benefits

Option	Benefits (£ Million)	Costs (£ Million)
Option 1	Unquantified (Negative)	- £256.0 to - £188.5
Option 2	£0	Unquantified(positive)
Option 3	Unquantified (Positive)	- £55.0 to - £9.2

84. Option 3 provides a significant net benefit to the sector whilst increasing the focus on health and safety failures. The cost savings from option 1 are larger than those from option 3 but option 1 is expected to have a detrimental impact on health and safety, and it would remove a central plank of the offshore safety regime.

Uncertainties

Data Uncertainties

85. One firm separated their costs of producing a safety case into the ongoing costs of maintaining a safety case and the additional costs of making a three year resubmission. Since other firms did not do this it is not possible to determine whether the figures provided represent only the additional costs of a three year resubmission or a bundle of the additional costs of a resubmission and the costs of maintaining a safety case. It has been assumed that the cost data received represent only the additional costs of three year resubmissions.
86. Under this assumption, cost savings could potentially be overestimated if some of the data points include costs other than the cost of a three year resubmission.

Estimates

87. Some figures, such as the expected increase in non-routine resubmissions and the cost of producing a five year review, have involved educated guesswork and have been refined as a result of the consultation process.
88. If the number of non-routine resubmissions increased from 20% of the number of three year resubmissions to 50%, the overall cost of option 3 increases to between minus £42.6 and £12.6 million. Whilst this is a large fall it is unlikely that resubmissions would increase by 50% and a positive net benefit from the proposed regulations is likely to remain.
89. Nevertheless, responses to the consultation have indicated that option 3 could be cost neutral.

Unquantifiable Benefits

90. Shifting HSE resources from work on assessing safety cases to frontline inspections is expected to have a positive effect on health and safety, but it is extremely difficult to quantify.

For this reason it has not been included in the benefits section, but there could be a significant benefits from this shift in HSE's resources. There should also be health and safety benefits from redirecting duty holders' efforts to areas in need of improvement, but again these cannot be quantified.

Responses To The Consultation Process

91. The following changes have been made to the RIA as a result of the consultation:

- The costs and benefits of option 1 have been set out more clearly. For instance, option 1 will result in costs savings and, health and safety disbenefits.
- Option 1: the cost saving from revoking OSCR has been modified so that it is the on going cost of the regulations that will be saved and not the total cost of OSCR regime (many costs are sunk costs so will not be recouped if OSCR are revoked).
- Option 1: the disbenefits of option 1 are unquantified.
- Option 3: the potential increase in compliance costs as a result of HSE shifting resources into inspection has been included.
- A range has been used for the cost of a 5 year review. The range used is £30,000 to £50,000.
- A range has been used for the cost of a notification. The range used is £1,000 to £2,000.
- The effects of option 1 and 2 on equity and fairness, atypical workers, the environment, competition and small firms have been included in the RIA.

92. The following additional changes have also been made:

- The cost of familiarisation has been included.
- The cost to HSE of training staff has been quantified.

Enforcement And Sanctions

93. No change proposed to present arrangements.

Arrangements For Monitoring And Evaluation

94. The revision of the OSCR is a direct result of earlier evaluation of the impact of the 1992 Regulations. This evaluation process included an AUPEC study in 1999 and in-house monitoring of the safety case assessment process. This work demonstrated the continuing value of the safety case approach, but identified a need to release both industry and HSE

resources from parts of the process whose value has diminished over time and redirect those resources to areas more beneficial to safety.

95. The evaluation objective is to evaluate the effectiveness of the proposed changes in reducing unnecessary costs and in improving standards of major hazard control. Identifying cost reductions through the expected fall in safety case submissions should be relatively straightforward by the end of the transitional period. Identifying improved standards of control will be more problematic given the lack of suitable indicators, but in principle we envisage seeking the subjective observations of key stakeholders and offshore directorate inspectors on the impact of the changes at the end of the transitional period.

Summary And Recommendation

96. Option 3 is recommended. It provides a significant net benefit to the sector while improving the capability to control major accident risks. The cost savings from option 1 are greater than those from option 3, but option 1 would remove a central plank of the offshore safety regime. The effect of this removal is likely to be an unacceptable increase in the risk of a major incident offshore. Option 2 would persist with an unsatisfactory situation which option 3 is intended to remedy. Though only some costs and benefits can be quantified, it is clear that option 3 provides significant benefits, while option 1 provides significant disbenefits.

Ministerial Declaration

97. **I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs**

Signed: *Philip A Hunt*

Lord Hunt of Kings Heath

Date: 9th November 2005

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