
STATUTORY INSTRUMENTS

2015 No. 398

The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 and come into force on 19th July 2015.

Interpretation

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1995 Act” means the Merchant Shipping Act 1995⁽¹⁾;

“competent authority” means the Executive and the Secretary of State acting jointly;

“corporate major accident prevention policy” has the meaning given in regulation 7⁽²⁾;

“current safety case” means a safety case in respect of an installation which has been accepted by the competent authority pursuant to these Regulations and includes any revision to it which—

(a) may take effect without the acceptance of the competent authority; or

(b) has been accepted by the competent authority;

“Directive 92/91/EEC” means 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⁽²⁾;

“Directive 2013/30/EU” means Directive 2013/30/EU of the European Parliament and of the Council on safety of offshore oil and gas operations and amending Directive 2004/35/EC⁽³⁾;

“dismantling” means the dismantling or removal of the main and secondary structure of a fixed installation at the place at which it was operated, and “dismantled” is to be construed accordingly;

“diving bell” means a compression chamber which is capable of being manned and is used or designed for use under the surface of water in supporting human life, being a chamber in which any occupant is or may be subject to a pressure of more than 300 millibars above atmospheric pressure during normal operations;

“duty holder” means—

(a) in relation to a production installation, the operator; and

(b) in relation to a non-production installation, the owner;

“the Executive” means the Health and Safety Executive;

⁽¹⁾ 1995 c. 21.

⁽²⁾ OJ No L 348, 28.11.92, p. 9.

⁽³⁾ OJ No L 178, 28.06.13, p. 66.

“external waters” means—

- (a) the territorial sea adjacent to Great Britain; and
- (b) any area designated by order under section 1(7) of the Continental Shelf Act 1964(4);

“field development plan” means the support document for development and production consents to be submitted to the Department of Energy and Climate Change pursuant to the Guidance on the Content of Offshore Oil and Gas Field Development Plans, as published on the Department of Energy and Climate Change’s website, as revised or reissued from time to time(5);

“fixed installation” means an installation which cannot be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“installation” means an offshore installation within the meaning of regulation 3 of the Management Regulations(6);

“licensee” means an offshore licensee as defined in regulation 2(1) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015(7);

“major accident” means—

- (a) an event involving a fire, explosion, loss of well control or the release of a dangerous substance causing, or with a significant potential to cause, death or serious personal injury to persons on the installation or engaged in an activity on or in connection with it;
- (b) an event involving major damage to the structure of the installation or plant affixed to it or any loss in the stability of the installation causing, or with a significant potential to cause, death or serious personal injury to persons on the installation or engaged in an activity on or in connection with it;
- (c) the failure of life support systems for diving operations in connection with the installation, the detachment of a diving bell used for such operations or the trapping of a diver in a diving bell or other subsea chamber used for such operations;
- (d) any other event arising from a work activity involving death or serious personal injury to five or more persons on the installation or engaged in an activity on or in connection with it; or
- (e) any major environmental incident resulting from any event referred to in paragraph (a), (b) or (d),

and for the purposes of determining whether an event constitutes a major accident under paragraph (a), (b) or (e), an installation that is normally unattended is to be treated as if it were attended;

“major environmental incident” means an incident which results, or is likely to result, in significant adverse effects on the environment in accordance with Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage(8);

“management system” means the organisation and arrangements established by a person for managing that person’s undertaking;

(4) 1964 c. 29. Section 1(7) was amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c. 23) and by section 103 of the Energy Act 2011 (c. 16).

(5) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265842/FDP_guidance_notes_November_2013_web.pdf.

(6) Regulation 3 was amended by regulation 2(2) of S.I. 2002/2175.

(7) S.I. 2015/385.

(8) OJ L 143, 30.4.2004, p56, amended by Directive 2006/21/EC (OJ No L 102, 11.4.2006 p15), Directive 2009/31/EC (OJ No L 140, 5.6.2009, p114) and Directive 2013/30/EU (OJ No L 178, 28.06.13, p66.)

“the Management Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995⁽⁹⁾;

“non-production installation” means an installation other than a production installation;

“notified” except in regulations 29 and 33, means notified in writing, and related expressions are to be construed accordingly;

“offshore oil and gas operations” means all activities associated with an installation relating to exploration and production of petroleum, including the design, planning, construction, operation and decommissioning of the installation, but excluding the conveyance of petroleum from one coast to another;

“operator” means, in relation to a production installation, an “installation operator” as defined in regulation 2(1) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015;

“owner” means the person who controls or is entitled to control the operation of a non-production installation;

“petroleum” includes any mineral oil or relative hydrocarbon and natural gas, whether or not existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

“the PFEER Regulations” means the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995⁽¹⁰⁾;

“pipeline” has the meaning given in regulation 3 of the Pipelines Safety Regulations 1996⁽¹¹⁾;

“production installation” means an installation which—

- (a) extracts petroleum from beneath the seabed by means of a well; or
- (b) is used for the conveyance of petroleum by means of a pipe,

and—

- (a) includes a—
 - (i) non-production installation converted for use as a production installation for so long as it is so converted;
 - (ii) production installation which has ceased production for so long as it is not converted to a non-production installation; and
 - (iii) production installation which has not come into use; and
- (b) does not include an installation which, for a period of no more than 90 days, extracts petroleum from beneath the seabed for the purposes of well testing;

“relevant statutory provisions” means the relevant statutory provisions (as defined in section 53(1) of the 1974 Act) which apply to or in relation to offshore oil and gas operations;

“safety and environmental-critical elements” means such parts of an installation and such of its plant (including computer programmes), or any part of those—

- (a) the failure of which could cause or contribute substantially to a major accident; or
- (b) a purpose of which is to prevent, or limit the effect of, a major accident;

“specified plant” means the plant for an installation which is provided—

- (a) in compliance with regulations 11(1)(a), 13, 15 and 16 of the PFEER Regulations;
- (b) as required to be provided by regulation 10 of the PFEER Regulations as means—

⁽⁹⁾ S.I. 1995/738, amended by S.I. 2002/2175, 2005/3117. Further amendments are made by paragraphs 8 to 15 of Schedule 13 to these Regulations.

⁽¹⁰⁾ S.I. 1995/743, amended by S.I. 2005/3117 and paragraphs 16 to 23 of Schedule 13 to these Regulations.

⁽¹¹⁾ S.I. 1996/825, to which there are amendments not relevant to these Regulations.

- (i) for detecting fire; or
- (ii) for detecting and recording accumulations of flammable gases; and
- (c) pursuant to the measures required by regulation 12 of the PFEER Regulations to combat fire and explosion,

except for—

- (a) plant which is part of the safety and environmental-critical elements for that installation; and
- (b) aircraft or equipment to which regulation 18 of the PFEER Regulations applies.

“tripartite consultation” means a formal arrangement to enable dialogue and cooperation between the competent authority, duty holders and workers’ representatives;

“verification scheme” has the meaning given in regulation 9(1);

“vessel” includes a hovercraft and any floating structure which is capable of being manned;

“verifier” means an independent and competent person (as defined in paragraph (6)) who performs functions in relation to a verification scheme;

“well” means—

- (a) a well made by drilling; and
- (b) a borehole drilled with a view to the extraction of petroleum through it or another well, and includes any device on it for containing the pressure in it;

“well examination scheme” has the meaning given in regulation 11(1);

“well examiner” means an independent and competent person (as defined in paragraph (6)) who performs functions in relation to a well examination scheme;

“well operation” means—

- (a) the drilling of a well, including the recommencement of drilling after a well has been completed, suspended or abandoned by plugging at the seabed; and
- (b) any operation in relation to a well which may result in an accidental release of fluids from that well which could give rise to the risk of a major accident; and

“well operator”, in relation to a well or a proposed well, has the meaning given in regulation 2(1) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015.

(2) Any reference in these Regulations to a design notification, a relocation notification, a safety case, a notification of combined operations or well operations or a corporate major accident prevention policy is a reference to a document containing the particulars specified in the Schedule referred to in the provision pursuant to which it is prepared and, for a safety case, regulation 16.

(3) For the purposes of these Regulations an installation is operated if it is used for any of the purposes described in sub-paragraphs (a), (c), (ca)(12) and (d) of regulation 3(1) of the Management Regulations.

(4) For the purposes of these Regulations, an installation (other than a production installation, the operation of which has not commenced), is engaged in a combined operation with another installation or installations where—

- (a) an activity carried out from, by means of or on the installation is carried out for a purpose relating to another installation or installations; and
- (b) the activity could materially affect the risk to—

(12) Paragraph (ca) is inserted by paragraph 10(2)(a) of Schedule 13 to these Regulations.

- (i) the health or safety of persons on either installation or on any of the installations; or
- (ii) the environment,

and the expression “combined operation” is to be construed accordingly.

(5) For the purposes of paragraph (4) and regulations 17(1) and 19(7), the operation of a production installation commences from the earlier of—

- (a) the commencement of the first well drilling operation from the installation which may involve the release of petroleum from beneath the seabed; or
- (b) the bringing onto the installation of petroleum for the first time through a pipeline or well.

(6) In these Regulations “independent and competent person” means a person who—

- (a) is independent; and
- (b) is competent, including where that person is a body of persons, having suitable personnel.

(7) For the purposes of paragraph (6)(a) and (9), a person is to be regarded as independent only where—

- (a) the person’s function will not involve the consideration by that person of an aspect of something liable to be examined under regulation 9 or 11 for which that person bears or has borne responsibility or where that person’s objectivity may be compromised; and
- (b) the person is sufficiently independent of a management system which has, or has had, any responsibility for any aspect of something liable to be examined by the person under regulation 9 or 11 so as to ensure objectivity in carrying out the person’s functions under the scheme.

(8) For the purposes of paragraph (6)(b), a person is not to be regarded as competent unless, in particular, the person has such reasonable technical competence as is sufficient for the person to carry out the functions of an independent and competent person under these Regulations, under a verification scheme or, as the case may be, a well examination scheme.

(9) For the purposes of paragraph (6)(b) “suitable personnel” means personnel in adequate numbers who are suitably qualified and experienced and who are independent.

(10) For the purposes of these Regulations a “description of the internal emergency response arrangements” means, in relation to an installation, a description of the manner of performance of the internal emergency response duties (as defined in regulation 30(14)) in relation to that installation, together with the oil pollution emergency plan produced pursuant to regulation 4(3)(a) and (c) of, and Schedule 2 to, the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998(13).

(11) Where a duty holder is succeeded by a new duty holder, anything done in compliance with these Regulations by the duty holder in relation to an installation is, for the purposes of these Regulations, to be treated as having been done by the new duty holder.

Communication and storage of information by electronic means

3.—(1) Except as provided in paragraph (5), where these Regulations require or allow a person to communicate information to another, whether in writing or otherwise, that person may communicate such information by electronic means.

(2) Information communicated by electronic means is not to be treated as having been received by the recipient for the purposes of these Regulations unless the recipient—

(13) S.I. 1998/1056. Regulation 4(3) was amended by regulation 6(5) of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) (Amendment) Regulations 2015 (S.I. 2015/386) and Schedule 2 was inserted by regulation 12(2) of those Regulations. Regulation 4(7) was amended by S.I. 2009/229, Schedule 2, Part 2, paragraph 11.

- (a) has agreed to receive that information by electronic means by providing the sender with an address to which that information may be sent;
 - (b) is able to read and print that information; and
 - (c) is able to store that information in a form with which the sender cannot interfere.
- (3) In the absence of a clear indication to the contrary, information communicated by electronic means in accordance with, and for the purposes of, these Regulations is deemed—
- (a) to be accurately dated and timed;
 - (b) to have been sent by the person from whom it purports to originate;
 - (c) not to have been tampered with or otherwise modified; and
 - (d) where relevant, to be intended to have legal effect.
- (4) Where these Regulations require any person to record, note or store information, it may be recorded, noted or stored on film or by electronic means if it—
- (a) can be reproduced (in the case of information recorded, noted or stored on film, at the place at which it is recorded, noted or stored) as a written copy; and
 - (b) is reasonably secure from loss or unauthorised interference.
- (5) This regulation does not apply to regulation 14(2).

Application and extent

- 4.—(1) Subject to paragraph (2), these Regulations apply—
- (a) in Great Britain; and
 - (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 4(1) and (2), 5 and 6 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013(14).
- (2) These Regulations do not apply—
- (a) to wells to which the Borehole Sites and Operations Regulations 1995(15) apply;
 - (b) in any case where the Offshore Installations (Safety Case) Regulations 2005(16) apply.
- (3) These Regulations do not extend to Northern Ireland.

Duties of licensee

- 5.—(1) The licensee must—
- (a) ensure that any operator appointed by the licensee is capable of satisfactorily carrying out the functions and discharging the duties of the operator under the relevant statutory provisions; and
 - (b) take all reasonable steps to ensure that any operator appointed by or in respect of the licensee carries out the functions and discharges the duties of the operator under the relevant statutory provisions.
- (2) In paragraph (1) a reference to an operator includes a reference to a well operator.

(14) S.I. 2013/240.

(15) S.I. 1995/2038, to which there are amendments not relevant to these Regulations.

(16) S.I. 2005/3117, amended by S.I. 2006/336 (now revoked), 2007/3224, 2009/229, 2013/1471 and paragraphs 33 to 40 of Schedule 13 to these Regulations.

Capacity of operator to meet requirements

6.—(1) Where the competent authority determines that an operator no longer has the capacity to meet the requirements of the relevant statutory provisions, it must immediately inform the licensing authority (within the meaning given in regulation 2(1) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015).

(2) In paragraph (1) the reference to an operator includes a reference to a well operator.

Corporate major accident prevention policy

7.—(1) This regulation applies only to a duty holder which is a body corporate or unincorporate.

(2) The duty holder must prepare in writing a policy (referred to in these Regulations as the “corporate major accident prevention policy”) which—

- (a) establishes the overall aims and arrangements for controlling the risk of a major accident and how those aims are to be achieved and those arrangements put into effect by the officers of the duty holder;
- (b) covers the duty holder’s installations—
 - (i) in external waters; and
 - (ii) outside the European Union.

(3) The corporate major accident prevention policy must address at least the particulars set out in Schedule 1 and must be prepared in accordance with the matters set out Schedule 2.

(4) The corporate major accident prevention policy may in addition outline the commitment of the duty holder to mechanisms for effective tripartite consultation.

(5) An operator, in preparing a corporate major accident prevention policy, must take account of the operator’s primary responsibility for, among other things, the control of risks of a major accident that are a result of the operator’s operations and for continuously improving control of those risks so as to ensure a high level of protection at all times.

(6) A duty holder must—

- (a) implement the corporate major accident prevention policy throughout its offshore oil and gas operations; and
- (b) set up appropriate monitoring arrangements to assure effectiveness of the policy.

(7) In this regulation and Schedule 1, “officer of the duty holder” in relation to—

- (a) a body corporate, other than a limited liability partnership, means a director or secretary;
- (b) a limited liability partnership, means a member;
- (c) a partnership or a limited partnership, means a partner of that partnership or limited partnership; and
- (d) a body unincorporate (other than a partnership or limited partnership), means a member of the body.

(8) In paragraph (7)(a) “director” has the meaning given in section 250 of the Companies Act 2006(17).

(9) In this regulation (but not this paragraph) a reference to a duty holder or operator includes a reference to a well operator.

(10) Paragraph (2)(b) does not apply to a well operator.

(17) 2006 c. 46, to which there are amendments not relevant to these Regulations.

Safety and environmental management system

8.—(1) The duty holder must prepare a document setting out its safety and environmental management system.

(2) In the case of a body corporate or unincorporate, the safety and environmental management system must include the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the corporate major accident prevention policy.

(3) The safety and environmental management system is to be integrated with the overall management system of the duty holder.

(4) The safety and environmental management system must address the particulars in Schedule 3 and must be prepared in accordance with the matters set out in Schedule 2.

(5) The document setting out the safety and environmental management system must include a description of—

- (a) the organisational arrangements for the control of major hazards;
- (b) the arrangements for preparing and submitting documents under the relevant statutory provisions; and
- (c) the verification scheme (which description must comply with regulation 13(1)).

(6) This regulation applies to a well operator—

- (a) as if the reference to the duty holder in paragraph (1) were a reference to a well operator; and
- (b) as if the reference to the description of the verification scheme in paragraph (5)(c) were a reference to the description of the well examination scheme (which description must comply with regulation 13(2)).

Establishment of verification scheme

9.—(1) The duty holder must establish a scheme (a “verification scheme”) for ensuring, by the means described in paragraph (2), that the safety and environmental-critical elements and the specified plant—

- (a) are or, where they remain to be provided, will be suitable; and
- (b) where they have been provided, remain in good repair and condition.

(2) The means are—

- (a) examination, including testing where appropriate, of the safety and environmental-critical elements and the specified plant by a verifier;
- (b) examination of any design, specification, certificate, CE marking or other document, marking or standard relating to those elements or that plant by a verifier;
- (c) examination by a verifier of work in progress;
- (d) the creation of reports by a verifier on—
 - (i) the examination and testing carried out;
 - (ii) the findings; and
 - (iii) any remedial action recommended;
- (e) the taking of appropriate action by the duty holder following a report;
- (f) the making of a note of action taken by the duty holder following a report;
- (g) the reporting by a verifier to the duty holder of any instances of non-compliance of the duty holder with the standards of the scheme;

- (h) the taking of other such steps as may be provided for pursuant to regulation 10 and Part 1 of Schedule 4; and
- (i) the taking of any steps incidental to the means described in sub-paragraphs (a) to (g).
- (3) The duty holder must ensure that—
 - (a) the verification scheme is drawn up by or in consultation with the verifier and recorded in writing; and
 - (b) a note is made of any reservation expressed by the verifier as to the content of the scheme in the course of drawing it up.
- (4) The duty holder must—
 - (a) produce a written record of the safety and environmental-critical elements and the specified plant;
 - (b) invite comment on the record by a verifier; and
 - (c) make a note of any reservation expressed by a verifier as to the contents of the record.
- (5) The duties in paragraphs (1), (3) and (4) must be completed—
 - (a) in the case of a production installation, before completion of its design; and
 - (b) in the case of a non-production installation, before it is moved into external waters with a view to its being operated there.

Other provisions as to verification schemes

- 10.**—(1) A verification scheme must provide for the matters contained in Part 1 of Schedule 4.
- (2) The duty holder must—
 - (a) ensure that where tasks under a verification scheme are allocated by the verifier to personnel of the verifier they are appropriately allocated to personnel qualified to undertake them;
 - (b) make suitable arrangements for the communication of information between the duty holder and the verifier; and
 - (c) give the verifier suitable authority to carry out the functions under the verification scheme effectively.
 - (3) The duty holder must ensure that—
 - (a) the verification scheme is reviewed as often as may be appropriate and, where necessary, revised or replaced by or in consultation with the verifier; and
 - (b) a note is made of any reservation expressed by the verifier in the course of drawing up the verification scheme.
 - (4) Where there is a material change to a design notification, a relocation notification, the safety case or a notification of combined operations the duty holder must refer the material change to the verifier for further comment in accordance with the verification scheme.
 - (5) If the competent authority requests, the duty holder must communicate the outcome of the referral of the material change to the competent authority.
 - (6) The duty holder must ensure that the verification scheme is put into effect from the time it is established and that effect continues to be given to the scheme, or any revision or replacement of the scheme, while the installation remains in existence.

Establishment of well examination scheme

11.—(1) The well operator must establish a scheme (a “well examination scheme”) for ensuring, by the means described in paragraph (2), that the well is so designed and constructed, and is maintained in such repair and condition, that—

- (a) so far as is reasonably practicable, there can be no unplanned escape of fluids from the well; and
- (b) risks to the health and safety of persons from it or anything in it, or in strata to which it is connected, are as low as is reasonably practicable.

(2) The means are—

- (a) examination, by a well examiner of—
 - (i) any part of the well, or a similar well;
 - (ii) information, including information on the design and construction of the well and the sub-surface environment, including the geological strata and formations, the fluids within them and any hazards which the strata and formations may contain;
 - (iii) work in progress;
- (b) the creation of reports by a well examiner on—
 - (i) the examination carried out;
 - (ii) the findings;
 - (iii) any remedial action recommended;
- (c) the taking of appropriate action by the well operator following a report;
- (d) the making of a note of action taken by the well operator following a report;
- (e) the reporting by a well examiner to the well operator of any instances of non-compliance of the well operator with the standards of the scheme;
- (f) the taking of other such steps as may be provided for pursuant to regulation 12 and Part 2 of Schedule 4; and
- (g) the taking of any steps incidental to the means described in sub-paragraphs (a) to (e).

(3) The well operator must record the well examination scheme in writing.

(4) The duties in paragraphs (1) and (3) must be completed before the design of a well is adopted.

Other provisions as to well examination schemes

12.—(1) A well examination scheme must provide for the matters contained in Part 2 of Schedule 4.

(2) The well operator must—

- (a) ensure that, where tasks under a well examination scheme are allocated by the well examiner to personnel of the well examiner, they are appropriately allocated to personnel qualified to undertake them;
- (b) make suitable arrangements for the communication of information between the well operator and the well examiner; and
- (c) give the well examiner suitable authority to carry out the functions under the well examination scheme effectively.

(3) The well operator must ensure that the well examination scheme is reviewed and revised as often as may be appropriate.

(4) The well operator must ensure that the well examination scheme is put into effect from the time it is established and that effect continues to be given to the scheme, or any revision of the scheme, until the well is abandoned.

Description of verification scheme and well examination scheme

13.—(1) For the purposes of these Regulations, a description of the verification scheme complies with this paragraph if it includes—

- (a) a description of the criteria for selection of the verifier to carry out functions under the scheme;
- (b) a description of the means of verifying that the safety and environmental-critical elements and any specified plant remain in good repair and condition; and
- (c) details of the arrangements to carry out the functions under the scheme including—
 - (i) the examination and testing of the safety and environmental-critical elements by the verifier;
 - (ii) the verification of the design, standard, certification or other system of conformity of the safety and environmental-critical elements;
 - (iii) the examination of work in progress;
 - (iv) the taking of remedial action by the duty holder;
 - (v) the reporting of any instances of non-compliance of the duty holder with the standards of the scheme; and
 - (vi) the review of the scheme throughout the lifecycle of the installation.

(2) For the purpose of regulation 8(6)(b), a description of the well examination scheme complies with this paragraph if it includes—

- (a) a description of the criteria for selection of the well examiner to carry out functions under the scheme;
- (b) a description of the means of verifying that the well is designed and constructed, and is maintained in such repair and condition, that—
 - (i) so far as is reasonably practicable, there can be no unplanned escape of fluids from the well; and
 - (ii) risks to the health and safety of persons from it or anything in it, or in strata to which it is connected, are as low as is reasonably practicable; and
- (c) details of the arrangements to carry out the functions under the scheme including—
 - (i) the examination of the well, or a similar well, by the well examiner;
 - (ii) the examination of information required under regulation 11(2)(a)(ii);
 - (iii) the examination of work in progress;
 - (iv) the taking of remedial action by the well operator;
 - (v) the reporting of any instances of non-compliance of the well operator with the standards of the scheme; and
 - (vi) the review of the scheme.

Defence

14.—(1) In any proceedings for an offence for a contravention of any of the provisions of regulations 9 to 12 it is, subject to paragraph (2), a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of another person not being an employee of the person charged (referred to in this regulation as “the other person”); and
- (b) that the person charged took all reasonable precautions, and exercised all due diligence, to avoid committing the offence.

(2) The person charged may not, without the permission of the court, rely on the defence in paragraph (1) unless, within a period ending seven clear days—

- (a) where the proceedings are in England and Wales, before the hearing to determine mode of trial; or
- (b) where the proceedings are summary proceedings in Scotland, before the intermediate diet; or
- (c) where the proceedings are solemn proceedings in Scotland, before the first diet,

the person charged has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person as was then in the possession of the person charged.

(3) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the 1974 Act, a person who establishes a defence under this regulation is nevertheless to be treated for the purposes of that section as having committed the offence.

Design and relocation notifications for production installation

15.—(1) The operator of a production installation which is to be established in external waters must—

- (a) prepare a design notification containing, subject to paragraph (6), the particulars specified in Schedule 5; and
- (b) send the design notification to the competent authority.

(2) The duties in paragraph (1) must be completed at such time before the submission of a field development plan to the Department of Energy and Climate Change as will enable the operator to take account—

- (a) in the design, and
- (b) in the safety case prepared pursuant to regulation 17,

of any matters raised by the competent authority within three months (or such shorter period as the competent authority may specify) of that time.

(3) The operator of a production installation which is to be moved to a new location within external waters (whether from outside external waters or not) and operated there must—

- (a) prepare a relocation notification containing the particulars specified in Schedule 5 not contained in any current safety case for that installation; and
- (b) send the relocation notification to the competent authority

(4) The duties in paragraph (3) must be completed at such time before the submission of a field development plan to the Department of Energy and Climate Change as will enable the operator to take account of any matters raised by the competent authority within three months (or such shorter period as the competent authority may specify) of that time.

(5) The competent authority must respond to the design notification—

- (a) with comments to be taken into account by the operator in the safety case; or
- (b) where it has no such comments to make, with a statement to that effect.

(6) Paragraph (1) only requires the design notification to contain the particulars referred to in that paragraph to the extent that it is reasonable to expect the operator to address them at the time of sending the design notification to the competent authority.

(7) Where there is a material change in any of the particulars notified pursuant to—

- (a) paragraph (1) prior to the operator sending a safety case to the competent authority in accordance with regulation 17(1)(b); or
- (b) paragraph (3) prior to the operator sending—
 - (i) a safety case to the competent authority in accordance with regulation 17(1)(b); or
 - (ii) revisions to the current safety case to the competent authority in accordance with regulation 24(2),

the operator must notify the competent authority of that change as soon as practicable.

Management and control of major accident hazards

16.—(1) A duty holder who prepares a safety case pursuant to these Regulations must, subject to paragraph (2), include in the safety case sufficient particulars to demonstrate that—

- (a) the duty holder’s management system is adequate to ensure—
 - (i) that the relevant statutory provisions will, in respect of matters within the duty holder’s control, be complied with; and
 - (ii) that the management of arrangements with contractors and sub-contractors is satisfactory;
- (b) the duty holder has established adequate arrangements for audit and for the making of reports of the audit;
- (c) all hazards with the potential to cause a major accident have been identified;
- (d) all major accident risks have been evaluated, their likelihood and consequences assessed, including any environmental, meteorological and seabed limitations on safe operations, and that suitable measures, including the selection and deployment of associated safety and environmental-critical elements have been, or will be, taken to control those risks to ensure that the relevant statutory provisions will be complied with; and
- (e) in the case of a non-production installation, all the major hazards have been identified for all operations the installation is capable of performing.

(2) Paragraph (1) only requires the safety case to include the particulars referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the safety case to the competent authority.

(3) In this regulation, “audit” means systematic assessment of the adequacy of the management system to achieve the purpose referred to in paragraph (1)(a) carried out by a person who is sufficiently independent of the system (but who may be employed by the duty holder) to ensure that such assessment is objective.

(4) The demonstration of the matters referred to in paragraph (1)(d) must include the estimate of oil spill response effectiveness contained in the oil pollution emergency plan in respect of the installation, prepared pursuant to regulation 4(3)(a) and (c) of and Schedule 2 to the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998(18).

(18) S.I. 1998/1056. Regulation 4(3) was amended by regulation 6(5) of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) (Amendment) Regulations 2015 (S.I. 2015/386) and Schedule 2 was inserted by regulation 12(2) of those Regulations. Regulation 4(7) was amended by S.I. 2009/229, Schedule 2, Part 2, paragraph 11.

Safety case for production installation

17.—(1) Subject to Schedule 14, the operator of a production installation must ensure that it is not operated in external waters unless—

- (a) the operator has prepared a safety case containing the particulars specified in regulation 16 and Schedule 6;
- (b) the operator has sent the safety case to the competent authority at least six months (or such shorter period as the competent authority may specify) before commencing operation; and
- (c) the competent authority has accepted the safety case.

(2) A safety case prepared pursuant to paragraph (1) and revisions to a current safety case prepared pursuant to regulation 19(7) may be prepared in relation to more than one production installation where the competent authority so approves in writing and, where a safety case is or revisions are to be so prepared in relation to installations with different operators, it is sufficient compliance with paragraph (1)(a) and (b) and regulation 19(7)(a) and (b) if the operators prepare and agree a safety case or revisions containing the particulars referred to in that paragraph and that regulation and one of them sends it to the competent authority in accordance with paragraph (1)(b) and regulation 19(7)(b).

(3) The operator of a production installation must include with the safety case sent to the competent authority a statement, made after considering any reports or reservations of the verifier under regulation 9(2)(d), (3)(b) and (4)(c), that the record of safety and environmental-critical elements and their scheme of maintenance are or will be suitable.

(4) Where, pursuant to paragraph (2), a safety case is to be prepared in relation to more than one production installation, each with a different operator, there must be included with the safety case—

- (a) where one is required under regulation 7, a copy of the corporate major accident prevention policy of each operator;
- (b) an adequate description of the safety and environmental management system of each operator; and
- (c) the description of the internal emergency response arrangements of each operator.

Safety case for non-production installation

18.—(1) Subject to Schedule 14, the owner of a non-production installation must ensure that it is not moved in external waters with a view to its being operated there unless—

- (a) the owner has prepared a safety case containing the particulars specified in regulation 16 and Schedule 7;
- (b) the owner has sent the safety case to the competent authority at least three months (or such shorter period as the competent authority may specify) before the movement of the installation in those waters with a view to its being operated there; and
- (c) the competent authority has accepted the safety case.

(2) The owner of a non-production installation must include with the safety case sent to the competent authority a statement, made after considering any reports or reservations of the verifier under regulation 9(2)(d), (3)(b) and (4)(c), that the record of safety and environmental-critical elements and their scheme of maintenance are or will be suitable.

Design notification and safety case for non-production installation to be converted

19.—(1) Where a non-production installation is to be converted to enable it to be operated as a production installation, the owner must—

- (a) prepare a design notification in respect of the proposed conversion containing, subject to paragraph (5), the particulars specified in Schedule 5 not contained in any current safety case for that installation; and
- (b) send the design notification to the competent authority.

(2) The duties in paragraph (1) must be completed at such time before completion of the design of the proposed conversion as will enable the owner to take account—

- (a) in the design, and
- (b) in the safety case prepared pursuant to regulation 17,

of any matters raised by the competent authority within three months (or such shorter period as the competent authority may specify) of that time.

(3) The competent authority must respond to the design notification—

- (a) with comments to be taken into account by the operator in the safety case; or
- (b) where it has no such comments to make, with a statement to that effect.

(4) For the purposes of this regulation the particulars specified in Schedule 5 have effect as if any reference to the operator were a reference to the owner of the non-production installation to be converted.

(5) Paragraph (1) only requires the design notification to contain the particulars referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the design notification to the competent authority.

(6) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the operator sending—

- (a) a safety case to the competent authority in accordance with regulation 17(1); or
- (b) revisions to the current safety case to the competent authority in accordance with paragraph (7),

the operator must notify the competent authority of that change as soon as practicable.

(7) Where a non-production installation operated pursuant to a current safety case is converted to a production installation, the operator of that production installation must ensure that it is not operated as a production installation in external waters unless—

- (a) the operator has prepared revisions to the current safety case for that installation containing the particulars specified in regulation 16 and Schedule 6 not contained in that current safety case;
- (b) the operator has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority at least three months (or such shorter period as the competent authority may specify) before commencing the operation; and
- (c) the competent authority has accepted those revisions to the current safety case.

Safety case for dismantling fixed installation

20.—(1) The operator of a fixed installation in external waters must ensure that it is not dismantled unless—

- (a) the operator has prepared revisions to the current safety case containing, subject to paragraph (2), the particulars specified in regulation 16 and Schedule 8 not contained in the current safety case for that installation;
- (b) the operator has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority at least

three months (or such shorter period as the competent authority may specify) before the commencement of the dismantling; and

(c) the competent authority has accepted those revisions to the current safety case.

(2) Paragraph (1) only requires the proposed revisions to the current safety case to contain the particulars referred to in that paragraph to the extent that it is reasonable to expect the operator to address them at the time of sending the proposed revisions to the competent authority.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the competent authority deciding whether to accept the proposed revisions to the current safety case, the operator must notify the competent authority of that change as soon as practicable.

Notification of well operations

21.—(1) The well operator must ensure that no well operation is commenced from a production installation in external waters unless—

(a) in the case of a well operation that does not involve drilling, but involves—

(i) insertion of a hollow pipe in a well; or

(ii) altering the construction of a well,

the well operator has sent a notification containing the particulars specified in Schedule 9 to the competent authority at least ten days (or such shorter period as the competent authority may specify) before commencing that operation; or

(b) in any other case, the well operator has sent a notification containing the particulars specified in Schedule 9 to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before commencing that operation.

(2) The well operator must ensure that no well operation is commenced in external waters (other than a well operation falling within paragraph (1)) unless the well operator has sent a notification containing the particulars specified in Schedule 9 to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before commencing that operation.

(3) The well operator must include with the notification sent to the competent authority a statement, made after considering reports by the well examiner under regulation 11(2)(b), that the risk management relating to well design and its barriers to loss of control are suitable for all anticipated conditions and circumstances.

(4) Where the well operator plans or prepares a material change to any of the particulars notified pursuant to paragraph (1) or (2), the well operator must consult the well examiner under the well examination scheme about the planned or prepared material change.

(5) Where there is a material change in any of the particulars notified pursuant to paragraph (1) or (2) prior to completion of the relevant well operation, the well operator must notify the competent authority of that change as soon as practicable.

(6) A notification of a material change under paragraph (5) must contain sufficient details fully to update the previously submitted notification and be accompanied by the report of the well examiner following the consultation under paragraph (4), addressing in particular the matters in paragraph 6(c) to (e) of Schedule 9.

(7) The well operator must not commence a well operation (of any description) where the competent authority expresses objections to the content of the notification sent in respect of the well operation or to any change to that content notified to the competent authority pursuant to paragraph (5).

(8) Subject to paragraph (9), the well operator must include a copy of the corporate major accident prevention policy with a notification sent to the competent authority pursuant to paragraph (1) or (2).

(9) Paragraph (8) does not apply where the well operator has previously sent its corporate major accident prevention policy to the competent authority or where it is not required to have one.

Notification of combined operations

22.—(1) A duty holder for an installation which is to be involved in a combined operation in external waters must ensure that that installation does not engage in a combined operation unless a notification containing the particulars specified in Schedule 10 (other than those already notified to the competent authority pursuant to regulation 21) in respect of that combined operation is sent to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before it is due to commence.

(2) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to completion of the relevant combined operation, the duty holder must notify the competent authority of that change as soon as practicable.

(3) Where there is a change in the duty holder or of the installation, the duty holder must send a notification pursuant to paragraph (1).

(4) A duty holder for an installation which is or is to be involved in a combined operation must not commence the combined operation where the competent authority expresses objections to the content of the notification.

(5) The requirement in paragraph (1), (2) or (3) (as the case may be) will be satisfied if—

- (a) the duty holders for every installation involved in the combined operation prepare and agree the notification required under the relevant paragraph; and
- (b) one of them sends it to the competent authority by the deadline applicable to the notification in question.

Review of safety case

23.—(1) A duty holder must thoroughly review a current safety case—

- (a) no more than five years after the date on which the safety case was first accepted by the competent authority under regulation 17 or 18; and
- (b) at suitable intervals not exceeding five years following the first review mentioned in subparagraph (a).

(2) In addition to the thorough review under paragraph (1), a duty holder must thoroughly review the current safety case if directed to do so by the competent authority.

(3) The duty holder must send a summary, including the results, of each such review to the competent authority—

- (a) where the review is conducted at the direction of the competent authority, within the period specified by the competent authority in that direction; or
- (b) in all other cases, within 28 days of its conclusion.

(4) The period specified by the competent authority for the purposes of paragraph (3)(a) must be a period of at least 28 days starting on the date of the direction.

Revision of safety case

24.—(1) In addition to the other occasions on which a duty holder must revise a current safety case pursuant to these Regulations, a duty holder must revise a current safety case—

- (a) when appropriate; and
- (b) when directed to do so by the competent authority pursuant to regulation 25(1).

(2) Revisions made under paragraph (1)(a) which make a material change to the current safety case are not effective unless—

(a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority—

(i) at least three months, or such shorter period as the competent authority may specify; or

(ii) where the revisions relate to a combined operation, at least six weeks, or such shorter period as the competent authority may specify,

before the revisions are to be made; and

(b) the competent authority has accepted the revisions.

(3) Without prejudice to the generality of paragraph (2)—

(a) no well operation constitutes a material change;

(b) the movement of a production installation to a new location to be operated there constitutes a material change; and

(c) the conversion of a production installation to enable it to be operated as a non-production installation constitutes a material change,

to the current safety case for the purposes of paragraph (2).

(4) For the purposes of paragraph (1), it is to be regarded as appropriate to revise a safety case in respect of a material change to an installation.

Power of competent authority in relation to safety cases and related documents

25.—(1) The competent authority may direct a duty holder to prepare revisions to a current safety case in relation to such matters as the competent authority may notify to the duty holder.

(2) When making a direction for the purposes of paragraph (1), the competent authority must explain why it believes that each revision is necessary and must specify a period, not being less than 28 days, within which the duty holder must submit such revisions to the competent authority.

(3) Revisions submitted pursuant to paragraph (2) are not effective unless—

(a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority; and

(b) the competent authority has accepted the revisions.

(4) Paragraph (5) applies where—

(a) a design notification has been submitted under regulation 15 or 19; but

(b) a safety case has not been submitted in respect of the production installation.

(5) Where this paragraph applies, the duty holder for the installation must, on demand by the competent authority, provide the competent authority with a copy of any document which the competent authority considers may be directly or indirectly relevant to the duty holder's preparation of the safety case for that installation.

(6) The duty in paragraph (5) must be completed within such reasonable time of the demand, being a period of not less than 14 days, as may be specified by the competent authority.

(7) The competent authority may suspend any current safety case where it does not accept any proposed revision to it submitted pursuant to paragraph (2).

(8) When suspending a current safety case under paragraph (7), the competent authority must explain why it believes that a suspension is necessary.

(9) During any period for which the current safety case for an installation is suspended, the duty holder for that installation must ensure that it is not operated.

(10) The competent authority may lift a suspension in respect of a current safety case when it is satisfied that the health and safety of persons who are likely to be affected by the lifting of any suspension will not be prejudiced in consequence of it.

(11) Where further information is necessary before a safety case or revisions to a safety case can be accepted, or a decision can be made to lift a suspension, the duty holder must provide, at the request of the competent authority, such information and make any necessary changes to the submitted safety case.

Power of the competent authority to prohibit operations

26.—(1) Paragraph (2) applies where—

- (a) the competent authority is of the opinion that the measures for preventing or limiting the consequences of a major accident proposed in a safety case are insufficient to fulfil the requirements set out in the relevant statutory provisions; and
- (b) the competent authority notifies the duty holder who sent the safety case that it is of the opinion described in sub-paragraph (a).

(2) Where this paragraph applies, the duty holder must not operate or commence operation of the installation to which the safety case relates.

(3) The prohibition in paragraph (2) ceases to apply if the competent authority notifies the relevant duty holder that it is no longer of the opinion described in paragraph (1)(a).

(4) Paragraph (5) applies where—

- (a) the competent authority is of the opinion that the measures for preventing or limiting the consequences of a major accident proposed in a notification of combined operations are insufficient to fulfil the requirements set out in the relevant statutory provisions; and
- (b) the competent authority notifies the duty holder who sent the notification of combined operations that it is of the opinion described in sub-paragraph (a).

(5) Where this paragraph applies, no duty holder for an installation which is or is to be involved in the combined operation may operate or commence operation of the duty holder's installation.

(6) The prohibition in paragraph (5) ceases to apply if the competent authority notifies the duty holder who sent the notification of combined operations that it is no longer of the opinion described in paragraph (4)(a).

(7) Paragraph (8) applies where—

- (a) the competent authority is of the opinion that the measures for preventing or limiting the consequences of a major accident proposed in a notification of well operations are insufficient to fulfil the requirements set out in the relevant statutory provisions; and
- (b) the competent authority notifies the well operator who sent the notification of well operations that it is of the opinion described in sub-paragraph (a).

(8) Where this paragraph applies the well operator must not continue or commence the operation to which the notification relates.

(9) The prohibition in paragraph (8) ceases to apply if the competent authority notifies the well operator that it is no longer of the opinion described in paragraph (7)(a).

Keeping of documents

27.—(1) A duty holder must—

- (a) ensure that, when the duty holder sends—
 - (i) the design notification, in the case of a production installation; or
 - (ii) the safety case, in the case of a non-production installation,
 to the competent authority, the competent authority is notified of an address in Great Britain for the purposes of sub-paragraphs (b) and (e) below;
 - (b) keep copies of the following documents relating to the installation at the address referred to in sub-paragraph (a) and on the installation—
 - (i) the current safety case;
 - (ii) any summary of any review of the current safety case prepared pursuant to regulation 23(1); and
 - (iii) each audit report;
 - (c) keep copies on the installation of the following documents relating to the installation—
 - (i) any relocation notification and any material changes to such a notification;
 - (ii) any notification of combined operations and any material changes to such a notification; and
 - (iii) any notification of well operations and any material changes to such a notification;
 - (d) ensure that, in respect of each audit report, a written statement is made recording—
 - (i) the main findings of the report;
 - (ii) the recommendations in the report; and
 - (iii) the action proposed to implement those recommendations, including the timescales involved,
 and that a copy of that statement is kept on the installation; and
 - (e) ensure that a record is made of any action taken in consequence of an audit report, and a copy of that record is kept at the address referred to in sub-paragraph (a) and on the installation.
- (2) The copy of the current safety case referred to in paragraph (1)(b)(i) and any other relevant documents must be kept for so long as they are current, and the copy of the audit report, the written statement and the record referred to in paragraphs (1)(b)(iii), (1)(d) and (1)(e), respectively, must be kept for a period of three years after being made.
- (3) The duty holder for an installation must ensure that—
- (a)
 - (i) the written record of the verification scheme;
 - (ii) any revision of that scheme;
 - (iii) any note made pursuant to regulation 9(3)(b), (4)(c) or regulation 10(3)(b);
 - (iv) any report of the verifier pursuant to regulation 9(2)(d); and
 - (v) any note of action taken by the duty holder following such a report, pursuant to regulation 9(2)(f),
 are kept at the address notified to the competent authority pursuant to paragraph (1)(a) until the expiration of six months after such scheme or, as the case may be, modification of that scheme, has ceased to be current; and
 - (b) records, sufficient to show the matters described in paragraph 4 of Part 1 of Schedule 4, are kept at the address notified to the competent authority pursuant to paragraph (1)(a) until the expiration of six months after completion of the offshore oil and gas operations to which they relate.
- (4) A well operator must ensure that—

- (a) the written record of the well examination scheme;
- (b) any revision of that scheme;
- (c) any report of the well examiner pursuant to regulation 11(2)(b); and
- (d) any note of action taken by the well operator following such a report, pursuant to regulation 11(2)(d),

are kept at an address in Great Britain notified to the competent authority, until the expiration of six months after completion of the offshore oil and gas operations to which they relate.

(5) In this regulation, “audit report” means a report made pursuant to the arrangements referred to in regulation 16(1)(b).

(6) A well operator must provide the duty holder with the documents mentioned in paragraph (1)(c)(iii).

Duty to conform with safety case and notifications of operation

28.—(1) The duty holder must ensure that the procedures and arrangements described in the current safety case which may affect the health and safety of persons or the environment are followed.

(2) In criminal proceedings for a contravention of paragraph (1), it is a defence for the accused to prove that—

- (a) in the particular circumstances of the case, it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 24; or
- (b) the commission of the offence was due to a contravention by another person of regulation 8 of the Management Regulations and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

(3) The duty holder must ensure that a combined operation is conducted in pursuance of the plans stated in the notification of combined operations sent to the competent authority pursuant to regulation 22(1).

(4) The well operator must ensure that a well operation is conducted in pursuance of the plans stated in the notification of well operations sent to the competent authority pursuant to regulation 21(1).

Duty to control risk

29.—(1) Where an activity carried out by a duty holder significantly increases the risk of a major accident the duty holder must take suitable measures to ensure that the risk is reduced as low as is reasonably practicable.

(2) The measures referred to in paragraph (1) include, where necessary, suspending the relevant activity until the risk is adequately controlled.

(3) The duty holder must notify the competent authority where it has taken measures under paragraph (1).

(4) The duty holder must comply with paragraph (3) immediately after, and in any event no later than 24 hours after, adopting the measures.

(5) In this regulation (but not this paragraph) a reference to a duty holder includes a reference to a well operator.

Internal emergency response

30.—(1) The duty holder must perform the internal emergency response duties—

- (a) consistently with the external emergency response plan; and
- (b) taking into account the risk assessment undertaken during preparation of the current safety case for the installation.

(2) Where the duty holder has adopted other measures, the duty holder must perform the internal emergency response duties so as to secure a good prospect of personal safety and survival, taking into account the adoption of those other measures.

(3) In paragraph (2) “other measures” means measures relating to protection and rescue of personnel from a stricken installation, apart from any measures adopted in performance of the internal emergency response duties.

(4) Where an installation is to engage in a combined operation the duty holder for the installation must make arrangements, in advance of the installation’s engagement in the combined operation, for coordinating escape, evacuation and rescue between the installations concerned, to secure a good prospect of survival for persons on the installations during a major accident.

(5) Where a non-production installation is to engage in a combined operation and the description of the internal emergency response arrangements is revised, the owner must send a revised description of the internal emergency response arrangements to the competent authority.

(6) Where a mobile non-production installation is to be used for carrying out a well operation the owner must perform the internal emergency response duties taking into account the risk assessment undertaken during the preparation of the notification of well operations.

(7) Where a mobile non-production installation is to be used for carrying out a well operation and the description of the internal emergency response arrangements is revised as a result of the particular nature or location of a well, the owner must send a revised description of the internal emergency response arrangements to the competent authority.

(8) Paragraphs (5) and (7) do not apply where a revised description of the internal emergency response arrangements has been sent to the competent authority as a revision which makes a material change to the current safety case that is required to be sent to the competent authority under regulation 24(2) in connection with the same operation.

(9) Subject to paragraph (10), the duty holder must send the revised description of the internal emergency response arrangements to the Maritime and Coastguard Agency(19) as soon as is practicable.

(10) Where—

- (a) the description of the internal emergency response arrangements is revised because there is a material change to any of the particulars contained in a design notification, relocation notification, notification of well operations or notification of combined operations; but
- (b) that revision makes any change to the current safety case which must be accepted by the competent authority under regulation 19(7)(c), 20(1)(c), 24(2)(b) or 25(3)(b),

the duty holder must not send the revised description of those arrangements to the Maritime and Coastguard Agency before the competent authority has accepted the relevant revisions.

(11) In any case falling within paragraph (10), the duty holder must send the revised description of the internal emergency response arrangements as soon as practicable after the competent authority has accepted the revisions.

(12) The duty holder must maintain expertise relevant to the internal emergency response duties in order for that expertise to be available at all times and to be made available as necessary to the Maritime and Coastguard Agency.

(13) In this regulation “external emergency response plan” means the national plan setting out arrangements for responding to incidents which cause or may cause marine pollution prepared by the

(19) The Maritime and Coastguard Agency is an executive agency of the Department for Transport.

Secretary of State pursuant to section 293(2)(za) of the 1995 Act, as revised or re-issued from time to time⁽²⁰⁾, and the Search and Rescue Framework for the United Kingdom of Great Britain and Northern Ireland as published by the Secretary of State, as revised or re-issued from time to time⁽²¹⁾.

(14) In this regulation and regulation 2(10) “the internal emergency response duties” means the duties in the following regulations of the PFEER Regulations⁽²²⁾—

- (a) 5 (assessment);
- (b) 6 (preparation for emergencies);
- (c) 7 (equipment for helicopter emergencies);
- (d) 8(1), (2), and (3) (emergency response plan);
- (e) 9(1) (prevention of fire and explosion);
- (f) 10 (detection of incidents);
- (g) 11 (communication);
- (h) 12 (control of emergencies);
- (i) 13 (mitigation of fire and explosion);
- (j) 14 (muster areas etc.);
- (k) 15 (arrangements for evacuation);
- (l) 16 (means of escape);
- (m) 17 (arrangements for recovery and rescue);
- (n) 22B (initiation and direction of emergency response, and liaison with external response authorities); and
- (o) 22C (arrangements for early warning of major accidents).

Communication of national arrangements for confidential reporting of safety concerns etc.

31.—(1) A duty holder must communicate to the persons specified in paragraph (2) the details of arrangements made by the competent authority for—

- (a) the confidential reporting of safety and environmental concerns from any source relating to offshore oil and gas operations; and
- (b) the investigation of such concerns while maintaining the anonymity of individuals in connection with the confidential reporting of those concerns.

(2) The persons are—

- (a) employees of the duty holder;
- (b) persons contracted by the duty holder to carry out offshore oil and gas operations; and
- (c) employees of the persons referred to in sub-paragraph (b).

(3) A duty holder must make reference to the confidential reporting mentioned in paragraph (1)(a) in relevant training and notices.

(4) In this regulation (but not this paragraph) a reference to a duty holder includes a reference to a well operator.

⁽²⁰⁾ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408385/140829-NCP-Final.pdf.

⁽²¹⁾ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291770/mca_uksar.pdf. A hard copy of the Search and Rescue Framework may be obtained by application to the EC Group, Europa Park, Magnet Road, Grays, Essex, RM20 4DN.

⁽²²⁾ Regulations 22B and 22C are inserted by paragraph 23 of Schedule 13 to these Regulations.

Standards and guidance on best practice

32.—(1) Every duty holder must cooperate with the competent authority to establish and implement a priority plan for the development of standards, guidance and rules which will give effect to best practice in major accident prevention, and limitation of consequences of major accidents should they nonetheless occur.

(2) Every duty holder must participate in the preparation and revision of standards and guidance on best practice in relation to the control of major hazards throughout the design and operational lifecycle of offshore oil and gas operations.

(3) The duty in paragraph (2) must be carried out in consultation with the competent authority and making use of the exchanges of knowledge, information and experience of the competent authority with authorities in other member States, among other things, through the European Union Offshore Oil and Gas Authorities Group (EUOAG) under Article 27(1) of Directive 2013/30/EU.

(4) In performing the duty in paragraph (2), every duty holder must consider the matters in Schedule 11 with a view to establishing priorities for the development of standards and guidance and giving practical effect to the prevention of major accidents and limitation of their consequences.

(5) In this regulation (but not this paragraph) a reference to a duty holder includes a reference to a well operator.

Notification of major accident etc.

33.—(1) The operator, well operator or, if appropriate, the owner must notify the competent authority without delay of—

- (a) a major accident; or
- (b) a situation where there is an immediate risk of a major accident.

(2) The notification must describe the circumstances, including, where possible, the origin, the potential impacts on the environment and the potential major consequences.

Information on operations conducted outside of the European Union

34.—(1) A UK-registered company conducting, itself or through a subsidiary, offshore oil and gas operations outside the European Union as a licensee, operator or well operator must report to the competent authority, on request, the circumstances of any major accident in which it or its subsidiary has been involved.

(2) The details of the information to go in the report must be specified by the competent authority in the request.

(3) In paragraph (1)—

“subsidiary” has the meaning given in section 1159 of the Companies Act 2006⁽²³⁾;

“UK-registered company” has the meaning given in section 1158 of the Companies Act 2006.

Exemptions

35.—(1) Subject to paragraph (3), the competent authority may, by a certificate in writing, exempt any person, installation or well, or class of persons, installations or wells, from any requirement or prohibition imposed by these Regulations.

(2) Any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(23) 2006 c. 46, to which there are amendments not relevant to these Regulations..

(3) The competent authority must not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it, and that the exemption will be compatible with Article 3(2) of [Directive 92/91/EEC](#) and with Directive 2013/30/EU.

Enforcement

36.—(1) To the extent they would not otherwise do so, the following provisions of the 1974 Act apply to these Regulations as if they were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of the 1974 Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Act—

- (a) sections 16 to 22 (approval of codes of practice and enforcement);
- (b) section 23 (provisions supplementary to sections 21 and 22) and section 24 (appeal against improvement or prohibition notice);
- (c) section 26 (power to indemnify inspectors); and
- (d) subject to regulation [40](#), sections 33 to 42 (provisions as to offences).

(2) A failure to discharge a duty placed on the competent authority by these Regulations is not an offence and section 33(1)(c) of the 1974 Act has effect accordingly.

(3) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) applies in relation to enforcement of these Regulations as if the reference to the Executive included a reference to the Secretary of State, but nothing in this paragraph has the effect of making the Secretary of State an enforcing authority for the purposes of the 1974 Act.

(4) Without prejudice to the provisions of the 1974 Act referred to in paragraph (1)—

- (a) section 256 of the 1995 Act (appointment of inspectors and surveyors) has effect as if the reference in subsection (1)(b) of that section to any requirements, restrictions or prohibitions imposed by or under that Act included a reference to any requirements, restrictions or prohibitions imposed by or under these Regulations or the PFEER Regulations;
- (b) section 259 of the 1995 Act (powers of inspectors in relation to premises and ships) has effect in relation to a Departmental inspector—
 - (i) as if the reference in subsection (1)(a) of that section to any premises in the United Kingdom included a reference to any premises outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 4(1) and (2), 5 and 6 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013 (other than premises which come within subsection (1)(b) of section 259 of the 1995 Act);
 - (ii) as if the reference to any instrument made under the 1995 Act in subsection (2)(h)(iii) of that section included a reference to these Regulations and the PFEER Regulations; and
 - (iii) as if the reference in subsection (2)(j)(i) of that section to any books or documents which by virtue of any provision of the 1995 Act are required to be kept included a reference to any books or documents which by virtue of any provision of these Regulations are required to be kept.

(5) Paragraph (4)(b)(i) has effect only in relation to the requirements, restrictions, prohibitions and functions imposed or conferred by or under these Regulations or the PFEER Regulations.

(6) Without prejudice to the functions of an inspector appointed under section 19 of the 1974 Act, a Departmental inspector may, even though that person is not an inspector appointed under that section, serve—

- (a) an improvement notice under section 21 of that Act in respect of a contravention of these Regulations or the PFEER Regulations; or
- (b) a prohibition notice under section 22 of that Act, as modified in relation to such an inspector in accordance with paragraph (7),

and the reference to an inspector in section 23(4) and (5) of that Act has effect accordingly.

(7) Section 22 of the 1974 Act applies in relation to a Departmental inspector as if—

- (a) any reference to the relevant statutory provisions were a reference to these Regulations or the PFEER regulations; and
- (b) in subsection (2) the reference to a risk of serious personal injury were a reference to the risk of serious pollution from an installation in external waters.

(8) The following provisions of the 1974 Act apply to the EU Reporting Regulation as if it were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of that Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if the EU Reporting Regulation were health and safety regulations for the purposes of that Act—

- (a) sections 18 to 21 (enforcement),
- (b) section 23 (provisions supplementary to sections 21 and 22) and 24 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) section 26 (power to indemnify inspectors); and
- (d) sections 33 to 42 (provisions as to offences).

(9) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) applies in relation to enforcement of the EU Reporting Regulation and as if the reference in that section to the Executive included a reference to the Secretary of State, but nothing in this paragraph has the effect of making the Secretary of State an enforcing authority for the purposes of the 1974 Act.

(10) Without prejudice to the provisions of the 1974 Act referred to in paragraph (8) section 256 of the 1995 Act (appointment of inspectors and surveyors) has effect as if the reference in subsection (1) (b) of that section to any requirements, restrictions or prohibitions imposed by or under that Act included a reference to any requirements, restrictions or prohibitions imposed by or under the EU Reporting Regulation.

(11) Without prejudice to the functions of an inspector appointed under section 19 of the 1974 Act, a Departmental inspector may, even though that person is not an inspector appointed under that section, serve an improvement notice under section 21 of that Act in respect of a contravention of the EU Reporting Regulation and the reference to an inspector in section 23(4) and (5) of that Act has effect accordingly;

(12) In regulation 40 the reference to a requirement or prohibition imposed by or under these Regulations includes a reference to a requirement imposed by the EU Reporting Regulation.

(13) A failure to discharge a duty placed on the competent authority or the member State by the EU Reporting Regulation is not an offence and section 33(1)(c) of the 1974 Act has effect accordingly.

(14) In this regulation—

“Departmental inspector” has the meaning given in section 256(9)(a) of the 1995 Act; and

“EU Reporting Regulation” means Commission Implementing Regulation (EU) No 1112/2014 of 13 October 2014 determining a common format for sharing of information on major hazard indicators by the operators and owners of offshore oil and gas installations and a common format for the publication of the information on major hazard indicators by the Member States⁽²⁴⁾.

Appeals

- 37.**—(1) Any person who is aggrieved by a decision of the competent authority—
- (a) as to a finding of fact made by the competent authority for the purposes of these Regulations which affects the person as a duty holder or licensee or any installation for which the person is or may be responsible;
 - (b) to determine that the person no longer has the capacity to meet the requirements of the relevant statutory provisions pursuant to regulation 6;
 - (c) not to accept a safety case prepared by the person and submitted to the competent authority pursuant to regulation 17(1) or 18(1);
 - (d) to express objections to the content of the notification sent by the person in respect of a well operation (or any change of that content notified to the competent authority) pursuant to regulation 21(7);
 - (e) to direct the person to prepare revisions to a current safety case in accordance with regulation 25(1);
 - (f) not to accept a revision to a current safety case prepared by the person and sent to the competent authority in accordance with regulation 19(6), 20(1)(b), 24(2)(a), 25(3)(a) or Schedule 14;
 - (g) to suspend pursuant to regulation 25(7) a current safety case held by the person;
 - (h) not to lift a suspension pursuant to regulation 25(10) in respect of a current safety case held by the person;
 - (i) to notify the person that the competent authority has formed the opinion that measures for the prevention or limiting the consequences of a major accident proposed in the cases referred to in regulation 26(1), (4) or (7) are insufficient to fulfil the requirements set out in the relevant statutory provisions;
 - (j) to grant the person an exemption certificate subject to a condition or a limit of time pursuant to regulation 35(2); or
 - (k) to revoke an exemption certificate granted to the person pursuant to regulation 35(2), may appeal to the Secretary of State.

(2) The provisions of Schedule 12 apply where an aggrieved person appeals to the Secretary of State.

(3) Any decision of the competent authority which is the subject of an appeal under this regulation is not suspended pending final determination of the appeal.

Amendments and revocations

38.—(1) The instruments referred to in Part 1 of Schedule 13 are amended in accordance with that Part.

(2) The instruments specified in column 1 of Part 2 of Schedule 13 are revoked to the extent specified in the corresponding entry in column 3 of that Part.

(24) OJ No. L 302, 22.10.14, p. 1.

Transitional provisions and savings

39. Schedule 14 (which makes transitional provisions and savings) has effect.

Penalties

40. The maximum penalty for an offence consisting of a contravention of a requirement or prohibition imposed by or under these Regulations is—

- (a) on summary conviction—
 - (i) in England and Wales, imprisonment for a term not exceeding three months or a fine, or both;
 - (ii) in Scotland, imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum, or both; and
- (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine or both.

Review

41.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how [Directive 92/91/EEC](#) and Directive 2013/30/EU (which are implemented by means of these Regulations) are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Work and Pensions.

19th March 2015

Freud
Parliamentary Under Secretary of State,
Department for Work and Pensions