
STATUTORY INSTRUMENTS

2017 No. 1200

The Control of Mercury (Enforcement) Regulations 2017

PART 6

Offshore installations: assistance by Secretary of State

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39.—(1) The Secretary of State may assist an enforcing authority performing functions conferred on the authority under these Regulations in respect of an offshore installation situated in any one or more of the following areas—

- (a) the territorial sea (see regulation 3);
- (b) the English offshore area (see paragraphs 1 and 3 of Schedule 2);
- (c) the Scottish offshore area (see paragraphs 1 and 4 of Schedule 2).

(2) The power to assist includes (but is not limited to) power to do either or both of the following—

- (a) inspect the offshore installation;
- (b) provide the enforcing authority with information about the offshore installation.

(3) For those purposes the Secretary of State may appoint in writing a person (an “appointed person”) to exercise the powers set out in paragraph (4).

(4) The powers are—

- (a) to board the offshore installation at any reasonable time;
- (b) to be accompanied by any other person authorised by the Secretary of State;
- (c) to take any equipment or materials which might be required;
- (d) to investigate any matter and examine any thing;
- (e) to direct that any part of the offshore installation be left undisturbed (whether generally or in particular respects);
- (f) to take measurements or photographs or make recordings;
- (g) to take samples of any thing found on the offshore installation or in the atmosphere or any land, seabed (including its subsoil) or water in the vicinity of the offshore installation;
- (h) to require a person who the appointed person believes is able to give information which is relevant—
 - (i) to attend at a place and time specified by the appointed person,
 - (ii) to answer questions, and
 - (iii) to sign a declaration of truth of that person’s answers;
- (i) to require the production of any document or record or extract of one and, if required—
 - (i) make a copy of it;

- (ii) take possession of it for so long as is necessary in the opinion of the appointed person (paragraph (6) contains further provision about this);
- (j) to require a person to provide facilities and assistance in relation to—
 - (i) any matters or things within that person’s control, or
 - (ii) which that person has responsibilities.
- (5) An appointed person must show the person’s written appointment to another person if—
 - (a) the appointed person is proposing to exercise or is exercising a power under paragraph (4), and
 - (b) the other person asks to see it.
- (6) An appointed person must not under paragraph (4)(i)(ii)—
 - (a) take possession of a document or record (other than to make a copy) if making a copy would be enough;
 - (b) remove a document or record from any place which is required by law to be kept at the place.
- (7) An appointment (or authorisation) under any of the following is treated as an appointment for the purposes of paragraph (3), unless the Secretary of State specifies to the contrary—
 - (a) regulation 16 of the Offshore Chemicals Regulations 2002(1);
 - (b) regulation 12 of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005(2);
 - (c) regulation 50B of the Transfrontier Shipment of Waste Regulations 2007(3).

Admissibility etc.

- 40.**—(1) An answer given by a person in response to a requirement under regulation 39(4)(h) may be used in evidence against the person, subject to paragraphs (2) to (4).
- (2) In criminal proceedings against the person—
 - (a) no evidence relating to the answer may be adduced by or on behalf of the prosecution, and
 - (b) no question relating to it may be asked by or on behalf of the prosecution.
 - (3) Paragraph (2) does not apply if the proceedings are for an offence under—
 - (a) regulation 44(3),
 - (b) section 5 of the Perjury Act 1911 (false statutory declarations and other false statements without oath)(4),
 - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements and declarations not on oath)(5), or
 - (d) Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements)(6).
 - (4) Paragraph (2) does not apply if, in the proceedings—
 - (a) evidence relating to the answer is adduced by or on behalf of the person who gave it, or
 - (b) a question relating to it is asked by or on behalf of that person.

(1) S.I. 2002/1355, to which there are amendments not relevant to these Regulations.

(2) S.I. 2005/2055, to which there are amendments not relevant to these Regulations.

(3) S.I. 2007/1711, amended by S.I. 2014/861; there are other amending instruments but none is relevant.

(4) 1911 c.6.

(5) 1995 c.39.

(6) S.I. 1979/1714 (N.I. 19).

(5) Nothing in this Part is to be taken in England and Wales or Northern Ireland to confer power to compel the production by any person of a document or information in respect of a claim to legal professional privilege.

(6) Nothing in this Part is to be taken in Scotland to confer power to compel the production by any person of a document or information in respect of a claim to confidentiality of communications.