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STATUTORY INSTRUMENTS

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**2017 No. 582**

The Offshore Petroleum Production and Pipelines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017

PART 1

Amendment of the 1999 Offshore Regulations

**Amendment of regulation 11 (exercise by OGA of powers under licences)**

**14.** In regulation 11—

- (a) in paragraph (2)(b)(iii), for “member State”, substitute “EEA State”;
- (b) for paragraph (6), substitute—

“(6) The Secretary of State shall not make a decision under paragraph (8A)(c) unless the Secretary of State is satisfied that the requirements of regulations 9 and 10, as they apply by virtue of paragraph (5), have been substantially met and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the environmental statement.”;

- (c) in paragraph (7)—

- (i) for “member State” wherever it appears, substitute “EEA State”;
- (ii) for “agree to the grant of approval or the imposition of a relevant requirement” in the second place where it occurs, substitute “make a decision under paragraph (8A)”;
- and
- (iii) at the end of paragraph (7)(d), insert “and in respect of those members of the public, the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;

- (d) in paragraph (8)—

- (i) for “agrees to any proposals of the kind referred to in paragraph (A1) above or the imposition of any relevant requirement”, substitute “makes a decision to give agreement under paragraph (8A)(c)”;
- and
- (ii) omit “referred to in those proposals”;

- (e) after paragraph (8), insert—

“(8A) When making a decision as to whether to agree to proposals which entail the carrying out of a relevant project comprising a development or to the exercise of any power under a licence to require the carrying out of a relevant project comprising a development, where in either case an environmental statement has been submitted, the Secretary of State shall—

- (a) examine the environmental statement, including any further information provided under regulation 10, any representations made by any person

required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;

- (b) reach a reasoned conclusion on the significant effects of the project on the environment, taking into account the examination referred to in sub-paragraph (a); and
- (c) integrate that conclusion into the decision as to whether agreement is to be given.

(8B) If a decision is made to give agreement under paragraph (8A)(c), the decision shall set out—

- (a) any environmental conditions attached to the decision;
- (b) a description of any features of the relevant project or measures to be taken to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment of the relevant project; and
- (c) any measures to monitor conditions imposed to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment (“a monitoring condition”);

(8C) If a decision is made to refuse agreement under paragraph (8A)(c), the decision shall state the main reasons for the refusal.

(8D) The reasoned conclusion referred to in paragraph (8A)(b) shall be up to date at the time that the decision referred to in paragraph (8A)(c) is made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the relevant project.

(8E) When considering whether to impose a monitoring condition referred to in paragraph (8B)(c), the Secretary of State shall—

- (a) consider whether to make provision for potential remedial action;
- (b) consider whether there are appropriate existing monitoring arrangements under EU legislation other than the Directive, or under national legislation to make the imposition of a monitoring condition unnecessary; and
- (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the relevant project and the significance of its effects on the environment.

(8F) The decision of the Secretary of State referred to in paragraph (8A)(c) must be made within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information and representations referred to in paragraph (8A)(a).”;

(f) for paragraph (9), substitute—

“(9) The Secretary of State shall promptly publish the relevant matters in the Gazettes and on a public website and shall send a copy of the relevant matters to those authorities specified in the notice served under regulation 9(1) as it applies by virtue of paragraph (5).

(g) for paragraph (9A), substitute—

“(9A) For the purposes of paragraph (9), the “relevant matters” means—

- (a) a decision referred to in paragraph (2) or in paragraph (8A)(c); and
- (b) a notice setting out—
  - (i) the contents of the decision referred to in sub-paragraph (a);
  - (ii) the main reasons and considerations on which the decision is based;

(iii) a summary of all representations made to the Secretary of State by any person in respect of the relevant project, if any, including, where regulation 12 applies, any representations made by an EEA State affected by the relevant project, the public concerned or authorities in that state, together with details of how those representations were taken into account; and the notice shall specify where details of these matters may be obtained, including the address of the public website on which the notice is published.”.