
STATUTORY INSTRUMENTS

2020 No. 1245

The Network and Information Systems (Amendment and Transitional Provision etc.) Regulations 2020

Amendments to Schedule 2 (essential services and threshold requirements)

20. In Schedule 2—

(a) in paragraph 2 (the oil subsector)—

(i) in sub-paragraph (3)—

(aa) in paragraph (a), omit “capacity” and at the end insert “not including transmission of crude oil”;

(bb) in paragraph (b), omit “capacity”;

(ii) in sub-paragraph (4)—

(aa) in paragraph (a), after “facility,” insert “an operator of a facility with a throughput of more than 3,000,000 tonnes of oil equivalent per year.”;

(bb) in paragraph ((b) after “facility,” insert “an operator of a pipeline with a throughput of more than 3,000,000 tonnes of oil equivalent per year.”;

(cc) omit the closing text;

(iii) in sub-paragraph (5), in the opening text—

(aa) for “oil” substitute “crude oil based fuel”;

(bb) for “treatment,” substitute “onshore”;

(iv) in sub-paragraph (6)—

(aa) in paragraph (i), for the words from “(other” to the end substitute “, an operator of an installation with a throughput of more than 3,000,000 tonnes of oil equivalent per year.”;

(bb) in paragraph (ii), after “installation,” insert “an operator of a pipeline with a throughput of more than 3,000,000 tonnes of oil equivalent per year.”;

(cc) omit the closing text;

(v) in sub-paragraph (8)—

(aa) in paragraph (c), for the words from “any” to the end substitute “substances derived from crude oil, not including crude oil itself.”;

(bb) for paragraph (e) substitute—

“(e) “gas processing facility” has the meaning given by section 12(6) of the Gas Act 1995(1);”;

(cc) after paragraph (j), insert—

“(ja) “operator” means—

(1) 1995 c. 45. Section 12(6) was amended by section 76(7) of the Utilities Act 2000 (2000 c. 27) and section 92(1) and (11) (a) of the Energy Act 2011 (2011 c. 16).

- (i) in relation to a pipeline—
 - (aa) the person who is to have or (once any fluid or any mixture of fluids is conveyed) has control over the conveyance of any fluid or any mixture of fluids in the pipeline;
 - (bb) until that person is known, the person who is to commission or (where commissioning has started) commissions the design and construction of the pipeline; or
 - (cc) when a pipeline is no longer used or is not for the time being used, the person last having control over the conveyance of fluid or any mixture of fluids in it;
- (ii) in relation to a production installation—
 - (aa) the person appointed by the licensee of the operator or by any other person to manage and control directly the execution of the main functions of a production installation; or
 - (bb) the licensee, where it is not clear to the designated competent authority that one person has been appointed to perform the functions described in paragraph (aa) or, in the opinion of that authority, the person appointed to perform the functions described in that paragraph is incapable of performing those functions satisfactorily;”;
- (dd) after paragraph (n), insert—
 - “(na) “production installation” has the meaning given by regulation 2(1) of the Offshore Installations (Safety Case) Regulations 2005(2);”;
- (vi) in sub-paragraph (10)(c), after “sea” insert “(including the seabed and subsoil)”;
- (vii) after sub-paragraph (10), insert—
 - “(11) In this paragraph, “Great Britain” includes—
 - (a) Great Britain;
 - (b) the territorial sea adjacent to Great Britain; and
 - (c) the sea (including the seabed and subsoil) in any area designated under section 1(7) of the Continental Shelf Act 1964(3).”.
- (b) in paragraph 3 (the gas subsector)—
 - (i) in sub-paragraph (7), for paragraphs (a) and (b) substitute—
 - “(a) an operator of a relevant gas processing facility, an operator of a facility with a throughput of more than 3,000,000 tonnes of oil equivalent per year; or

(2) [S.I. 2005/3117](#). This definition was amended by paragraphs 33 and 34(1) and (3) of Schedule 13 to [S.I. 2015/398](#). Regulation 2(1) of the Offshore Installations (Safety Cases) Regulations 2005 also defines “installation”, which is referred to in the definition of “production installation”, to mean an offshore installation within the meaning of regulation 3 of the Management Regulations, separately defined as the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 ([S.I. 1995/738](#)). That regulation 3 was amended by regulation 2(2)(a) to (c) of [S.I. 2002/2175](#) and paragraph 10(2) and (3) of Schedule 13 to [S.I. 2015/398](#).

(3) [1964 c. 29](#). Section 1(7) of the Continental Shelf Act 1964 was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act [1982 \(c. 23\)](#) and section 103 of the Energy Act 2011.

- (b) a relevant upstream pipeline and associated infrastructure that is connected to and operated from such a relevant gas processing facility, and critical to the continued operation of that facility, an operator of a pipeline with a throughput of more than 3,000,000 tonnes of oil equivalent per year.”;
- (ii) in sub-paragraph (10)—
 - (aa) after paragraph (o), insert—
 - “(oa) “operator” means—
 - (i) in relation to a pipeline—
 - (aa) the person who is to have or (once any fluid or any mixture of fluids is conveyed) has control over the conveyance of any fluid or any mixture of fluids in the pipeline;
 - (bb) until that person is known, the person who is to commission or (where commissioning has started) commissions the design and construction of the pipeline; or
 - (cc) when a pipeline is no longer used or is not for the time being used, the person last having control over the conveyance of fluid or any mixture of fluids in it;
 - (ii) in relation to a production installation—
 - (aa) the person appointed by the licensee of the operator or by any other person to manage and control directly the execution of the main functions of a production installation; or
 - (bb) the licensee, where it is not clear to the designated competent authority that one person has been appointed to perform the functions described in paragraph (aa) or, in the opinion of that authority, the person appointed to perform the functions described in that paragraph is incapable of performing those functions satisfactorily;”;
 - (bb) after paragraph (s) insert—
 - “(sa) “production installation” has the meaning given by regulation 2(1) of the Offshore Installations (Safety Case) Regulations 2005;”;
- (iii) in sub-paragraph (12)(c), after “sea” insert “(including the seabed and subsoil)”;
- (iv) after sub-paragraph (12) insert—
 - “(13) In this paragraph, “Great Britain” includes—
 - (a) Great Britain;
 - (b) the territorial sea adjacent to Great Britain; and
 - (c) the sea (including the seabed and subsoil) in any area designated under section 1(7) of the Continental Shelf Act 1964.”;
- (c) in paragraph 8(2)(c), for sub-paragraphs (iii) to (vi) substitute—
 - “and

- (iii) a Special Health Board, constituted under section 2 of the National Health Service (Scotland) Act 1978(4);”;
- (d) in paragraph 10 (the digital infrastructure subsector)—
- (i) for sub-paragraphs (2) to (4) substitute—
- “(2) For the essential service of a TLD Name Registry, irrespective of its place of establishment (whether within, or outside of, the United Kingdom), the threshold in the United Kingdom is a TLD Name Registry which services 14 billion or more queries from any devices located within the United Kingdom in any consecutive 168-hour period for domains registered within the Internet Corporation for Assigned Names and Numbers (“ICANN”).
- (3) For the essential service of a DNS resolver service provided by a DNS service provider, irrespective of its place of establishment (whether within, or outside of, the United Kingdom), the threshold in the United Kingdom is a DNS resolver service which services 500,000 or more different Internet Protocol addresses used by persons in the United Kingdom in any consecutive 168-hour period.
- (3A) For the essential service of a DNS authoritative hosting service provided by a DNS service provider, irrespective of its place of establishment (whether within, or outside of, the United Kingdom), the threshold in the United Kingdom is a DNS authoritative hosting service which services 100,000 or more domains registered to persons with an address in the United Kingdom.
- (4) For the essential service of an IXP provided by an IXP operator, irrespective of its place of establishment (whether within, or outside of, the United Kingdom), the threshold in the United Kingdom is an IXP operator which has 30% or more market share amongst IXP operators in the United Kingdom, in terms of interconnected autonomous systems.”;
- (ii) in sub-paragraph (5)—
- (aa) in paragraph (a), for “domain name system” substitute “Domain Name System” and for the words from “in” to the end substitute “which processes and responds to queries for DNS resolution”;
- (bb) in paragraph (b), for “domain name system” substitute “Domain Name System” and for “on” substitute “accessible via”;
- (cc) after paragraph (c), omit “and” and insert—
- “(ca) “IXP Operator” means a person who provides an IXP to another person and, where one or more persons are employed or engaged to provide an IXP under the direction or control of another person, it means only that other person;”.