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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (O.J. L 26, 28.1.2012, p. 1), and amendments made to that Directive by Directive 2014/52/EU (O.J. L 124, 25.4.2014, p. 1), for projects that fall under Schedules 1, 2 and 3 of these Regulations. These are projects related to offshore oil and gas exploration and production, offshore gas unloading and storage, and offshore capture and storage of carbon dioxide. The Directives were previously implemented for such projects by the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360) and its amending instruments. These Regulations consolidate and replace S.I. 1999/360, and also make changes to the previous regime.

Regulation 4 of these Regulations provides that projects cannot commence without the consent of the Oil and Gas Authority, and that the Oil and Gas Authority cannot grant consent without the Secretary of State's agreement.

Regulation 5 sets out when a project must be subject to an environmental impact assessment (an "EIA") before a decision is made by the Secretary of State on whether to agree to the grant of consent for the project. Projects which are likely to have a significant effect on the environment must undergo an EIA. Projects that fall under Schedule 1 require an EIA. Projects that fall under Schedule 2 must apply to the Secretary of State for a screening direction to decide if an EIA is required, or the developer can choose that the project undergoes an EIA (regulations 5 and 6). For projects that fall under Schedule 3, an application for a screening direction is not required from the developer and the Secretary of State decides whether an EIA is required without undertaking a screening direction (regulations 5 and 7). Where an EIA is required (or chosen), the process set out in regulations 8 to 16 applies. This includes a requirement for the project to undergo public consultation.

These Regulations are made pursuant to the power to implement EU law under section 2(2) of the European Communities Act 1972 (c. 68). Also, fees provisions have been drafted using the power at section 56 of the Finance Act 1973 (c. 51). Changes to the fee provisions set out in S.I. 1999/360 have been made for the services provided by the Secretary of State to developers, so the provisions reflect the structure of these Regulations (regulation 22).

Other changes from S.I. 1999/360 include:

- the introduction of inspection and investigation provisions in order to monitor compliance by developers with these Regulations and conditions attached to the Secretary of State's agreement to the grant of consent for a project, and the introduction of new offences related to these provisions (regulations 23 and 25);
- the introduction of provisions enabling the Secretary of State to revoke the agreement to the grant of consent for a project (regulation 26);
- amendments to the Offshore Environmental Civil Sanctions Regulations 2018 (S.I. 2018/800) so that civil sanctions apply as an alternative to prosecution (regulation 27).

These Regulations were notified to the European Commission in accordance with Article 2 of Directive 2014/52/EU, and in line with the EU Withdrawal Agreement between the EU and the UK.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sector is foreseen.

A transposition note setting out how these Regulations implement Directive 2011/92/EU and Directive 2014/52/EU is annexed to the Explanatory Memorandum, which is published

**Changes to legislation:** There are currently no known outstanding effects for the The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020. (See end of Document for details)

alongside the instrument on the legislation website of The National Archives (<http://www.legislation.gov.uk>).

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