STATUTORY INSTRUMENTS

2017 No. 582

ENVIRONMENTAL PROTECTION
GAS
PETROLEUM
PIPE-LINES

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

Made - - - -	*21st April 2017*
Laid before Parliament	*24th April 2017*
Coming into force - -	*16th May 2017*

The Secretary of State has been designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment and matters relating to the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons(**3**).

The Secretary of State has taken into account the selection criteria set out in Annex III to Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment(**4**).

In exercise of the powers conferred by section 2(2) of that Act, and also by section 56(1) and (2) of the Finance Act 1973(**5**) and with the consent of the Treasury, the Secretary of State makes the following Regulations:

(**1**) S.I. 2008/301.

(**2**) 1972 c.68; section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46), section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations created or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993. Annex XX to that Agreement provides that the term "Member State" in Directive 2011/92/EU includes Iceland, Liechtenstein and Norway. Regulation 7, 9,14,15, 37 and 38 of these Regulations makes provision in relation to "EEA states".

(**3**) This is designated by S.I. 1994/1327.

(**4**) O.J. L 26, 28.1.2012, p. 1. The Directive was amended by Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014, O.J. L 124, 25.4.2014, p. 1.

(**5**) 1973 c.51; section 56(1) was amended by S.I. 2011/1043. The consent of HM Treasury is required to make regulations under section 56(1) of the Finance Act 1973.

Citation and commencement

1. These Regulations may be cited as the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 and come into force on 16th May 2017.

Interpretation

2. In these Regulations—

"the 1999 Offshore Regulations" means the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(**6**);

"the 1999 Pipe-line Regulations" means the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999(**7**); and

"the 2000 Regulations" means the Pipe-line Works (Environmental Impact Assessment) Regulations 2000(**8**).

PART 1

Amendment of the 1999 Offshore Regulations

Introduction

3. The 1999 Offshore Regulations are amended in accordance with this Part.

Amendment of regulation 3 (interpretation)

4. In regulation 3(1)—

(a) after the definition of "the 1998 Act", insert—

""the 2008 Act" means the Energy Act 2008(**9**);";

(b) for the definition of "appropriate particulars", substitute—

""appropriate particulars" means the name and address of the undertaker and a description of the relevant project which—

(a) includes—

(i) the physical characteristics of the whole project, and where relevant, of demolition works;

(ii) the location of the project with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the project;

(**6**) S.I. 1999/360; this instrument was amended by S.I. 2007/933, S.I. 2011/1043, S.I. 2015/1431, S.I. 2016/529 and S.I. 2016/912 and was modified by S.I. 2010/1513. These Regulations revoke the modifications and implement the modifications as amendments.

(**7**) S.I. 1999/1672; this instrument was amended by section 76(7) of the Utilities Act 2000 (c. 27) and by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37) and by S.I. 2007/1996,S.I. 2011/1043, S.I. 2011/1824, S.I. 2013/755, S.I. 2014/557 and S.I. 2016/58; and by SSI 1999/1 and SSI 2008/202.

(**8**) S.I. 2000/1928; this instrument was amended by section 73(2) of the Countryside and Rights of Way Act 2000 and by S.I. 2007/1992, S.I. 2011/1043, S.I. 2011/2453 and S.I. 2013/755.

(**9**) 2008 c.32. Section 4 and section 18 were amended by the Energy Act 2016 (c. 20) section 2, Schedule 1, Part 1, paragraphs 41, 42 and 53, and section 18 was amended by SI 2011/2453, SI 2016/920 and by SSI 2011/224.

(iii) the aspects of the environment likely to be significantly affected by the project;

(iv) any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—

(aa) the expected residues and emissions and the production of waste, where relevant; and

(bb) the use of natural resources, in particular soil, land, water and biodiversity;

(b) takes into account the matters set out in Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment) and, where relevant, the results of other assessments of the effects on the environment carried out pursuant to EU legislation other than the Directive; and

(c) may also include any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;";

(c) after the definition of "business day", insert—

""combustible gas" means gas within the meaning of section 2(4) of the 2008 Act;";

(d) in the definition of "consent"—

(i) at the end of paragraph (b)(iv), omit "or";

(ii) in paragraph (b)(v), after "petroleum", insert "carbon dioxide or combustible gas";

(iii) after paragraph (b)(v), insert—

"or

(vi) any consent required by or under a licence to the carrying on of a storage or unloading activity;";

(iv) in paragraph (c), after "petroleum", insert ", carbon dioxide or combustible gas";

(v) for paragraph (d), substitute—

"(d) in relation to any relevant project comprising the use of a mobile installation for—

(i) the extraction of petroleum where the principle purpose of the extraction is the testing of any well; or

(ii) the purpose of carrying out test injections of carbon dioxide or combustible gas ,

any consent required under regulation 4(4)(b) or (c),";

(e) for the definition of "development", substitute—

""development" means—

(a) any project which has as its main object the getting of petroleum as opposed to the establishment of its existence, the appraisal of its quantity, characteristics or quality or the characteristics or extent of any reservoir in which it occurs; or

(b) any project which has as its main object a storage or unloading activity;";

(f) for the definition of "the Directive", substitute—

""the Directive" means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment;";

(g) for the definition of "environmental statement", substitute—

""environmental impact assessment" shall be interpreted in accordance with regulation 3A;

"environmental statement" has the meaning set out in regulation 3B (environmental statement);";

(h) in the definition of "gas", for "definition of petroleum below", substitute "definitions of "combustible gas" and "petroleum"";

(i) for the definition of "licence", substitute—

""licence" means—

(a) a licence granted or having effect as if granted under section 3 of the 1998 Act (licences to search and bore for and get petroleum); or

(b) a licence granted under section 4 or section 18 of the 2008 Act;

and "licensee" shall be construed accordingly.;";

(j) after the definition of "petroleum", insert—

""public website" means a website accessible to the public where the public can view and download information placed upon it;";

(k) in the definition of "relevant project"—

(i) in paragraph (c), after "petroleum" insert ", carbon dioxide or combustible gas"; and

(ii) at the end of paragraph (c), omit "or" and after paragraph (d) insert—

"; or

(e) the use of a mobile installation for the purposes of carrying out test injections of carbon dioxide or combustible gas,";

(l) after the definition of "relevant requirement", insert—

""storage or unloading activity" means any activity within—

(a) section 2(3)(a) to (d) of the 2008 Act; or

(b) section 17(2)(a) or (b) of the 2008 Act;";

(m) for the definition of "structure", substitute—

""structure" means any structure which is intended to be permanent and is not designed to be moved from place to place without major dismantling and is used for, or, as the case may be, to be used for the purpose of—

(a) getting petroleum or conveying petroleum to land (including any structure for the storage of petroleum) but is not to be used only for searching for petroleum; or

(b) a storage or unloading activity, or for conveying carbon dioxide or combustible gas to or from land;";

(n) for the definition of "well", substitute—

""well" means any well or borehole drilled for the purposes of, or in connection with—

(a) the getting of petroleum, the exploration for petroleum or the establishment of the existence of, or appraisal of, the quantity, characteristics or quality of, petroleum in a particular location; or

(b) activities within section 2(3) or section 17(2) of the 2008 Act,

but does not include any well drilled to a depth of 350 metres or less below the surface of the seabed for the purpose of obtaining geological information about strata or any drilling operation, the main purpose of which is the testing of the stability of the seabed. .".

New regulations 3A and 3B

5. After regulation 3, insert—

"**Environmental impact assessment**

3A.—(1) In these Regulations, "environmental impact assessment" means the process consisting of—

(a) the preparation and submission of an environmental statement as part of an application for consent referred to in regulation 5(1) or to the Secretary of State under regulation 11(1) or (4);

(b) the carrying out of consultation in compliance with regulation 9 or regulation 11 and, where relevant, regulation 12;

(c) the Secretary of State's consideration of the information presented in the environmental statement, any further information provided in accordance with regulation 10 and any representations or opinions received as the result of the consultation referred to in sub-paragraph (b);

(d) the Secretary of State's reasoned conclusion as required by regulation 5A(1) or regulation 11(8A); and

(e) the integration of that conclusion into the decision as to whether agreement to the grant of consent is to be given as required by regulation 5A(1)(c) or as to whether agreement is to be given in respect of the matters referred to in regulation 11(8A)(c).

(2) In carrying out the steps described in paragraph (1)(a), the undertaker shall identify, describe and assess in an appropriate manner—

(a) the direct and indirect significant effects of the relevant project on the following factors—

(i) population and human health;

(ii) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(**10**) and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(**11**);

(iii) land, soil, water, air and climate;

(iv) material assets, cultural heritage and the landscape; and

(v) the interaction between the factors referred to in paragraphs (i) to (iv); and

(**10**) OJ L 206 22.7.92 p.7.
(**11**) OJ L 20 26.1.2010. p.7.