STATUTORY INSTRUMENTS

2015 No. 385

PETROLEUM

The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015

Made - - - -	*19th March 2015*
Laid before Parliament	*23rd March 2015*
Coming into force - -	*19th July 2015*

The Secretary of State, being a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to matters relating to the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons, makes the following Regulations:

F1 S.I. 1994/1327.

F2 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). The power of Ministers to make regulations in relation to matters in or regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c. 46).

Citation and commencement

1. These Regulations may be cited as the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 and come into force on 19th July 2015.

Interpretation

2.—(1) In these Regulations—

"the 2013 Directive" means Directive 2013/30/EU of the European Parliament and of the Council on safety of offshore oil and gas operations and amending Directive 2004/35/EC[F3];

"competent authority" means the Health and Safety Executive and the Secretary of State, acting jointly;

"connected infrastructure" means—

(a) any well or supplementary unit connected to an installation; and

(b) within an installation's safety zone—

(i) any associated structure or device which is connected to that installation;

(ii) any apparatus or works on or affixed to the main structure of the installation; and

(iii) any pipeline apparatus or works attached to that installation;

"information notice" has the meaning given in regulation 11(4);

"installation" has the meaning given in Article 2(19) of the Directive;

"installation operator" means a person appointed in accordance with regulation 5 or 6 to conduct any offshore petroleum operations, other than the planning or execution of any well operations;

"licensing authority" means the **[**F4Oil and Gas Authority**]**;

"major accident" has the meaning given in Article 2(1) of the 2013 Directive;

[F5"obligation" includes a prohibition where relevant;**]**

"offshore licence" means a licence granted under section 2(1) of the Petroleum (Production) Act 1934 F6 or section 3(1) of the Petroleum Act 1998 F7 which confers on the holder of that licence the exclusive right to prospect or explore for or produce petroleum, in offshore waters;

"offshore licensee" means a person who—

(a) holds an offshore licence; or

(b) held an offshore licence and has been required F8 to submit an abandonment programme (within the meaning of section 29 of the Petroleum Act 1998) to the Secretary of State in relation to activities carried out pursuant to the licence except where—

(i) the programme has been approved by the Secretary of State; and

(ii) that person is not subject to any obligations under the approved programme;

"offshore petroleum operations" means all activities associated with an installation or connected infrastructure, including design, planning, construction, operation and decommissioning thereof, relating to exploration and production of petroleum, but excluding conveyance of petroleum from one coast to another;

"offshore waters" means—

(a) the waters comprising the territorial sea of the United Kingdom; or

(b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964 F9;

"operator" means a person who has been appointed as an installation operator, as a well operator or as both;

"petroleum" has the meaning given in section 1 of the Petroleum Act 1998;

"production installation" means an installation used for offshore extraction of petroleum from the underground strata of the area covered by an offshore licence, including offshore processing of petroleum and its conveyance through connected infrastructure;

[F10"prospective offshore licensee" means a person in respect of whom an application has been made to the licensing authority—

(a) for the grant of an offshore licence to that person; or

(b) for consent to a transfer of an offshore licence to that person (whether or not after the transfer the licence will be held jointly with another person, including an existing licence holder),

where that application has not been determined;.**]**

"safety zone" means a safety zone within the meaning of Part 3 of the Petroleum Act 1987 F11;

"well" has the meaning given in the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 [F12];

"well operation" has the meaning given in the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015; and

"well operator" in relation to a well or proposed well means a person appointed in accordance with regulation 5 or 6 to conduct the planning or execution of well operations.

(2) In these Regulations "the 2013 Directive operator requirements" means the requirements specified in paragraph (3) which are placed on—

(a) an operator, by or by virtue of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 [F13];

(b) an employer, by or by virtue of the Management of Health and Safety at Work Regulations 1999 [F14]; or

(c) a duty holder, by or by virtue of the Regulations specified in paragraph (4).

(3) The requirements referred to in paragraph (2) are those which relate to—

(a) preventing major accidents arising from offshore petroleum operations in offshore waters; or

(b) limiting the consequences of such accidents,

but only where that duty holder or employer, as the case may be, is an operator within the meaning of these Regulations.

(4) The Regulations referred to in paragraph (2) are—

(a) the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 [F15];

(b) the Offshore Installations and Pipeline Works (First-Aid) Regulations 1989 [F16];

(c) the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 [F17];

(d) the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 [F18];

(e) the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 [F19]; and

(f) the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015.

(5) Other terms used in these Regulations which are also used in the 2013 Directive have the same meaning in these Regulations as they have in the 2013 Directive.

F3 O.J. No. L178, 28.06.13, p.66.

F4 Words in reg. 2(1) substituted (1.10.2016) by Energy Act 2016 (c. 20), s. 84(3), **Sch. 1 para. 81**; S.I. 2016/920, reg. 2(a)

F5 Words in reg. 2(1) inserted (16.5.2017) by The Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 (S.I. 2017/582), regs. 1, **61(2)(a)**

F6 1934 c. 36.

F7 1998 c. 17.

F8 The Petroleum Act 1998, section 29 provides for the Secretary of State to issue a notice to certain persons requiring them to submit an abandonment programme.

F9 1964 c. 29.

F10 Words in reg. 2(1) substituted (16.5.2017) by The Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 (S.I. 2017/582), regs. 1, **61(2)(b)**
F11 1987 c. 12.
F12 S.I. 2015/398.
F13 S.I. 1998/1056.
F14 S.I. 1999/3242.
F15 S.I. 1989/971.
F16 S.I. 1989/1671.
F17 S.I. 1995/738.
F18 S.I. 1995/743.
F19 S.I. 1996/913.

Grant and transfer of offshore licences

3.—(1) The licensing authority must not grant an offshore licence or consent to the transfer of an offshore licence to a prospective offshore licensee unless the authority—

(a) takes into account the capability, including technical and financial capability, of the prospective offshore licensee to meet the requirements for operations within the framework of the licence and in particular the licensing authority must have regard to—

(i) the considerations in paragraph (2); and

(ii) any environmentally sensitive marine and coastal environments, including the environmental matters in paragraph (3); and

(b) where appropriate, consults the competent authority.

(2) The considerations referred to in paragraph (1)(a)(i) are—

(a) the risk, the hazards and any other relevant information relating to the licensed area, including, where appropriate, the cost of degradation of the marine environment referred to in point (c) of Article 8(1) of Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy [F20];

(b) the particular stage of any offshore petroleum operations;

(c) the prospective offshore licensee's financial capability, including any financial security, to cover liabilities potentially deriving from the offshore petroleum operations in question, including liability for potential economic damages; and

(d) the available information relating to the safety and environmental performance of the prospective offshore licensee, including in relation to major accidents, as may be appropriate to the operations applicable under the offshore licence.

(3) The environmental matters referred to in paragraph (1)(a)(ii) are—

(a) ecosystems which play an important role in mitigation and adaptation to climate change, including salt marshes and sea grass beds; and

(b) marine protected areas, including—

(i) special areas of conservation pursuant to the Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora [F21];

(ii) special protection areas pursuant to Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds [F22]; and

(iii) areas that are designated as marine protected areas within the framework of any international or regional agreement entered into by the European Union or the United Kingdom.

(4) The licensing authority may not grant an offshore licence unless it is satisfied that the prospective offshore licensee has made or will make adequate provision to cover liabilities potentially deriving from the prospective offshore licensee's offshore petroleum operations.

(5) In considering whether or not it is satisfied about the matters set out in paragraph (4), the licensing authority must consider whether the prospective offshore licensee has, or will have at the start of offshore petroleum operations, sufficient financial resources for the immediate launch and uninterrupted continuation of all measures necessary for effective emergency response and subsequent remediation.

F20 O.J. No. L164, 25.06.2008, p.19.
F21 O.J. No. L206, 22.07.1992, p.7.
F22 O.J. No. L20, 26.01.2010, p.7.

Offshore petroleum operations

4. Subject to regulations 5(5) and 8(6), no person may conduct an offshore petroleum operation who is not an operator in respect of that operation.

Appointment of operators by offshore licensees

5.—(1) An offshore licensee must not appoint a person as an operator in respect of any of its offshore petroleum operations, unless written notice of the proposed appointment has been given by the offshore licensee to the licensing authority and—

(a) the licencing authority has confirmed in writing to the offshore licensee that it does not object to the appointment of that person as operator; or

(b) three months has elapsed since the date on which the notice was given to the licensing authority and the licensing authority has not objected in writing to the proposed appointment.

(2) A notice under paragraph (1) must give details of—

(a) the identity of the proposed operator; and

(b) the particular offshore petroleum operations in respect of which the proposed operator is intended to be appointed.

(3) Where the licensing authority consults the competent authority before deciding whether or not to object to the proposed appointment, the licensing authority must have regard to any relevant matters communicated to it by the competent authority.

(4) If the licensing authority objects to the proposed appointment it must provide the offshore licensee, in writing, with the reasons for its objection.

(5) Where the licensing authority has objected to a proposed appointment, the offshore licensee is responsible for the offshore petroleum operations which the proposed operator would have undertaken until such time as an operator is appointed in respect of those operations in accordance with this regulation or regulation 6.

Appointment of operators by the licensing authority

6.—(1) The licensing authority may appoint a person as an operator in respect of any offshore petroleum operations being undertaken (or to be undertaken) in respect of which there is no operator.