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STATUTORY INSTRUMENTS

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**1996 No. 913**

**The Offshore Installations and Wells (Design  
and Construction, etc.) Regulations 1996**

**PART V**

**MISCELLANEOUS**

**Defence**

**22.**—(1) In any proceedings for an offence for a contravention of any of the provisions of regulations 5 and 6 it shall, subject to paragraphs (2) and (3), be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence.

(2) The person charged shall not, without the leave of the court, be entitled to rely on the defence in paragraph (1) unless, within a period ending seven clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the 1974 Act, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

**Certificates of exemption**

**23.**—(1) Subject to paragraph (2) and to any of the provisions imposed by the Communities in respect of the encouragement of improvements in the safety and health of workers at work, the Executive may, by a certificate in writing, exempt any person, installation, well or class of persons, installations or wells from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

### **Transitional provision**

**24.**—(1) Where, at the coming into force of these Regulations, a Certificate of Fitness in relation to an installation is in force or such Certificate has been applied for, the provisions of the 1974 Regulations shall (notwithstanding their revocation by regulation 27 and Schedule 3) be deemed to remain in force in relation to that installation, with the modifications contained in paragraph (2), until—

- (a) the expiration of any Certificate of Fitness without its having been renewed;
- (b) the expiration of two years from the coming into force of these Regulations; or
- (c) the receipt by the Executive of a notification by the duty holder for the installation and the Certifying Authority which issued the last Certificate of Fitness relating to the installation that they no longer wish the 1974 Regulations to be deemed to be in force in relation to the installation,

whichever first occurs.

- (2) The 1974 Regulations shall be deemed, for the purpose of paragraph (1), to be modified—
  - (a) in regulation 11(3) of those Regulations by inserting, after the words “that regulation”, the words “not exceeding two years from the coming into force of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996”;
  - (b) by substituting, for any reference to the “owner”, a reference to the person who is the duty holder within the meaning of these Regulations; and
  - (c) by treating those Regulations for purposes of enforcement (but not of interpretation) as if they were set out herein.
- (3) In this regulation—
  - “the 1974 Regulations” means the Offshore Installations (Construction and Survey) Regulations 1974<sup>(1)</sup>;
  - “Certificate of Fitness” and “Certifying Authority” have the same meaning as in the 1974 Regulations.

### **Repeal of section 3 of the Mineral Workings (Offshore Installations) Act 1971**

**25.** Section 3 of the Mineral Workings (Offshore Installations) Act 1971<sup>(2)</sup> is hereby repealed.

### **Modification of the Offshore Installations (Safety Case) Regulations 1992**

**26.** The 1992 Regulations shall have effect subject to the modifications specified in Schedule 2.

### **Revocation**

**27.** The instruments specified in column 1 of Schedule 3 are hereby revoked to the extent specified in column 3 of the Schedule.

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(1) S.I. 1974/289; amended by S.I. 1993/1823.

(2) 1971 c. 61.