
STATUTORY INSTRUMENTS

2005 No. 3117

The Offshore Installations (Safety Case) Regulations 2005

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Safety Case) Regulations 2005 and shall come into force on 6th April 2006.

Interpretation

2.—(1) In these Regulations—

“the 1992 Regulations” means the Offshore Installations (Safety Case) Regulations 1992⁽¹⁾;

“current safety case” means a safety case in respect of an installation which has been accepted by the Executive pursuant to these Regulations or, subject to regulation 27, the 1992 Regulations and includes any revision thereto which—

(a) may take effect without the acceptance of the Executive; or

(b) has been accepted by the Executive;

“dismantling” means the dismantling or removal of the main and secondary structure of a fixed installation at the place at which it was operated, and “dismantled” shall be construed accordingly;

“diving bell” means a compression chamber which is capable of being manned and is used or designed for use under the surface of water in supporting human life, being a chamber in which any occupant is or may be subject to a pressure of more than 300 millibars above atmospheric pressure during normal operations;

“duty holder” means—

(a) in relation to a production installation, the operator; and

(b) in relation to a non-production installation, the owner;

“the Executive” means the Health and Safety Executive;

“field development programme” means the support document for development and production authorisations to be submitted to the Department of Trade and Industry pursuant to the Guidance Notes on Procedures for Regulating Offshore Oil and Gas Field Developments, as published on the Department of Trade and Industry’s website, and revised or reissued from time to time⁽²⁾;

“fixed installation” means an installation which cannot be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“installation” means an offshore installation within the meaning of regulation 3 of the Management Regulations;

(1) S.I. 1992/2885, as amended by S.I. 1995/738, 1995/743, 1996/913 and 1997/2776.

(2) http://www.og.dti.gov.uk/regulation/guidance/reg_offshore/index.htm

“licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998⁽³⁾;

“major accident” means—

- (a) a fire, explosion or the release of a dangerous substance involving death or serious personal injury to persons on the installation or engaged in an activity on or in connection with it;
- (b) an event involving major damage to the structure of the installation or plant affixed thereto or any loss in the stability of the installation;
- (c) the collision of a helicopter with the installation;
- (d) the failure of life support systems for diving operations in connection with the installation, the detachment of a diving bell used for such operations or the trapping of a diver in a diving bell or other subsea chamber used for such operations; or
- (e) any other event arising from a work activity involving death or serious personal injury to five or more persons on the installation or engaged in an activity in connection with it;

“management system” means the organisation and arrangements established by a person for managing his undertaking;

“the Management Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995⁽⁴⁾;

“non-production installation” means an installation other than a production installation;

“notified” means notified in writing, and related expressions shall be construed accordingly;

“operator”, in relation to a pipeline, means—

- (a) the person who is to have or (once fluid or any mixture of fluids is conveyed) has control over the conveyance of fluid or any mixture of fluids in the pipeline;
- (b) until that person is known (should there be a case where at a material time he is not yet known) the person who is to commission or (where commissioning has started) commissions the design and construction of the pipeline; or
- (c) 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;

“operator”, in relation to a production installation, means—

- (a) the person appointed by the licensee to manage and control directly or by any other person the execution of the main functions of a production installation; or
- (b) the licensee, where—
 - (i) it is not clear to the Executive that one person has been appointed to perform the functions described in paragraph (a); or
 - (ii) in the opinion of the Executive, any person appointed to perform the functions described in paragraph (a) is incapable of performing those functions satisfactorily;

“owner” means the person who controls the operation of a non-production installation;

“petroleum”—

- (a) includes any mineral oil or relative hydrocarbon and natural gas, whether or not existing in its natural condition in strata; and

⁽³⁾ 1998 c. 17.

⁽⁴⁾ S.I. 1995/738, as amended by S.I. 2002/2175.

(b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

“the PFEER Regulations” means the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995⁽⁵⁾;

“pipeline” shall be construed in accordance with regulation 3 of the Pipelines Safety Regulations 1996⁽⁶⁾;

“production installation” means an installation which—

- (a) extracts petroleum from beneath the sea-bed by means of a well;
- (b) stores gas in or under the shore or bed of relevant waters and recovers gas so stored; or
- (c) is used for the conveyance of petroleum by means of a pipe,

and—

- (a) includes a—
 - (i) non-production installation converted for use as a production installation for so long as it is so converted;
 - (ii) production installation which has ceased production for so long as it is not converted to a non-production installation; and
 - (iii) production installation which has not come into use; and
- (b) does not include an installation which, for a period of no more than 90 days, extracts petroleum from beneath the sea-bed for the purposes of well testing;

“relevant statutory provisions” means the relevant statutory provisions (as defined in section 53(1) of the 1974 Act) which apply to or in relation to installations or activities on or in connection with them;

“relevant waters” means—

- (a) tidal waters and parts of the sea in or adjacent to Great Britain up to the seaward limits of the territorial sea; and
- (b) any area designated by order under section 1(7) of the Continental Shelf Act 1964⁽⁷⁾;

“safety-critical elements” means such parts of an installation and such of its plant (including computer programmes), or any part thereof—

- (a) the failure of which could cause or contribute substantially to; or
 - (b) a purpose of which is to prevent, or limit the effect of,
- a major accident;

“specified plant” means the plant for an installation which is provided—

- (a) in compliance with regulations 11(1)(a), 13, 15 and 16 of the PFEER Regulations;
- (b) as means required to be provided by regulation 10 of the PFEER Regulations—
 - (i) for detecting fire; and
 - (ii) for detecting and recording accumulations of flammable gases; and
- (c) pursuant to the measures required by regulation 12 of the PFEER Regulations to combat fire and explosion,

except for—

- (a) plant which is part of the safety-critical elements for that installation; and

⁽⁵⁾ S.I. 1995/743.

⁽⁶⁾ S.I. 1996/825, to which there are amendments not relevant to these Regulations.

⁽⁷⁾ 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), Schedule 3, paragraph 1.

(b) aircraft or equipment to which regulation 18 of the PFEER Regulations applies.

“vessel” includes a hovercraft and any floating structure which is capable of being staffed;

“well” means—

(a) a well made by drilling; and

(b) a borehole drilled with a view to the extraction of petroleum through it or another well, and shall be deemed to include any device on it for containing the pressure in it;

“well operation” means—

(a) the drilling of a well, including the recommencement of drilling after a well has been completed, suspended or abandoned by plugging at the sea-bed; and

(b) any operation in relation to a well during which there may be an accidental release of fluids from that well which could give rise to the risk of a major accident; and

“well operator”, in relation to a well or proposed well, means—

(a) the person appointed by the licensee for that well or proposed well to execute the function of organising and supervising the drilling of that well and all operations to be carried out by means of that well; or

(b) where no such person has been appointed, the licensee.

(2) Any reference in these Regulations to a design notification, a relocation notification, a safety case or a notification of combined operations or well operations is a reference to a document containing the particulars specified in the Schedule referred to in the provision pursuant to which it is prepared and, for a safety case, regulation 12.

(3) Any reference in these Regulations to operating an installation is a reference to using the installation for any of the purposes described in sub-paragraphs (a) to (d) of paragraph (1) of regulation 3 of the Management Regulations.

(4) For the purposes of these Regulations, an installation other than a production installation, the operation of which has not been treated as having commenced in accordance with paragraph (2) of regulation 7, shall be treated as engaged in a combined operation with another such installation or other such installations if an activity carried out from, by means of or on, that installation is carried out temporarily for a purpose related to the other installation or installations and could affect the health or safety of persons on the other installation or installations, and the expression “combined operation” shall be construed accordingly.

(5) Any reference in these Regulations to a verification scheme is a reference to a suitable written scheme for ensuring, by means described in paragraph (6), that the safety-critical elements and the specified plant—

(a) are or, where they remain to be provided, will be suitable; and

(b) where they have been provided, remain in good repair and condition.

(6) The means referred to in paragraph (5) are—

(a) examination, including testing where appropriate, of the safety-critical elements and the specified plant by independent and competent persons;

(b) examination of any design, specification, certificate, CE marking or other document, marking or standard relating to those elements or that plant by such persons;

(c) examination by such persons of work in progress;

(d) the taking of appropriate action following reports by such persons;

(e) the taking of other such steps as may be properly provided for pursuant to regulation 19 and Schedule 7; and

- (f) the taking of any steps incidental to the means described in sub-paragraphs (a) to (e) of this paragraph.
- (7) For the purposes of paragraph (6) and regulations 19 and 20, a person shall be regarded as independent only where—
 - (a) his function will not involve the consideration by him of an aspect, of a thing liable to be examined, for which he bears or has borne such responsibility as might compromise his objectivity; and
 - (b) he will be sufficiently independent of a management system, or of a part thereof, which bears or has borne any responsibility for an aspect of which he might consider, of a thing liable to be examined, to ensure that he will be objective in discharging his function.
- (8) Any reference in these Regulations to an activity in connection with an installation is a reference to any activity in connection with an installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, in or from a vessel or in any other manner, other than—
 - (a) transporting, towing or navigating the installation; and
 - (b) any activity in or from a vessel which is ready to give assistance in the event of an emergency on or near the installation.
- (9) Where a duty holder is succeeded by a new duty holder, anything done in compliance with these Regulations by the duty holder in relation to an installation shall, for the purposes of these Regulations, be treated as having been done by his successor.

Communication and storage of information by electronic means

- 3.—**(1) Except as provided in paragraph (5), where these Regulations require or allow a person to communicate information to another, whether in writing or otherwise, that person may communicate such information by electronic means.
- (2) Information communicated by electronic means shall not be treated as having been received by the recipient for the purposes of these Regulations unless the recipient—
 - (a) has agreed to receive that information by electronic means by providing the sender with an address to which that information may be sent;
 - (b) is able to read and print that information; and
 - (c) is able to store that information in a form with which the sender cannot interfere.
- (3) In the absence of a clear indication to the contrary, information communicated by electronic means in accordance with, and for the purposes of, these Regulations shall be deemed—
 - (a) to be accurately dated and timed;
 - (b) to have been sent by the person from whom it purports to originate;
 - (c) not to have been tampered with or otherwise modified; and
 - (d) where relevant, to be intended to have legal effect.
- (4) Where these Regulations require any person to record, note or store information, it may be recorded, noted or stored on film or by electronic means if it—
 - (a) can be reproduced (in the case of information recorded, noted or stored on film, at the place at which it is recorded, noted or stored) as a written copy; and
 - (b) is reasonably secure from loss or unauthorised interference.
- (5) This regulation shall not apply to regulation 22(2).

Application

4.—(1) Subject to paragraph (2), these Regulations shall apply—

- (a) in Great Britain; and
- (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 4(1) and (2)(b), 5 and 6 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001⁽⁸⁾.

(2) These Regulations shall not apply to wells to which the Borehole Sites and Operations Regulations 1995⁽⁹⁾ apply.

Duties of licensee

5. The licensee shall—

- (a) ensure that any operator appointed by him is capable of satisfactorily carrying out his functions and discharging his duties under the relevant statutory provisions; and
- (b) take all reasonable steps to ensure that any operator appointed by him carries out his functions and discharges his duties under the relevant statutory provisions.

Design and relocation notifications for production installation

6.—(1) The operator of a production installation which is to be established shall—

- (a) prepare a design notification containing the particulars specified in Schedule 1; and
- (b) send the design notification to the Executive,

at such time before the submission of a field development programme to the Department of Trade and Industry as will enable him to take account in the design of any matters relating to health and safety raised by the Executive within 3 months (or such shorter period as the Executive may specify) of that time.

(2) The operator of a production installation which is to be moved to a new location (whether from outside relevant waters or not) and operated there shall—

- (a) prepare a relocation notification containing the particulars specified in Schedule 1 not contained in any current safety case for that installation; and
- (b) send the relocation notification to the Executive,

at such time before the submission of a field development programme to the Department of Trade and Industry as will enable him to take account of any matters relating to health and safety raised by the Executive within 3 months (or such shorter period as the Executive may specify) of that time.

(3) Paragraph (1) shall only require the particulars in the design notification to describe the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the design notification to the Executive.

(4) Where there is a material change in any of the particulars notified pursuant to—

- (a) paragraph (1) prior to the duty holder sending a safety case to the Executive in accordance with regulation 7(1)(b); or
- (b) paragraph (2) prior to the duty holder sending—
 - (i) a safety case to the Executive in accordance with regulation 7(1)(b); or
 - (ii) revisions to the current safety case to the Executive in accordance with regulation 14(2),

⁽⁸⁾ S.I. 2001/2127.

⁽⁹⁾ S.I. 1995/2038, to which there are amendments not relevant to these Regulations.

the duty holder shall notify the Executive of that change as soon as practicable.

Safety case for production installation

7.—(1) Subject to regulation 27, the operator of a production installation shall ensure that it is not operated unless—

- (a) he has prepared a safety case containing the particulars specified in regulation 12 and Schedule 2;
- (b) he has sent the safety case to the Executive at least 6 months (or such shorter period as the Executive may specify) before commencing the operation; and
- (c) the Executive has accepted the safety case.

(2) For the purposes of paragraph (4) of regulation 2 and paragraph (1), the operation of an installation shall be treated as commenced—

- (a) on the commencement of the first well drilling operation from the installation which may involve the release of petroleum from beneath the sea-bed; or
- (b) when petroleum is brought onto the installation for the first time through a pipeline or well, whichever is earlier.

(3) A safety case prepared pursuant to paragraph (1) and revisions to a current safety case prepared pursuant to regulation 9(5) may be prepared in relation to more than one production installation where the Executive so approves in writing and, where a safety case is or revisions are to be so prepared in relation to installations with different operators, it shall be sufficient compliance with paragraph (1)(a) and (b) and regulation 9(5)(a) and (b) if the operators prepare and agree a safety case or revisions containing the particulars referred to in that paragraph and that regulation and one of them sends it to the Executive in accordance with paragraph (1)(b) and regulation 9(5)(b).

Safety case for non-production installation

8. Subject to regulation 27, the owner of a non-production installation shall ensure that it is not moved in relevant waters with a view to its being operated there unless—

- (a) he has prepared a safety case containing the particulars specified in regulation 12 and Schedule 3;
- (b) he has sent the safety case to the Executive at least 3 months (or such shorter period as the Executive may specify) before the movement of the installation in those waters with a view to its being operated there; and
- (c) the Executive has accepted the safety case.

Design notification and safety case for non-production installation to be converted

9.—(1) Where a non-production installation is to be converted to enable it to be operated as a production installation, the owner shall—

- (a) prepare a design notification in respect of the proposed conversion containing, subject to paragraph (3), the particulars specified in Schedule 1 not contained in any current safety case for that installation; and
- (b) send the design notification to the Executive,

at such time before completion of the design of the proposed conversion as will enable him to take account in the design of any matters relating to health and safety raised by the Executive within 3 months (or such shorter period as the Executive may specify) of that time.

(2) The particulars specified in Schedule 1 which must be provided in respect of a design notification under paragraph (1) shall be construed as if all references to “operator” were references to the owner of the non-production installation to be converted.

(3) Paragraph (1) shall only require the particulars in the design notification to address the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the design notification to the Executive.

(4) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the duty holder sending—

- (a) a safety case to the Executive in accordance with regulation 7(1); or
- (b) revisions to the current safety case to the Executive in accordance with paragraph (5),

the duty holder shall notify the Executive of that change as soon as practicable.

(5) Where a non-production installation operated pursuant to a current safety case is converted to a production installation, the operator of that production installation shall ensure that it is not operated as a production installation unless—

- (a) he has prepared revisions to the current safety case for that installation containing the particulars specified in regulation 12 and Schedule 2 not contained in that current safety case;
- (b) he has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive at least 3 months (or such shorter period as the Executive may specify) before commencing the operation in accordance with paragraph (2) of regulation 7; and
- (c) the Executive has accepted those revisions to the current safety case.

Notification of combined operations

10.—(1) A duty holder for an installation which is to be involved in a combined operation shall ensure that that installation does not engage in a combined operation unless a notification containing the particulars specified in Schedule 4 (other than those already notified to the Executive pursuant to regulation 17) in respect of that combined operation is sent to the Executive at least 21 days (or such shorter period as the Executive may specify) before it is due to commence.

(2) The requirements of paragraph (1) will be satisfied if—

- (a) the duty holders for every installation involved in the combined operation prepare and agree a notification containing the particulars specified in that paragraph; and
- (b) one of them sends it to the Executive at least 21 days (or such shorter period as the Executive may specify) before it is due to commence.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to completion of the relevant combined operation, the duty holder shall notify the Executive of that change as soon as is practicable.

(4) Where there is a change in the duty holder or of the installation, the duty holder shall send a notification pursuant to paragraph (1).

Safety case for dismantling fixed installation

11.—(1) The operator of a fixed installation shall ensure that it is not dismantled unless—

- (a) he has prepared revisions to the current safety case containing, subject to paragraph (2), the particulars specified in regulation 12 and Schedule 5 not contained in the current safety case for that installation;

(b) he has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive at least 3 months (or such shorter period as the Executive may specify) before the commencement of the dismantling; and

(c) the Executive has accepted those revisions to the current safety case.

(2) Paragraph (1) shall only require the particulars in the proposed revisions to the current safety case to describe the matters referred to in that paragraph to the extent that it is reasonable to expect the operator to address them at the time of sending the proposed revisions to the Executive.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the Executive deciding whether to accept the proposed revisions to the current safety case, the operator shall notify the Executive of that change as soon as practicable.

(4) In this regulation, “operator”, in relation to a fixed installation, means—

(a) the person appointed by the licensee to manage and control directly or by any other person the execution of dismantling a fixed installation; or

(b) the licensee, where—

(i) it is not clear to the Executive that one person has been appointed to perform the functions described in paragraph (a); or

(ii) in the opinion of the Executive, any person appointed to perform the functions specified in paragraph (a) is incapable of performing those functions satisfactorily.

Management of health and safety and control of major accident hazards

12.—(1) The duty holder who prepares a safety case pursuant to these Regulations shall, subject to paragraphs (2) and (3), include in the safety case sufficient particulars to demonstrate that—

(a) his management system is adequate to ensure—

(i) that the relevant statutory provisions will, in respect of matters within his control, be complied with; and

(ii) the satisfactory management of arrangements with contractors and sub-contractors;

(b) he has established adequate arrangements for audit and for the making of reports thereof;

(c) all hazards with the potential to cause a major accident have been identified; and

(d) all major accident risks have been evaluated and measures have been, or will be, taken to control those risks to ensure that the relevant statutory provisions will be complied with.

(2) Paragraph (1) shall only require the particulars in the safety case to demonstrate the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the safety case to the Executive.

(3) In this regulation, “audit” means systematic assessment of the adequacy of the management system to achieve the purpose referred to in paragraph (1)(a) carried out by persons who are sufficiently independent of the system (but who may be employed by the duty holder) to ensure that such assessment is objective.

Review of safety case

13.—(1) A duty holder shall thoroughly review a current safety case when directed to do so by the Executive.

(2) In the absence of a direction under paragraph (1), a duty holder shall thoroughly review a current safety case within 5 years of—

(a) the date on which the Executive accepted that current safety case; and

- (b) the date of the previous review.
- (3) A duty holder shall send a summary of each such review to the Executive—
 - (a) where the review is conducted at the direction of the Executive, within such reasonable time, being a period of not less than 28 days of the direction, as may be specified by the Executive; or
 - (b) in all other cases, within 28 days of its conclusion.

Revision of safety case

14.—(1) In addition to the other occasions on which a duty holder must revise a current safety case pursuant to these Regulations, a duty holder shall revise a current safety case—

- (a) when appropriate; and
 - (b) when directed to do so by the Executive pursuant to regulation 15(1).
 - (2) Revisions made under sub-paragraph (a) of paragraph (1) which make a material change to the current safety case shall not be effective unless—
 - (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive—
 - (i) at least 3 months, or such shorter period as the Executive may specify; or
 - (ii) where the revisions relate to a combined operation, at least 6 weeks, or such shorter period as the Executive may specify, before the revisions are to be made; and
 - (b) the Executive has accepted the revisions.
 - (3) Without prejudice to the generality of paragraph (2)—
 - (a) no well operation shall constitute a material change;
 - (b) no revision prepared or made pursuant to regulation 27 shall constitute a material change;
 - (c) the movement of a production installation to a new location to be operated there shall constitute a material change; and
 - (d) the conversion of a production installation to enable it to be operated as a non-production installation shall constitute a material change,
- to the current safety case for the purposes of paragraph (2).

Power of Executive in relation to safety cases and related documents

15.—(1) The Executive may direct a duty holder to prepare revisions to a current safety case in relation to such matters as the Executive may notify to him.

(2) When making a direction for the purposes of paragraph (1), the Executive shall explain why it believes that each revision is necessary and shall specify a period, not being less than 28 days, within which the duty holder shall submit such revisions to the Executive.

- (3) Revisions submitted pursuant to paragraph (1) shall not be effective unless—
 - (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive; and
 - (b) the Executive has accepted the revisions.
- (4) After the submission of a design notification required under regulation 6 or 9 and prior to the submission of a safety case in respect of a production installation, the duty holder for that installation shall provide the Executive with a copy of any document which, in the opinion of the Executive, may be directly or indirectly relevant to the duty holder's preparation of the safety case for that

installation within such reasonable time of the demand, being a period of not less than 14 days, as may be specified by the Executive.

(5) The Executive may suspend any current safety case where it does not accept any proposed revision thereto submitted to it pursuant to regulation 15(3) or 27(2).

(6) When suspending a current safety case in accordance with paragraph (5), the Executive shall explain why it believes that a suspension is necessary.

(7) During any period in which the current safety case for an installation is suspended, the duty holder for that installation shall ensure that it is not operated.

(8) The Executive may lift any suspension in respect of a current safety case when it is satisfied that the health and safety of persons who are likely to be affected by the lifting of any suspension will not be prejudiced in consequence of it.

Duty to conform with safety case

16.—(1) The duty holder shall ensure that the procedures and arrangements described in the current safety case which may affect health or safety are followed.

(2) In criminal proceedings for a contravention of paragraph (1), it shall be a defence for the accused to prove that—

- (a) in the particular circumstances of the case, it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 14; or
- (b) the commission of the offence was due to a contravention by another person of regulation 8 of the Management Regulations and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

Notification of well operations

17.—(1) Subject to paragraph (2), a well operator shall ensure that no well operation is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the Executive at least 21 days (or such shorter period as the Executive may specify) before commencing that operation.

(2) In the case of a production installation a well operator shall ensure that —

- (a) no well operation which involves—
 - (i) insertion of a hollow pipe in the well; or
 - (ii) altering the construction of the well,

is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the Executive at least 10 days (or such shorter period as the Executive may specify) before commencing that operation; and

- (b) no well operation which involves drilling is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the Executive at least 21 days (or such shorter period as the Executive may specify) before commencing that operation

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to completion of the relevant well operation, the well operator shall notify the Executive of that change as soon as practicable.

Keeping of documents

18.—(1) A duty holder shall—

- (a) ensure that, when he sends—
 - (i) the design notification, in the case of a production installation; or
 - (ii) the safety case, in the case of a non-production installation,to the Executive, it is notified of an address in Great Britain for the purposes of sub-paragraphs (b) and (e) below;
 - (b) keep copies, at the address referred to in sub-paragraph (a) and on the installation, of the following documents relating to the installation—
 - (i) the current safety case;
 - (ii) any summary of any review of the current safety case prepared pursuant to regulation 13(2); and
 - (iii) each audit report;
 - (c) keep copies on the installation of the following documents relating to the installation—
 - (i) any relocation notification and any material changes thereto;
 - (ii) any notification of combined operations and any material changes thereto; and
 - (iii) any notification of well operations and any material changes thereto;
 - (d) ensure that, in respect of each audit report, a written statement is made, recording—
 - (i) the main findings of the report;
 - (ii) the recommendations in the report; and
 - (iii) the action proposed to implement those recommendations, including the timescales involved,and a copy of that statement kept on the installation; and
 - (e) ensure that a record is made of any action taken in consequence of an audit report, and a copy of that record kept at the address referred to in sub-paragraph (a) and on the installation.
- (2) The copy of the current safety case referred to in paragraph (1) and any other relevant documents shall be kept for so long as they are current, and the copy of the audit report, the written statement and the record referred to in that paragraph shall be kept for a period of 3 years after being made.
- (3) The duty holder for an installation shall ensure that—
- (a) its verification scheme, any modification of that scheme and any note made pursuant to regulation 19(2)(c) or 20(b) is kept at the address notified to the Executive pursuant to sub-paragraph (a) of paragraph (1) until the expiration of 6 months after such scheme or, as the case may be, modification of that scheme, has ceased to be current; and
 - (b) records, sufficient to show the matters described in paragraph 5 of Schedule 7, are kept at the address notified to the Executive pursuant to sub-paragraph (a) of paragraph (1) until the expiration of 6 months after the scheme pursuant to which they were compiled has ceased to be current.
- (4) In this regulation, “audit report” means a report made pursuant to the arrangements referred to in regulation 12(1)(b).

Verification schemes

19.—(1) The duty holder for an installation shall ensure that a record of the safety-critical elements and the specified plant is made.

(2) After a record has been made in accordance with paragraph (1), the duty holder shall ensure that, in accordance with paragraph (3)—

- (a) comment on that record by an independent and competent person is invited;
 - (b) a verification scheme providing for the matters contained in Schedule 7 is drawn up by or in consultation with such person;
 - (c) a note is made of any reservation expressed by such person as to the contents of—
 - (i) that record; or
 - (ii) that scheme; and
 - (d) that scheme is put into effect.
- (3) The matters set out in paragraph (2) shall be completed—
- (a) in the case of a production installation, before completion of its design; and
 - (b) in the case of a non-production installation, before it is moved into relevant waters with a view to its being operated there.

Review and revision of verification schemes

- 20.** The duty holder shall ensure that, as often as may be appropriate—
- (a) the verification scheme for his installation is reviewed and, where necessary, revised or replaced by or in consultation with an independent and competent person; and
 - (b) a note is made of any reservation expressed by such person in the course of drawing it up.

Continuing effect of verification schemes

21. The duty holder shall ensure that effect continues to be given to the verification scheme for his installation, or any revision or replacement of it, while that installation remains in being.

Defence

22.—(1) In any proceedings for an offence for a contravention of any of the provisions of regulations 19 to 21 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 7 clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England and Wales; or
- (b) before the intermediate diet, where the proceedings are summary proceedings in Scotland; or
- (c) before the first diet, where the proceedings are solemn proceedings 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.

Exemptions

23.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person, installation or 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, and that the exemption will be compatible with Article 3(2) of Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling⁽¹⁰⁾.

Appeals

24.—(1) Any person who is aggrieved by a decision of the Executive—

- (a) as to a finding of fact made by the Executive for the purposes of these Regulations which affects him as a duty holder or licensee or any installation for which he is or may be responsible;
- (b) not to accept a safety case prepared by him and submitted to the Executive pursuant to regulation 7(1) or 8;
- (c) to direct him to prepare revisions to a current safety case in accordance with regulation 15(1);
- (d) not to accept a revision to a current safety case prepared by him and submitted to the Executive in accordance with regulation 9(5), 11(1), 14(2), 15(3) or 27(1) or (2);
- (e) to suspend pursuant to regulation 15(5) a current safety case held by him;
- (f) not to lift a suspension pursuant to regulation 15(8) in respect of a current safety case held by him;
- (g) to revoke an exemption certificate granted to him pursuant to regulation 23(1); or
- (h) to grant to him an exemption certificate subject to a condition or a limit of time pursuant to regulation 23(1),

may appeal to the Secretary of State.

(2) The provisions of Schedule 8 shall apply where an aggrieved person appeals to the Secretary of State.

(3) Any decision of the Executive which is the subject of an appeal under this regulation shall not be suspended pending final determination of the appeal.

Amendments

25. The instruments referred to in Schedule 9 shall be amended in accordance with that Schedule.

Revocation

26.—(1) Subject to paragraph (2), the 1992 Regulations are hereby revoked.

(10) O.J. No. L348, 28.11.92, p.9

(2) Regulations 6, 9, 10, 15 and 17 of and Schedule 4 to the 1992 Regulations shall remain in force until 6 October 2007 insofar as they relate to combined operations.

Transitional provisions

27.—(1) Subject to paragraph (4), where there is an intention to carry out combined operations within 3 years of the coming into force of these Regulations a duty holder shall ensure that before the first combined operation is commenced he has made effective revisions to a current safety case accepted by the Executive pursuant to the 1992 Regulations which contain the particulars specified in —

- (a) regulation 12, in relation to combined operations;
- (b) paragraph 14 of Schedule 2, in relation to a production installation; or
- (c) paragraph 13 of Schedule 3, in relation to a non-production installation,

not contained in the current safety case for that installation.

(2) Revisions made pursuant to paragraph (1) shall not be effective unless—

- (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive; and
- (b) the Executive has accepted the revisions.

(3) Subject to paragraph (4), a duty holder shall revise a current safety case accepted by the Executive pursuant to the 1992 Regulations within 3 years of the coming into force of these Regulations so that it includes the particulars specified in—

- (a) regulation 12 and Schedule 2, in relation to a production installation; or
- (b) regulation 12 and Schedule 3, in relation to a non-production installation,

not contained in the current safety case for that installation.

(4) A duty holder may continue to comply with regulations 6, 9, 10 and 15 of and Schedule 4 to the 1992 Regulations in relation to a current safety case for a combined operation accepted by the Executive pursuant to the 1992 Regulations provided that within 18 months of the coming into force of these Regulations he complies with regulations 10, 14, 16, 18 and 27(1) of and Schedule 4 to these Regulations.

(5) For the purpose of this regulation, where there are safety cases under regulations 4(2) and 7 of the 1992 Regulations in respect of an installation “current safety case” means the safety case prepared under regulation 7.

Signed by authority of the Secretary of State for Work and Pensions.

9th November 2005

Philip A Hunt
Parliamentary Under Secretary of State,
Department for Work and Pensions