

Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (Text with EEA relevance)

CHAPTER II

PREVENTION OF MAJOR ACCIDENTS RELATING TO OFFSHORE OIL AND GAS OPERATIONS

Article 3

General principles of risk management in offshore oil and gas operations

- 1 Member States shall require operators to ensure that all suitable measures are taken to prevent major accidents in offshore oil and gas operations.
- 2 Member States shall ensure that operators are not relieved of their duties under this Directive by the fact that actions or omissions leading or contributing to major accidents were carried out by contractors.
- 3 In the case of a major accident, Member States shall ensure that operators take all suitable measures to limit its consequences for human health and for the environment.
- 4 Member States shall require operators to ensure that offshore oil and gas operations are carried out on the basis of systematic risk management so that the residual risks of major accidents to persons, the environment and offshore installations are acceptable.

Article 4

Safety and environmental considerations relating to licences

- 1 Member States shall ensure that decisions on granting or transferring licences to carry out offshore oil and gas operations take into account the capability of an applicant for such a licence to meet the requirements for operations within the framework of the licence as required by the relevant provisions of Union law, in particular this Directive.
- 2 In particular, when assessing the technical and financial capability of the applicant for a licence, due account shall be taken of the following:
 - a the risk, the hazards and any other relevant information relating to the licensed area concerned, 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;
 - b the particular stage of offshore oil and gas operations;
 - c the applicant's financial capabilities, including any financial security, to cover liabilities potentially deriving from the offshore oil and gas operations in question including liability for potential economic damages where such liability is provided for by national law;
 - d the available information relating to the safety and environmental performance of the applicant, including in relation to major accidents, as may be appropriate to the operations for which the licence was requested.

Before granting or transferring a licence for offshore oil and gas operations, the licensing authority shall consult, where appropriate, the competent authority.

3 Member States shall ensure that the licensing authority does not grant a licence unless it is satisfied with evidence from the applicant that the applicant has made or will make adequate provision, on the basis of arrangements to be decided by Member States, to cover liabilities potentially deriving from the applicant's offshore oil and gas operations. Such provision shall be valid and effective from the start of offshore oil and gas operations. Member State shall require applicants to provide, in an appropriate manner, evidence of technical and financial capacity and any other relevant information relating to the area covered by the licence and the particular stage of offshore oil and gas operations.

Member States shall assess the adequacy of provisions referred to in the first subparagraph in order to establish whether the applicant has sufficient financial resources for the immediate launch and uninterrupted continuation of all measures necessary for effective emergency response and subsequent remediation.

Member States shall facilitate the deployment of sustainable financial instruments and other arrangements to assist applicants for licences in demonstrating their financial capacity pursuant to the first subparagraph.

Member States shall, as a minimum, establish procedures for ensuring prompt and adequate handling of compensation claims including in respect of compensation payments for trans-boundary incidents.

The Member States shall require the licensee to maintain sufficient capacity to meet their financial obligations resulting from liabilities for offshore oil and gas operations.

4 The licensing authority or the licensee shall appoint the operator. Where the operator is to be appointed by the licensee, the licensing authority shall be notified of the appointment in advance. In such cases, the licensing authority, if necessary in consultation with the competent authority, may object to the appointment of the operator. Where such an objection is raised, the Member States shall require the licensee to appoint a suitable alternative operator or assume the responsibilities of the operator under this Directive.

5 The licensing procedures for offshore oil and gas operations relating to a given licensed area shall be organised in such a way that information collected as a result of exploration can be considered by the Member State prior to production commencing.

6 When assessing the technical and financial capabilities of an applicant for a licence, special attention shall be paid to any environmentally sensitive marine and coastal environments, in particular ecosystems which play an important role in mitigation and adaptation to climate change, such as salt marshes and sea grass beds, and marine protected areas, such as special areas of conservation pursuant to the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁽¹⁾, special protection areas pursuant to the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds⁽²⁾, and marine protected areas as agreed by the Union or Member States concerned within the framework of any international or regional agreements to which they are a party.

Article 5

Public participation relating to the effects of planned offshore oil and gas exploration operations on the environment

1 The drilling of an exploration well from a non-production installation shall not be commenced unless the relevant authorities of the Member State have previously ensured that early and effective public participation on the possible effects of planned offshore oil and gas operations on the environment pursuant to other Union legal acts, in particular Directive 2001/42/EC or 2011/92/EU as appropriate, has been undertaken.

2 Where public participation has not been undertaken pursuant to paragraph 1, Member States shall ensure that the following arrangements are made:

- a the public is informed, whether by public notices or other appropriate means such as electronic media, where it is planned to allow exploration operations;
- b the public concerned is identified, including the public affected or likely to be affected by, or having an interest in, the decision to allow exploration operations, including relevant non-governmental organisations such as those promoting environmental protection, and other relevant organisations;
- c relevant information about such planned operations is made available to the public including, inter alia, information about the right to participate in decision-making, and to whom comments or questions may be submitted;
- d the public is entitled to express comments and opinions at a time when all options are open before decisions to allow exploration are taken;
- e when decisions under point (d) are taken, due account is taken of the results of the public participation; and
- f the Member State in question promptly informs the public, after examining the comments and opinions expressed by them, about the decisions taken and the reasons therefor and considerations upon which those decisions are based, including information about the public participation process.

Reasonable time-frames shall be provided allowing sufficient time for each of the different stages of public participation.

3 This Article does not apply in respect of areas licensed before 18 July 2013.

Article 6

Offshore oil and gas operations within licensed areas

1 Member States shall ensure that production installations and connected infrastructure are operated only in licensed areas and only by operators appointed for that purpose pursuant to Article 4(4).

2 Member States shall require the licensee to ensure that the operator has the capacity to meet the requirements for specific operations within the framework of the licence.

3 Throughout all offshore oil and gas operations, Member States shall require the licensee to take all reasonable steps to ensure that the operator meets the requirements, carries out its functions and discharges its duties under this Directive.

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4 Where the competent authority determines that the operator no longer has the capacity to meet the relevant requirements under this Directive, the licensing authority shall be informed. The licensing authority shall then notify the licensee thereof and the licensee shall assume responsibility for the discharge of the duties concerned and shall, without delay, propose a replacement operator to the licensing authority.

5 Member States shall ensure that operations relating to production and non-production installations are not commenced or continued until the report on major hazards has been accepted by the competent authority in accordance with this Directive.

6 Member States shall ensure that well operations or combined operations are not commenced or continued until the report on major hazards for the installations involved has been accepted in accordance with this Directive. Furthermore, such operations shall not be commenced or continued where a notification of well operations or a notification of combined operations has not been submitted pursuant to point (h) or (i) of Article 11(1) respectively to the competent authority or where the competent authority expresses objections to the content of a notification.

7 Member States shall ensure that a safety zone is established around an installation and that vessels are prohibited from entering or remaining in that safety zone.

However, that prohibition shall not apply to a vessel entering or remaining in the safety zone:

- a in connection with the laying, inspection, testing, repair, maintenance, alteration, renewal or removal of any submarine cable or pipeline in or near that safety zone;
- b to provide services for or to transport persons or goods to or from any installation in that safety zone;
- c to inspect any installation or connected infrastructure in that safety zone under the authority of the Member State;
- d in connection with saving or attempting to save life or property;
- e owing to stress of weather;
- f when in distress; or
- g if there is consent from the operator, owner or the Member State in which the safety zone is located.

8 Member States shall establish a mechanism for effective participation in tripartite consultation between the competent authority, operators and owners, and worker representatives in the formulation of standards and policies dealing with major accident prevention.

Article 7

Liability for environmental damage

Without prejudice to the existing scope of liability relating to the prevention and remediation of environmental damage pursuant to Directive 2004/35/EC, Member States shall ensure that the licensee is financially liable for the prevention and remediation of environmental damage as defined in that Directive, caused by offshore oil and gas operations carried out by, or on behalf of, the licensee or the operator.

Article 8

Appointment of the competent authority

1 Member States shall appoint a competent authority responsible for the following regulatory functions:

- a assessing and accepting reports on major hazards, assessing design notifications, and assessing notifications of well operations or combined operations, and other similar documents that are submitted to it;
- b overseeing compliance by operators and owners with this Directive, including inspections, investigations and enforcement actions;
- c advising other authorities or bodies, including the licensing authority;
- d making annual plans pursuant to Article 21;
- e producing reports;
- f cooperating with the competent authorities or contact points pursuant to Article 27.

2 Member States shall at all times ensure the independence and objectivity of the competent authority in carrying out its regulatory functions and particularly in respect of points (a), (b) and (c) of paragraph 1. Accordingly, conflicts of interest shall be prevented between, on the one hand, the regulatory functions of the competent authority and, on the other hand, the regulatory functions relating to the economic development of the offshore natural resources and licensing of offshore oil and gas operations within the Member State and the collection and management of revenues from those operations.

3 In order to achieve the objectives set out in paragraph 2, Member States shall require the regulatory functions of the competent authority to be carried out within an authority that is independent of any of the functions of the Member State relating to the economic development of the offshore natural resources and licensing of offshore oil and gas operations within the Member State and the collection and management of revenues from those operations.

However, where the total number of normally attended installations is below six, the Member State concerned may decide not to apply the first subparagraph. Such a decision shall be without prejudice to its obligations under paragraph 2.

4 Member States shall make available to the public a description of how the competent authority is organised, including why they have established the competent authority in such a way, and how they have ensured that the regulatory functions set out in paragraph 1 are carried out and that the obligations set out in paragraph 2 are complied with.

5 Member States shall ensure that the competent authority has adequate human and financial resources to carry out its duties under this Directive. Those resources shall be commensurate with the extent of offshore oil and gas operations of the Member States.

6 Member States may enter into formal agreements with appropriate Union agencies or other suitable bodies where available for the provision of specialist expertise to support the competent authority in carrying out its regulatory functions. For the purposes of this paragraph a body shall not be deemed suitable where its objectivity may be compromised by conflicts of interest.

7 Member States may establish mechanisms according to which the financial costs to the competent authority in carrying out its duties under this Directive may be recovered from licensees, operators or owners.

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8 Where the competent authority is comprised of more than one body, Member States shall make every effort to avoid duplication of regulatory functions between the bodies. Member States may designate one of the constituent bodies as the lead body with responsibility for the coordination of the regulatory functions under this Directive and for reporting to the Commission.

9 Member States shall review the activities of the competent authority and shall take any necessary measures to improve its effectiveness in carrying out the regulatory functions set out in paragraph 1.

Article 9

Functioning of the competent authority

Member States shall ensure that the competent authority:

- (a) acts independently of policies, regulatory decisions or other considerations unrelated to its duties under this Directive;
- (b) makes clear the extent of its responsibilities and the responsibilities of the operator and the owner for the control of major accident risks under this Directive;
- (c) establishes a policy, process and procedures for thorough assessment of reports on major hazards and notifications submitted pursuant to Article 11 as well as for overseeing compliance with this Directive within the jurisdiction of the Member State, including inspection, investigation and enforcement actions;
- (d) makes the policy, process and procedures pursuant to point (c) available to operators and owners and makes summaries thereof available to the public;
- (e) where necessary, prepares and implements coordinated or joint procedures with other authorities in the Member State to undertake the duties under this Directive; and
- (f) bases its policy, organisation and operational procedures on the principles set out in Annex III.

Article 10

Tasks of the European Maritime Safety Agency

1 The European Maritime Safety Agency (EMSA, hereinafter ‘Agency’) shall provide the Member States and Commission with technical and scientific assistance in accordance with its mandate under Regulation (EC) No 1406/2002.

2 Within the framework of its mandate, the Agency shall:

- a assist the Commission and the affected Member State, on its request, in detecting and monitoring the extent of an oil or gas spill;
- b assist Member States, at their request, with the preparation and execution of external emergency response plans, especially when there are transboundary impacts within and beyond offshore waters of Member States;
- c on the basis of the Member States’ external and internal emergency response plans, develop with Member States and operators a catalogue of emergency equipment and services available.

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- 3 The Agency may, if requested:
 - a assist the Commission in assessing the external emergency response plans of Member States to check whether the plans are in conformity with this Directive;
 - b review exercises that focus on testing transboundary and Union emergency mechanisms.

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- (1) [OJ L 206, 22.7.1992, p. 7.](#)
- (2) [OJ L 20, 26.1.2010, p. 7.](#)