

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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Article 191 of the Treaty on the Functioning of the European Union establishes the objectives of preserving, protecting and improving the quality of the environment and the prudent and rational utilisation of natural resources. It creates an obligation for all Union action to be supported by a high level of protection based on the precautionary principle, and on the principles that preventive action needs to be taken, that environmental damage needs as a matter of priority to be rectified at source and that the polluter must pay.
- (2) The objective of this Directive is to reduce as far as possible the occurrence of major accidents relating to offshore oil and gas operations and to limit their consequences, thus increasing the protection of the marine environment and coastal economies against pollution, establishing minimum conditions for safe offshore exploration and exploitation of oil and gas and limiting possible disruptions to Union indigenous energy production, and to improve the response mechanisms in case of an accident.
- (3) This Directive should apply not only to future offshore oil and gas installations and operations but, subject to transitional arrangements, also to existing installations.
- (4) Major accidents relating to offshore oil and gas operations are likely to have devastating and irreversible consequences on the marine and coastal environment as well as significant negative impacts on coastal economies.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (5) Accidents relating to offshore oil and gas operations, in particular the accident in the Gulf of Mexico in 2010, have raised public awareness of the risks involved in offshore oil and gas operations and have prompted a review of policies aimed at ensuring the safety of such operations. The Commission launched a review of offshore oil and gas operations and expressed its initial views on the safety thereof in its Communication 'Facing the challenge of the safety of offshore oil and gas activities' on 13 October 2010. The European Parliament adopted resolutions on the topic on 7 October 2010 and 13 September 2011. Energy Ministers of the Member States expressed their views in the Conclusions of the Council of 3 December 2010.
- (6) The risks relating to major offshore oil or gas accidents are significant. By reducing the risk of pollution of offshore waters, this Directive should therefore contribute to ensuring the protection of the marine environment and in particular to achieving or maintaining good environmental status by 2020 at the latest, an objective set out in Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)⁽³⁾.
- (7) Directive 2008/56/EC aims to address, as one of its central purposes, the cumulative impacts from all activities on the marine environment, and is the environmental pillar of the Integrated Maritime Policy. That policy is relevant to offshore oil and gas operations as it requires the linking of particular concerns from each economic sector with the general aim of ensuring a comprehensive understanding of the oceans, seas and coastal areas, with the objective of developing a coherent approach to the seas taking into account all economic, environmental and social aspects through the use of maritime spatial planning and marine knowledge.
- (8) Offshore oil and gas industries are established in a number of regions of the Union, and there are prospects for new regional developments in offshore waters of Member States, with technological developments allowing for drilling in more challenging environments. Production of offshore oil and gas is a significant element in security of the Union's energy supply.
- (9) The existing divergent and fragmented regulatory framework applying to safety of offshore oil and gas operations in the Union and current industry safety practices do not provide a fully adequate assurance that the risk of offshore accidents is minimised throughout the Union, and that in the event of an accident occurring in offshore waters of Member States, the most effective response would be deployed in a timely manner. Under existing liability regimes, the party responsible may not always be clearly identifiable and may not be able, or liable, to pay all the costs to remedy the damage it has caused. The party responsible should always be clearly identifiable before offshore oil and gas operations are commenced.
- (10) Pursuant to Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons⁽⁴⁾ offshore oil and gas operations in the Union may be carried out subject to obtaining an authorisation. In this context the licensing authority is required to consider the technical and financial risks, and where

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

appropriate, the previous record of responsibility, of applicants seeking exclusive exploration and production licences. There is the need to ensure that when examining the technical and financial capability of the licensee the licensing authority thoroughly examine also its capability for ensuring continued safe and effective operations under all foreseeable conditions. When assessing the financial capability of entities applying for authorisation pursuant to Directive 94/22/EC, Member States should verify that such entities have provided appropriate evidence that adequate provisions have been or are to be made to cover liabilities deriving from major accidents.

- (11) There is a need to clarify that holders of authorisations for offshore oil and gas operations pursuant to Directive 94/22/EC are also the liable ‘operators’ within the meaning of Directive 2004/35/EC of the European Parliament and the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage⁽⁵⁾, and should not delegate their responsibilities in this regard to third parties contracted by them.
- (12) While general authorisations pursuant to Directive 94/22/EC guarantee to the licensees exclusive rights for exploring for or producing oil or gas within a given licensed area, offshore oil and gas operations within that area should be subject to continuous expert regulatory oversight by Member States in order to ensure there are effective controls in place for preventing major accidents, and limiting their impacts to persons, the environment, and security of energy supply.
- (13) Offshore oil and gas operations should be conducted only by operators appointed by licensees or licensing authorities. The operator can be a third party or the licensee or one of the licensees depending on commercial arrangements or national administrative requirements. The operator should always be the entity with the primary responsibility for safety of operations and should be at all times competent to act in that regard. That role differs depending on the particular stage of activities covered by the licence. The operator’s role is therefore to operate a well at the exploration stage and to operate a production installation at the production stage. It should be possible for the operator of a well at the exploration stage and the operator of a production installation to be the same entity for a given licensed area.
- (14) Operators should reduce the risk of a major accident as low as reasonably practicable, to the point where the cost of further risk reduction would be grossly disproportionate to the benefits of such reduction. The reasonable practicability of risk reduction measures should be kept under review in the light of new knowledge and technology developments. In assessing whether the time, cost and effort would be grossly disproportionate to the benefits of further reducing the risk, regard should be had to best practice risk levels compatible with the operations being conducted.
- (15) It is important to ensure that the public is given early and effective opportunity to participate in the decision-making relating to operations that can potentially have significant effects on the environment in the Union. This policy is in line with the Union’s international commitments, such as the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters⁽⁶⁾ (the Aarhus Convention). Article 6 of the Aarhus Convention

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not listed there which may have a significant effect on the environment. Article 7 of the Aarhus Convention requires public participation concerning plans and programmes relating to the environment.

- (16) Relevant requirements exist in Union legal acts in relation to the development of plans and projects, in particular in Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment⁽⁷⁾, Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment⁽⁸⁾, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment⁽⁹⁾ and Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances⁽¹⁰⁾. However, not all exploratory offshore oil and gas operations are covered by existing Union requirements on public participation. This applies in particular to the decision-making that aims or could lead to exploration operations being commenced from a non-production installation. However, such exploration operations may in some circumstances potentially have significant effects on the environment and the decision-making should therefore be the subject of public participation as required under the Aarhus Convention.
- (17) Within the Union, there are already examples of good standards in national regulatory practices relating to offshore oil and gas operations. However, these are inconsistently applied throughout the Union and no Member State has yet incorporated all of the best regulatory practices in its legislation for preventing major accidents or limiting the consequences for human life and health, and for the environment. Best regulatory practices are necessary to deliver effective regulation which secures the highest safety standards and protects the environment, and can be achieved, inter alia, by integrating related functions into a competent authority that may draw resources from one or more national bodies.
- (18) In accordance with Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁽¹¹⁾, workers and/or their representatives should be consulted on matters relating to safety and health at work and be allowed to take part in discussions on all questions relating to safety and health at work. In addition, best practice in the Union is for consultation mechanisms to be formally established by Member States on a tripartite basis comprising the competent authority, operators and owners, and worker representatives. An example of such formal consultation is the International Labour Organisation Tripartite Consultation (International Labour Standards) Convention, 1976 (No 144).
- (19) Member States should ensure that the competent authority is legally empowered and adequately resourced to be capable of taking effective, proportionate and transparent

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

enforcement action, including where appropriate cessation of operations, in cases of unsatisfactory safety performance and environmental protection by operators and owners.

- (20) The independence and objectivity of the competent authority should be ensured. In this regard, experience gained from major accidents shows clearly that the organisation of administrative competences within a Member State can prevent conflicts of interest by a clear separation between regulatory functions and associated decisions relating to offshore safety and the environment, and to the regulatory functions relating to the economic development of offshore natural resources including licensing and revenues management. Such conflicts of interest are best prevented by a complete separation of the competent authority from the functions relating to the economic development of offshore natural resources.
- (21) However, complete separation of the competent authority from economic development of offshore natural resources may be disproportionate where there is a low level of offshore oil and gas operations in a Member State. In such a case, the Member State concerned would be expected to make the best alternative arrangements to secure the independence and objectivity of the competent authority.
- (22) Specific legislation is needed to address the major hazards relating to the offshore oil and gas industry, specifically in process safety, safe containment of hydrocarbons, structural integrity, prevention of fire and explosion, evacuation, escape and rescue, and limiting environmental impact following a major accident.
- (23) This Directive should apply without prejudice to any requirements under any other Union legal acts, especially in the field of safety and health of workers at work, in particular Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work⁽¹²⁾ and Directive 92/91/EEC.
- (24) An offshore regime needs to apply both to operations carried out on fixed installations and to those on mobile installations, and to the lifecycle of exploration and production activities from design to decommissioning and permanent abandonment.
- (25) The best practices currently available for major accident prevention in offshore oil and gas operations are based on a goal-setting approach and on achieving desirable outcomes through thorough risk assessment and reliable management systems.
- (26) According to the best practices in the Union, operators and owners are encouraged to establish effective corporate safety and environmental policies and to give effect to them in a comprehensive safety and environmental management system and emergency response plan. In order to make suitable arrangements for major accident prevention, operators and owners should comprehensively and systematically identify all major accident scenarios relating to all hazardous activities that may be carried out on that installation, including impacts on the environment arising from a major accident. Those best practices also require an assessment of the likelihood and consequences and therefore the risk of major accidents, and also the measures necessary to prevent them and the measures necessary for emergency response, should a major

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

accident nonetheless occur. The risk assessments and arrangements for major accident prevention should be clearly described and compiled in the report on major hazards. The report on major hazards should be complementary to the safety and health document referred to in Directive 92/91/EEC. The workers should be consulted at the relevant stages of the preparation of the report on major hazards. The report on major hazards should have to be thoroughly assessed and accepted by the competent authority.

- (27) In order to maintain the effectiveness of major hazard controls in offshore waters of Member States, the report on major hazards should be prepared and, as necessary, amended in respect of any significant aspect of the lifecycle of a production installation, including design, operation, operations when combined with other installations, relocation of such installation within the offshore waters of the Member State in question, major modifications, and final abandonment. Similarly, the report on major hazards should also be prepared in respect of non-production installations and amended as necessary to take into account significant changes to the installation. No installation should be operated in offshore waters of Member States unless the competent authority has accepted the report on major hazards submitted by the operator or owner. Acceptance by the competent authority of the report on major hazards should not imply any transfer of responsibility for control of major hazards from the operator or the owner to the competent authority.
- (28) Well operations should be undertaken only by an installation which is technically capable of controlling all the foreseeable hazards at the well location, and in respect of which a report on major hazards has been accepted.
- (29) In addition to using a suitable installation, the operator should prepare a detailed design plan and an operating plan pertinent to the particular circumstances and hazards of each well operation. In accordance with best practices in the Union, the operator should provide for independent expert examination of the well design. The operator should send a notification of well plans to the competent authority in sufficient time for the competent authority to take any necessary action in respect of the planned well operation. In this respect, Member States may introduce more stringent national requirements prior to the commencement of a well operation.
- (30) To ensure safety in design and continuous safe operations, the industry is required to follow the best practices defined in authoritative standards and guidance. Such standards and guidance should be updated based on new knowledge and invention to ensure continuous improvement. Operators, owners and competent authorities should collaborate to establish priorities for the creation of new or improved standards and guidance in the light of the Deepwater Horizon accident experience and other major accidents. Having due regard to the established priorities the preparation of new or improved standards and guidance should be commissioned without delay.
- (31) In view of the complexity of offshore oil and gas operations, the implementation of the best practices by the operators and owners requires a scheme of independent verification of safety and environmental critical elements throughout the lifecycle of the installation, including, in the case of production installations, the design stage.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (32) In so far as mobile offshore drilling units are in transit and are to be considered as ships, they are subject to international maritime conventions, in particular, SOLAS, MARPOL or the equivalent standards of the applicable version of the Code for the construction and equipment of mobile offshore drilling units (MODU Code). Such mobile offshore drilling units when in transit in offshore waters are also subject to Union law concerning port State control and compliance with flag State requirements. This Directive addresses such units when they are stationed in offshore waters for drilling, production or other activities associated with offshore oil and gas operations.
- (33) The report on major hazards should, inter alia, take into account risks to the environment, including the impact of climatic conditions and climate change on the long term resilience of the installations. Given that offshore oil and gas operations in one Member State can have significant adverse environmental effects in another Member State, it is necessary to establish and apply specific provisions in accordance with the UN/ECE Convention on Environmental Impact Assessment in a Transboundary Context done at Espoo (Finland), on 25 February 1991. Member States with offshore waters that are inactive in offshore oil and gas operations should appoint contact points in order to facilitate effective cooperation in this regard.
- (34) Operators should notify Member States without delay if a major accident occurs, or may be about to occur, so that the Member State can initiate a response as appropriate. Therefore, operators should include in the notification suitable and sufficient particulars concerning the location, magnitude and nature of the actual or imminent major accident, their own response, and the worst case escalation scenario including transboundary potential.
- (35) In order to ensure effective response to emergencies, operators should prepare internal emergency response plans that are site specific and based on risks and hazard scenarios identified in the report on major hazards, submit them to their competent authority, and maintain such resources as are necessary for prompt execution of those plans when needed. In the case of mobile offshore drilling units, operators need to ensure that the owners' internal emergency response plans for the installation are amended as necessary to be applicable to the specific location and well operation hazards. Such amendments should be included in the notification of well operations. The adequate availability of emergency response resources should be assessed against the capacity to deploy them at the site of an accident. The readiness and effectiveness of emergency response resources should be assured and regularly tested by the operators. Where duly justified, response arrangements are allowed to be reliant on speedily transporting the response equipment such as capping devices, and other resources, from distant locations.
- (36) Best global practice requires licensees, operators and owners to take primary responsibility for controlling the risks they create by their operations, including operations conducted by contractors on their behalf and therefore to establish within a corporate major accident prevention policy the mechanisms and highest level of corporate ownership to implement that policy consistently throughout the organisation in the Union and outside of the Union.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (37) Responsible operators and owners should be expected to conduct their operations worldwide in accordance with best practices and standards. Consistent application of such best practices and standards should become mandatory within the Union, and it would be desirable for operators and owners registered in the territory of a Member State to apply the corporate major accident prevention policy when operating outside offshore waters of Member States as far as possible within the applicable national legal framework.
- (38) While recognising that it may not be possible to enforce application of the corporate major accident prevention policy outside of the Union, Member States should ensure that operators and owners include their offshore oil and gas operations outside of the Union in their corporate major accident prevention policy documents.
- (39) Information on major accidents in offshore oil and gas operations outside the Union can help in further understanding their potential causes, in promoting learning of key lessons and in further developing the regulatory framework. Therefore, all Member States, including the landlocked Member States and the Member States with offshore waters which do not have offshore oil and gas operations or licensing activities, should require reports on major accidents occurring outside the Union which involve companies registered in their territory, and should share this information at Union level. The reporting requirement should not interfere with emergency response or the legal proceedings relating to an accident. Instead they should focus on the relevance of the accident for further developing the safety of offshore oil and gas operations in the Union.
- (40) Member States should expect operators and owners, in following best practices, to establish effective cooperative relationships with the competent authority, supporting best regulatory practice by the competent authority and to proactively ensure the highest levels of safety, including, where necessary, suspending operations without the competent authority needing to intervene.
- (41) To ensure that no relevant safety concerns are overlooked or ignored, it is important to establish and encourage adequate means for the confidential reporting of those concerns and the protection of whistleblowers. While Member States are not able to enforce rules outside the Union, those means should enable the reporting of concerns of persons involved in offshore oil and gas operations outside the Union.
- (42) The sharing of comparable data between Member States is rendered difficult and unreliable due to the lack of a common data reporting format across all Member States. A common format for the reporting of data by operators and owners to the Member State would provide transparency of the safety and environmental performance of operators and owners and would provide public access to relevant and Union-wide comparable information on safety of offshore oil and gas operations and would facilitate dissemination lessons learned from major accidents and near misses.
- (43) In order to ensure uniform conditions for sharing information and encouraging transparency of performance of the offshore oil and gas sector, implementing powers should be conferred on the Commission regarding the format and details of information to be shared and to be made publicly available. Those powers should be exercised

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers⁽¹³⁾.

- (44) The advisory procedure should be used for the adoption of relevant implementing acts given that those acts are mainly of a mere practical nature. Therefore, the application of the examination procedure would not be justified.
- (45) To facilitate public confidence in the authority and integrity of offshore oil and gas operations in the Union, Member States should provide periodic reports of activity and incidents to the Commission. The Commission should publish reports periodically on levels of Union activity and trends in the safety and environmental performance of the offshore oil and gas sector. Member States should, without delay, inform the Commission, and any other Member State whose territory or offshore waters are affected, as well as the public concerned, of a major accident.
- (46) Experience shows that ensuring the confidentiality of sensitive data is necessary in order to foster an open dialogue between the competent authority and the operator and owner. To that effect the dialogue between operators and owners and all Member States should be based on relevant existing international legal instruments and Union law on access to environmentally relevant information subject to any overriding requirement for safety and environment protection.
- (47) The value of collaboration between offshore authorities has been clearly established by the activities of the North Sea Offshore Authorities Forum and the International Regulators Forum. Similar collaboration has been established across the Union in an expert group, the European Union Offshore Oil and Gas Authorities Group (EUOAG)⁽¹⁴⁾, whose task is to promote efficient collaboration between national representatives and the Commission, including disseminating best practices and operational intelligence, establishing priorities for raising standards, and for advising the Commission on regulatory reform.
- (48) Emergency response and contingency planning for major accidents should be made more effective by systematic and planned cooperation between Member States and between Member States and the oil and gas industry, as well as by sharing compatible emergency response assets including expertise. Where appropriate, those responses and planning should also make use of the existing resources and assistance available from within the Union, in particular through the European Maritime Safety Agency ('the Agency'), established by Regulation (EC) No 1406/2002⁽¹⁵⁾, and the Union Civil Protection Mechanism, established by the Council Decision 2007/779/EC, Euratom⁽¹⁶⁾. Member States should also be allowed to request additional assistance from the Agency through the Union Civil Protection Mechanism.
- (49) Pursuant to Regulation (EC) No 1406/2002, the Agency was established for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships within the Union as well as ensuring a response to marine pollution caused by oil and gas installations.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (50) In implementing the obligations under this Directive, account should be taken of the fact that marine waters covered by the sovereignty or sovereign rights and jurisdiction of Member States form an integral part of the four marine regions identified in Article 4(1) of Directive 2008/56/EC, namely the Baltic Sea, the North-east Atlantic Ocean, the Mediterranean Sea and the Black Sea. For this reason, the Union should, as a matter of priority, strengthen coordination with third countries that have sovereignty or sovereign rights and jurisdiction over marine waters in such marine regions. Appropriate cooperation frameworks include regional sea conventions, as defined in point 10 of Article 3 of Directive 2008/56/EC.
- (51) In relation to the Mediterranean Sea, in conjunction with this Directive, the necessary actions were undertaken for the Union to accede to the Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil⁽¹⁷⁾ ('the Offshore Protocol') to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean ('the Barcelona Convention'), which was concluded by Council Decision 77/585/EEC⁽¹⁸⁾.
- (52) The Arctic waters are a neighbouring marine environment of particular importance for the Union, and play an important role in mitigating climate change. The serious environmental concerns relating to the Arctic waters require special attention to ensure the environmental protection of the Arctic in relation to any offshore oil and gas operation, including exploration, taking into account the risk of major accidents and the need for effective response. Member States who are members of the Arctic Council are encouraged to actively promote the highest standards with regard to environmental safety in this vulnerable and unique ecosystem, such as through the creation of international instruments on prevention, preparedness and response to Arctic marine oil pollution, and through building, inter alia, on the work of the Task Force established by the Arctic Council and the existing Arctic Council Offshore Oil and Gas Guidelines.
- (53) National external emergency plans should be based on risk assessment, taking into account the reports on major hazards for the installations stationed in the offshore waters concerned. Member States should take into account the most up-to-date Risk Assessment and Mapping Guidelines for Disaster Management as prepared by the Commission.
- (54) Effective response to emergencies requires immediate action by the operator and owner and close cooperation with Member States' emergency response organisations which coordinate the introduction of additional emergency response resources as the situation develops. Such response should also include a thorough investigation of the emergency which should commence without delay so as to ensure minimum loss of relevant information and evidence. Following an emergency, Member States should draw up appropriate conclusions and take any necessary measures.
- (55) It is crucial that all relevant information, including the technical data and parameters, are available for the later investigation. Member States should ensure that relevant data are collected during the offshore oil and gas operations and that in the event of a major accident, relevant data are secured and data collection is intensified appropriately. In

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

this context, Member States should encourage the use of suitable technical means in order to promote the reliability and recording of relevant data and to prevent possible manipulation thereof.

- (56) In order to ensure effective implementation of the requirements of this Directive, effective, proportionate and dissuasive penalties for infringements should be put in place.
- (57) In order to adapt certain Annexes to include additional information which may become necessary in light of technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the requirements in certain Annexes to this Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (58) The definition of water damage in Directive 2004/35/EC should be amended to ensure that the liability of licensees under that Directive applies to marine waters of Member States as defined in Directive 2008/56/EC.
- (59) Many provisions of this Directive are not relevant for the landlocked Member States, namely Austria, the Czech Republic, Hungary, Luxembourg and Slovakia. It is nonetheless desirable that those Member States promote the principles and high standards existing in Union law for the safety of offshore oil and gas operations in their bilateral contacts with third countries and with relevant international organisations.
- (60) Not all Member States with offshore waters allow for offshore oil and gas operations under their jurisdiction. Those Member States are not engaged in the licensing and prevention of major accidents of such operations. It would therefore be a disproportionate and unnecessary obligation if those Member States had to transpose and implement all provisions of this Directive. However, accidents during offshore oil and gas operations may affect their shores. Therefore, those Member States should, inter alia, be prepared to respond to and investigate major accidents and should cooperate through contact points with other Member States concerned and with relevant third countries.
- (61) Given their geographical location, landlocked Member States are neither engaged in the licensing of, and prevention of major accidents in, offshore oil and gas operations nor are they potentially affected by such accidents in offshore waters of other Member States. Therefore, they should not have to transpose the majority of provisions of this Directive. However, where a company that is active, itself or through subsidiaries, in offshore oil and gas operations outside the Union is registered in a landlocked Member State, that Member State should request that company to provide a report on accidents occurring in such operations, which can be shared at Union level, in order for all the interested parties in the Union to benefit from the experience gained from such accidents.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (62) Apart from the measures introduced by this Directive, the Commission should explore other appropriate means of improving the prevention of major accidents and limiting their consequences.
- (63) Operators should ensure they have access to sufficient physical, human and financial resources to prevent major accidents and limit the consequences of such accidents. However, as no existing financial security instruments, including risk pooling arrangements, can accommodate all possible consequences of major accidents, the Commission should undertake further analysis and studies of the appropriate measures to ensure an adequately robust liability regime for damages relating to offshore oil and gas operations, requirements on financial capacity including availability of appropriated financial security instruments or other arrangements. This may include an examination of the feasibility of a mutual compensation scheme. The Commission should submit a report to the European Parliament and to the Council on its findings, accompanied if appropriate, by proposals.
- (64) At Union level, it is important that technical standards are complemented by a corresponding legal framework of product safety legislation and that such standards apply to all offshore installations in offshore waters of Member States, and not just non-mobile production installations. The Commission should therefore undertake further analysis of the product safety standards applicable to offshore oil and gas operations.
- (65) Since the objective of this Directive, namely establishing minimum requirements for preventing major accidents in offshore oil and gas operations and limiting the consequences of such accidents, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (1) [OJ C 143, 22.5.2012, p. 125.](#)
- (2) Position of the European Parliament of 21 May 2013 (not yet published in the Official Journal) and decision of the Council of 10 June 2013.
- (3) [OJ L 164, 25.6.2008, p. 19.](#)
- (4) [OJ L 164, 30.6.1994, p. 3.](#)
- (5) [OJ L 143, 30.4.2004, p. 56.](#)
- (6) [OJ L 124, 17.5.2005, p. 4.](#)
- (7) [OJ L 197, 21.7.2001, p. 30.](#)
- (8) [OJ L 156, 25.6.2003, p. 17.](#)
- (9) [OJ L 26, 28.1.2012, p. 1.](#)
- (10) [OJ L 197, 24.7.2012, p. 1.](#)
- (11) [OJ L 348, 28.11.1992, p. 9.](#)
- (12) [OJ L 183, 29.6.1989, p. 1.](#)
- (13) [OJ L 55, 28.2.2011, p. 13.](#)
- (14) Commission Decision of 19 January 2012 on setting up of the European Union Offshore Oil and Gas Authorities Group ([OJ C 18, 21.1.2012, p. 8.](#))
- (15) Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency ([OJ L 208, 5.8.2002, p. 1.](#))
- (16) [OJ L 314, 1.12.2007, p. 9.](#)
- (17) Council Decision of 17 December 2012 on the accession of the European Union to the Protocol for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil ([OJ L 4, 9.1.2013, p. 13.](#))
- (18) [OJ L 240, 19.9.1977, p. 1.](#)