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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 228**

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

**Part V**

**Miscellaneous**

**Defence**

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

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

(2) The person charged shall not, without the leave of the court, be entitled to rely on the defence in paragraph (1) unless, within a period ending seven days before the hearing, 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 Article 34 of the 1978 Order, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that Article as having committed the offence.

**Certificates of exemption**

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

(2) The Department 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 statutory provisions which apply to the case,

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

### Transitional provision

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

- (a) the expiration of any Certificate of Fitness without its having been renewed; or
- (b) the expiration of two years from the coming into operation of these Regulations,

whichever first occurs.

(2) The 1974 Regulations shall be deemed, for the purpose of paragraph (1), to be modified—

- (a) in regulation 11(3) of those Regulations by inserting, after the words “that Regulation”, the words “and not exceeding two years from the coming into operation of the Offshore Installations and Wells (Design and Construction, etc.) Regulations (Northern Ireland) 1996”;
- (b) by substituting, for any reference to the “owner”, a reference to the person who is the duty holder within the meaning of these Regulations; and
- (c) by treating those Regulations for purposes of enforcement (but not of interpretation) as if they were set out herein.

(3) In this Regulation—

“the 1974 Regulations” means the Offshore Installations (Construction and Survey) Regulations 1974(1);

“Certificate of Fitness” and “Certifying Authority” have the same meaning as in the 1974 Regulations.

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

25. Section 3 of the Mineral Workings (Offshore Installations) Act 1971(2) is hereby repealed.

### Modifications of statutory provisions

26.—(1) The 1993 Regulations shall have effect subject to the modifications specified in Schedule 2.

(2) In regulation 2 of the 1995 Regulations—

- (a) in paragraph (1) after the definition of “relevant waters” there shall be inserted the following definition—

‘ “stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;’;

- (b) after paragraph (3) there shall be inserted the following paragraph—

“(4) For the purposes of these Regulations, a person shall be deemed to be engaged in diving operations throughout any period from the time when he commences to prepare for diving until the time when—

- (a) he is no longer subjected to raised pressure;
- (b) he has normal inert gas partial pressure in his tissues; and
- (c) if he entered the water, he has left it,

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(1) S.I. 1974/289 as amended by S.R. 1993 No. 384

(2) 1971 c. 61

and diving operations include the activity of any person in connection with the health and safety of a person who is, or is deemed to be, engaged in diving operations.”.

(3) Regulation 2 of the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations (Northern Ireland) 1995(3) shall be renumbered “2.—(1)”, and after that paragraph there shall be inserted the following paragraphs—

“(2) For the purposes of these Regulations, any structures and devices on top of a well shall be treated as forming part of the well.

(3) For the purposes of these Regulations, a person shall be deemed to be engaged in diving operations throughout any period from the time when he commences to prepare for diving until the time when—

- (a) he is no longer subjected to raised pressure;
- (b) he has normal inert gas partial pressure in his tissues; and
- (c) if he entered the water, he has left it,

and diving operations include the activity of any person in connection with the health and safety of a person who is, or is deemed to be, engaged in diving operations.”.

(4) In regulation 2 (now 2(1)) of the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations (Northern Ireland) 1995, in the definition of “pipeline”, “pipeline works”, “territorial waters” and “vessel”, after the words “pipeline works,” there shall be inserted the words “stand-by vessel,”.

## **Revocation**

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