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STATUTORY INSTRUMENTS

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**1998 No. 968**

**PETROLEUM  
PIPE-LINES**

**The Offshore Petroleum Production and Pipe-lines  
(Assessment of Environmental Effects) Regulations 1998**

<i>Made</i>	- - - -	<i>4th April 1998</i>
<i>Laid before Parliament</i>		<i>7th April 1998</i>
<i>Coming into force</i>	- -	<i>30th April 1998</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on her by that section hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1998 and shall come into force on 30th April 1998.

**Interpretation**

2.—(1) In these Regulations—

“the 1934 Act” means the Petroleum (Production) Act 1934<sup>(3)</sup>;

“application” means, except in regulations 14 and 15 (applications to court), an application in writing;

“appropriate particulars” means, for the purposes of regulation 5(1) (application for direction that no environmental statement required), 6(1) (application for provision of information to undertaker) or 9(2) (circumstances where no environmental statement required) below, the name and address of the undertaker, the location of the project, the nature and purpose of

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<sup>(1)</sup> S.I.1988/785.

<sup>(2)</sup> 1972 c. 68.

<sup>(3)</sup> 24 & 25 Geo. 5. c.36.

the project and what the undertaker considers would be likely to be the main environmental consequences of the execution of the project;

“approval” means an approval of the kind referred to in regulation 9(1) below (approval of proposals for the carrying out of relevant project);

“authorisation” means a pipe-lines works authorisation required by section 20 of the Petroleum and Submarine Pipe-lines Act 1975<sup>(4)</sup> (construction and use of pipe-lines);

“business day” means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in any part of the United Kingdom by virtue of the Banking and Financial Dealings Act 1971<sup>(5)</sup>;

“consent” means—

- (a) in relation to any relevant project comprising the drilling of an exploration well, any consent required by or under a licence to the commencement or recommencement of the drilling of that well or to the getting of petroleum in the course of the testing of that well;
- (b) in relation to a relevant project comprising a development—
  - (i) any consent required by or under a licence in respect of the erection of any structure;
  - (ii) any consent required by or under a licence in relation to the getting of petroleum;
  - (iii) any consent required by virtue of regulation 3(4) below (consent to use of floating installation);
  - (iv) any consent required by or under a licence in respect of the commencement or recommencement of the drilling of any well used for the purposes of, or in connection with, the development; or
  - (v) any authorisation for the execution of works for the construction of a pipe-line for the conveyance of petroleum, being a pipe-line which is to form an integral part of the development; or
- (c) in relation to any relevant project comprising a pipe-line for the conveyance of petroleum other than a pipe-line which is to form an integral part of a development, any authorisation for the execution of works for the construction of that pipe-line,

but does not in any case include any consent required pursuant to a licence in respect of anything done or to be done wholly outside the relevant area or any approval;

“development” means any project which has as its main object the getting of petroleum as opposed to the ascertaining of its presence or otherwise or, where petroleum is found, its quantity, characteristics or quality;

“effect” includes, except where the context otherwise requires, any direct, indirect, secondary, cumulative, short, medium or long-term, permanent or temporary, or positive or negative effect;

“environmental authority” means any person on whom environmental responsibilities are conferred by or under any enactment but in any particular case does not include the Secretary of State to whom it falls in that case to exercise functions in relation to regulation 6(1) (obtaining of information for the preparation of environmental statements), regulation 7(1) (procedure on receipt of application for consent accompanied by environmental statement) or regulation 7(1) as it applies by virtue of regulation 9(4) (procedure on receipt of environmental statement in connection with exercise by Secretary of State of powers under licences);

(4) 1975 c. 74.

(5) 1971 c. 80.

“environmental statement” means a statement prepared in respect of a relevant project and which includes, where relevant, at least the matters specified in the Schedule to these Regulations;

“exploration well” means any well other than a well drilled for the purposes of, or in connection with, a development;

“floating installation” means any floating construction or device maintained on a station by whatever means but does not include a structure;

“the Gazettes” means the London, Edinburgh and Belfast Gazettes;

“licence” means a licence granted under section 2 of the 1934 Act<sup>(6)</sup> (licences to search and bore for and get petroleum) and “licensee” shall be construed accordingly;

“notice” means notice in writing;

“petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

“the relevant area” means that area comprising—

- (a) tidal waters and parts of the sea adjacent to the United Kingdom from the low water mark up to the seaward limits of territorial waters;
- (b) waters in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964<sup>(7)</sup> (designation of areas of continental shelf); and
- (c) the seabed and subsoil under the waters referred to in paragraphs (a) and (b) above;

“relevant project” means a project comprising—

- (a) the drilling of an exploration well;
- (b) a development; or
- (c) the construction of a pipe-line for the conveyance of petroleum other than one which is to form an integral part of the development,

wholly or partly within the relevant area;

“relevant requirement” means any requirement imposed under a licence of the kind referred to in regulation 9(3) below (powers of Secretary of State to require carrying out of relevant project);

“structure” means, in relation to a development, any structure the purpose of which is the getting of petroleum or conveying of petroleum to land (including any structure for the storage of petroleum) which is intended to be permanent and is neither designed to be moved from place to place without major dismantling nor to be used only for searching for petroleum;

“undertaker” means any person who carries out, or may reasonably be taken to propose the carrying out of, a relevant project; and

“well” means any well or borehole drilled for the purposes of, or in connection with, the getting of petroleum, the exploration for petroleum or the establishment of the existence of, or appraisal of, the quantity, characteristics or quality of, petroleum in a particular location but does not include any well drilled in connection with the exploration for petroleum to a depth of 350 metres or less below the surface of the seabed for the purpose of obtaining geological information about strata or any drilling operation, the main purpose of which is the testing of the stability of the seabed.

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(6) The powers of licensing the exploration for, and production of, petroleum conferred by section 2 of the 1934 Act were by virtue of section 1 of the Continental Shelf Act 1964 (1964 c. 29) extended to areas designated under section 1(7) of the 1964 Act.

(7) 1964 c. 29.

(2) References in these Regulations to a project being in a particular area include, unless the context otherwise requires, a project proposed to be carried out in that area, a project which is in the course of being carried out in that area or a project which has been carried out in that area.

**Requirements as to contents of licences; requirement as to consent for use of floating installations in connection with a development**

3.—(1) Where the Secretary of State exercises the powers conferred on her under the 1934 Act to grant licences relating to the relevant area, she shall exercise those powers so as to ensure the carrying out (whether by virtue of these Regulations or otherwise) of an environmental assessment substantially of the kind and in the manner provided for by these Regulations in relation to proposals—

- (a) to which paragraph (2) below applies; and
- (b) which might be carried out in the relevant area by virtue of such licences.

(2) This paragraph applies to proposals—

- (a) for a development which the Secretary of State is not satisfied will produce 500 tonnes or less of oil per day or 500,000 cubic metres or less of gas per day; or
- (b) to the extent that they are not covered by sub-paragraph (a) above, which involve—
  - (i) the drilling of a well;
  - (ii) the erection of a structure; or
  - (iii) the getting of petroleum,

which are of such a nature as to prevent the Secretary of State from being satisfied, without more, that their execution would not be likely to have a significant effect on the environment.

(3) The Secretary of State shall not exercise any power conferred on her to vary a licence unless she is satisfied that such a variation would not prevent the carrying out (whether by virtue of these Regulations or otherwise) of an environmental assessment substantially of the kind and in the manner provided for by these Regulations in relation to proposals—

- (a) to which paragraph (2) above applies; and
- (b) which might be carried out in the relevant area pursuant to such a licence.

(4) Notwithstanding any provision in any licence and subject to paragraph (5) below, an undertaker shall not use a floating installation in connection with a relevant project comprising a development without the prior written consent of the Secretary of State granted in accordance with these Regulations.

(5) Paragraph (4) above does not apply to the continued use of a floating installation in connection with a relevant project comprising a development where that use commenced before the coming into force of these Regulations.

**Grant of consent by Secretary of State in respect of relevant projects**

4.—(1) The Secretary of State shall not grant a consent in respect of a relevant project unless she has received either—

- (a) an application for that consent accompanied by an environmental statement; or
- (b) an application for that consent which falls within the terms of a direction given under regulation 5 below (provision as to directions that no environmental statement need be prepared).

(2) Where an application for consent in respect of a relevant project is accompanied by an environmental statement, the Secretary of State shall not grant a consent in respect of that project unless she—

- (a) is satisfied that the requirements of these Regulations as to consultation and publicity have been substantially met; and
- (b) has taken into consideration—
  - (i) the environmental statement;
  - (ii) any information in respect of that relevant project of the kind referred to in regulation 8(2);
  - (iii) the representations of any environmental authority to which a copy of that statement was required to be sent pursuant to these Regulations; and
  - (iv) any opinions expressed by the public.

(3) Where the Secretary of State has made a direction under paragraph (5)(2) below (provision as to directions that no further environmental statement need be prepared where one already prepared), she shall not grant a consent pursuant to an application which falls within the terms of that direction unless she has taken into consideration—

- (a) the environmental statement originally prepared in respect of the relevant project in question;
- (b) any representations previously made by an environmental authority to whom that statement was required to be sent; and
- (c) any opinions originally expressed by the public.

(4) Where having considered the matters set out in paragraph (2)(b) or, as the case may be, (3) above, the Secretary of State gives her consent to a relevant project, she may (to the extent that she has no power to do so apart from this regulation 4(4)) attach conditions to that consent for the purpose of reducing any significant adverse effects of that project on the environment.

(5) The Secretary of State shall publish in the Gazettes her decision in relation to any application for consent accompanied by an environmental statement in respect of a relevant project, together with, where she gives consent, details of any conditions attached to that grant of consent.

(6) Upon publication in the Gazettes of her decision in relation to an application for consent, the Secretary of State shall communicate that decision to any member State which has, pursuant to regulation 10 below (projects affecting other member States), been provided with a copy of the environmental statement that accompanied that application.

### **Provisions as to directions that no environmental statement need be prepared**

**5.—(1)** Where—

- (a) an undertaker makes an application containing the appropriate particulars to the Secretary of State for her to exercise the power conferred by this paragraph (1); and
- (b) the Secretary of State is satisfied that either—
  - (i) the carrying out of the relevant project described in that application; or
  - (ii) the carrying out of the relevant project as modified or carried out in a particular way or carried out at a particular time,

is not likely to have a significant effect on the environment, she may give a direction that, subject to paragraph (4) below, any application for consent in respect of that relevant project or that relevant project as modified or to be carried out in the manner or at the time specified in the direction need not be accompanied by an environmental statement.

(2) Where a relevant project has been the subject of an environmental assessment in accordance with regulation 4(2) above (consideration of application for consent accompanied by environmental statement), the Secretary of State may, on the application of the undertaker concerned, give a direction that further applications for consents of such kind as may be specified in that direction need not be accompanied by an environmental statement provided that the Secretary of State is satisfied that if such consents were granted anything that might be done pursuant to them would not give rise to substantially different or significantly greater effects from those mentioned in the environmental statement originally prepared in respect of the relevant project.

(3) An undertaker shall provide to the Secretary of State such further information in relation to an application made by the undertaker under paragraphs (1)(a) and (2) above as the Secretary of State may require.

(4) Subject to paragraph (5) below, no direction shall be given pursuant to paragraph (1) above in respect of any application for consent—

- (a) to the getting of more than 500 tonnes of oil per day or 500,000 cubic metres of gas per day otherwise than in the course of the testing of any well;
- (b) to the erection of any structure in relation to a relevant project comprising a development which the Secretary of State is not satisfied would be likely to produce 500 tonnes or less of oil per day or 500,000 cubic metres or less of gas per day; or
- (c) for the execution of works for the construction of a pipe-line of 40 kilometres or more in length and a diameter of 800 millimetres or more (whether that pipe-line forms an integral part of a development or otherwise).

(5) Paragraph (4) above shall not prevent the giving of a direction pursuant to paragraph (1) above in respect of an application for—

- (a) a consent to the variation of the terms or conditions of any consent to the getting of petroleum in excess of the amounts referred to in paragraph (4)(a) above;
- (b) a consent to the variation of any consent to the erection of any structure in relation to a development (whether the structure has already been erected pursuant to that consent or not); or
- (c) the renewal or extension of any consent.

(6) Any direction given pursuant to this regulation shall remain in force for 2 years (or such shorter period as may be specified in the direction) from the date on which it was given.

(7) The Secretary of State shall give notice to the undertaker concerned of her decision in relation to any application made under this regulation.

### **Obtaining of information for the preparation of environmental statements**

6.—(1) This regulation applies where an undertaker makes an application to the Secretary of State containing appropriate particulars in relation to a relevant project for the provision to the undertaker of any information which—

- (a) would assist the undertaker in the preparation of the environmental statement in respect of the relevant project referred to in the appropriate particulars; and
- (b) but for the provisions of paragraphs (2) and (3) below, could not readily be obtained by the undertaker.

(2) On receipt of such an application as is mentioned in paragraph (1) above, the Secretary of State shall—

- (a) subject to paragraph (4) below, provide to the undertaker such information as she may have of the kind mentioned in paragraph (1) above;

- (b) provide to the undertaker the name and address of any environmental authority that she considers may have any such information; and
- (c) at the same time as she provides the name and address of any environmental authority to an undertaker, serve on that authority a notice which—
  - (i) states that she has provided the authority's name and address to the undertaker;
  - (ii) refers to the duty imposed on the authority by paragraph (3) below; and
  - (iii) is accompanied by a copy of the application made by the undertaker under this regulation.

(3) Where a notice pursuant to paragraph (2)(c) above is served on an environmental authority by the Secretary of State, the authority shall, subject to paragraph (4) below, provide to the undertaker concerned, within the period specified in the notice, any information held by it which it considers is of the type mentioned in paragraph (1) above.

(4) Nothing in this regulation shall require the disclosure of any information which is by virtue of any rule of the law of any part of the United Kingdom subject to any obligation of confidentiality.

**Procedure on receipt of application for consent accompanied by environmental statement; publicity requirements; provision of environmental statements to public**

7.—(1) Where the Secretary of State receives an application for a consent in respect of a relevant project which is accompanied by an environmental statement, she shall forthwith serve on the undertaker concerned a notice specifying those environmental authorities which in the opinion of the Secretary of State are likely to be interested in the project by reason of their particular environmental responsibilities.

- (2) The undertaker referred to in paragraph (1) above shall—
  - (a) serve on each environmental authority notified to him under paragraph (1) above—
    - (i) a copy of the Secretary of State's notification under paragraph (1) above;
    - (ii) a copy of the application for consent and the environmental statement served with it; and
    - (iii) a notice stating that representations may be made to the Secretary of State by a date specified in the notice which shall be at least 4 weeks after the date on which the application, environmental statement and notice were served on the authority;
  - (b) give notice to the Secretary of State of the name of every authority whom he has served under sub-paragraph (a) above, and of the date of such service;
  - (c) having regard to the general whereabouts of any persons likely to be interested in, or affected by, the relevant project, make available for public inspection at an address within the United Kingdom between the hours of 10 a.m. and 4 p.m. on business days for a period of not less than 4 weeks immediately following the publication (or last publication, where it is published in more than one newspaper or on more than one occasion) of the notice referred to in sub-paragraph (f) below—
    - (i) a copy of the application for consent; and
    - (ii) a copy of the environmental statement that accompanied it;
  - (d) make available at an address within the United Kingdom enough copies of the environmental statement to be likely to satisfy all reasonable demands for copies pursuant to sub-paragraph (e) below;
  - (e) subject to sub-paragraph (d) above and the receipt by the undertaker of any sum mentioned in the notice referred to in sub-paragraph (f) below, supply during the period mentioned in

sub-paragraph (c) above to any person on request, a copy of the environmental statement; and

- (f) publish in such newspapers on such occasions as to be likely to come to the attention of those likely to be interested in, or affected by, the relevant project, a notice which—
  - (i) describes the application and states that it is accompanied by an environmental statement;
  - (ii) gives the address referred to in sub-paragraph (c) above at which a copy of the application for consent and environmental statement may be inspected;
  - (iii) states that a copy of the environmental statement may be obtained from the address referred to in sub-paragraph (d) above and, subject to paragraph (4) below, specifies the amount of any payment required to be tendered for the statement; and
  - (iv) states a date not less than 4 weeks after the date on which the notice is to be last published by which any person may make representations in relation to the application in question to the Secretary of State and specifies the address to which any such representations are to be sent.

(3) The undertaker shall provide to the Secretary of State copies of the newspapers in which the notice referred to in paragraph (2)(f) above appeared.

(4) An undertaker may make the supply of a copy of an environmental statement to any person other than an environmental authority conditional on the receipt by the undertaker of a sum calculated by reference to the cost of printing and distributing copies of the statement, subject to a maximum of £2.00 for each statement requested.

#### **Provision to Secretary of State of further information and evidence respecting environmental statements**

8.—(1) The Secretary of State may by notice require an undertaker to provide in respect of an environmental statement provided to her pursuant to these Regulations such further information as the Secretary of State may require, including evidence in support of any information in that statement.

(2) Where the Secretary of State is of the opinion that information provided pursuant to a requirement imposed under paragraph (1) above ought to have been included in the environmental statement in question, she shall in writing direct the undertaker to—

- (a) serve that information on any environmental authority on which the environmental statement was required to be served pursuant to regulation 7(2)(a)(ii) above together with a notice referring to the material previously served on that authority and stating that further representations may be made to the Secretary of State by a date specified in that notice which shall be at least 4 weeks after the date on which the information and notice were served on that authority;
- (b) notify the Secretary of State of the name of every authority served with the information and notice referred to in sub-paragraph (a) above and the date of such service;
- (c) make available to the public the application for consent, the environmental statement and the information referred to in sub-paragraph (a) above in the same way as the application and environmental statement were previously made available for the period of 4 weeks immediately following the publication (or last publication) of the notice referred to in sub-paragraph (d) below; and
- (d) publish in such newspapers on such occasions as to be likely to come to the attention of those likely to be interested in, or affected by, the relevant project, a notice which—



- (i) refers to the previous notice in respect of the application and environmental statement and states that further information is available in respect of the relevant project;
- (ii) gives the address at which a copy of the application for consent and environmental statement and further information may be inspected;
- (iii) states where a copy of the environmental statement and the additional information may be obtained and, subject to regulation 7(4) above, specifies the amount of any payment required to be tendered for the statement; and
- (iv) states a date not less than 4 weeks after the date on which the notice is to be published (or last published) by which any person may make representations in relation to the application in question to the Secretary of State and specifies the address to which any such representations are to be sent.

(3) The undertaker shall provide to the Secretary of State copies of the newspapers in which the notice referred to in regulation 8(2)(d) above appeared.

#### **Exercise by Secretary of State of powers under licences**

9.—(1) Where the Secretary of State exercises any powers under a licence so as to require a licensee to submit to her for her approval any proposals for the carrying out of a relevant project comprising a development then, subject to paragraph (2) below, any proposals so submitted shall be accompanied by an environmental statement.

(2) Proposals of the kind referred to in paragraph (1) above need not be accompanied by an environmental statement where—

- (a) the licensee has submitted appropriate particulars in respect of the development referred to in the proposals submitted to the Secretary of State; and
- (b) the Secretary of State being satisfied, that—
  - (i) the proposals either relate to a development which will produce 500 tonnes or less of oil per day or 500,000 cubic metres or less of gas per day or do not involve the construction of a pipe-line of 40 kilometres or more in length and a diameter of 800 millimetres or more; and
  - (ii) the carrying out of the proposals is not likely to have a significant effect on the environment,

has directed in writing within the two years immediately preceding the submission of the proposals that they need not be accompanied by an environmental statement.

(3) Where the Secretary of State proposes to exercise powers under a licence to impose a requirement on a licensee to carry out a relevant project—

- (a) comprising a development which in her opinion is likely to produce in excess of 500 tonnes of oil per day or 500,000 cubic metres of gas per day or involves the construction of a pipe-line of 40 kilometres or more in length and a diameter of 800 millimetres or more; or
- (b) comprising a development other than one falling within sub-paragraph (a) above which she is not satisfied is not likely to have a significant effect on the environment,

she shall serve a notice in writing on the licensee setting out details of the relevant project which she proposes that he should be required to carry out and requiring him to provide her with an environmental statement in respect of that project within such time as may be specified in the notice.

(4) Where—

- (a) proposals are submitted to the Secretary of State accompanied by an environmental statement; or

- (b) an environmental statement is provided to the Secretary of State in compliance with a requirement imposed by virtue of paragraph (3) above,

regulations 7 (procedure on receipt of application for consent accompanied by environmental statement; publicity requirements; provision of environmental statements to public) and 8 (provision to Secretary of State of further information and evidence respecting environmental statements) above shall apply in respect of such an environmental statement in the same way as they apply to an application for a consent accompanied by an environmental statement with the exception that references to the application for consent shall be to the proposals submitted by the licensee or, as the case may be, to the notice served pursuant to paragraph (3) above.

(5) The Secretary of State shall not approve proposals which entail the carrying out of a relevant project comprising a development or exercise any power under a licence to require the carrying out of a relevant project comprising a development where in either case an environmental statement has been submitted to her, unless she is satisfied that the requirements of regulations 7 and 8 above as they apply by virtue of paragraph (4) above have been substantially met and she has taken into account—

- (a) the environmental statement;
- (b) any information of the kind referred to in regulation 8(2) as that regulation applies by virtue of paragraph (4) above;
- (c) the representations of any environmental authority sent a copy of the environmental statement in compliance with the requirements of regulation 7 above as it applies by virtue of paragraph (4) above; and
- (d) any opinions expressed by the public.

(6) Where, having considered the matters referred to in paragraph (5) above, the Secretary of State approves any proposals of the kind referred to in paragraph (1) above, she may (to the extent that she has no power to do so apart from this regulation 9(6)) attach conditions to that approval for the purpose of reducing any significant adverse effects of the relevant project referred to in those proposals.

(7) The Secretary of State shall publish in the Gazettes—

- (a) any decision regarding the approval pursuant to a licence of a project which entails the carrying out of a relevant project in respect of which an environmental statement was submitted to the Secretary of State; or
- (b) the exercise by the Secretary of State of any powers pursuant to a licence requiring the carrying out of a relevant project in respect of which an environmental statement was submitted to the Secretary of State.

(8) Upon the publication in the Gazettes referred to in paragraph (7) above, the Secretary of State shall inform any member State which has, pursuant to regulation 10 below (projects affecting other member States), been provided with a copy of the environmental statement, of the approval of the proposals or, as the case may be, of the imposition of the relevant requirement.

### **Projects affecting other member States**

**10.** Where it appears to the Secretary of State that the carrying out of a relevant project would be likely to have a significant effect on the environment of another member State or where a member State which considers that its environment is likely to be significantly affected by that project so requests, the Secretary of State shall forward to the member State in question the environmental statement relating to that project at the same time as it is made available to the public pursuant to these Regulations or where a request is made after the date on which the environmental statement is made available to the public, as soon as reasonably practicable after receipt of the request by the Secretary of State.

### **Exempt projects**

**11.**—(1) The Secretary of State may, in exceptional cases, direct that a relevant project shall be exempt in whole or in part from the requirements of these Regulations.

(2) Prior to the giving of such a direction as is mentioned in paragraph (1) above, the Secretary of State shall inform the Commission of the European Communities of the reasons justifying the exemption to be granted and provide it with details of the information to be made available to the public pursuant to paragraph (3)(b) below.

(3) A direction given by the Secretary of State in pursuance of paragraph (1) above shall—

- (a) require the carrying out of such other form of assessment as the Secretary of State considers appropriate;
- (b) specify what information collected pursuant to sub-paragraph (a) above shall be made available to the public and the manner in which it is to be made available;
- (c) specify the extent to which these Regulations are to apply or that they are not to apply at all; and
- (d) include a statement of her reasons for the giving of the direction.

(4) A direction given by the Secretary of State in pursuance of paragraph (1) above may disapply such provisions of these Regulations as may in the circumstances appear to her to be appropriate.

(5) The Secretary of State shall publish a copy of a direction given pursuant to this regulation in the Gazettes.

### **Service of notices**

**12.**—(1) Any notice or other document required or authorised to be given or served on any person under these Regulations may be given or served by—

- (a) delivering it to that person;
- (b) leaving it at his proper address; or
- (c) by sending it to his proper address by the recorded delivery service.

(2) Any notice or other document required or authorised to be served on, or given to, any body corporate or unincorporated association other than a partnership shall be duly given or served on the secretary or clerk or other similar officer of that body.

(3) Any notice or other document required or authorised to be served on, or given to, any partnership may be served on or given to a partner or a person having the control or management of the partnership business.

(4) Subject to paragraph (5) below, for the purpose of this regulation, the proper address of any person on whom or to whom any such notice or document is to be served or given shall be his last known address except that such address shall be—

- (a) in the case of a body corporate or their secretary or clerk, the address of the registered office or principal office of the body corporate;
- (b) in the case of an unincorporated association (other than a partnership) or their secretary or clerk, the address of the principal office of the association; and
- (c) in the case of a partnership or a person having control or the management of the partnership business, the address of the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

(5) If the person to be served with or given any such notice or document has furnished the person by whom the notice or document is to be served or given with an address pursuant to any provision of these Regulations, that address shall also be treated for the purposes of this regulation as his proper address.

### **Applications to the court**

**13.—**(1) Subject to paragraph (3) below, for the purposes of regulations 14 (application to court by person aggrieved) and 15 (application to court by Secretary of State) below, the expression “the court” means—

- (a) in respect of a relevant project in the English area, the High Court;
- (b) in respect of a relevant project in the Scottish area, the Court of Session; and
- (c) in respect of a relevant project in the Northern Irish area, the High Court in Northern Ireland.

(2) In this regulation the expressions “the English area”, “the Scottish area” and “the Northern Irish area” shall have the same meanings as in the Civil Jurisdiction (Offshore Activities) Order 1987<sup>(8)</sup>.

(3) Where a project is situated in more than one of the areas referred to in paragraph (1) above, then any of the courts having jurisdiction in those areas shall have jurisdiction in relation to any question arising under regulation 14 or 15 below.

### **Application to court by person aggrieved**

**14.—**(1) On the application of any person aggrieved by the grant of consent in respect of a relevant project in relation to which an environmental statement was required to be submitted by virtue of regulation 4(1) above (grant of consent by Secretary of State in respect of relevant projects), the court may grant an order quashing the grant of consent where it is satisfied that the consent was granted in contravention of regulation 4(2)(b) above (consideration of environmental statement etc.) or that the interests of the applicant have been substantially prejudiced by a failure to comply with any other requirement of these Regulations.

(2) On the application of any person aggrieved by—

- (a) an approval; or
- (b) the imposition of a relevant requirement,

in respect of a relevant project in relation to which an environmental statement was required to be submitted by virtue of regulation 9 above (exercise by the Secretary of State of powers under licences), the court may grant an order quashing the approval or, as the case may be, the imposition of the relevant requirement where it is satisfied that the approval or, as the case may be, the imposition of the relevant requirement was in contravention of regulation 9(5) above (consideration of environmental statement etc.) or that the interests of the applicant have been substantially prejudiced by failure to comply with any other requirement of these Regulations.

(3) An application to the court under this regulation shall be made within six weeks from the date of publication in the Gazette of details of the consent, approval or, as the case may be, imposition of the relevant requirement.

(4) The court may by interim order, pending the determination of any question referred to in paragraphs (1) and (2) above, stay the operation of the consent, approval or, as the case may be, the relevant requirement on such terms as it may think fit.

<sup>(8)</sup> S.I. 1987/2197.

## **Application to the court by Secretary of State**

**15.**—(1) Subject to paragraphs (3) and (6) below, where—

- (a) any activity in relation to a relevant project is being, or has been, carried out without the necessary consent or approval of the Secretary of State granted in accordance with these Regulations or otherwise than in accordance with a relevant requirement imposed in accordance with these Regulations; or
- (b) a relevant project is being, or has been, carried out in breach of the terms of a condition of the kind mentioned in regulation 4(4) or 9(6) above (conditions for reducing any significant adverse effects on the environment),

the court may, on the application of the Secretary of State, make an order restraining the continued carrying out of the relevant project or compelling the performance of any act required to be done by a condition of the kind mentioned in sub-paragraph (b) above.

(2) The court may, in addition to making such an order as is mentioned in paragraph (1) above, make an order requiring—

- (a) the removal, so far as is practicable in all the circumstances, of any structure erected—
  - (i) without the consent or approval of the Secretary of State as mentioned in paragraph (1)(a) above;
  - (ii) otherwise than in accordance with any relevant requirement as mentioned in paragraph (1)(a) above; or
  - (iii) in breach of a condition of the kind mentioned in paragraph (1)(b) above; and
- (b) where it orders the removal of any structure, the reinstatement of the site where the structure was erected.

(3) The court shall not grant an order under this regulation in respect of a breach of any condition of the kind mentioned in paragraph (1)(b) above where—

- (a) the breach in question was due to circumstances beyond the control of the undertaker and the breach could not reasonably have been prevented by the undertaker; or
- (b) the breach occurred as a result of anything required to be done as a matter of urgency for the purposes of securing the safety of any person.

(4) Where the undertaker fails to comply with the terms of an order made pursuant to paragraph (2) above within such time as may be specified in it or, in default of such specification, within a reasonable time of the making of the order, the Secretary of State may herself take the action required to be taken by the order and the reasonable costs and expenses of doing so shall be recoverable as a debt from the undertaker.

(5) Where the Secretary of State takes action in accordance with paragraph (4) above, that action shall be without prejudice to any consequences which may flow from the undertaker's failure to comply with the order.

(6) This regulation shall not apply to anything done pursuant to a consent or approval granted, or relevant requirement imposed, prior to the coming into force of these Regulations or anything done in relation to a project which is the subject of an exemption granted pursuant to regulation 11 above (exempt projects).

## **Offences**

**16.**—(1) Subject to paragraph (3) below, any person who intentionally or recklessly submits to the Secretary of State—

- (a) an environmental statement;
- (b) appropriate particulars; or

(c) any information required to be submitted by virtue of any provision of these Regulations, which is false or misleading in a material particular shall be guilty of an offence.

(2) Subject to paragraphs (3), (4) and (8) below, an undertaker who—

- (a) intentionally acts in breach of the terms of a condition imposed by virtue of regulation 4(4) or 9(6) above (conditions for reducing any significant adverse effects on the environment); or
- (b) carries out any activity in relation to a relevant project without the necessary consent or approval of the Secretary of State granted in accordance with these Regulations or otherwise than in accordance with a relevant requirement imposed in accordance with these Regulations,

shall be guilty of an offence.

(3) Paragraphs (1) and (2) above shall not apply to anything which is an offence by virtue of section 28 of the Petroleum and Submarine Pipe-lines Act 1975<sup>(9)</sup> (enforcement).

(4) It shall be a defence to a charge under paragraph (2)(a) above for the undertaker to show—

- (a) that he took all reasonable steps to avoid the commission of the offence; or
- (b) that the acts in question were attributable to anything required to be done as a matter of urgency for the purposes of securing the safety of any person.

(5) A person guilty of an offence under this regulation shall on summary conviction be liable to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(6) Where any offence provided for by this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or on the part of any person purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, paragraph (6) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(8) This regulation shall not apply to anything done pursuant to a consent or approval granted, or relevant requirement imposed, prior to the coming into force of these Regulations or anything done in relation to a project which is the subject of an exemption granted pursuant to regulation 11 above (exempt projects).

(9) No proceedings shall be instituted in England and Wales or Northern Ireland except—

- (a) in the case of proceedings in England and Wales, by or with the consent of the Director of Public Prosecutions; or
- (b) in the case of proceedings in Northern Ireland, by or with the consent of the Director of Public Prosecutions for Northern Ireland; or
- (c) in any case, by the Secretary of State or a person authorised by him in that behalf.

(10) Section 3 of the Territorial Waters Jurisdiction Act 1878<sup>(10)</sup> (restriction on prosecutions) shall not apply to any proceedings for an offence under this regulation.

(11) Proceedings for an offence under this regulation may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

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(9) 1975 c. 74.

(10) 1878 41 & 42 Vict. c.73.

4th April 1998

*John Battle*  
Minister for Science, Energy and Industry,  
Department of Trade and Industry

## SCHEDULE

## Regulation 2

## CONTENTS OF ENVIRONMENTAL STATEMENTS

- (a) A description of the relevant project including in particular—
  - (i) a description of the physical characteristics of the whole project and the land-use and sea and seabed use requirements during the construction and operational phases together with information about the site, design and size or scale of the relevant project;
  - (ii) in the case of a development, a description of the main characteristics of the production processes including the nature and quantity of any chemicals or other materials it is proposed should be used; and
  - (iii) an estimate by type and quantity of expected residues and emissions of any kind resulting from the operation of the proposed project;
- (b) an outline of the main alternatives (if any) considered by the undertaker and where alternatives were considered, an indication of the main reasons for the undertaker's choice, taking into account the environmental effects;
- (c) a description of the aspects of the environment likely to be significantly affected by the proposed project including in particular—
  - human population;
  - flora;
  - fauna;
  - soil including the seabed and its subsoil;
  - water including the sea and any aquifers under the seabed;
  - air;
  - climate;
  - the landscape or the seascape;
  - tangible property;
  - architectural and archaeological heritage;
  - the inter-action between any of the foregoing;
- (d) a description of the likely significant effects of the proposed project on the environment resulting from the existence of the project, the use of natural resources, the emission of pollutants, the creation of nuisances and the elimination of waste, together with a description of the forecasting methods used to assess the effects on the environment;
- (e) a description of the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects on the environment;
- (f) a summary in non-technical language of any information contained in the environmental statement; and
- (g) an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the undertaker in compiling the required information.



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Council Directive [85/337/EEC](#) (OJNo. L175, 5.7.85, p.40) on the Assessment of the Effects of Certain Public and Private Projects on the Environment in so far as it relates to the effects on the environment of certain offshore oil and gas projects.

Provision is made requiring the Secretary of State to exercise the powers conferred on her under the Petroleum (Production) Act 1934 to grant licences relating to seaward areas in such a way as to ensure the carrying out of environmental assessments in relation to certain activities relating to exploration for, or production of, oil and gas and requiring, subject to an exception in respect of the existing use of floating installations, the obtaining of the consent of the Secretary of State to the use of a floating installation in connection with a relevant project comprising a development (*regulation 3*).

Provision is made requiring the Secretary of State not to grant—

- (a) any consent required pursuant to the provisions of a licence granted under the 1934 Act in respect of the commencement or recommencement of the drilling of an exploration well or the getting of petroleum in the course of the testing of such a well;
- (b) any consent required pursuant to the provisions of a licence granted under the 1934 Act in connection with a development in respect of the getting of petroleum or of the erection of certain structures for the getting of petroleum or conveying petroleum to land;
- (c) any consent to the use in connection with a development of a floating installation required pursuant to regulation 3(4) of the Regulations;
- (d) any pipe-line works authorisation required by section 20 of the Petroleum and Submarine Pipe-Lines Act 1975 in respect of the construction of a pipe-line for the conveyance of petroleum where that pipe-line is a separate project or is an integral part of a project comprising a development,

unless either the appropriate application was accompanied by an environmental statement in relation to the project in respect of which the consent or authorisation is sought or she has issued a direction that no such statement is required to be so submitted. (An environmental statement is a document or documents setting out the main features of the project in question and the likely environmental consequences of that project). Where the application is accompanied by an environmental statement, the Secretary of State must be satisfied before granting a consent or an authorisation that the requirements of the Regulations as to publicity and consultation have been substantially complied with and must consider the representations of the environmental authorities which are interested in the project by reason of their environmental responsibilities and the representations of the public (*regulation 4*).

Provision is made for the granting of directions, subject to certain exceptions, that the submission of an environmental statement with an application for a consent or an authorisation is not required for projects not likely to have significant effects on the environment or where an environmental statement has already been submitted in respect of the project and the project has already been the subject of an assessment (*regulation 5*).

Provision is made to assist persons proposing to carry out certain oil and gas projects to obtain information to prepare environmental statements (*regulation 6*). Provision is made with regard to publicity requirements for applications for consents or authorisations that are accompanied by environmental statements (*regulation 7*). Power is conferred on the Secretary of State to require persons proposing to carry out oil and gas projects to provide further information in relation

**Status:** This is the original version (as it was originally made).

to applications for consents or authorisations in respect of which environmental statements are submitted and for such information to be subject to publication requirements under regulation 7 (*regulation 8*).

Provision is made for the carrying out of environmental assessments in relation to the exercise by the Secretary of State of powers under licences granted under the 1934 Act to require proposals to be submitted to her for her approval for the carrying out of relevant projects or to require such projects to be carried out (*regulation 9*).

Provision is made for other member States to be informed of projects likely to have a significant effect on their environment (*regulation 10*) and power is conferred on the Secretary of State in whole or in part to exempt a relevant project from the provisions of the Regulations (*regulation 11*). Provision is made in relation to the service of notices and other documents pursuant to the Regulations (*regulation 12*).

Provision is made by the Regulations for the making of applications to the court by persons challenging certain decisions of the Secretary of State. Subject to certain exceptions, provision is also made for the Secretary of State to make applications to the court to seek remedies in respect of the carrying out of oil and gas projects without a consent, authorisation or approval granted, or a requirement imposed, in accordance with these Regulations or in breach of conditions imposed to protect the environment (*regulations 13, 14 and 15*).

Provision is made for the creation of offences in respect of the intentional or reckless submission of false or misleading information pursuant to the Regulations and subject to certain exceptions, the carrying out of activities without a consent, authorisation or approval granted, or requirement imposed, pursuant to the Regulations or in breach of conditions imposed to protect the environment (*regulation 16*).

A cost compliance assessment is available from Oil and Gas Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (Tel: 0171 215 5173).