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STATUTORY INSTRUMENTS

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**2002 No. 1355**

**ENVIRONMENTAL PROTECTION**

**The Offshore Chemicals Regulations 2002**

*Made* - - - - *14th May 2002*

*Coming into force* - - *15th May 2002*

Whereas the Secretary of State has consulted the persons required to be consulted by section 2(4) of the Pollution Prevention and Control Act 1999<sup>(1)</sup>;

And whereas a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament pursuant to sections 2(8) and 2(9) of that Act;

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by sections 2 and 7(9) of that Act hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Offshore Chemicals Regulations 2002 and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“address”, in relation to electronic communications, includes any number or address used for the purposes of such communications;

“business day” means any day, except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom by virtue of the Banking and Financial Dealings Act 1971<sup>(2)</sup>;

“consultation parties” means, having regard to the part of the relevant area to which any permit would relate—

- (a) the Centre for Environment, Fisheries and Aquaculture Science;
- (b) the Fisheries Research Services,

together with any Contracting State which the Secretary of State considers may be affected by the use or discharge of any offshore chemical to which an application under these Regulations relates;

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(1) 1999 c. 24.  
(2) 1971 c. 80.

“Contracting State” means a State which the Secretary of State considers to be a contracting party to the Convention;

“Convention” means the Convention for the Protection of the Marine Environment of the North-East Atlantic 1992<sup>(3)</sup>;

“discharge” means the operational release of offshore chemicals, or their degradation and transformation products, from an offshore installation into the relevant area;

“electronic communication” has the same meaning as in the Electronic Communications Act 2000<sup>(4)</sup>;

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

“notice” means notice in writing;

“offshore activities” means any activities in respect of which the Secretary of State exercises functions under the Petroleum Act 1998<sup>(5)</sup>, being activities carried out in the relevant area;

“offshore chemical” means any chemical, whether comprising a substance or a preparation, intentionally used in connection with offshore activities;

“offshore installation” means any structure or other thing (including any floating production storage and off-loading system or floating storage unit, but not including a ship) in the relevant area which is used for the purposes of, or in connection with, offshore activities;

“operator” means any person who operates an offshore installation;

“permit” means an authorisation granted by the Secretary of State pursuant to these Regulations to use or discharge any offshore chemical in the relevant area;

“permit application” means an application for a permit, being an application which satisfies the requirements of regulation 6(1) and “permit applicant” shall be construed accordingly;

“pipeline” has the same meaning as in section 26 of the Petroleum Act 1998;

“pollution” means the introduction by man, directly or indirectly, of substances or energy into the relevant area which results, or is likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea;

“preparation” means a mixture or solution composed of two or more substances;

“prescribed date” means the date after the day on which the period of three months commencing on the day on which these Regulations come into force expires, save that when a permit application is made before that date it means—

- (a) the date on which the permit is granted, whether in pursuance of the application or, on an appeal under regulation 17, of an order of the court; or
- (b) where a permit is refused and the permit applicant appeals under regulation 17, the date on which the court upholds that refusal; or
- (c) the date after the day on which the period provided for under regulation 17(6) expires, as the case may be;

“relevant area” means that area (together with places above and below it) comprising—

- (a) those parts of the sea adjacent to England and Wales from the low water mark to the landward baseline of the United Kingdom territorial sea;

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(3) Cm 2265: Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs. Made at Paris, 22nd September 1992.

(4) 2000 c. 7.

(5) 1998 c. 17.

- (b) the United Kingdom territorial sea apart from those areas comprised in Scottish controlled waters; and
- (c) those areas of sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964<sup>(6)</sup>;

“relevant project” has the same meaning as in the Offshore Petroleum Production and Pipelines (Assessment of Environmental Effects) Regulations 1999<sup>(7)</sup>;

“Scottish controlled waters” means any waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974<sup>(8)</sup>;

“substance” means a chemical element or compound, in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product or any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

“substantial change” means a change in the type, quantity, frequency or location of the use or discharge of an offshore chemical which may have significant negative effects on people or the environment;

“use”, in relation to offshore chemicals, means any application in connection with offshore activities that might result in a discharge.

### **Requirement for permit to use or discharge offshore chemicals**

**3.—**(1) Subject to paragraphs (2) and (3), no person shall use or discharge any offshore chemical in the relevant area after the prescribed date otherwise than in accordance with the terms of, and conditions attached to, a permit.

(2) Where a person is using or discharging any offshore chemical in connection with any offshore activity that began on or before the date on which these Regulations come into force, that person may continue to use or discharge that offshore chemical until—

- (a) such time as the Secretary of State may specify by notice; or
- (b) (if no notice is given by the Secretary of State in accordance with sub-paragraph (a)) the date after the day on which the period of two years commencing on the prescribed date expires.

(3) A person using or discharging an offshore chemical in accordance with paragraph (2) shall provide the Secretary of State with such information as the Secretary of State may reasonably require for the purpose of performing her functions under these Regulations.

### **Grant and refusal of permits**

**4.—**(1) In considering whether to grant a permit, the Secretary of State shall have regard to any opinion expressed by—

- (a) the consultation parties; and
- (b) (except where the permit application is one to which regulation 7(2) applies) the general public.

(2) The Secretary of State shall not grant a permit unless she is satisfied that there has been substantial compliance with regulation 7.

(3) Where the Secretary of State grants a permit, she shall send it to the permit applicant.

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<sup>(6)</sup> 1964 c. 29.

<sup>(7)</sup> S.I.1999/360.

<sup>(8)</sup> 1974 c. 40. The provisions of section 30A(1) were inserted into the 1974 Act by section 169 of, and Schedule 23 to, the Water Act 1989 (1989 c. 15).

(4) Where the Secretary of State refuses a permit application, she shall give notice of such refusal to the permit applicant.

(5) The Secretary of State shall publish in the Gazette notice of the granting of any permit.

### **Conditions of permits**

5.—(1) The Secretary of State may attach to any permit such conditions as she thinks fit.

(2) Without prejudice to the generality of paragraph (1), the Secretary of State may attach to any permit such conditions as in her opinion are calculated to ensure that—

- (a) the quantity, frequency, location and duration of any permitted use or discharge of offshore chemicals are subject to appropriate restrictions;
- (b) any permit granted for the use or discharge of any offshore chemical requires the operator to seek a suitable, less hazardous substitute;
- (c) all appropriate measures are taken to prevent pollution in particular through the appropriate use of technology to limit discharge, emissions and waste;
- (d) necessary measures are taken to prevent accidents affecting the environment or, where they occur, to limit their consequences in relation to the environment;
- (e) the appropriate monitoring of the use and discharge of offshore chemicals is facilitated, and such conditions may include—
  - (i) provisions relating to measurement techniques, technology and frequency and to evaluation procedures; and
  - (ii) obligations to supply the Secretary of State with data required for checking compliance with the permit, including any data setting out the actual quantity, frequency and location of the use and discharge of any offshore chemicals which has occurred during a specified period;
- (f) long-distance or transboundary pollution is minimised; and
- (g) appropriate measures are taken in relation to conditions other than normal operating conditions including start-ups, leaks, malfunctions, temporary stoppages and permanent cessation of operations.

### **Requirements relating to permit applications**

6.—(1) A permit application shall be made in writing and shall contain—

- (a) a description of the offshore installation on or from which the offshore chemical is to be used or discharged, and the location of the offshore installation in the relevant area;
- (b) a description of the proposed technology and other techniques for preventing or, where prevention is not possible, reducing the use or discharge of the offshore chemical from the offshore installation;
- (c) a description of the measures planned to monitor the use or discharge of the offshore chemical; and
- (d) an assessment of the risk of harm to the environment from the use and discharge of the offshore chemicals proposed.

(2) The Secretary of State may by notice require a permit applicant—

- (a) to produce such evidence as the Secretary of State may reasonably call for to verify any information provided in the permit application; or
- (b) to provide such other information as the Secretary of State may specify for the purposes of properly considering a permit application in accordance with these Regulations.

## Publicity for permit applications

7.—(1) Except where the permit application is one to which paragraph (2) applies, a permit applicant shall—

- (a) having regard to the general whereabouts of any persons likely to be interested in, or affected by, the use or discharge of any chemical to which the permit application relates, make a copy of the permit application available for public inspection at an address in the United Kingdom between the hours of 10 a.m. and 4 p.m. on business days for a period of not less than four 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 (d);
- (b) make available at an address within the United Kingdom enough copies of the permit application to be likely to satisfy all reasonable demands for copies pursuant to sub-paragraph (c);
- (c) subject to sub-paragraph (b) and paragraph (3), supply during the period mentioned in sub-paragraph (a), a copy of the permit application;
- (d) publish in such newspapers on such occasions as to be likely to come to the attention of any persons likely to be interested in, or affected by, the use or discharge of any chemical to which the permit application relates, a notice which—
  - (i) describes the permit application;
  - (ii) gives the address referred to in sub-paragraph (a) at which a copy of the permit application may be inspected;
  - (iii) states that a copy of the permit application may be obtained from the address referred to in sub-paragraph (b) and, subject to paragraph (3)(b), specifies the amount of any payment required to be tendered for a copy of the permit application; and
  - (iv) states a date not less than four weeks after the date on which the notice is to be last published by which any person may make representations in relation to the permit application to the Secretary of State and specifies the address to which any such representations are to be sent; and
- (e) provide the Secretary of State with copies of the newspapers in which the notice referred to in sub-paragraph (d) appeared.

(2) This paragraph applies to permit applications made—

- (a) in connection with a relevant project for which the Secretary of State gives a direction, pursuant to regulation 6 of the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999<sup>(9)</sup>, that no environmental statement need be prepared;
- (b) in connection with a discharge from a pipeline, being a discharge to which the Secretary of State gives a consent pursuant to an authorisation issued under Part III of the Petroleum Act 1998<sup>(10)</sup>; or
- (c) in connection with activities carried out in accordance with an abandonment programme approved by the Secretary of State under Part IV of the Petroleum Act 1998.

(3) Where a permit applicant is subject to an obligation to supply a copy of a permit application pursuant to a request made under paragraph (1)(c), he—

- (a) shall supply a copy of the permit application to the person requesting it as soon as reasonably practicable after receipt of the request; and

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<sup>(9)</sup> S.I. 1999/360.

<sup>(10)</sup> 1998 c. 17.

- (b) may make the supply of a copy of the permit application conditional on the receipt by the permit applicant of a sum calculated by reference to the cost of printing and distributing copies of the permit application, subject to a maximum of £10 for each copy requested.

### **Fees**

**8.**—(1) The Secretary of State may, in accordance with a charging scheme made by her for this purpose, charge operators fees in respect of any of the matters to which this paragraph applies.

(2) The matters to which paragraph (1) applies are—

- (a) the grant of a permit;
- (b) the variation of a permit or the conditions to which it is subject;
- (c) the transfer or surrender of a permit;
- (d) the subsistence of a permit;
- (e) the testing or analysis of substances;
- (f) the validating of, or of the results of, any testing or analysis of substances; and
- (g) assessing how the environment might be affected by the release into it of any substances,

but paragraph (1) only applies to the matters referred to in sub-paragraphs (e) to (g) in cases where the testing, analysis, validating or assessing is in any way in anticipation of, or otherwise in connection with, the making of permit applications or is carried out in pursuance of conditions to which any permit is subject.

(3) A charging scheme made under this regulation shall be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure as may be incurred by or on behalf of the Secretary of State in connection with any of the matters to which paragraph (1) applies.

### **Duration of permits**

**9.** A permit may be granted for a period specified in the permit or without limit of time.

### **Application for renewal of an existing permit**

**10.**—(1) Where an operator proposes to continue to use or discharge from an offshore installation an offshore chemical after the expiry of any period specified in the permit, he may, subject to paragraph (2), apply to the Secretary of State to renew the permit.

(2) An application for renewal of a permit pursuant to paragraph (1) shall be made in writing prior to, but no more than three months before, the expiry of the permit in question.

(3) The Secretary of State may renew a permit pursuant to an application under this regulation, provided that she has consulted the consultation parties and taken into account any relevant representations made by them regarding the application.

(4) Where the Secretary of State refuses an application under this regulation she shall serve a notice on the applicant which states that the application is refused.

(5) Where the Secretary of State grants an application pursuant to paragraph (3) she may make the granting of the application subject to such further terms and conditions as she shall think fit and, once a notice giving details of such further terms and conditions has been served on the applicant, they shall have effect.

### **Variation of permit on application of operator**

11.—(1) An operator may apply in writing for a variation of the terms and conditions of a permit relating to the use or discharge of an offshore chemical in the relevant area.

(2) Where the Secretary of State determines that a variation applied for by the operator would not be a substantial change, she may grant the application and vary the terms and conditions of the permit accordingly provided that she has taken into account any relevant representations regarding the application made by the consultation parties.

(3) Where the Secretary of State grants an application pursuant to paragraph (2), she may make the granting of the application subject to such further conditions as she shall think fit.

(4) Where the Secretary of State determines that the change would be a substantial change she shall refuse the application and serve a notice on the applicant which states that—

- (a) the proposed change would be in the opinion of the Secretary of State a substantial change; and
- (b) the application is refused.

(5) Where an application made pursuant to paragraph (1) is granted, the Secretary of State shall issue to the applicant a notice giving details of the revised terms and conditions and the revised terms and conditions shall have effect once this notice has been served on the applicant.

### **Reconsideration of permits and permit conditions**

12.—(1) The Secretary of State may at such intervals as she shall think fit review any permit granted in accordance with these Regulations, together with the conditions attached to the permit.

(2) The Secretary of State shall review the conditions of a permit where in her opinion the pollution or risk of pollution caused by the use or discharge of an offshore chemical is of such significance that any existing restrictions on the quantity, frequency or location of the use or discharge of such offshore chemical contained in a permit should be revised or new restrictions on the quantity, frequency or location should be included in the permit.

(3) Where the Secretary of State considers that the conditions of a permit should be revised she shall give notice to the operator concerned of her intention to revise the permit and such notice shall—

- (a) give details of the conditions of the revised permit; and
- (b) specify a day (not less than 14 days after the day on which such notice is given) on which the revised permit will have effect.

(4) The operator may make representations in writing as to whether the permit should be revised and as to the conditions of the revised permit.

(5) Where no representations are received prior to the day specified under paragraph (3)(b), the permit shall be revised with effect from that day.

(6) Where representations are received prior to the day specified under paragraph (3)(b), the Secretary of State shall consider them in determining whether or not the permit should be revised as originally notified under paragraph (3) and may determine—

- (a) that the permit shall be revised with effect from a later day than the day specified under paragraph (3)(b); and
- (b) that the permit shall be revised otherwise than as originally notified.

(7) In exercising her powers under this regulation, the Secretary of State may take into account any relevant representations made by the consultation parties.

### **Revocation and surrender of permits**

13.—(1) The Secretary of State may by notice revoke a permit granted pursuant to these Regulations where she is of the opinion that an application for the grant, renewal or variation of the permit in question contained any information or statement which was false or misleading in a material particular or where the operator in question has been guilty of a breach of any condition attached to the permit.

(2) An operator to whom a permit has been granted may surrender the permit by notice to the Secretary of State.

### **Register to be kept by the Secretary of State**

14.—(1) The Secretary of State shall keep a register at a place in the United Kingdom in which she shall cause to be entered—

- (a) the terms and conditions of any permits granted under these Regulations; and
- (b) the results of any monitoring information required to be sent to her under the conditions of any permit.

(2) The register referred to in paragraph (1) shall be open to public inspection on business days from 10 a.m. until 4 p.m.

### **Provision of information to the Secretary of State**

15.—(1) The operator shall forthwith provide the Secretary of State with details of any incident or accident involving an offshore chemical—

- (a) where there has been a breach of the permit or any of its conditions; or
- (b) where there has been, or may be, any significant effect on the environment.

(2) For the purposes of this regulation “effect” includes any direct, indirect, secondary, cumulative, short, medium or long-term, permanent or temporary, or positive or negative effect.

### **Appointment of inspectors**

16.—(1) The Secretary of State may, if she thinks fit, appoint one or more inspectors—

- (a) to investigate whether the requirements, restrictions or prohibitions imposed by or under these Regulations have been, or are being complied with; or
- (b) to monitor the use or discharge of any offshore chemical.

(2) The inspectors shall report their conclusions to the Secretary of State in such manner as the Secretary of State may direct.

(3) An inspector appointed under paragraph (1) may for any of the purposes mentioned in that paragraph and on producing evidence of his appointment—

- (a) at any reasonable time (or, in a situation which in his opinion may give rise to a risk of significant pollution to the environment as a result of the use or discharge from an offshore installation of an offshore chemical, at any time) board any offshore installation;
- (b) on boarding an offshore installation take with him any other person authorised for those purposes by the Secretary of State and any equipment or materials that he thinks he may require;
- (c) make such examination or investigation as he considers necessary (including any examination or investigation of an offshore installation, for which purpose he may install or maintain monitoring or other apparatus on the offshore installation);



- (d) give a direction requiring that any part of the offshore installation be left undisturbed (whether generally or in particular respects) for so long as reasonably necessary for the purposes of any examination or investigation under sub-paragraph (c);
- (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) take samples of any articles or substances found on the offshore installation or in the atmosphere or any land, seabed (including the subsoil thereof) or water in the vicinity of the offshore installation;
- (g) in the case of any article or substance which he finds on the offshore installation, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that in the circumstances of the case is necessary);
- (h) in the case of any such article or substance as is mentioned in sub-paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine it and do to it anything which he has power to do under that paragraph;
  - (ii) to ensure that it is not tampered with before his examination of it is completed; and
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;
- (i) require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under sub-paragraph (c)—
  - (i) to attend at a place and time specified by the inspector;
  - (ii) to answer (in the absence of any person other than persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask; and
  - (iii) to sign a declaration of truth of his answers;
- (j) require the production of, and inspect and take copies of or of any entry in—
  - (i) any records which by virtue of any provision of any permit granted under these Regulations are required to be kept;
  - (ii) any records which he considers it necessary for him to see for the purposes of any examination or investigation under sub-paragraph (c); and
- (k) require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this regulation.

(4) Where an inspector considers that any activity in relation to the use or discharge of an offshore chemical involves a serious and imminent risk of pollution, he may give such directions in relation to that activity (including a direction requiring the cessation of that activity) as he considers necessary to avoid or minimise the risk of pollution in question.

(5) An answer given by a person in compliance with a requirement imposed under paragraph (3) (i) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.

(6) In criminal proceedings in which such person as is mentioned in paragraph (5) is charged with an offence to which this paragraph applies no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.

(7) Paragraph (6) applies to any offence other than one—

- (a) under regulation 18(1)(e)(ii);
- (b) under section 5 of the Perjury Act 1911<sup>(11)</sup> (false statements made otherwise than on oath);
- (c) under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995<sup>(12)</sup> (false statements made otherwise than on oath); or
- (d) under article 10 of the Perjury (Northern Ireland) Order 1979<sup>(13)</sup>.

(8) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on ground of legal professional privilege be entitled to withhold production on an order for disclosure or discovery in an action in the High Court or the High Court in Northern Ireland or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

### **Appeal to High Court, Court of Session or High Court in Northern Ireland**

**17.**—(1) Subject to paragraph (6), any permit applicant or any operator aggrieved by a decision of the Secretary of State made under these Regulations may appeal to the court.

(2) Subject to paragraph (4), the expression “the court” means—

- (a) in respect of a decision relating to the use or discharge of an offshore chemical in the English area, the High Court;
- (b) in respect of a decision relating to the use or discharge of an offshore chemical in the Scottish area (excluding Scottish controlled waters), the Court of Session;
- (c) in respect of a decision relating to the use or discharge of an offshore chemical in the Northern Irish area, the High Court in Northern Ireland.

(3) 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>(14)</sup>.

(4) Where an offshore chemical is used or discharged or is to be used or discharged in more than one of the areas referred to in paragraphs (2) and (3), any of the courts having jurisdiction in the area or areas where the offshore chemical is used or discharged or is to be used or discharged shall have jurisdiction in relation to the decision in question.

(5) Unless the court otherwise orders, any decision of the Secretary of State which is the subject of an appeal under paragraph (1) shall remain in force pending a final disposal of that appeal.

(6) An appeal under this regulation shall be made within 28 days of written notification of the decision in question.

### **Offences**

**18.**—(1) Subject to paragraph (2), a person is guilty of an offence if he—

- (a) contravenes regulation 3(1);
- (b) fails to comply with the terms of a direction given under regulation 16(4);
- (c) fails to supply any information required to be supplied by virtue of regulation 3(3) or 15;
- (d) fails to supply any information required to be supplied by virtue of the terms of any permit granted under these Regulations;

<sup>(11)</sup> 1911 c. 6.

<sup>(12)</sup> 1995 c. 39.

<sup>(13)</sup> S.I. 1979/1714 (N.I. 19).

<sup>(14)</sup> S.I. 1987/2197.

- (e) knowingly or recklessly makes a statement which he knows to be false or misleading in a material particular where such a statement—
    - (i) is made in connection with or for the purposes of any permit application or any application under regulations 10 or 11; or
    - (ii) is made for the purposes of satisfying any requirement under these Regulations for the supply of information to the Secretary of State or an inspector appointed pursuant to regulation 16;
  - (f) wilfully obstructs an inspector appointed under regulation 16; or
  - (g) without reasonable excuse fails to comply with a requirement imposed in pursuance of regulation 16 or prevents another person from complying with such a requirement.
- (2) Where a person is charged with an offence under paragraph (1)(a) or (1)(b), it is a defence to prove that the contravention—
- (a) arose as a result of something which could not have been reasonably prevented by him; or
  - (b) was due to something done as a matter of urgency for the purposes of securing the safety of any person.
- (3) 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.
- (4) Where an offence under this regulation 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 a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.
- (5) Where the affairs of a body corporate are managed by its members, paragraph (4) 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.
- (6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.
- (7) 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 part of the United Kingdom.
- (8) Section 3 of the Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions)(15) shall not apply to any proceedings for an offence under this regulation.

### **Service of notices**

- 19.**—(1) Any notice or other document required or authorised to be given to, 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;
  - (c) sending it to his proper address by post; or
  - (d) using electronic communication for sending it to such address as may for the time being be notified by that person for that purpose.

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(15) 1878 41 & 42 Vict. c.73.

(2) Any notice or other document required or authorised to be given to, or served on, any body corporate or unincorporated association other than a partnership shall be duly given to, 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 (including a Scottish partnership) shall be duly given to, or served on, a partner or a person having the control or management of the partnership business.

(4) Subject to paragraph (5), 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 (including a Scottish 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 purpose of this regulation as his proper address.

#### **Amendment of the Deposits in the Sea (Exemptions) Order 1985**

**20.**—(1) The Deposits in the Sea (Exemptions) Order 1985<sup>(16)</sup> is amended in accordance with the following provisions of this regulation.

(2) In paragraph 14 of the Schedule, the word “chemicals,” shall be deleted.

(3) After paragraph 15 of the Schedule, the following paragraph shall be added—

“(15A) Deposit for which a permit is required under the Offshore Chemicals Regulations 2002, or for which a permit would be required but for—

- (a) the provisions of regulation 3(2) of those Regulations, or
- (b) the fact that the deposit (being a deposit made on or after the day on which those Regulations came into force) was made before the prescribed date within the meaning of those Regulations.”

#### **Amendment of the Deposits in the Sea (Exemptions) Order (Northern Ireland) 1995**

**21.**—(1) The Deposits in the Sea (Exemptions) Order (Northern Ireland) 1995<sup>(17)</sup> is amended in accordance with the following provisions of this regulation.

(2) In paragraph 13 of the Schedule, the word “chemicals,” shall be deleted.

(3) After paragraph 14 of the Schedule, the following paragraph shall be added—

“**14A** Deposit for which a permit is required under the Offshore Chemicals Regulations 2002, or for which a permit would be required but for—

<sup>(16)</sup> S.I. 1985/1699.

<sup>(17)</sup> S.R. 1995 No. 234.

- (a) the provisions of regulation 3(2) of those Regulations, or
- (b) the fact that the deposit (being a deposit made on or after the day on which those Regulations came into force) was made before the prescribed date within the meaning of those Regulations.”

14th May 2002

*Brian Wilson*  
Minister of State for Energy and Construction,  
Department of Trade and Industry

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## EXPLANATORY NOTE

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

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999. They establish a regime for the purpose of implementing the United Kingdom's obligations under the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) Decision (2000/2) on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals in relation to offshore activities (defined in regulation 2).

The Regulations apply in relation to the sea adjacent to England and Wales, to the United Kingdom territorial sea apart from those areas comprised in Scottish controlled waters and to those areas of sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964.

Regulation 2 deals with definitions. Regulation 3 deals with the need for a permit in order to allow an operator to use and discharge chemicals; regulations 4 to 8 deal with the procedure for granting permits, the conditions of permits, the requirements for permit applications, the publicity for permit applications and fees. Regulation 9 makes provision for the duration of permits and regulation 10 allows for the renewal of permits. Regulation 11 allows for permits to be varied on application to the Secretary of State and regulation 12 deals with the review of permits and their conditions. Provision is made for the revocation and surrender of permits by regulation 13. Under regulation 14 the Secretary of State is required to maintain a public register of the provisions of permits and of certain information required to be supplied to her under those provisions. Regulation 15 requires operators to inform the Secretary of State of any breach of a permit or its conditions or of any accident or incident involving a significant effect on the environment. Under regulation 16 the Secretary of State can appoint Inspectors whose powers and duties are therein set out.

Regulation 17 gives a right to appeal to the court against the Secretary of State's decisions under the Regulations. Regulation 18 creates offences. Regulation 19 deals with service of notices and other documents. Regulations 20 and 21 respectively amend the Deposits in the Sea (Exemptions) Order 1985 and the Deposits in the Sea (Exemptions) Order (Northern Ireland) 1995.

These Regulations come into force on [date]. After the prescribed date (regulation 2) a permit will be required for all use and discharge of offshore chemicals (regulation 3(1) subject to the provisions of regulation 3(2)).

A regulatory impact assessment has been prepared and copies can be obtained from Oil and Gas Directorate, Department of Trade and Industry, 1 Victoria Street, London, SW1H 0ET (Tel. 020 7215 5151).

These Regulations have been notified to the European Commission and the other member States in accordance with Directive [98/34/EC](#) of the European Parliament and of the Council (OJNo. L204, 21.7.98, p.37), as amended by Directive [98/48/EC](#) of the European Parliament and of the Council (OJ No. L217, 5.8.98, p.18).