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STATUTORY INSTRUMENTS

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**2010 No. 1513**

**ENERGY**  
**ENVIRONMENTAL PROTECTION**

**The Energy Act 2008 (Consequential Modifications)  
(Offshore Environmental Protection) Order 2010**

<i>Made</i>	- - - -	<i>1st June 2010</i>
<i>Laid before Parliament</i>		<i>4th June 2010</i>
<i>Coming into force</i>	- -	<i>1st July 2010</i>

The Secretary of State is designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the environment.

Accordingly the Secretary of State, in exercise of the powers conferred by section 2(2) of that Act and by sections 104(2) and 107(2) of the Energy Act 2008<sup>(3)</sup>, makes the following Order:

*General*

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010, and comes into force on 1st July 2010.

(2) In this Order—

- (a) a reference to a numbered section is to that section of the Energy Act 2008; and
- (b) “Energy Act licence” means a licence granted under section 4 or section 18.

**Commencement Information**

**II** [Art. 1](#) in force at 1.7.2010, see [art. 1\(1\)](#)

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(1) [S.I. 2008/301](#).

(2) [1972 c. 68](#); section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)). Section 57(1) of the Scotland Act 1998 ([c. 46](#)) provides that despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law, any function of a Minister of the Crown shall continue to be exercisable by that Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

(3) [2008 c. 32](#).

## *Offshore environmental assessment*

### **Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999**

2.—(1) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(4) (“the Regulations”) have effect with the following modifications.

(2) In regulation 3(1) any reference to the conveyance of petroleum includes a reference to the conveyance of—

- (a) carbon dioxide; or
- (b) combustible gas.

(3) For the purposes of regulation 3(1)—

- (a) “consent”—
  - (i) in relation to a relevant project comprising a development, includes any consent required by or under a licence to the carrying on of a storage or unloading activity; and
  - (ii) in relation to a relevant project as mentioned in sub-paragraph (d) below, includes any consent required under regulation 4(4)(b) as modified by paragraph (5) below;
- (b) “development” includes any project which has as its main object a storage or unloading activity;
- (c) “licence” includes an Energy Act licence;
- (d) “relevant project” includes the use of a mobile installation for the purpose of carrying out test injections of carbon dioxide or combustible gas;
- (e) “structure” includes any structure which is—
  - (i) used for or, as the case may be, to be used for the purpose of a storage or unloading activity, or for conveying carbon dioxide or combustible gas to or from land,
  - (ii) intended to be permanent, and
  - (iii) not designed to be moved from place to place without major dismantling; and
- (f) in the definition of “well”, the matters for the purposes of which, or in connection with which, the well or borehole is drilled include activities within section 2(3) or section 17(2); and the proviso in that definition applies to wells drilled for the purposes of activities within section 2(3)(e) or section 17(2)(c) as it applies to wells drilled in connection with the exploration for petroleum.

(4) Regulation 4(2) also applies to the carrying on of any storage or unloading activity wholly or partly in the relevant area.

(5) The requirement for prior written consent under regulation 4(4)(b) also applies to the use of any mobile installation for the purpose of carrying out test injections of carbon dioxide or combustible gas.

(6) Regulation 5(2A) applies to an application for a renewal of a consent to the carrying on of a storage or unloading activity as it applies to an application for a renewal of a consent to the getting of petroleum (other than as the by-product of the drilling or testing of a well).

(7) For the purposes of regulation 6(2)(b) and (5), the consents falling within regulation 6(5)(a) to (d) include any consent to—

- (a) the carrying on of a storage or unloading activity; or

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(4) [S.I. 1999/360](#), amended by [S.I. 2007/933](#).

- (b) the erection of any structure in relation to a project which has as its main object a storage or unloading activity.
- (8) In respect of the Regulations as so modified—
  - (a) in regulations 6 to 8, any reference to an environmental statement is to an environmental statement prepared for the purposes of the Regulations; and
  - (b) in regulation 12, any reference to a relevant project is to a relevant project in respect of which such an environmental statement is required to be prepared.
- (9) In this article—
  - (a) “combustible gas “ means gas within the meaning of section 2(4); and
  - (b) “storage or unloading activity” means any activity within—
    - (i) section 2(3)(a) to (d), or
    - (ii) section 17(2)(a) or (b).

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**Commencement Information**

**I2** [Art. 2](#) in force at 1.7.2010, see [art. 1\(1\)](#)

### **Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001**

**3.—(1)** The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001<sup>(5)</sup> have effect with the modifications in paragraphs (2) to (5), and are amended in accordance with paragraphs (6) and (7).

- (2) Those Regulations—
  - (a) apply to activities within section 2(3) or section 17(2) as they apply to oil and gas activities; and
  - (b) apply to activities within section 2(3) or section 17(2) carried on wholly or partly in a relevant area as they apply to offshore oil and gas activities.
- (3) For the purposes of the Regulations as modified by paragraph (2)—
  - (a) a reference in regulation 4(2) to any provision in any Petroleum Act licence is to be read as a reference to any provision in any Energy Act licence; and
  - (b) “relevant function” and “relevant power” include, without limitation, functions or (as the case may be) powers exercisable by the Secretary of State under the Petroleum Act 1998, Part 1 of the Energy Act 2008, or any Energy Act licence.

(4) Notwithstanding those modifications, regulation 4(1) does not apply to an activity or procedure which must not be carried out in the relevant area without the prior written consent of the Scottish Ministers (or a body to whom functions have been transferred by the Scottish Ministers under section 34).

(5) Regulations 5 and 7 apply to an Energy Act licence that has been or is to be granted as they apply to a Petroleum Act licence; and for the purposes of those regulations “consent” also includes a consent granted pursuant to an Energy Act licence, including any consent required pursuant to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999.

- (6) In regulation 2(1)—
  - (a) omit the definition of “UKCS oil and gas activities”; and

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(5) [S.I. 2001/1754](#), amended by [S.I. 2007/77](#) and [2007/1842](#).

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(b) for the definition of “the Wild Birds Directive” substitute—

““the Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds<sup>(6)</sup>.”.

(7) In regulation 3—

(a) for “1994 Regulations” substitute “2010 Regulations”; and

(b) for paragraph (2), substitute—

“(2) In this regulation, the “2010 Regulations” means the Conservation of Habitats and Species Regulations 2010<sup>(7)</sup>.”.

#### Commencement Information

**I3** [Art. 3](#) in force at 1.7.2010, see [art. 1\(1\)](#)

### Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

4.—(1) In regulation 2(2) of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007<sup>(8)</sup>—

(a) after the definition of “the EC Treaty”, insert—

““Energy Act licence” means a licence which is granted (or is to be granted) under Part 1 of the Energy Act 2008;”;

(b) for the definition of “Petroleum Act consent” substitute—

““Petroleum or Energy Act consent” means—

(a) a consent granted pursuant to a Petroleum Act licence or an Energy Act licence, including any consent required pursuant to the Offshore Petroleum Productions and Pipe-lines (Assessment of Environmental Effects) Regulations 1999; or

(b) a consent granted pursuant to regulation 4(1) of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001;”.

(2) For regulation 25(6)(c) of those Regulations, substitute—

“(c) the granting by the Secretary of State of any Petroleum Act approval, Petroleum Act authorisation, Petroleum or Energy Act consent, Petroleum Act licence, or Energy Act licence;”.

(3) For regulation 27(6)(c) of those Regulations, substitute—

“(c) requires a review by the Secretary of State of a Petroleum Act approval, Petroleum Act authorisation, Petroleum or Energy Act consent, Petroleum Act licence or Energy Act licence;”.

#### Commencement Information

**I4** [Art. 4](#) in force at 1.7.2010, see [art. 1\(1\)](#)

<sup>(6)</sup> OJ No L 20, 26.1.10, p. 7.

<sup>(7)</sup> S.I. 2010/490.

<sup>(8)</sup> S.I. 2007/1842 amended by S.I. 2009/7 and 2010/491.

### Other environmental legislation

#### Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001

5. In regulation 2 of the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001<sup>(9)</sup>—

- (a) in the definition of “platform” (which accordingly becomes a definition of “petroleum platform”) insert “petroleum” before “platform”;
- (b) after that definition insert—
  - ““platform” means—
  - (a) a petroleum platform; or
  - (b) a storage or unloading platform;”;
- (c) after the definition of “relevant environmental statement” insert—
  - ““reserved area” means the area (together with the places above and below it) comprising—
  - (a) those parts of the sea adjacent to England from the low water mark to the landward baseline of the United Kingdom territorial sea;
  - (b) so much of the United Kingdom territorial sea as is adjacent to England or Northern Ireland; and
  - (c) those areas of sea in a Gas Importation and Storage Zone (within the meaning of section 1(5) of the Energy Act 2008);”;
- (d) after the definition of “Scottish controlled waters” insert—
  - ““storage or unloading platform” means any fixed or floating structure situated in the reserved area which—
  - (a) is used for the purposes of, or in connection with, an activity within section 2(3) or section 17(2) of the Energy Act 2008;
  - (b) in the case of a floating structure, is maintained on a station during the course of carrying on such an activity; and
  - (c) in either case, is not a structure the principal purpose of whose use is an activity within section 2(3)(e) or 17(2)(c);”.

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#### Commencement Information

**I5** Art. 5 in force at 1.7.2010, see [art. 1\(1\)](#)

#### Offshore Chemicals Regulations 2002

6.—(1) In regulation 2 of the Offshore Chemicals Regulations 2002<sup>(10)</sup>—

- (a) for the definition of “offshore activities”, substitute—
  - ““offshore activities” means—
  - (a) offshore petroleum activities; or
  - (b) offshore storage or unloading activities;”;
- (b) for the definition of “offshore installation” substitute—

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<sup>(9)</sup> S.I. 2001/1091, amended by S.I. 2005/2055 and 2007/938.

<sup>(10)</sup> S.I. 2002/1355, amended by S.I. 2005/2055.

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““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) which—

- (a) is in the relevant area and is used for the purposes of, or in connection with, offshore petroleum activities; or
- (b) is in the reserved area and is used for the purposes of, or in connection with, offshore storage or unloading activities;”;

(c) after the definition of “offshore installation” insert—

““offshore petroleum activities”—

- (a) means any activities in respect of which the Secretary of State exercises functions under the Petroleum Act 1998(11), being activities carried out in the relevant area; but
- (b) does not include activities (“decommissioning activities”) carried out in connection with the abandonment of an offshore installation that, at the time of that abandonment, had last been used for the purposes of or in connection with offshore storage or unloading activities, unless those decommissioning activities are carried out in the reserved area;

“offshore storage or unloading activities” means any activities in respect of which the Secretary of State exercises functions under Part 1 of the Energy Act 2008, being activities carried out in the reserved area;”;

(d) after the definition of “relevant project” insert—

““reserved area” means the area (together with the places above and below it) comprising—

- (a) those parts of the sea adjacent to England from the low water mark to the landward baseline of the United Kingdom territorial sea;
- (b) so much of the United Kingdom territorial sea as is adjacent to England or Northern Ireland; and
- (c) those areas of sea in a Gas Importation and Storage Zone (within the meaning of section 1(5) of the Energy Act 2008);”.

(2) After that regulation 2 (which becomes regulation 2(1)) insert—

“(2) In these Regulations, any reference to the use or discharge of an offshore chemical in the relevant area is to be read, in relation to an offshore storage or unloading activity, as a reference to its use or discharge in the reserved area.”.

#### Commencement Information

I6 Art. 6 in force at 1.7.2010, see art. 1(1)

### Offshore Installations (Emergency Pollution Control) Regulations 2002

7. In the Offshore Installations (Emergency Pollution Control) Regulations 2002(12), after regulation 2, insert—

(11) 1998 c. 17.

(12) S.I. 2002/1861.

## “Application

**2A.**—(1) These Regulations apply to offshore storage or unloading installations as they apply to offshore installations.

(2) For that purpose, “offshore storage or unloading installation” means an installation for the establishment or maintenance of which a licence under section 4 or 18 of the Energy Act 2008 is required.”.

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## Commencement Information

**I7** [Art. 7](#) in force at 1.7.2010, see [art. 1\(1\)](#)

## Greenhouse Gas Emissions Trading Scheme Regulations 2005

**8.** In regulation 2(1) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005(**13**)—

(a) for the definition of “offshore installation”, substitute—

““offshore installation” means—

- (a) an offshore petroleum installation; or
- (b) an offshore storage or unloading installation;”;

(b) after that definition, insert—

““offshore petroleum installation” means an installation which is—

- (a) used for purposes connected with the exploration for, or exploitation of, petroleum (within the meaning of section 1 of the Petroleum Act 1998); and
- (b) is, or will be, situated in the area (together with places above and below it) comprising—
  - (i) 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;
  - (ii) the United Kingdom territorial sea apart from those areas comprised in any controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974(**14**); and
  - (iii) those areas of sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**15**);”;

(c) after the definition of “Offshore Regulations” insert—

““offshore storage or unloading installation” means an installation which is—

- (a) used for purposes connected with an activity within section 2(3) or section 17(2) of the Energy Act 2008; and
- (b) is, or will be, situated in the area (together with places above and below it) comprising—
  - (i) those parts of the sea adjacent to England from the low water mark to the landward baseline of the United Kingdom territorial sea;
  - (ii) the United Kingdom territorial sea, other than the territorial sea adjacent to Scotland or Wales; and

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(13) S.I. 2005/925, amended by S.I. 2005/2903, 2006/737, 2007/465, 2007/1096 and 2007/3433.

(14) 1974 c. 40; section 30A was substituted (in relation to Scotland) by section 169 of, and paragraph 4 of Schedule 23 to, the Water Act 1989.

(15) 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), section 37 and Schedule 3, paragraph 1.

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- (iii) those areas of sea in a Gas Importation and Storage Zone (within the meaning of section 1(5) of that Act);”.

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**Commencement Information**

**18** Art. 8 in force at 1.7.2010, see [art. 1\(1\)](#)

**Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005**

**9.**—(1) The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005<sup>(16)</sup> have effect as follows.

(2) The Regulations apply to an installation established or maintained for the purpose of an activity within section 2(3) or section 17(2) as they apply to an offshore installation as defined in regulation 2.

(3) However, in relation to any installation established or maintained for the purpose of an activity within section 2(3) or section 17(2), any reference in those Regulations to relevant waters does not include tidal waters or parts of the sea in or adjacent to Scotland or Wales up to the seaward limits of the territorial sea.

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**Commencement Information**

**19** Art. 9 in force at 1.7.2010, see [art. 1\(1\)](#)

**REACH Enforcement Regulations 2008**

**10.** In regulation 2(2) of the REACH Enforcement Regulations 2008<sup>(17)</sup>—

- (a) for the definition of “offshore installation” substitute—

““offshore installation” means—

- (a) an offshore installation within the meaning of section 44(1) of the Petroleum Act 1998<sup>(18)</sup>; or  
 (b) a carbon storage installation within the meaning of section 30(5) of the Energy Act 2008;”;

- (b) after that definition insert—

““relevant waters”, in relation to an offshore installation, has the meaning given in section 44(4) of the Petroleum Act 1998;” and

- (c) after the definition of “relevant waters” insert—

““Scotland” includes Scottish controlled waters;” and

- (d) for the definition of “Scottish controlled waters” substitute—

““Scottish controlled waters” means—

- (a) in relation to an offshore installation which is maintained (or intended to be established) for the purposes of the exploration for, or exploitation of, petroleum (within the meaning of section 1 of the Petroleum Act 1998), any

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<sup>(16)</sup> S.I. 2005/2055.

<sup>(17)</sup> S.I. 2008/2852.

<sup>(18)</sup> 1998 c. 17; section 44 was amended by section 36 of, and paragraph 11 of Schedule 1 to, the Energy Act 2008.

waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974; and

- (b) in relation to any other offshore installation, waters within the seaward limits of the territorial sea adjacent to Scotland.”.

**Commencement Information**

**I10** [Art. 10](#) in force at 1.7.2010, see [art. 1\(1\)](#)

**Fluorinated Greenhouse Gases Regulations 2009**

**11.**—(1) The Fluorinated Greenhouse Gases Regulations 2009(**19**) are amended as follows.

(2) In regulation 3(5)—

(a) after sub-paragraph (b)(i) insert—

“(ia) the exploration of any place in, under or over such waters with a view to the storage of gas;

(ib) the conversion of any place in, under or over such waters for the purpose of storing gas;”;

(b) in sub-paragraph (b)(ii), for “in or under the shore or bed of waters described in sub-paragraph (a)(i) and (ii)” substitute “in, under or over such waters”;

(c) after sub-paragraph (b)(ii) insert—

“(ia) the unloading of gas at any place in, under or over such waters;”;

(d) in sub-paragraph (b)(iii), for “waters described in sub-paragraph (a)(i) and (ii)” substitute “such waters”.

(3) After regulation 3(5) insert—

“(5A) In paragraph (5)—

(a) references (in whatever form) to storing gas include storing gas with a view to its permanent disposal; and

(b) “gas” means—

(i) gas within the meaning of section 2(4) of the Energy Act 2008; or

(ii) carbon dioxide.”.

**Commencement Information**

**I11** [Art. 11](#) in force at 1.7.2010, see [art. 1\(1\)](#)

Date 1st June 2010

*Charles Hendry*  
Minister of State for Energy  
Department of Energy and Climate Change

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## EXPLANATORY NOTE

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

Part 1 of the Energy Act 2008 (c. 32) (“the Act”) introduces two new licensing regimes, respectively for the storage and unloading of combustible gas (Chapter 2) and the permanent storage of carbon dioxide (Chapter 3). The regimes apply to activities within the offshore area comprising both the UK territorial sea, and the area extending beyond the territorial sea that has been designated as a Gas Importation and Storage Zone (“GISZ”) under section 1(5) of that Act: see the Gas Storage and Importation Zone (Designation of Area) Order 2009 (S.I. 2009/223).

This Order is consequential on the introduction of those licensing regimes and modifies provisions of secondary legislation relating to the protection of the environment offshore so that they apply in connection with activities that are required to be licensed under Part 1 of the Act. These are: gas storage or unloading activities; related exploration activities; and the establishment or maintenance of installations for such purposes (“Part 1 installations”).

*Article 2* modifies the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360). As a result, there will be a requirement to include an “environmental statement” (as defined in regulation 3(1) of those Regulations) in an application for the consent of the Secretary of State to a project which has as its main object a storage or unloading activity (as defined in *article 2(9)*), and in respect of related installations, or to the construction of a pipe-lines conveying combustible gas (within the meaning of section 2(4) of the Act) or carbon dioxide. The Secretary of State may direct that such a statement is unnecessary, under regulation 6 of the Regulations, only where the pipe-line is below the specified dimensions, or the installation is not a “structure” within the meaning of regulation 3(1). *Article 2(8)* ensures that the Regulations, as so modified, apply only in respect of the functions of the Secretary of State (and not the functions of the Scottish Ministers under Part 1, Chapter 3, of the Act).

As regards carbon dioxide storage activities, and pipe-lines conveying carbon dioxide, this modification implements the amendments to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment<sup>(20)</sup> that are made by Article 31 of Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide<sup>(21)</sup> (“the CCS Directive”).

*Article 3* modifies the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754). As a result, the requirements of those Regulations also apply in relation to the Secretary of State’s functions under Part 1 of the Act. In particular, the Secretary of State must, before granting a licence under that Part, or a consent pursuant to such a licence, make an appropriate assessment of the implications for a site protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(22)</sup> (“the Habitats Directive”), or Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds<sup>(23)</sup> (“the Wild Birds Directive”). *Article 3(6) and (7)* amends the Regulations to remove a superfluous definition from regulation 2(1), and to replace the references to Council Directive 79/409/EEC and to S.I. 1994/2716 by updated references.

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<sup>(20)</sup> OJ No L 175, 5.7.1985, p. 40, amended by Council Directive 97/11/EC (OJ No L 73, 14.3.1997 p. 5) and Directive 2003/35/EC of the European Parliament and of the Council (OJ No L 156, 25.6.2003, p. 17) and Directive 2009/31/EC of the European Parliament and of the Council (OJ No L 140, 5.6.2009, p. 114).

<sup>(21)</sup> OJ No L 140, 5.6.2009, p. 114.

<sup>(22)</sup> OJ No L 206, 22.7.1992, p. 7, the relevant amending instruments are Council Directive 97/62/EC (OJ No L 305, 8.11.1997, p. 42).

<sup>(23)</sup> OJ No L 20, 26.1.10, p. 7.

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The modifications made by *article 3* implement the Habitats and Wild Birds Directives in respect of the Secretary of State’s functions under Part 1 of the Act.

*Article 4* is consequential on the modifications made by *article 3*: it ensures the matters now falling within the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 do not also fall within the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 ([S.I. 2007/1842](#)).

*Article 5* amends the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 ([S.I. 2001/1091](#)). As a result, the requirement to obtain a permit under those Regulations for the operation of an offshore combustion installation also applies to installations on structures used for or in connection with gas storage or unloading activities, provided that the structure is within the “reserved area” defined by *article 5(c)*. This implements requirements of Directive [2008/1/EC](#) of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (Codified version)([24](#)), as amended by the CCS Directive.

*Article 6* amends the Offshore Chemicals Regulations 2002 ([S.I. 2002/1355](#)). As a result, the controls under those Regulations on the use or discharge of chemicals offshore also apply in relation to activities within Part 1 of the Act that are carried out in the “reserved area” defined by *article 6(1)(d)*. The Regulations implement Decision 2000/2 and Recommendations 2000/4 and 2000/5 of the OSPAR Convention (1992 Convention for the Protection of the Marine Environment of the North-East Atlantic).

*Article 7* amends the Offshore Installations (Emergency Pollution Control) Regulations 2002 ([S.I. 2002/1861](#)), ensuring that the powers of the Secretary of State to prevent or reduce accidental pollution also extend to that resulting from damage to a Part 1 installation.

*Article 8* amends the definition of “offshore installation” in regulation 2 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 ([S.I. 2005/925](#)). The amendment ensures that the provisions of the Regulations applicable to “offshore installations” do not include gas storage and unloading installations within the seaward limits of the territorial sea adjacent to Wales or Scotland. Those Regulations implement Directive [2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community([25](#)).

*Article 9* amends the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 ([S.I. 2005/2055](#)), which require a permit from the Secretary of State for the release of oil into relevant waters from an offshore installation. As a result, those Regulations will also apply in relation to all Part 1 installations, but in such cases relevant waters do not include the waters mentioned in *article 9(3)*.

*Article 10* amends the REACH Enforcement Regulations 2008 ([S.I. 2008/2852](#)), which provide for the enforcement of Regulation ([EC](#)) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)([26](#)). The amendments ensure that those Regulations apply to all Part 1 installations, and that (in relation to the latter) the duty to enforce provisions of the REACH Regulation lies, in relevant cases, with the Scottish Environmental Protection Agency where the installation is within the seaward limits of the Scottish territorial sea.

*Article 11* amends the Fluorinated Greenhouse Gases Regulations 2009 ([S.I. 2009/261](#)) which provide for the enforcement of Regulation ([EC](#)) No 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases([27](#)). As a result, those provisions also extend to all Part 1 installations.

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(24) OJ No L 24, 29.1.2008, p. 8.

(25) OJ No L 275, 25.10.2003, p. 32, last amended by Directive [2009/29/EC](#) of the European Parliament and the Council (OJ No L 140, 5.6.2009, p. 63).

(26) OJ No L 396, 30.12.2006, p. 1, last amended by Commission Regulation No 276/2010 (OJ No L 86, 1.4.2010, p. 7).

(27) OJ No L 161, 14.6.2006, p. 1.

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

An Impact Assessment has not been produced for this instrument. The amendments which are made by this Order are consequential on the introduction of the new licensing regimes by Part 1 of the Energy Act 2008.

A Transposition Note setting out how this Order transposes relevant provisions of European Union legislation is annexed to the Explanatory Memorandum that is available alongside the instrument on the OPSI website at: <http://www.opsi.gov.uk/stat.htm>.

Copies of the Explanatory Memorandum are also available from Ricki Kiff, Energy Development Unit, Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW. Tel: 0300 068 6042; email: [ricki.kiff@decc.gsi.gov.uk](mailto:ricki.kiff@decc.gsi.gov.uk).

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**Changes and effects yet to be applied to :**

- art. 2 omitted by [S.I. 2017/582 reg. 22](#)
- art. 3(3)(b) words inserted by [S.I. 2016/912 reg. 16\(2\)](#)
- art. 3(5) substituted by [S.I. 2017/582 reg. 60](#)
- art. 3(5) words inserted by [S.I. 2020/1497 Sch. 7 para. 4](#)
- art. 3(5) words substituted by [S.I. 2016/1042 reg. 4](#)
- art. 5 revoked by [S.I. 2013/971 reg. 38\(1\)\(d\)](#)
- art. 9(2) words inserted by [S.I. 2011/983 reg. 23\(a\)](#)
- art. 9(3) words inserted by [S.I. 2011/983 reg. 23\(a\)](#)
- art. 9(3) words substituted by [S.I. 2011/983 reg. 23\(b\)](#)
- art. 11 omitted by [S.I. 2015/310 reg. 33\(1\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 8 revoked by [S.I. 2012/3038 reg. 85\(b\)\(vii\)](#)
- art. 9A inserted by [S.I. 2016/912 reg. 16\(3\)](#)