

<b>Title:</b> The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 <b>PIR No:</b> PIR007  <b>Original IA No:</b> 0088  <b>Lead department or agency:</b> HSE  <b>Other departments or agencies:</b> BEIS  <b>Contact for enquiries:</b> <a href="mailto:Beverley.Boyce@hse.gov.uk">Beverley.Boyce@hse.gov.uk</a>	<b>Post Implementation Review</b>
	<b>Date:</b> 29/06/2020
	<b>Type of regulation:</b> EU
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 19/07/2015
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> Green	

**1. What were the policy objectives of the measure?** (Maximum 5 lines)

To fully transpose requirements of the offshore safety Directive in a way that: minimised the adverse impact of any changes by adopting the least burdensome approach; maintained the levels of protection for safety and environment provided by the 2005 safety case regulations; embedded the new requirements so they further enhanced the offshore oil and gas regulatory regime; was open and transparent and ensured consistency with existing regulations.

**2. What evidence has informed the PIR?** (Maximum 5 lines)

A medium-level of evidence was agreed to be most suitable and proportionate to inform this PIR. A multi-method approach using both qualitative and quantitative methods was used and included: in-house management information and data; online surveys with duty-holders, safety representatives and regulators; workshops with three key industry bodies and one with regulators; one-to-one interviews with regulators and duty-holder companies.

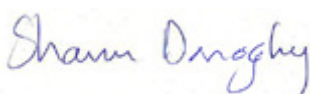
**3. To what extent have the policy objectives been achieved?** (Maximum 5 lines)

The objectives were all achieved. The evidence showed that the implementation approach minimised the adverse impact of changes, maintained levels of protection and embedded the new requirements in a way that ensured consistency with existing regulations. SCR15 was not considered to have increased levels of safety protection specifically, but the safety case regime was considered to have been enhanced by the integration of environmental requirements.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed:



Date: 29/06/2020

## Further information sheet

### **4. What were the original assumptions?(Maximum 5 lines)**

The PIR assessed one-off costs only, as stable ongoing costs have not been reached yet. One-off costs to duty-holders are estimated at around £43m, around £23m less than estimated in the IA. OSDR recovered around £2.6m, around £1m less than anticipated. Costs are lower in part due to fewer installations transitioning to the new regime than anticipated; less complexity than expected in some areas; and economies of scale and ease of staff engagement.

### **5. Were there any unintended consequences? (Maximum 5 lines)**

No specific unintended consequences were identified. The findings from surveys and workshops highlighted issues around the handling and assessment of safety cases, identifying the Corporate Major Accident Prevention Policy (CMAPP) as one area that was more challenging than anticipated. Although these were not strictly unintended consequences, these findings will be addressed through operational processes and guidance.

### **6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)**

No opportunities were identified. SCR15 transposed Directive requirements into the long established and proven domestic regime and the PIR confirmed this is still the most effective way to manage and control offshore major accident hazards. Some new EU requirements involved more prescriptive information which is said to have resulted in larger safety cases. This will be addressed by improved guidance but should be revisited at the next review.

### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)**

The European Commission (EC) has recently reviewed member states' efforts and experiences of implementing the offshore safety Directive. The data collection for this work has already taken place, with the report due to be completed in July 2019. Rather than undertaking additional potentially costly and time-consuming primary research to gather the same EU-wide information, the current PIR will rely on the evidence from the resulting EC report.

<p><b>Title:</b> The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (SI 2015/398)</p> <p><b>PIR No:</b> PIR007</p> <p><b>Original IA No:</b> 0088</p> <p><b>Lead department or agency:</b> HSE</p> <p><b>Other departments or agencies:</b> BEIS</p> <p><b>Contact for enquiries:</b> <a href="mailto:Beverley.Boyce@hse.gov.uk">Beverley.Boyce@hse.gov.uk</a></p>	<b>Post Implementation Review</b>
	<b>Source of intervention:</b> EU
	<b>Type of regulation:</b> Secondary
	<b>Type of review:</b> Statutory Review
	<b>Date of implementation:</b> 01/10/2014

## Introduction

1. This report, published by the Health and Safety Executive (HSE), presents the conclusions of the Post Implementation Review (PIR) of the [Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(SCR15\)](#). These Regulations came into force on 19 July 2015.
2. There is a statutory requirement, under the [Small Business, Enterprise and Employment Act 2015](#) to review domestic regulations at least every five years and publish a report on the review findings. This is the first review of SCR15 and is due by 19 July 2020.
3. SCR15 Regulation 41 sets out the scope of the review and states that the report must in particular:
  - *set out the objectives intended to be achieved by the regulatory system established by these Regulations;*
  - *assess the extent to which those objectives are achieved;*
  - *assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.*
4. SCR15 implemented the majority of requirements relating to the safety and health of workers from [Directive 2013/30/EU on safety of oil and gas operations](#) (offshore safety Directive).
5. SCR15 added the new offshore safety Directive requirements into the existing regime established under the Offshore Installations (Safety Case) Regulations 2005 (SCR05). SCR05 had implemented some aspects of [Directive 92/91/EEC concerning the minimum requirement for improving safety and health protection of workers in the mineral-extracting industries through drilling \(Directive 92/91\)](#) which remain in place under SCR15.

6. The provisions of the European Union (Withdrawal) Act 2018 result in EU-derived legislation becoming retained EU law. Therefore all Directive requirements that were transposed into SCR15 will remain in place at the end of the Implementation Period, scheduled for 31 December 2020. In the future, the UK will be in a position to make its own policy choices for regulating offshore oil and gas operations subject to commitments made in international treaties and conventions.
7. SCR15 Regulation 41 includes a requirement to consider, as far as is reasonable, how the Directives have been implemented in other member states.

### **Impact Assessment and extent of this PIR**

8. SCR15 is one of several regulations implemented to transpose the offshore safety Directive into domestic law. This Directive contained requirements relating to licensing, environmental protection and safety and was a cross-government exercise. The transposition was jointly led by the Department of Energy and Climate Change (now the Department for Business, Energy & Industrial Strategy (BEIS)) and HSE, and the Department for Environment, Food and Rural Affairs and the Department for Transport was also involved. The [Impact Assessment for the implementation of Directive 2013/30/EU \(IA No.0088\)](#) (IA) covered the whole transposition (see below for Northern Ireland) with separate sections for the different government departments and respective regulations.
9. HSE was responsible for transposing the offshore safety Directive's requirements for workers' safety and health into GB legislation and these were implemented in SCR15. This PIR therefore covers SCR15 only. The relevant sections of the IA are Sections 1 to 7 (Background and approach); 8.3 and 8.4 on changes to HSE legislation to implement the Directive; and 9.6 and 9.7 on costs to industry for complying with changes to HSE legislation.
10. The Health and Safety Executive Northern Ireland (HSENI) introduced [Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations \(Northern Ireland\) 2016](#) to transpose health and safety requirements into Northern Ireland (NI) legislation. There were no offshore oil and gas activities taking place in NI waters at the time of implementation but a separate [IA](#) was produced.
11. The [Transposition Note for Implementation of Directive 2013/30/EU](#) provides details on the full GB transposition and the regulations introduced or amended by government departments in order to implement all requirements. PIRs for other regulations covered in the IA will be undertaken by the responsible departments as appropriate and published alongside the relevant legislation.
12. The offshore safety Directive also required member states to establish a competent authority to oversee industry compliance with the offshore oil and gas major hazard

regime. In the UK this requirement was fulfilled by establishing the [Offshore Safety Directive Regulator \(OSDR\)](#). This is a partnership competent authority between the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED), which is part of BEIS and HSE (involving HSENI if any oil and gas operations start up in NI waters). OPRED is responsible for oversight of environmental aspects and HSE for health and safety aspects

13. Depending on the context, this PIR refers to OSDR as the partnership competent authority for the offshore major hazard regime, OPRED as the regulator specifically responsible for environmental aspects and HSE as the regulator specifically responsible for worker's health and safety within that partnership. It is usual practice to refer to OSDR when discussing the regime as a whole but may be more relevant to refer to the individual departments when discussing respective regulations.
14. OSDR was set up administratively, and is governed by a [Memorandum of Understanding and Working Agreements](#). As it is not a legal requirement of SCR15, this PIR does not cover how OSDR was set up or how it functions. The OSDR Senior Oversight Board has agreed to conduct a separate survey to specifically capture Industry views of OSDR and this will take place following the initial findings from this PIR.

### **PIR approach**

15. HSE economists, social scientists, policy officials and legal advisers agreed that a medium level of evidence and resourcing was proportionate for this PIR. This was decided in line with the Government guidance and was agreed by HSE's Regulation Committee.
16. The overall rationale for the proposed approach and handling of the PIR was discussed with officials from the Secretariat of the Regulatory Policy Committee who agreed this was a pragmatic and proportionate approach.

### Proportionality

17. The IA estimated the Equivalent Annual Net Direct Costs to Business (EANDCB) for implementing SCR15 to be £14 million in 2009 prices. Although this is above the minimum threshold of £5 million for low level PIRs, several other factors were considered:
  - It was possible to draw on evidence from various sources such as in-house management information and data, joint industry/OSDR working groups, other government departments (eg OPRED and the Oil and Gas Authority (OGA) and the European Union Offshore Oil and Gas Authorities Group (EUOAG).
  - New requirements were woven into the proven regulatory regime and changes were agreed with the Oil and Gas Industry (Industry) throughout the transposition period so there was nothing controversial or unexpected.

- The regulations did not impact a large number of businesses and did not impact on small or micro businesses. The Industry is a homogenous group, represented by key Industry bodies, and is actively engaged with OSDR.
  - Early in the process, it became clear that more time was needed for these Regulations to embed before the full impact, particularly any ongoing costs, could be evaluated (see section on timing below).
  - SCR15 implemented the requirements of an EU Directive, so there is limited scope for the Government to change regulations until the end of the implementation period, scheduled for 31 December 2020.
18. On balance, taking the EANDCB and factors above into account, it was agreed that a medium level review was the most sensible and proportionate approach.

### Timing

19. SCR15 allowed a three-year transition period from July 2015 to July 2018. OSDR and Industry agreed a staggered transposition programme to allow all safety cases to be submitted and assessed within the tight timescale. The research for the PIR was left as late as possible (July 2019) giving owners and operators of installations between 1 and 4 years' experience of complying with SCR15 depending on when they had transitioned. In early discussion with OSDR and Industry, there was a consensus that it was too soon to effectively evaluate the full impact, particularly the ongoing impact and costs. It was agreed that at least five years' experience of complying with SCR15 would be necessary for owners and operators to provide meaningful data. It was therefore decided that this PIR would focus on the transition to SCR15 and the experiences of Industry in achieving compliance with the new requirements.
20. The Commission has conducted a review of member states' efforts and experiences of implementing the offshore safety Directive. This was required under Article 40 and to be completed by 19 July 2019 but was not available by the time this PIR was published. OSDR issued an official response to the Commission consultation in December 2018 stating that because the transition of all installations was only completed on 19 July 2018, the UK considered it too early to meaningfully evaluate the effectiveness of the offshore safety Directive. The PIR approach is consistent with that statement and the agreed position with Industry.
21. The evidence gathering phase of this PIR took place shortly after the consultation for the Commission review and during negotiations and preparations for the UK withdrawal from the EU. This created some confusion and it was necessary to clarify to Industry that this domestic review was entirely separate to that of the Commission and was not related to EU withdrawal. It was also explained that while the UK continued to be a member of the EU, there would be limitations on any potential action resulting from the review findings. Any future action would also depend on the terms of the final Withdrawal Agreement

(that was yet to be decided at the time). These circumstances further confirmed it was more sensible to focus on the transition to SCR15 and at the same time provide an opportunity for Industry to highlight areas for future consideration. This avoided wasting both Industry and government resources by gathering detailed evidence on issues that could not be addressed in the foreseeable future.

## **Background to SCR15**

22. SCR15 applies to oil and gas operations in 'external waters'; that is the territorial sea adjacent to Great Britain and any designated area within the United Kingdom Continental Shelf (UKCS).
23. The primary aim of these Regulations is to reduce the risks from major accident hazards to the health and safety of the workforce employed on offshore installations or in connected activities.
24. The first 'Offshore Installations (Safety Case) Regulations' were introduced in 1992. They implemented the central recommendation from Lord Cullen's Report on the Public Inquiry into the Piper Alpha disaster of 1988, in which 167 men died as a result of fire and explosion following a hydrocarbon release.
25. The key recommendation was that all owners and operators of offshore installations must prepare a safety case and submit it to the HSE for assessment and acceptance. It is an offence to operate an installation without an accepted safety case.
26. This is a goal setting regime that places responsibility on those who create the risks to demonstrate they have adequately assessed and put into place appropriate measures to control the risks associated with their work activities.
27. The 'Safety Case Regulations' are underpinned by other regulations that set standards for the control of specific major accident hazards. These include the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER), the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 (DCR) as well as the Health and Safety at Work etc. 1974 (the HSW Act) and relevant statutory provisions. The safety case is the core document that brings everything together and demonstrates that the owner or operator of the installation has the ability and means to manage and control major accident hazards effectively.
28. The 1992 Regulations were replaced by the Offshore Installations (Safety Case) Regulations 2005 (SCR05). Following a thorough evaluation of the safety case regime, the regulations were streamlined, removing the requirement for a new safety case every 3 years and introducing the concept of the lifecycle safety case. There was now one safety case for the lifetime of the installation, from the start of operations through to decommissioning and dismantling. This was managed by submitting any significant changes (material changes) to HSE for acceptance before any such changes could be made and conducting a 'thorough review' of the safety case every 5 years. The safety case regime set up under SCR05 was globally recognised as an exemplary regime.

29. The explosion on the Deepwater Horizon drilling rig in the Gulf of Mexico in April 2010 resulted in the death of eleven workers and the loss of 4.9 million barrels of oil to the sea, the largest ever spill in US waters. The UK Government asked Professor Geoffrey Maitland to chair an Independent Review to ensure that findings from the official reports into the incident had been fully considered, and actioned where relevant, by the UK Industry and regulators. The review panel was reassured that the UK regime already incorporated key features that had not been present in the US regime at the time of the incident. The panel concluded that on the whole, the UK's goal setting regime and safety case system was robust and effective at identifying risks and the appropriate control measures to mitigate them. Some recommendations were made and adopted and others were implemented later to transpose the requirements of the offshore safety Directive.
30. The offshore safety Directive was the Commission's response to the Deepwater Horizon incident. The aim was to reduce as far as possible the occurrence of major accidents related to offshore oil and gas operations and to limit their consequences. It contained requirements relating to licensing, safety of workers and environmental protection and aimed for better integration of safety and environmental regulation.
31. The Industry was fully involved in negotiating the offshore safety Directive and in developing the approach for transposing the requirements into domestic law. It was widely acknowledged that the Directive was based on the GB regime established under SCR05. At 'town-hall' style events and during the comprehensive public consultation it was overwhelmingly agreed that SCR05 should be maintained as far as possible with new requirements 'woven' in. It was considered that this would maintain the existing levels of protection for workers' safety and would keep burdens of new regulations to a minimum.
32. SCR15 maintained all requirements from the 2005 regulations and added in new requirements as necessary to transpose the offshore safety Directive. In most cases new requirements were meshed into existing clauses but a few (eg Corporate Major Accident Prevention Policy – CMAPP) were completely new and 'copied out' from the Directive. A table of new requirements is provided at Annex 1 of this report.

### **Transition to SCR15**

33. SCR15 allowed a one year transition period for non-production installations and a three year transition period for production installations. To facilitate the submission, assessment and acceptance of all SCR15-compliant safety cases by the EU deadline, OSDR introduced a staggered transition programme. Industry supported this approach and fully cooperated with the programme despite the challenges it posed. This was particularly difficult for those submitting safety cases very early in the process, in some instances before guidance was published. As a result of these efforts, by OSDR and Industry, 320 installations successfully transitioned to the SCR15 regime by the deadline of 18 July 2018.



## **What were the Policy Objectives for the measure?**

34. The primary aim of SCR15 is to reduce the risks from major accident hazards to the health and safety of the workforce employed on offshore installations or connected activities.
35. SCR15 was specifically introduced to transpose the safety requirements of the offshore safety Directive into domestic legislation. This was achieved by integrating the new Directive requirements into the existing domestic regime established under SCR05.
36. The policy objectives set out in the Impact Assessment were to fully transpose the Directive requirements into domestic legislation by July 2015 in a way that:
  - Minimises the adverse impact of any changes on the oil and gas industry and UK interests by adopting the least burdensome approach;
  - Maintains the current levels of protection for safety (and the environment);
  - Embeds the new requirements so that they further enhance the UK's world class offshore oil and gas regulatory regime; and
  - is open and transparent and ensures consistency with current regulations.

## **What evidence has informed the PIR?**

37. A Research Action Plan was developed in order to identify research questions and suitable sources of evidence. These sources included HSE and OSDR management information and data, HSE inspectors, other government departments, Commission reports, Industry bodies and primary research with key stakeholder groups.
38. Prior to conducting the research, initial fact-finding sessions were held with policy managers from Industry bodies and inspectors to check that methods were appropriate and the questions suitable. Three 'tailored' surveys were subsequently developed for the different groups.
39. OSDR conducted a survey and held workshops with key industry groups to cover both SCR15 and the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) (Amendment) (Regulations 2015 (OPRC 2015)). This allowed OPRED and HSE to share information where there were regulatory overlaps as well as reduce burdens on business. Once the research was complete, the findings were analysed by the individual departments so that separate reports could be produced and published with the relevant legislation.
40. OSDR engaged with duty holders through the key industry bodies: Oil and Gas UK (OGUK); International Association of Drilling Contractors (IADC); and the British Rig Owners Association (BROA). HSE also engaged with worker's representatives from Step Change in Safety (SCiS) and an 'expert panel' of HSE inspectors.
41. The research method took a 'funnel' approach: A quantitative and qualitative survey; workshops to further explore identified themes or issues with all groups; and interviews

with survey respondents to probe and challenge responses where clarification was needed. The research explored the views and experiences, across all groups, of the transition to SCR15 and Industry duty holders were also asked about transitional costs to provide evidence for the cost-benefit analysis.

42. The full Evidence Review is provided at Annex A and the Cost Benefit Analysis at Annex B.

### **To what extent have the policy objectives been achieved?**

#### General overview

43. The evidence demonstrates that SCR15 is still fit for purpose with the vast majority of respondents across all groups considering the regulations to be the most effective way to manage and control major accident hazards on offshore installations.
44. There is also a general consensus that SCR15 allowed the existing exemplary regime established under SCR05 to continue by maintaining the consistency of approach and maintaining the high levels of protection for workers safety. It was considered that SCR15 has not necessarily improved the levels of protection for workers safety but it was emphasized that the addition of environmental information has enhanced the regime.
45. It was largely agreed that HSE did minimise the adverse impact of any changes by adopting the least burdensome implementation approach. Some respondents, however, focussed on the operational implementation of the regulations and their negative experiences of certain aspects of the transition process.

#### Objectives

##### ***To fully transpose the Directive requirements of the offshore safety Directive***

46. The offshore safety Directive requirements were transposed into GB legislation by the deadline set by the Commission. Following Parliamentary scrutiny of the transposing legislation the respective regulations came into force on 19 July 2015. The [Transposition Table for Directive 2013/30/EU](#) provides details of all regulations and measures in place to fully transpose requirements.
47. A notification to the Commission was also made under Article 27(5) of the Directive to confirm that the UK had national measures in place regarding access to knowledge, assets and expert resources, including formal agreements with appropriate agencies or bodies to the provision of specialist expertise to support the Competent Authority in carrying out its regulatory functions under the Directive.

##### ***Minimise the adverse impact of any changes on the oil and gas industry and UK interests by adopting the least burdensome approach;***

48. The Implementation approach was to merge the new health and safety requirements of the offshore safety Directive into the existing Regulations (SCR05).
49. The Commission initially proposed a direct-acting EU regulation to strengthen the EU offshore oil and gas regulatory system. The UK stakeholders (Industry, offshore workforce representatives and ministers) successfully argued for a Directive as a new EU Regulation would have resulted in the need to revoke the existing domestic offshore oil and gas regulations. Industry argued that this would create excessive burdens and a potential reduction in safety standards. The Commission also claimed to be using the UK's offshore regulatory system as a template for the proposals so it seemed most sensible to maintain the existing UK regime and integrate any new requirements into it.
50. During the consultation on the regulatory proposals to implement the offshore safety Directive, Industry agreed this approach was least burdensome. Throughout the implementation process Industry representatives were involved, at workshops and town-hall style meetings, and some modifications were made to address concerns.
51. The PIR survey responses were largely positive. When followed up at workshops it was agreed that this had been the least burdensome approach, especially compared with the alternative of completely new direct acting EU regulations. However, the research did highlight issues relating to the operational implementation of SCR15 and the safety case assessment process during the transition period. These transitional issues are addressed in paragraphs 65 to 68

***Maintain current levels of protection for workers safety (and the environment)***

52. The original objective in the IA covered all new regulations being implemented to transpose Directive requirements so referred to protection of both worker's safety and the environment. For this PIR, the survey question was restricted to protection of workers' safety in order to measure any specific impact.
53. All the SCR05 requirements were retained in SCR15 so it was a reasonable assumption that the level of protection for worker's safety would at least have been maintained. All survey groups agreed existing levels of safety protection have been maintained and there hadn't been a negative impact. This was reinforced during the follow-up workshops.

***Embed the requirements so that they further enhance the UK's world class offshore oil and gas regulatory regime***

54. There was a mixed response on this subject; comments from those who disagreed centred on the fact that SCR05 was already considered to be a robust regime and the new requirements haven't made much difference. At the workshops however, the majority agreed that adding in environmental elements has been a benefit and has improved the regime. It was also observed that the introduction of new regulations has refreshed the focus on the safety case regime and removed complacency.

***Ensures consistency with current regulations (SCR05)***

55. All the requirements and the regulatory system established under SCR05 were retained in SCR15. The lifecycle approach to safety cases, the documents to be submitted, and the timescales for submissions all remained the same. The regulations were re-ordered to facilitate the integration of new requirements and it would have been necessary for industry and inspectors to familiarise themselves with the new layout. There was general agreement in the survey and workshops that SCR15 has maintained the consistency of the previous regulations.

***Is the Safety Case system established under SCR15 the most effective way to manage and control major accident hazards on offshore installations?***

56. It was widely agreed that the system or regime established under SCR15, building on the regime established by earlier regulations, continues to be the most effective way to regulate major hazards on offshore installations: 95% of Industry, 86% of Workers' representatives and 93% of HSE Inspectors all agreed or strongly agreed with this statement.

**Feedback on new requirements and regime established under SCR15**

57. The survey and workshops invited open feedback on all new requirements in SCR15 and on the safety case regime generally. A table of new requirements is provided at the end of this report.

58. There was a view, shared across all groups that not much has changed under SCR15: there were no obvious benefits but equally no obvious disadvantages. There were a few areas, however, that were commonly identified as benefits or disadvantages.

Benefits

59. **Environmental information:** The better integration of safety and environment is considered to be a benefit of the new requirements. This includes the introduction of Safety and Environmental Critical Elements (SECEs) and greater visibility of environmental protection.

60. **Independent Verification:** Changes to the Independent Verification and Well Examination Schemes are considered to be an improvement, resulting in a more robust and meaningful process. This was a strong view amongst HSE inspectors but also shared by some Industry respondents.

61. **Confidential Reporting of Safety Concerns:** Replacing previous voluntary arrangements with a specific regulation on confidential reporting is considered to be a benefit which has strengthened the position for workers who wish to raise concerns. There is still a perception however that 'whistle-blowers' can be found out and can face discrimination. HSE is currently working with Industry groups and trade unions to develop a more consistent approach to reporting concerns, workforce engagement and culture setting.

## Disadvantages

62. **CMAPP:** The Corporate Major Accident Prevention Policy is a completely new requirement, copied out from the offshore safety Directive. Industry questioned its value and purpose and considers it to be duplication of information already provided in the Safety and Environmental Management System. It is not considered to be relevant for installations operating in UK waters and is widely believed to have been aimed at member states that did not have robust regulatory regimes in place. On top of this, during the transitional period, there was confusion over the content and level of detail required and inconsistencies in the approach taken by HSE inspectors (See paragraph 67).
63. Conversely, some HSE inspectors saw the value of companies having to demonstrate corporate level commitment in the CMAPP. There is also a requirement to demonstrate how the company builds and maintains a strong safety culture, which includes the protection of whistle blowers. This was identified by inspectors and worker's representatives as a positive measure that could be strengthened to support confidential reporting.
64. **Increased size of safety cases:** As a result of introducing new requirements in SCR15, safety cases are considered to be getting longer with duplication of information and more detail included in descriptions. Due to their sheer size and complexity, safety cases are losing their effectiveness and are not useful for sharing with the workforce.
65. **Reporting Requirements:** Reports required under EU Implementing Regulation No 1112/2014 (Implementing Regulation) are outside the scope of this review but are mentioned in this PIR because they are required under the offshore safety Directive, are reported in connection with SCR15 and were consistently raised as a problem in the surveys and workshops. The Commission is reviewing the offshore safety Directive and has highlighted the Implementing Regulation as an area for potential improvement. Industry appreciates the single reporting tool developed by OSD (Reporting of Oil and Gas Incidents – ROGI) to try and simplify the reporting process but the EU requirements are still complex.

## Transitional Issues

66. Certain issues were raised in the surveys that were technically outside the scope of the review, because they were not directly concerned with regulatory requirements (apart from the CMAPP) but related to the handling of safety cases and assessment process during the transition.
67. 'Teething troubles' are to be expected to a certain extent during transition to new regulations, especially with such complex regulations and the sheer number of safety cases to be submitted and assessed within the very tight timeframe. However, recognising the opportunity to learn lessons, these 'transitional issues' were further explored at workshops, allowing everyone to share their experiences and discuss problems they had encountered. The information from the workshops was reported back to OSD so it could feed directly into departmental action plans for improving operational processes and guidance.

68. The main issues raised were:

- Inconsistencies and differences of opinion between inspectors and specialists when assessing safety cases and in the feedback provided, particularly in the first part of transition;
- 'Non- acceptance Issues' were raised for non-major hazard issues during safety case assessments, which was a change from previous practice and became more common during transition;
- OSDR was slow to share good practice and feedback (most notably for the CMAPP) and guidance was not available early on, particularly for non-production installations that transitioned first.

69. OSDR shares information and guidance by attending industry working groups where inspectors are involved in the development of guidance and standards. Before the PIR began, OSDR were already aware of some of the transitional issues from discussions at these working groups. To address problems with the CMAPP, for example, HSE had already conducted an internal review of assessment processes. Following further Industry feedback and findings from the PIR, HSE set up a multi-disciplinary Safety Case Assessment Action Group to take on board lessons learned and develop action plans to improved guidance and processes.

#### Guidance

70. HSE published guidance to support SCR15 [Guidance on Regulations \(SCR15\)](#). Industry found this guidance to be 'helpful' or 'somewhat helpful' but there were no suggestions on how to improve it. At workshops, it was mentioned that the guidance should have been published earlier, and there were also comments on the quality of the operational guidance and templates. Plans are in place for OSDR to work with Industry to improve operational guidance generally (as mentioned in the section above).

#### Capacity of operators

71. SCR15 includes a new requirement relating to the capacity of operators to meet their legal requirements. The Competent Authority (OSDR) must formally notify the Licensing Authority (OGA) if they determine that an operator no longer has the capacity to meet the requirements to safely conduct operations.

72. This Regulation forms a mechanism in conjunction with the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (OPLR). Once OGA has been informed that the operator no longer has capacity to fulfil duties, under OPLR the OGA must terminate the appointment of the operator.

73. There has been one occasion where this Regulation has been used to terminate the appointment of an operator, which demonstrates that the interface is working in practice. It makes the exchange of information between regulators a legal requirement and ensures that formal action is taken where there is the potential for a serious incident arising from the practices of unsafe operators.

74. Discussions with the OGA confirmed agreement that this has proved to be an effective mechanism which benefits both regulators. The report on the findings from the PIR of OPLR will be published by BEIS.

### **What were the original assumptions?**

75. The original IA estimated both one-off and ongoing costs from the transition of SCR15. The consensus of OSDR and industry was that the phased transition of SCR15 and the five-year thorough review cycle meant it was too early to evaluate ongoing costs, which have not yet reached a steady state. As such, this PIR has focused on one-off costs and the next PIR will evaluate ongoing costs.

76. The IA estimated that 386 installations would transition to SCR15, while the actual figure was 320. The discrepancy is due to oil and gas market forces that the IA did not anticipate.

77. The IA estimated that the one-off compliance cost for an average installation to transition from SCR05 to SCR15 was between around £72k and £270k, with a best estimate of around £170k. This gave a total estimate of between around £19m and £71m, with a best estimate of around £170m.

78. Evidence gathered for the PIR indicated that duty holders actually encountered lower costs than anticipated. This was due to a variety of factors including less complexity than expected, economies of scale, ease of senior management engagement and continuous staff involvement. Actual one-off transition costs are estimated to have been between around £54k and £210k per installation, with a best estimate of around £130k. This gives a total of between around £17m and £68m, with a best estimate of around £43m. This means, based on best estimates, that the transition to SCR15 was around £23m less costly than anticipated in terms of compliance costs.

79. The IA also estimated that OSDR would charge each installation around £9.4k. OSDR data indicates that the actual amount charged was about £8.1k per installation. This means that actual total charges at around £2.6m were around £1.0m lower than the IA anticipated.

### **Where there any unintended consequences?**

80. The PIR has not identified any direct examples of unintended consequences relating to SCR15. There were several issues highlighted that related to areas where there had been a greater impact than expected during the transition period, but these were not strictly unintended consequences. These issues are addressed at paragraphs 66 to 69.

### **Has the evidence identified any opportunities for reducing the burden on business?**

81. The PIR has not identified any opportunities for reducing burdens on the offshore oil and gas industry at this time.

82. SCR15 implemented the new Directive requirements into the proven regime that had been established in response to Lord Cullen's recommendations. This regime ensures that major accident hazards that could give rise to catastrophic loss of life are effectively managed and controlled. The PIR provided strong evidence that SCR15 is still the most effective way to achieve this.
83. Given the significant financial commitment required in the offshore oil and gas sector, effective and well understood safety regulation is often cited as a pre-requisite for investment. GB's regulatory regime in this sector is regarded as world leading and this helps to provide investors with the certainty they seek.
84. The PIR sought to highlight any areas of concern with the new requirements introduced to transpose the offshore safety Directive. No significant issues were identified but the CMAPP was considered to be a new requirement that did not add any value. There were also concerns about the increasing amount of information required in safety case descriptions and that the process had become somewhat more bureaucratic.
85. These issues will be addressed by the Safety Case Assessment Action Group (see paragraph 69) and included in the plans to improve guidance and operational processes. These issues will also be revisited in the next PIR when the ongoing impact of SCR15 will be reviewed.

**For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

86. Regulation 41 of SCR15 includes a requirement to consider, as far as is reasonable, how the Directives have been implemented in other member states.
87. The European Union (Withdrawal) Act 2018 revokes this provision and the requirement for comparison with other Member States will fall away when the UK has left the EU. However, the UK must continue to comply with this requirement, so far as is reasonable, until that time.

Directive 2013/30/EU (offshore safety Directive)

88. The European Commission (Commission) are undertaking a review of the offshore safety Directive as required under Article 40. The review will take account of the efforts and experiences of competent authorities and assess their experience of implementing the Directive. The review had to be completed by July 2019 but was not yet available by the time this PIR was published.
89. [The research undertaken for the Commission review](#) included a roadmap, comprehensive consultation with member states and workshops for members of the European Union Offshore Oil and Gas Authorities Group [EUOAG](#). This is a forum for the exchange of information and expertise on all issues relating to major accident prevention



and response in offshore oil and gas operations. Regulators responsible for offshore oil and gas are formal members of this forum and officials from OSD R attend meetings.

90. It was agreed that the most reasonable approach is for this PIR is to refer directly to that report. This should provide detail, including an evaluation, on how the Directive has been implemented in different member states. This avoids duplication of effort and is a more proportionate use of resources.

#### Directive 92/91/EEC (Mineral extracting industries through drilling) (92/91)

91. [An independent study of Directive 92/91/EEC](#) was completed in February 2013. The Commission wanted to analyse how 92/91 had been transposed and implemented by member states and evaluate the effectiveness of national legislation. At this time there was heightened awareness of the risks associated with oil and gas exploration following the Deepwater Horizon incident in the Gulf of Mexico in 2010.
92. The review found that the legislation in various member states had evolved and industry had improved practices. In most cases member states' regulatory systems now went beyond the original 92/91 requirements. 92/91 had adopted a goal-setting approach and included a requirement for advances in technology to be taken into account so it was designed to ensure minimum standards evolved. Nevertheless, the review found the requirements for the control of hazards during drilling activities and well control to be limited.
93. At the time of the study in 2013, the Commission was already proposing new legislation to specifically address the risks associated with 'major accidents' in the offshore oil and gas industry, which also aimed to address the limitations identified in 92/91. The Commission ultimately introduced the offshore safety Directive rather than direct acting legislation and all member states were required to adopt the new requirements to strengthen the regulatory regime.

#### **PIR Recommendations**

94. The collective evidence supporting the PIR shows that SCR15 achieved its objectives and continues to be the most appropriate way to manage and control the major accident hazards arising from work activities on offshore oil and gas installations. The PIR recommendation is to keep SCR15 in place.
95. The review did not identify any opportunities for removing requirements or reducing regulatory burdens but identified areas where improvements to guidance and safety case assessment processes could benefit duty holders. These recommendations will be taken forward by the OSD R Safety Case Assessment Action Group.
96. This review focussed on the transition to SCR15 on the basis that it was too soon to effectively evaluate the ongoing impact of the regulations and there were limited options for changing regulations that transpose EU requirements. The next review should revisit the areas highlighted in this report.

## SCR15 Summary of New Requirements

### Key Changes

Regulation	New requirements
<p>7</p> <p>Corporate Major Accident Prevention Policy (CMAPP)</p>	<p>New requirement (Directive Copy Out)</p> <p>Written policy that should provide a high level overview of how the management and control of major accident hazards are implemented throughout the organisation. It should demonstrate how strong informed leadership influences the safety and environmental culture at operational level and demonstrate senior management commitment to achieving a high standard of safety and environmental management.</p>
<p>8</p> <p>Safety and Environmental Management System (SEMS)</p>	<p>Already had a legal requirement in SCR05 for a Safety Management System and a voluntary arrangement under OSPAR for an Environmental Management System. At consultation industry opted for a single requirement and this was placed in SCR15.</p> <p>SCR15 changes:</p> <ul style="list-style-type: none"> <li>• Must have an integrated SEMS or describe how separate systems are integrated</li> <li>• Description of SEMS to be submitted in safety case</li> </ul>
<p>2(10) and 30(14)</p> <p>Internal Emergency Response Arrangements</p>	<p>Previously had emergency response plans under the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER) and Oil Pollution Emergency Plan (OPEP) produced under the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (OPRC).</p> <p>Industry agreed the best option was to maintain existing requirements under PFEER and OPRC (rather than carve out whole requirements and place them in SCR15) and then provide a description of these</p>

	<p>arrangements in the Safety Case. There were some additional requirements but industry said they were already carrying out these tasks in practice.</p> <p>SCR15 changes:</p> <ul style="list-style-type: none"> <li>• Some new requirements added to PFEER (arrangements for co-ordinating emergency response (ER); instruction on how to coordinate ER with persons not on installation; Initiation and direction of ER and liaison; arrangements for early warning of major incidents)</li> <li>• Description of Internal Emergency Response Arrangements (which identifies OPEP and date submitted) in safety case</li> <li>• Inventory of ER equipment</li> </ul>
<p>9, 10, 13</p> <p>Independent Verification</p>	<p>There were already requirements for Independent Verification in SCR05 and new requirements were added into these. In particular Safety and Critical Elements (SCEs) were amended to include environmental elements and became Safety and Environmental Critical Elements (SECEs). In practice both industry and inspectors struggled to identify any environmental critical elements that were not already safety critical elements.</p> <p>SCR15 changes:</p> <ul style="list-style-type: none"> <li>• Verification schemes expanded to include SECEs</li> <li>• Verifier to establish new criteria for SECEs in verification scheme</li> <li>• Description of scheme in safety case</li> <li>• Simple statement in safety case to confirm verifiers comments have been considered and addressed</li> </ul>

<p>21 and Schedule 9</p> <p>Well Notifications</p>	<p>There were already requirements for well notifications in SCR05 and new requirements were added into these.</p> <p>SCR15 changes:</p> <ul style="list-style-type: none"> <li>• Additional information required in schedule 9.</li> <li>• Information relevant to the prevention of a major accident (PFEER and Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 (MAR))</li> <li>• Well examiners report and statement on actions taken to address findings</li> <li>• Material change to include well examiners report</li> <li>• First well notification to include CMAPP and SEMS (where not already submitted in relevant installation safety case)</li> </ul>
<p><b>Other Changes</b></p>	
<p>Regulation</p>	<p>New requirements</p>
<p>15 and 22</p> <p>Design and Relocation notification and Combined Operations Notification</p>	<p>Minor additional environmental information required in schedules</p>
<p>29</p> <p>Duty to control risk</p>	<p>New requirement</p> <p>Duty holder must inform HSE (by phone) where they have taken measures to reduce the risk from an activity that could have potentially led to a major accident. It may not turn out to be a major hazard risk (once investigated) but it was considered significant enough to take immediate action at the time.</p>

<p>33</p> <p>Notification of Major Accident</p>	<p>New requirement</p> <p>There was already a requirement in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) for duty holders to report major accidents. but this is now an explicit requirement of SCR15.</p>
<p>31</p> <p>Communication of national arrangements for confidential reporting of safety concerns etc</p>	<p>New requirement</p> <p>There were already arrangements in place for workers to confidentially report concerns to HSE via telephone. This is now a legal requirement under SCR15 for the duty holder to make sure the arrangements for confidential reporting of safety concerns are communicated to all persons who may be affected.</p>
<p>32</p> <p>Standards and Guidance on best practice</p>	<p>New requirement</p> <p>Duty holders were already involved in producing standards and guidance via industry and regulatory forums. SCR15 made it a legal requirement for industry to co-operate with OSDR in developing guidance and participating in discussions to share knowledge and experience.</p>
<p>34</p> <p>Information on operations conducted outside of the European Union.</p>	<p>New requirement</p> <p>OSDR can request a UK registered company to report the circumstances of any major accident in which it has been involved outside the EU.</p> <p>This regulation only applies to UK –registered companies.</p>

Capacity of operator to meet requirements

New requirement

The Competent Authority (OSDR) must formally notify the Licensing Authority (Oil and Gas Authority – OGA) if they determine that an operator no longer has the capacity to meet the requirements to conduct operations.

This regulation forms a mechanism in conjunction with the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (OPLR). Once OGA has been informed that the operator no longer has capacity to fulfil duties, under OPLR the OGA must terminate the appointment of the operator.