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STATUTORY INSTRUMENTS

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**2015 No. 398**

**The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015**

**Enforcement** **U.K.**

**36.**—(1) To the extent they would not otherwise do so, the following provisions of the 1974 Act apply to these Regulations as if they were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of the 1974 Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Act—

- (a) sections 16 to 22 (approval of codes of practice and enforcement);
- (b) section 23 (provisions supplementary to sections 21 and 22) and section 24 (appeal against improvement or prohibition notice);
- (c) section 26 (power to indemnify inspectors); and
- (d) subject to regulation 40, sections 33 to 42 (provisions as to offences).

(2) A failure to discharge a duty placed on the competent authority by these Regulations is not an offence and section 33(1)(c) of the 1974 Act has effect accordingly.

(3) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) applies in relation to enforcement of these Regulations as if the reference to the Executive included a reference to the Secretary of State, but nothing in this paragraph has the effect of making the Secretary of State an enforcing authority for the purposes of the 1974 Act.

(4) Without prejudice to the provisions of the 1974 Act referred to in paragraph (1)—

- (a) section 256 of the 1995 Act (appointment of inspectors and surveyors) has effect as if the reference in subsection (1)(b) of that section to any requirements, restrictions or prohibitions imposed by or under that Act included a reference to any requirements, restrictions or prohibitions imposed by or under these Regulations or the PFEER Regulations;
- (b) section 259 of the 1995 Act (powers of inspectors in relation to premises and ships) has effect in relation to a Departmental inspector—
  - (i) as if the reference in subsection (1)(a) of that section to any premises in the United Kingdom included a reference to any premises outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 4(1) and (2), 5 and 6 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013 (other than premises which come within subsection (1)(b) of section 259 of the 1995 Act);
  - (ii) as if the reference to any instrument made under the 1995 Act in subsection (2)(h)(iii) of that section included a reference to these Regulations and the PFEER Regulations; and
  - (iii) as if the reference in subsection (2)(j)(i) of that section to any books or documents which by virtue of any provision of the 1995 Act are required to be kept included

a reference to any books or documents which by virtue of any provision of these Regulations are required to be kept.

(5) Paragraph (4)(b)(i) has effect only in relation to the requirements, restrictions, prohibitions and functions imposed or conferred by or under these Regulations or the PFEER Regulations.

(6) Without prejudice to the functions of an inspector appointed under section 19 of the 1974 Act, a Departmental inspector may, even though that person is not an inspector appointed under that section, serve—

- (a) an improvement notice under section 21 of that Act in respect of a contravention of these Regulations or the PFEER Regulations; or
- (b) a prohibition notice under section 22 of that Act, as modified in relation to such an inspector in accordance with paragraph (7),

and the reference to an inspector in section 23(4) and (5) of that Act has effect accordingly.

(7) Section 22 of the 1974 Act applies in relation to a Departmental inspector as if—

- (a) any reference to the relevant statutory provisions were a reference to these Regulations or the PFEER regulations; and
- (b) in subsection (2) the reference to a risk of serious personal injury were a reference to the risk of serious pollution from an installation in external waters.

(8) The following provisions of the 1974 Act apply to the EU Reporting Regulation as if it were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of that Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if the EU Reporting Regulation were health and safety regulations for the purposes of that Act—

- (a) sections 18 to 21 (enforcement),
- (b) section 23 (provisions supplementary to sections 21 and 22) and 24 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) section 26 (power to indemnify inspectors); and
- (d) sections 33 to 42 (provisions as to offences).

(9) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) applies in relation to enforcement of the EU Reporting Regulation and as if the reference in that section to the Executive included a reference to the Secretary of State, but nothing in this paragraph has the effect of making the Secretary of State an enforcing authority for the purposes of the 1974 Act.

(10) Without prejudice to the provisions of the 1974 Act referred to in paragraph (8) section 256 of the 1995 Act (appointment of inspectors and surveyors) has effect as if the reference in subsection (1) (b) of that section to any requirements, restrictions or prohibitions imposed by or under that Act included a reference to any requirements, restrictions or prohibitions imposed by or under the EU Reporting Regulation.

(11) Without prejudice to the functions of an inspector appointed under section 19 of the 1974 Act, a Departmental inspector may, even though that person is not an inspector appointed under that section, serve an improvement notice under section 21 of that Act in respect of a contravention of the EU Reporting Regulation and the reference to an inspector in section 23(4) and (5) of that Act has effect accordingly;

(12) In regulation 40 the reference to a requirement or prohibition imposed by or under these Regulations includes a reference to a requirement imposed by the EU Reporting Regulation.

(13) A failure to discharge a duty placed on the competent authority or the member State by the EU Reporting Regulation is not an offence and section 33(1)(c) of the 1974 Act has effect accordingly.

(14) In this regulation—

“Departmental inspector” has the meaning given in section 256(9)(a) of the 1995 Act; and

“EU Reporting Regulation” means Commission Implementing Regulation (EU) No 1112/2014 of 13 October 2014 determining a common format for sharing of information on major hazard indicators by the operators and owners of offshore oil and gas installations and a common format for the publication of the information on major hazard indicators by the Member States

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**Marginal Citations**

**M1** OJ No. L 302, 22.10.14, p. 1.

**Changes to legislation:**

There are currently no known outstanding effects for the The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015, Section 36.