
STATUTORY INSTRUMENTS

2017 No. 582

The Offshore Petroleum Production and Pipelines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017

PART 1

Amendment of the 1999 Offshore Regulations

Introduction

3. The 1999 Offshore Regulations are amended in accordance with this Part.

Amendment of regulation 3 (interpretation)

4. In regulation 3(1)—
- (a) after the definition of “the 1998 Act”, insert—
 - ““the 2008 Act” means the Energy Act 2008(1);”;
 - (b) for the definition of “appropriate particulars”, substitute—
 - ““appropriate particulars” means the name and address of the undertaker and a description of the relevant project which—
 - (a) includes—
 - (i) the physical characteristics of the whole project, and where relevant, of demolition works;
 - (ii) the location of the project with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the project;
 - (iii) the aspects of the environment likely to be significantly affected by the project;
 - (iv) any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—
 - (aa) the expected residues and emissions and the production of waste, where relevant; and
 - (bb) the use of natural resources, in particular soil, land, water and biodiversity;
 - (b) takes into account the matters set out in Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment) and, where relevant, the results of other assessments of

(1) [2008 c.32](#). Section 4 and section 18 were amended by the Energy Act 2016 ([c. 20](#)) section 2, Schedule 1, Part 1, paragraphs 41, 42 and 53, and section 18 was amended by [SI 2011/2453](#), [SI 2016/920](#) and by [SSI 2011/224](#).

- the effects on the environment carried out pursuant to EU legislation other than the Directive; and
- (c) may also include any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;
- (c) after the definition of “business day”, insert—
- ““combustible gas” means gas within the meaning of section 2(4) of the 2008 Act;”;
- (d) in the definition of “consent”—
- (i) at the end of paragraph (b)(iv), omit “or”;
- (ii) in paragraph (b)(v), after “petroleum”, insert “carbon dioxide or combustible gas”;
- (iii) after paragraph (b)(v), insert—
- “or
- (vi) any consent required by or under a licence to the carrying on of a storage or unloading activity;”;
- (iv) in paragraph (c), after “petroleum”, insert “, carbon dioxide or combustible gas”;
- (v) for paragraph (d), substitute—
- “(d) in relation to any relevant project comprising the use of a mobile installation for—
- (i) the extraction of petroleum where the principle purpose of the extraction is the testing of any well; or
- (ii) the purpose of carrying out test injections of carbon dioxide or combustible gas ,
- any consent required under regulation 4(4)(b) or (c);”;
- (e) for the definition of “development”, substitute—
- ““development” means—
- (a) any project which has as its main object the getting of petroleum as opposed to the establishment of its existence, the appraisal of its quantity, characteristics or quality or the characteristics or extent of any reservoir in which it occurs; or
- (b) any project which has as its main object a storage or unloading activity;”;
- (f) for the definition of “the Directive”, substitute—
- ““the Directive” means [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment;”;
- (g) for the definition of “environmental statement”, substitute—
- ““environmental impact assessment” shall be interpreted in accordance with regulation 3A;
- “environmental statement” has the meaning set out in regulation 3B (environmental statement);”;
- (h) in the definition of “gas”, for “definition of petroleum below”, substitute “definitions of “combustible gas” and “petroleum””;
- (i) for the definition of “licence”, substitute—
- ““licence” means—

- (a) a licence granted or having effect as if granted under section 3 of the 1998 Act (licences to search and bore for and get petroleum); or
- (b) a licence granted under section 4 or section 18 of the 2008 Act; and “licensee” shall be construed accordingly.”;
- (j) after the definition of “petroleum”, insert—
 - ““public website” means a website accessible to the public where the public can view and download information placed upon it;”;
- (k) in the definition of “relevant project”—
 - (i) in paragraph (c), after “petroleum” insert “, carbon dioxide or combustible gas”; and
 - (ii) at the end of paragraph (c), omit “or” and after paragraph (d) insert—
 - “; or
 - (e) the use of a mobile installation for the purposes of carrying out test injections of carbon dioxide or combustible gas;”;
- (l) after the definition of “relevant requirement”, insert—
 - ““storage or unloading activity” means any activity within—
 - (a) section 2(3)(a) to (d) of the 2008 Act; or
 - (b) section 17(2)(a) or (b) of the 2008 Act;”;
- (m) for the definition of “structure”, substitute—
 - ““structure” means any structure which is intended to be permanent and is not designed to be moved from place to place without major dismantling and is used for, or, as the case may be, to be used for the purpose of—
 - (a) getting petroleum or conveying petroleum to land (including any structure for the storage of petroleum) but is not to be used only for searching for petroleum; or
 - (b) a storage or unloading activity, or for conveying carbon dioxide or combustible gas to or from land;”;
- (n) for the definition of “well”, substitute—
 - ““well” means any well or borehole drilled for the purposes of, or in connection with—
 - (a) the getting of petroleum, the exploration for petroleum or the establishment of the existence of, or appraisal of, the quantity, characteristics or quality of, petroleum in a particular location; or
 - (b) activities within section 2(3) or section 17(2) of the 2008 Act,

but does not include any well drilled to a depth of 350 metres or less below the surface of the seabed for the purpose of obtaining geological information about strata or any drilling operation, the main purpose of which is the testing of the stability of the seabed. .”.

New regulations 3A and 3B

5. After regulation 3, insert—

“Environmental impact assessment

3A.—(1) In these Regulations, “environmental impact assessment” means the process consisting of—

- (a) the preparation and submission of an environmental statement as part of an application for consent referred to in regulation 5(1) or to the Secretary of State under regulation 11(1) or (4);
- (b) the carrying out of consultation in compliance with regulation 9 or regulation 11 and, where relevant, regulation 12;
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information provided in accordance with regulation 10 and any representations or opinions received as the result of the consultation referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 5A(1) or regulation 11(8A); and
- (e) the integration of that conclusion into the decision as to whether agreement to the grant of consent is to be given as required by regulation 5A(1)(c) or as to whether agreement is to be given in respect of the matters referred to in regulation 11(8A) (c).

(2) In carrying out the steps described in paragraph (1)(a), the undertaker shall identify, describe and assess in an appropriate manner—

- (a) the direct and indirect significant effects of the relevant project on the following factors—
 - (i) population and human health;
 - (ii) biodiversity, with particular attention to species and habitats protected under Council [Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽²⁾ and [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽³⁾;
 - (iii) land, soil, water, air and climate;
 - (iv) material assets, cultural heritage and the landscape; and
 - (v) the interaction between the factors referred to in paragraphs (i) to (iv); and
- (b) the operational effects of the relevant project (where the project will have operational effects) and the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters that are relevant to the project concerned.

Environmental statement

3B.—(1) In these Regulations, an “environmental statement” means a report prepared as part of the environmental impact assessment in respect of a relevant project which includes—

- (a) a description of the project comprising information on the site, design, size and other relevant features of the project;
- (b) a description of the likely significant effects of the project on the environment;

(2) OJ L 206 22.7.92 p.7.

(3) OJ L 20 26.1.2010. p.7.

- (c) a description of the features of the project or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the undertaker which are relevant to the project and its specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information set out in Schedule 2 (information for the environmental statement) relevant to the specific characteristics of the relevant project or type of project and to the environmental features likely to be affected.

(2) In preparing the environmental statement, the undertaker shall also take into account any available results of other relevant assessments under EU or national legislation.

(3) Where the Secretary of State has given an opinion under regulation 7 on the matters to be included in the environmental statement, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

(4) In order to ensure the completeness of the environmental statement, the undertaker shall ensure that—

- (a) the statement is prepared by competent experts; and
- (b) the statement is accompanied by a statement from the undertaker outlining the relevant expertise or qualifications of such experts.”.

Amendment of regulation 4 (requirement as to contents of licences etc.)

6. In regulation 4—

- (a) at the end of paragraph (2)(b), omit “or”;
- (b) at the end of paragraph (2)(c), insert—
 - “; or
 - (d) the carrying on of a storage or unloading activity.”;
- (c) at the end of paragraph (4)(a), omit “or”; and
- (d) at the end of paragraph (4)(b), insert—
 - “; or
 - (c) use any mobile installation for the purpose of carrying out test injections of carbon dioxide or combustible gas.”.

Amendment of regulation 5 (agreement of Secretary of State in respect of relevant projects)

7. In regulation 5—

- (a) after paragraph (1), insert—
 - “(1A) Where in relation to a relevant project there is, in addition to a requirement for an environmental statement to be prepared in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Secretary of State shall where appropriate ensure that the preparation of that assessment and the environmental statement are coordinated.”;

- (b) for paragraph (2A), substitute—
- “(2A) This paragraph applies to any application for a renewal of a consent to—
- (a) the getting of petroleum in relation to a relevant project (other than as a by-product of the drilling or testing of a well); or
 - (b) the carrying on of a storage or unloading activity,
- where the Secretary of State has decided that, having regard to the matters set out in Schedule 1, the operation in respect of which the renewal is sought would not be likely to have a significant effect on the environment and that accordingly no environmental statement need be prepared in respect of that project.”;
- (c) for paragraph (4), substitute—
- “(4) Where an application for consent in respect of a relevant project is accompanied by an environmental statement, the Secretary of State shall not make the decision referred to in regulation 5A(1)(c) in respect of that project unless the Secretary of State is satisfied that the requirements of regulations 9 and 10 have been substantially met, and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”;
- (d) in paragraph (5)—
- (i) for “member State”, wherever it occurs, substitute “EEA state”;
 - (ii) for “shall not agree to the grant of consent”, substitute “shall not make the decision referred to in regulation 5A(1)(c)”;
 - (iii) in sub-paragraph (c)(i), after “responsibilities”, insert “or local or regional competence”; and
 - (iv) at the end of sub-paragraph (d), insert “and, in respect of those members of the public, the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;
- (e) for paragraph (6), substitute—
- “(6) Where the Secretary of State has made a direction under regulation 6(2) (provision as to directions that no further environmental statements need be prepared where one already prepared) the Secretary of State shall not make the decision referred to in regulation 5A(1)(c) in respect of that project unless the Secretary of State is satisfied that the requirements of regulations 9 and 10 have been substantially met, and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”;
- (f) omit paragraphs (8) to (9);
- (g) for paragraph (10)(b), substitute—
- “(b) on a public website.”; and
- (h) after paragraph (10), insert—
- “(10A) In this regulation, a “Habitats Regulations Assessment” means an assessment under either regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001(4), or regulation 25 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(5).”.

(4) S.I. 2001/1754; regulation 5 was amended by S.I. 2007/77, S.I. 2007/1842 and S.I. 2016/912.

(5) S.I. 2007/1842; regulation 25 was amended by S.S.I. 2007/485, S.I. 2010/490, S.I. 2010/1513, S.I. 2013/755 and S.I. 2016/912.

New regulation 5A (decision as to whether agreement is to be given)

8. After regulation 5, insert—

“Decision as to whether agreement is to be given

5A.—(1) When making a decision as to whether to agree to the grant of a consent in respect of a relevant project for which an environmental statement has been submitted, the Secretary of State shall—

- (a) examine the environmental statement, including any information provided under regulation 10, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;
- (b) reach a reasoned conclusion on the significant effects of the relevant project on the environment, taking into account the examination referred to in sub-paragraph (a); and
- (c) integrate that conclusion into the decision as to whether agreement to the grant of consent is to be given.

(2) If agreement to the grant of consent is to be given under paragraph (1)(c), the decision shall set out—

- (a) any environmental conditions attached to the decision;
- (b) a description of any features of the relevant project or measures envisaged to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment; and
- (c) any measures to monitor conditions imposed to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment (“a monitoring condition”).

(3) If agreement is to be refused, the decision shall state the main reasons for the refusal.

(4) The reasoned conclusion referred to in paragraph (1)(b) shall be up to date at the time that the decision referred to in paragraph (1)(c) is made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the relevant project.

(5) When considering whether to impose a monitoring condition referred to in paragraph (2)(c), the Secretary of State shall—

- (a) consider whether to make provision for potential remedial action;
- (b) consider whether there are appropriate existing monitoring arrangements under EU legislation other than the Directive, or under national legislation, to make the imposition of a monitoring condition unnecessary; and
- (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the relevant project and the significance of its effects on the environment.

(6) The decision of the Secretary of State referred to in paragraph (1)(c) shall be made within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information and representations referred to in paragraph (1)(a).

(7) The Secretary of State shall promptly publish a notice of the decision referred to in paragraph (1)(c) in the Gazette and on a public website and shall send a copy of the

notice to those authorities specified in the notice given to the undertaker in accordance with regulation 9(1).

- (8) A notice published under paragraph (7) shall—
- (a) set out—
 - (i) the contents of the decision;
 - (ii) the main reasons and considerations on which the decision is based; and
 - (iii) a summary of all representations made to the Secretary of State by any person in respect of the project including where regulation 12 (projects affecting other states) applies, any representations made by an EEA State affected by the relevant project, the public concerned or authorities in that state, together with details of how those representations were taken into account; and
 - (b) specify where details of these matters may be obtained, including the address of the public website on which a copy of the notice is published.”.

Amendment of regulation 6 (provisions as to directions that no environmental statement need be prepared)

9. In regulation 6—

- (a) in paragraph (1) after “subject to paragraphs” insert “(1D),”;
- (b) after paragraph (1), insert—

“(1A) When making a direction under paragraph (1), the Secretary of State shall, where proposed by the undertaker, include in the direction any features of the relevant project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects of the project on the environment.

(1B) If the Secretary of State considers that a relevant project is highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the project, the Secretary of State may direct that an environmental statement is required before the Secretary of State can make a decision whether to agree to the grant of a consent in respect of that project.

(1C) When giving a direction under paragraph (1B), the Secretary of State shall publish a notice of the direction in the Gazettes and by any other means the Secretary of State considers appropriate, which shall include making the notice available on a public website.

(1D) Where a direction made under paragraph (1B) is in force in respect of a relevant project, the Secretary of State shall not make a direction under paragraph (1) in respect of that project (whether or not that project has been modified or is to be carried out in any particular manner or time).”;

- (c) in paragraph (2)(b), for “sub-paragraphs (a) to (d)”, substitute “sub-paragraphs (a) to (f)”;
- (d) in paragraph (3)—
 - (i) after “under paragraph (1)”, insert “, (1B)”;
 - (ii) at the end insert “and the results of any preliminary verifications or assessments on the environment of the geographical areas likely to be affected by the relevant project carried out pursuant to EU legislation other than the Directive.”;
- (e) for paragraph (4), substitute—

“(4) An undertaker shall—

- (a) provide to the Secretary of State such further information in relation to any application made by the undertaker under paragraph (1)(a) or (2) as the Secretary of State may require; and
- (b) where the circumstances described in paragraph (1B) apply, provide to the Secretary of State any information in respect of the relevant project, as the Secretary of State may require.”;
- (f) in paragraph (5)—
 - (i) at the end of sub-paragraph (c), omit “or”;
 - (ii) in sub-paragraph (d), for “member State” substitute “EEA State”; and
 - (iii) after sub-paragraph (d), insert—
 - “(e) to the carrying on of a storage or unloading activity; or
 - (f) to the erection of a structure in relation to a project which has as its main object a storage or unloading activity.”;
- (g) after paragraph (10), insert—

“(10A) The Secretary of State shall make a decision in relation to an application referred to in paragraph (1) or (2) as soon as possible and in any event within 90 days of receiving the application containing the appropriate particulars, unless paragraph (10B) applies.

(10B) Where an application referred to in paragraph (1) is for a relevant project that is, in the Secretary of State’s opinion, an exceptional case, for example in relation to its nature, complexity, location or size, the Secretary of State may extend the time limit referred to in paragraph (10A) by notifying the undertaker in writing as to when the decision is expected to be made and the reasons why the Secretary of State considers the extra time is needed.”;
- (h) for paragraph (11), substitute—

“(11) Where the Secretary of State makes a decision in relation to any application referred to in paragraph (1) or (2), the Secretary of State shall promptly publish a notice of the decision in the Gazettes and on a public website.

(12) A notice published under paragraph (11) shall set out—

 - (a) the contents of the decision;
 - (b) the main reasons and considerations on which the decision is based, making references to the relevant matters set out in Schedule 1; and
 - (c) where the decision is that an environmental statement is not required, and where proposed by the undertaker, state any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.”.

Amendment of regulation 7 (opinion by Secretary of State as to content of environmental statements)

10. In regulation 7—

- (a) in paragraph (1), for “as to the matters to be included”, substitute “on the scope and level of detail to be included by the undertaker”;
- (b) in paragraph (2), for sub-paragraph (a)(ii), substitute—

“(ii) any environmental authority or other authority which the Secretary of State considers would be likely to be interested in the relevant project by reason

of either its particular environmental responsibilities or its local or regional competence;” and

(c) after paragraph (2) insert—

“(2A) When giving an opinion pursuant to paragraph (1), the Secretary of State shall take into account information contained in the appropriate particulars, particularly in respect of the specific characteristics of the project, including its location and technical capacity and its likely impact on the environment.”.

Amendment of regulation 8 (obtaining of information for the preparation of environmental statements)

11. In regulation 8—

(a) in paragraph (2)—

(i) in sub-paragraph (b), after “environmental authority”, insert “or other authority with local or regional competence”;

(ii) in sub-paragraph (c), for “any environmental authority”, substitute “an authority referred to in sub-paragraph (b)”;

(b) in paragraph (3), omit “environmental”.

Amendment of regulation 9 (procedure on receipt of application for consent etc.)

12. In regulation 9—

(a) for paragraph (1), substitute—

“(1) Where the Secretary of State is informed of an application for a consent in respect of a relevant project which is accompanied by an environmental statement, the Secretary of State shall promptly serve on the undertaker concerned a notice specifying those environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence.”;

(b) in paragraph (2), for “4 weeks”, wherever it occurs, substitute “30 days”;

(c) in paragraph (2)(a), for “environmental authority” substitute “authority”;

(d) for paragraph (2A)(b), substitute—

“(b) in such newspapers as the Secretary of State may direct and on a public website and the undertaker shall publish a copy of the application for consent and the environmental statement on that website alongside the notice.”;

(e) at the end of paragraph (3), insert “and also the address of the public website referred to in paragraph (2A)(b).”;

(f) in paragraph (4), for “environmental authority” substitute “authority notified to the undertaker under paragraph (1)”.

Amendment of regulation 10 (provision to Secretary of State of further information and evidence respecting environmental statements)

13. In regulation 10—

(a) in paragraph (2)—

(i) for “main”, substitute “significant”;

(ii) for “4 weeks”, wherever it occurs, substitute “30 days”;

- (iii) in sub-paragraph (a), for “environmental authority”, substitute “authority”;
- (iv) at the end of sub-paragraph (c), omit “and”; and
- (v) at the end of sub-paragraph (d), insert—
 - “; and
 - (e) publish on a public website the notice referred to in sub-paragraph (d) alongside copies of the information referred to in sub-paragraph (a).”;
 - and
- (b) in paragraph (3), after “in which”, insert “, and also the address of the public website on which,”.

Amendment of regulation 11 (exercise by OGA of powers under licences)

14. In regulation 11—

- (a) in paragraph (2)(b)(iii), for “member State”, substitute “EEA State”;
- (b) for paragraph (6), substitute—

“(6) The Secretary of State shall not make a decision under paragraph (8A)(c) unless the Secretary of State is satisfied that the requirements of regulations 9 and 10, as they apply by virtue of paragraph (5), have been substantially met and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the environmental statement.”;
- (c) in paragraph (7)—
 - (i) for “member State” wherever it appears, substitute “EEA State”;
 - (ii) for “agree to the grant of approval or the imposition of a relevant requirement” in the second place where it occurs, substitute “make a decision under paragraph (8A)”;
 - and
 - (iii) at the end of paragraph (7)(d), insert “and in respect of those members of the public, the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;
- (d) in paragraph (8)—
 - (i) for “agrees to any proposals of the kind referred to in paragraph (A1) above or the imposition of any relevant requirement”, substitute “makes a decision to give agreement under paragraph (8A)(c)”;
 - and
 - (ii) omit “referred to in those proposals”;
- (e) after paragraph (8), insert—

“(8A) When making a decision as to whether to agree to proposals which entail the carrying out of a relevant project comprising a development or to the exercise of any power under a licence to require the carrying out of a relevant project comprising a development, where in either case an environmental statement has been submitted, the Secretary of State shall—

 - (a) examine the environmental statement, including any further information provided under regulation 10, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;

- (b) reach a reasoned conclusion on the significant effects of the project on the environment, taking into account the examination referred to in sub-paragraph (a); and
- (c) integrate that conclusion into the decision as to whether agreement is to be given.

(8B) If a decision is made to give agreement under paragraph (8A)(c), the decision shall set out—

- (a) any environmental conditions attached to the decision;
- (b) a description of any features of the relevant project or measures to be taken to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment of the relevant project; and
- (c) any measures to monitor conditions imposed to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment (“a monitoring condition”);

(8C) If a decision is made to refuse agreement under paragraph (8A)(c), the decision shall state the main reasons for the refusal.

(8D) The reasoned conclusion referred to in paragraph (8A)(b) shall be up to date at the time that the decision referred to in paragraph (8A)(c) is made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the relevant project.

(8E) When considering whether to impose a monitoring condition referred to in paragraph (8B)(c), the Secretary of State shall—

- (a) consider whether to make provision for potential remedial action;
- (b) consider whether there are appropriate existing monitoring arrangements under EU legislation other than the Directive, or under national legislation to make the imposition of a monitoring condition unnecessary; and
- (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the relevant project and the significance of its effects on the environment.

(8F) The decision of the Secretary of State referred to in paragraph (8A)(c) must be made within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information and representations referred to in paragraph (8A)(a).”;

(f) for paragraph (9), substitute—

“(9) The Secretary of State shall promptly publish the relevant matters in the Gazettes and on a public website and shall send a copy of the relevant matters to those authorities specified in the notice served under regulation 9(1) as it applies by virtue of paragraph (5).

(g) for paragraph (9A), substitute—

“(9A) For the purposes of paragraph (9), the “relevant matters” means—

- (a) a decision referred to in paragraph (2) or in paragraph (8A)(c); and
- (b) a notice setting out—
 - (i) the contents of the decision referred to in sub-paragraph (a);
 - (ii) the main reasons and considerations on which the decision is based;
 - (iii) a summary of all representations made to the Secretary of State by any person in respect of the relevant project, if any, including, where regulation 12 applies, any representations made by an EEA State affected

by the relevant project, the public concerned or authorities in that state, together with details of how those representations were taken into account; and the notice shall specify where details of these matters may be obtained, including the address of the public website on which the notice is published.”.

Amendment of regulation 12 (projects affecting other states)

15. In regulation 12—

- (a) for “member State”, substitute “EEA State” wherever it occurs;
- (b) at the end of paragraph (2)(c), insert “including the address of the public website referred to in regulation 9(2A)(b).”;
- (c) omit paragraph (3); and
- (d) after paragraph (4), insert—

“(5) For the purposes of this regulation as it applies in respect of a relevant project for which a licence is granted under section 18 of the 2008 Act or related consents, any reference to a relevant project is to a relevant project in respect of which such an environmental statement is required to be prepared.”.

Amendment of 12A (projects in other states having a significant effect on the environment in the transboundary area)

16. In regulation 12A—

- (a) at the end of paragraph (1)(b), insert “, such period to allow at least 30 days between the environmental statement becoming available to the public concerned and the deadline for the submission of their representations.”; and
- (b) in paragraph (2)(a), for “environmental authorities in the United Kingdom which he considers are likely to be concerned by the project by reason of their particular environmental responsibilities”, substitute “environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence”.

New regulation 13 (exempt projects)

17. For regulation 13, substitute—

“Exempt projects

13.—(1) The Secretary of State may direct that—

- (a) these Regulations do not apply in relation to a relevant project if the project comprises or forms part of a project—
 - (i) having national defence as its sole purpose; or
 - (ii) having the response to a civil emergency as its sole purpose; and
- (b) in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose.

(2) Subject to paragraph (4), the Secretary of State may, in exceptional cases, direct that a relevant project is exempt in whole or in part from the requirements of these Regulations if circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of the relevant project.

- (3) Where a direction is given under paragraph (1) or (2), the Secretary of State shall send a copy of any such direction to the OGA.
- (4) A direction must not be given under paragraph (2) unless the Secretary of State —
- (a) has considered whether another form of assessment is appropriate;
 - (b) in a case where the Secretary of State considers that the project is likely to have significant environmental effects on the environment in another EEA State, is satisfied that a form of consultation with that state broadly equivalent to the form described in regulation 12 will take place before any consent is given in respect of the project, and
 - (c) has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (5).
- (5) A direction given by the Secretary of State under paragraph (2) may disapply such provisions of these Regulations as may in the circumstances appear to the Secretary of State to be appropriate and shall—
- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
 - (b) require that all information relating to the main effects the project is likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
 - (c) specify the extent to which these Regulations are to apply or that they are not to apply at all; and
 - (d) include a statement of the Secretary of State’s reasons for giving the direction and the information on which that decision is based.
- (6) The Secretary of State shall publish—
- (a) details of the direction given under paragraph (2) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
 - (b) the direction itself on a public website.”.

Amendment of regulation 16 (application to court by person aggrieved)

- 18.** In regulation 16—
- (a) in paragraph (1), for “regulation 5(4)(b)”, substitute “regulation 5(4) or regulation 5A(1)(a)”; and
 - (b) in paragraph (2), after “regulation 11(6)”, add “or regulation 11(8A)(a)”.

Amendment of regulation 17A (fees)

- 19.** In regulation 17A, in paragraph (1)—
- (a) for sub-paragraph (b), substitute—
 - “(b) considering, accepting or rejecting an environmental statement submitted under regulation 5, or making a decision as referred to in regulation 5A(1) or 11(8A);”;
 - (b) in sub-paragraph (d), after “6(1)”, insert “6(1B)”; and

- (c) in sub-paragraph (n), after “environmental authority”, insert “or other authority interested in the relevant project by reason of their local or regional competence”.

Substitution of Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment)

20. For Schedule 1, substitute the schedule that is set out in Schedule 1 to these Regulations.

Substitution of Schedule 2 (contents of environmental statement)

21. For Schedule 2, substitute the schedule that is set out in Schedule 2 to these Regulations.

Amendment of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010

22. In the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010(6), omit article 2.

Transitional provisions in relation to the 1999 Offshore Regulations

23.—(1) Subject to paragraph (2) and (3), the following must be dealt with under the 1999 Offshore Regulations as if they had not been amended by these Regulations—

- (a) any application for consent or any application for the agreement of the Secretary of State in respect of a relevant project as referred to in regulation 5;
- (b) any application for a direction made under regulation 6(1) or (2);
- (c) any application for an opinion made under regulation 7;
- (d) any request for—
 - (i) the approval of the OGA of any proposals for the carrying out of a relevant project referred to in regulation 11(1);
 - (ii) the approval of the OGA to exercise powers under a licence to impose a requirement on a licensee to carry out a relevant project referred to in regulation 11(4); or
 - (iii) the agreement of the Secretary of State to allow the OGA to approve such proposals mentioned in paragraph (i) or exercise such powers mentioned in paragraph (ii); or
- (e) any information about a relevant project received from another EEA State under regulation 12A,

received by the OGA or by the Secretary of State before these Regulations come into force.

- (2) This regulation is subject to regulation 13 (exempt projects).

(3) Where paragraph (1) applies in respect of an application for an opinion under regulation 7, the 1999 Offshore Regulations as unamended by these regulations shall apply for all purposes, save for regulation 13, in respect of the relevant project to which the opinion relates.

(4) In this regulation, a reference to a numbered regulation is to that regulation so numbered in the 1999 Offshore Regulations.