

2005 No. 3117

OFFSHORE INSTALLATIONS

VERSION 1.3.1

[Offshore Installations (Safety Case) Regulations 2005][*Note
separate discussion on name of the regulations*]

<i>Made</i> - - - -	<i>9th November 2005</i>
<i>Laid before Parliament</i>	<i>17th November 2005</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 15(1), (2), (3)(a), (4)(a), (5)(b), (6)(b), and 82(3)(a) of, and paragraphs 1(1)(c) and (2), 8(1), 9, 14, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”) and section 1(2) of the Offshore Safety Act 1992(b) and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out of consultations by the said Commission in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as [the Offshore Installations (Safety Case) Regulations 2005 and shall come into force on 6th April 2006].

Interpretation

2.—(1) In these Regulations—

“the 1992 Regulations” means the Offshore Installations (Safety Case) Regulations 1992(c);

“competent authority” means the Health and Safety Executive and the Secretary of State for Energy and Climate Change acting jointly;

“corporate major accident prevention policy” means a policy which establishes the overall aims and arrangements for controlling the risk of a major accident and how those aims are to be achieved and those arrangements put into effect at a senior level in the organisation of the person whose policy it is[*Directive says ‘corporate level’*][**Article 19(5)(a)**];

“current safety case” means a safety case in respect of an installation which has been accepted by the competent authority pursuant to these Regulations [or, subject to regulation 27, the 1992 Regulations] and includes any revision thereto which—

(a) 1974 c. 37; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c. 71), Schedule 16, paragraphs 6 and 16(3) respectively.

(b) 1992 c. 15.

(c) S.I. 1992/2885, as amended by S.I. 1995/738, 1995/743, 1996/913 and 1997/2776.

- (a) may take effect without the acceptance of the competent authority; or
- (b) has been accepted by the competent authority;

“dismantling” means the dismantling or removal of the main and secondary structure of a fixed installation at the place at which it was operated, and “dismantled” shall be construed accordingly;

“diving bell” means a compression chamber which is capable of being manned and is used or designed for use under the surface of water in supporting human life, being a chamber in which any occupant is or may be subject to a pressure of more than 300 millibars above atmospheric pressure during normal operations;

“duty holder” means—

- (a) in relation to a production installation, the operator; and
- (b) in relation to a non-production installation, the owner;

“the Executive” means the Health and Safety Executive;

“external emergency response plan” means [*for discussion with DECC*];

“field development programme” means the support document for development and production authorisations to be submitted to [the Department of Energy and Climate Change] pursuant to the Guidance Notes on Procedures for Regulating Offshore Oil and Gas Field Developments, as published on [the Department of Energy and Climate Change’s] website, and revised or reissued from time to time(a);

“fixed installation” means an installation which cannot be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“installation” means an offshore installation within the meaning of regulation 3 of the Management Regulations;

[“licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998(b);][*Discuss with DECC who grants authority to an operator to carry out decommissioning, where there is no longer a petroleum licence. Update also for where there has been relinquishment, transfer or forfeiture of the licence.*]

“major accident” means—

- (a) a fire, explosion, loss of well control or the release of a dangerous substance involving, or with a significant potential to cause, death or serious personal injury to persons on the installation or engaged in an activity on or in connection with it;
- (b) an event involving major damage to the structure of the installation or plant affixed thereto or any loss in the stability of the installation;
- (c) the collision of a helicopter with the installation;
- (d) the failure of life support systems for diving operations in connection with the installation, the detachment of a diving bell used for such operations or the trapping of a diver in a diving bell or other subsea chamber used for such operations;
- (e) any other event arising from a work activity involving death or serious personal injury to five or more persons on the installation or engaged in an activity in connection with it; or
- (f) any major environmental incident resulting from the events referred to in paragraphs (a), (b) and (e)

and for the purposes of determining whether an event constitutes a major accident under paragraphs (a), (b) or (f), an installation that is normally unattended shall be treated as if it were attended;

(a) http://www.og.dti.gov.uk/regulation/guidance/reg_offshore/index.htm.

(b) 1998 c.17.

“major environmental incident” means an incident which results, or is likely to result, in significant adverse effects on the environment, in accordance with Directive 2004/35/EC[fn][*DECC to advise on the definition they use: these regulations should use a similar definition for consistency*];

“management system” means the organisation and arrangements established by a person for managing his undertaking;

“the Management Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(a);

“non-production installation” means an installation other than a production installation;

“notified” means notified in writing, and related expressions shall be construed accordingly;

“offshore oil and gas operations” means all activities associated with an installation relating to exploration and production of petroleum, including the design, planning, construction, operation and decommissioning of the installation, but excluding the conveyance of petroleum from one coast to another;

“operator”, in relation to a pipeline, means—

- (a) the person who is to have or (once fluid or any mixture of fluids is conveyed) has control over the conveyance of fluid or any mixture of fluids in the pipeline;
- (b) until that person is known (should there be a case where at a material time he is not yet known) the person who is to commission or (where commissioning has started) commissions the design and construction of the pipeline; or
- (c) when a pipeline is no longer used or is not for the time being used, the person last having control over the conveyance of fluid or any mixture of fluids in it;

“operator”, in relation to a production installation, means—

- (a) the person appointed by the licensee to manage and control directly or by any other person the execution of the main functions of a production installation; or
- (b) the licensee, where—
 - (i) it is not clear to the competent authority that one person has been appointed to perform the functions described in paragraph (a); or
 - (ii) the competent authority has made a determination under regulation [3333][*determination that operator no longer has the capacity to meet the relevant requirements under the Directive – Article 6(4)*];

“owner” means the person who controls the operation of a non-production installation;

“petroleum”—

- (a) includes any mineral oil or relative hydrocarbon and natural gas, whether or not existing in its natural condition in strata; and
- (b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

“the PFEER Regulations” means the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995(b);

“pipeline” shall be construed in accordance with regulation 3 of the Pipelines Safety Regulations 1996(c);

“production installation” means an installation which—

- (a) extracts petroleum from beneath the sea-bed by means of a well;
- (b) stores gas in or under the shore or bed of relevant waters and recovers gas so stored; or
- (c) is used for the conveyance of petroleum by means of a pipe,

(a) S.I. 1995/738, as amended by S.I. 2002/2175.

(b) S.I. 1995/743.

(c) S.I. 1996/825, to which there are amendments not relevant to these Regulations.

and—

(a) includes a—

- (i) non-production installation converted for use as a production installation for so long as it is so converted;
- (ii) production installation which has ceased production for so long as it is not converted to a non-production installation; and
- (iii) production installation which has not come into use; and

(b) does not include an installation which, for a period of no more than 90 days, extracts petroleum from beneath the sea-bed for the purposes of well testing;

“relevant statutory provisions” means the relevant statutory provisions (as defined in section 53(1) of the 1974 Act) which apply to or in relation to installations or activities on or in connection with them;

“relevant waters” means—

- (a) tidal waters and parts of the sea in or adjacent to Great Britain up to the seaward limits of the territorial sea; and
- (b) any area designated by order under section 1(7) of the Continental Shelf Act 1964^(a);

“safety and environmental-critical elements” means such parts of an installation and such of its plant (including computer programmes), or any part thereof—

- (a) the failure of which could cause or contribute substantially to; or
- (b) a purpose of which is to prevent, or limit the effect of, a major accident;

“specified plant” means the plant for an installation which is provided—

- (c) in compliance with regulations 11(1)(a), 13, 15 and 16 of the PFEER Regulations;
- (d) as means required to be provided by regulation 10 of the PFEER Regulations—
 - (i) for detecting fire; and
 - (ii) for detecting and recording accumulations of flammable gases; and
- (e) pursuant to the measures required by regulation 12 of the PFEER Regulations to combat fire and explosion,

except for—

- (a) plant which is part of the safety and environmental-critical elements for that installation; and
- (b) aircraft or equipment to which regulation 18 of the PFEER Regulations applies.

“vessel” includes a hovercraft and any floating structure which is capable of being staffed;

“well” means—

- (a) a well made by drilling; and
- (b) a borehole drilled with a view to the extraction of petroleum through it or another well, and shall be deemed to include any device on it for containing the pressure in it;

“well operation” means—

- (a) the drilling of a well, including the recommencement of drilling after a well has been completed, suspended or abandoned by plugging at the sea-bed; and
 - (b) any operation in relation to a well during which there may be an accidental release of fluids from that well which could give rise to the risk of a major accident; and
- (a) “well operator”, in relation to a well or proposed well, means the person appointed by the licensee for that well or proposed well to execute the function of organising and

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

supervising the drilling of that well and all operations to be carried out by means of that well; or

- (b) the licensee where —
 - (i) it is not clear to the Executive that one person has been appointed to perform the function described in paragraph (a); or,
 - (ii) the competent authority has made a determination under regulation [3333][*determination that operator no longer has the capacity to meet the relevant requirements under the relevant statutory provisions – Article 6(4)*].

(2) Any reference in these Regulations to a design notification, a relocation notification, a safety case, a notification of combined operations or well operations, or a corporate major accident prevention policy is a reference to a document containing the particulars specified in the Schedule referred to in the provision pursuant to which it is prepared and, for a safety case, regulation 12.

(3) Any reference in these Regulations to operating an installation is a reference to using the installation for any of the purposes described in sub-paragraphs (a) to (d) of regulation 3(1) of the Management Regulations.

(4) For the purposes of these regulations, an installation is treated as engaged in a combined operation with another installation or installations where—

- (a) an activity carried out from, by means of or on the installation is carried out for a purpose relating to another installation or installations; and
- (b) the activity could materially affect the risk to—
 - (i) the health or safety of persons on either installation or any of the installations, or
 - (ii) the environment; and
- (c) the installations are not connected permanently above the sea at high tide such that the structures of which they are composed are deemed to comprise a single offshore installation under regulation 3(4) of [MAR],

and the expression “combined operation” is to be construed accordingly.

(5) [*General note: the unusual drafting construct in regulation 2(5) SCR is probably best abandoned and the dedicated regulation introduced defining what is a verification scheme. It would help to define independent and competent person and eliminate overlaps. Note that the wells verification scheme under DCR will also have to meet the requirements of Annex I, Part 5 and Annex V*]
Any reference in these Regulations to a verification scheme is a reference to a suitable written scheme for ensuring, by means described in paragraph (6), that the safety and environmental-critical elements and the specified plant—

- (a) are or, where they remain to be provided, will be suitable; and
- (b) where they have been provided, remain in good repair and condition.

(6) The means referred to in paragraph (5) are—

- (a) examination, including testing where appropriate, of the safety and environmental-critical elements and the specified plant by independent and competent persons;
- (b) examination of any design, specification, certificate, CE marking or other document, marking or standard relating to those elements or that plant by such persons;
- (c) examination by such persons of work in progress;
- (d) the reporting [to the those persons] of any instances of non-compliance [of the duty holder with the standards of the scheme];[**Annex 1, Part 5, paragraph (c)(iv)**][*Question whose non-compliance, and with what? This will also affect regulation 32(c)(iv)*][*This is still work in progress.*]
- (e) the taking of appropriate action following reports by such persons;
- (f) the taking of other such steps as may be properly provided for pursuant to regulation 19 and Schedule 7; and
- (g) the taking of any steps incidental to the means described in sub-paragraphs (a) to (f) of this paragraph.

(7) For the purposes of paragraph (6), (8)(b) and regulations 19 and 20, a person shall be regarded as independent only where—

- (a) his function will not involve the consideration by him of an aspect, of a thing liable to be examined, for which he bears or has borne such responsibility or where [his] objectivity may be compromised;[**Annex V, Part 1(a)**] and
- (b) [**Annex V, Part 1(b)**]he will be sufficiently independent of a management system, or of a part thereof, which bears or has borne any responsibility for an aspect of which he might consider, of a thing liable to be examined, to ensure that he will be objective in discharging his function.

(8) [**Annex V, paragraph 2(a)**]For the purposes of paragraph (6) and regulations [19 and 20]—

- (a) a person is not to be regarded as competent unless, in particular, the person has [reasonable] technical competence; and
- (b) where the person is a body of persons, that body has suitably qualified and experienced personnel in adequate numbers who are independent.

(9) Any reference in these Regulations to an activity in connection with an installation is a reference to any activity in connection with an installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, in or from a vessel or in any other manner, other than—

- (a) transporting, towing or navigating the installation; and
- (b) any activity in or from a vessel which is ready to give assistance in the event of an emergency on or near the installation.

(10) Where a duty holder is succeeded by a new duty holder, anything done in compliance with these Regulations by the duty holder in relation to an installation shall, for the purposes of these Regulations, be treated as having been done by his successor.

Communication and storage of information by electronic means

3.—(1) Except as provided in paragraph (5), where these Regulations require or allow a person to communicate information to another, whether in writing or otherwise, that person may communicate such information by electronic means.

(2) Information communicated by electronic means shall not be treated as having been received by the recipient for the purposes of these Regulations unless the recipient—

- (a) has agreed to receive that information by electronic means by providing the sender with an address to which that information may be sent;
- (b) is able to read and print that information; and
- (c) is able to store that information in a form with which the sender cannot interfere.

(3) In the absence of a clear indication to the contrary, information communicated by electronic means in accordance with, and for the purposes of, these Regulations shall be deemed—

- (a) to be accurately dated and timed;
- (b) to have been sent by the person from whom it purports to originate;
- (c) not to have been tampered with or otherwise modified; and
- (d) where relevant, to be intended to have legal effect.

(4) Where these Regulations require any person to record, note or store information, it may be recorded, noted or stored on film or by electronic means if it—

- (a) can be reproduced (in the case of information recorded, noted or stored on film, at the place at which it is recorded, noted or stored) as a written copy; and
- (b) is reasonably secure from loss or unauthorised interference.

(5) This regulation shall not apply to regulation 22(2).

Application

4.—(1) Subject to paragraph (2), these Regulations shall apply—

- (a) in Great Britain; and
- (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 4(1) and (2)(b), 5 and 6 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001(a).

(2) These Regulations shall not apply to wells to which the Borehole Sites and Operations Regulations 1995(b) apply.

Duties of licensee

5. The licensee shall—

- (a) ensure that any operator appointed by him is capable of satisfactorily carrying out his functions and discharging his duties under the relevant statutory provisions; and
- (b) take all reasonable steps to ensure that any operator appointed by him carries out his functions and discharges his duties under the relevant statutory provisions.

Design and relocation notifications for production installation

6.—(1) The operator of a production installation which is to be established shall—

- (a) prepare a design notification containing the particulars specified in Schedule 1; and
- (b) send the design notification to the Executive,

at such time before the submission of a field development programme to [the Department of Energy and Climate Change] as will enable him to take account (a) in the design and, (b) the safety case prepared pursuant to regulation 7, of any matters raised by the competent authority within 3 months (or such shorter period as the competent authority may specify) of that time.[Article 11(3)]

(2) The operator of a production installation which is to be moved to a new location (whether from outside relevant waters or not) and operated there shall—

- (a) prepare a relocation notification containing the particulars specified in Schedule 1 not contained in any current safety case for that installation; and
- (b) send the relocation notification to the competent authority,

at such time before the submission of a field development programme to [the Department of Energy and Climate Change] as will enable him to take account of any matters [Article 11(3)]raised by the competent authority within 3 months (or such shorter period as the Executive may specify) of that time.

(3) The competent authority must respond to the design notification—

- (a) with comments to be taken into account by the operator in the safety case; or
- (b) where it has no such comments to make, with a statement to that effect.[Article 11(3), final sentence][*Arguments exist that regulation 6(2) suffices, but also there is an issue that the Directive says that the comments are to be taken into account in the report on major hazards, not the design (as paragraph (2) states)*]

(4) Paragraph (1) shall only require the particulars in the design notification to describe the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the design notification to the competent authority.

(5) Where there is a material change in any of the particulars notified pursuant to—[Article 11(6)]

(a) S.I. 2001/2127.

(b) S.I. 1995/2038, to which there are amendments not relevant to these Regulations.

- (a) paragraph (1) prior to the duty holder sending a safety case to the competent authority in accordance with regulation 7(1)(b); or
- (b) paragraph (2) [*Article 11(6) requires material changes to relocation notifications to be sent to the competent authority also. Presumably revisions could be made coincidentally with revisions under regulation 14(2) (meaning that reference should be made to regulation 14(2) as provided here)?*] prior to the duty holder sending—
 - (i) a safety case to the competent authority in accordance with regulation 7(1)(b); or
 - (ii) revisions to the current safety case to the competent authority in accordance with regulation 14(2),

the duty holder shall notify the competent authority of that change as soon as practicable.

Safety case for production installation

7.—(1) [Subject to regulation 27], the operator of a production installation shall ensure that it is not operated unless—

- (a) he has prepared a safety case containing the particulars specified in regulation 12 and Schedule 2 [**Article 12(1)**];
- (b) he has sent the safety case to the competent authority at least 6 months (or such shorter period as the competent authority may specify) before commencing the operation; [**Article 11(7)**] and
- (c) the competent authority has accepted the safety case [**Article 6(5)**].

(2) For the purposes of paragraph (4) of regulation 2 and paragraph (1), the operation of a [production] installation shall be treated as commenced—

- (a) on the commencement of the first well drilling operation from the installation which may involve the release of petroleum from beneath the sea-bed; or
- (b) when petroleum is brought onto the installation for the first time through a pipeline or well,

whichever is earlier.

(3) A safety case prepared pursuant to paragraph (1) and revisions to a current safety case prepared pursuant to regulation 9(5) may be prepared in relation to more than one production installation where the competent authority so approves in writing and, where a safety case is or revisions are to be so prepared in relation to installations with different operators, it shall be sufficient compliance with paragraph (1)(a) and (b) and regulation 9(5)(a) and (b) if the operators prepare and agree a safety case or revisions containing the particulars referred to in that paragraph and that regulation and one of them sends it to the competent authority in accordance with paragraph (1)(b) and regulation 9(5)(b).

(4) [**Article 17(1) and Annex I, Part 5, paragraph (a)**]The operator of a production installation must include with the safety case sent to the Executive a statement, made after considering the matters in paragraph (5), that the record of safety and environmental-critical elements and their scheme of maintenance are or will be suitable. [*Annex I, Part 5, paragraph (a) refers to the scheme of maintenance for S(E)CEs ‘as specified in the report on major hazards’ yet there is no obligation to ensure that the ROMH sets out such a scheme. In practice there is a scheme of maintenance under PUWER 1998 (read in the light of PFEER regulation 18) together with regulation 19 of PFEER, or at least obligations to maintain, so, a legislative scheme. This is not necessarily specified in the safety case so it means that this could technically be argued not to be implemented (as regards the scheme of maintenance being specified in the ROMH). If greater protection from infraction is wanted in this regard, we could provide for a scheme of maintenance to be provided for in the safety case, but that would create a burden.*][*Do DECC have similar requirement for ECEs? (May argue no need as there is no ECE which is not an SCE – will Cion agree?)*]

(5) The matters are—

- (a) reports referred to in regulation 2(6)(e);

- (b) comments and reservations made by independent and competent persons referred to in regulation 19(2)(a) and (c)(i);
- (c) findings and recommended remedial action given by such persons referred to in paragraph 5(b) and (c) of Schedule 7; and
- (d) report or recommendations referred to in regulation 18(2) of the Offshore Installations and Wells (Design and Construction etc.) Regulations 1996.

(6) Where, pursuant to paragraph (3), a safety case is to be prepared in relation to more than one production installation with different operators, there is sufficient compliance with paragraph (4) where—*[consider whether necessary. Default position is that these would need to be provided, otherwise, by analogy, paragraph (3) would serve no purpose. Key question is whether these documents can be shared. Internal emergency response plan is a good candidate.]*

- (a) a copy of the corporate major accident prevention policy of each operator is included with the safety case;
- (b) an adequate description of the safety and environmental management system of each operator is included with the safety case; and
- (c) the description of the internal emergency response arrangements of each operator (see regulation 45), is included with the safety case.

Safety case for non-production installation [Article 8(5)]

8.—(1) Subject to regulation 27, the owner of a non-production installation shall ensure that it is not operated in relevant waters or moved in relevant waters with a view to its being operated there unless—

- (a) he has prepared a safety case containing the particulars specified in regulation 12 and Schedule 3;
- (b) he has sent the safety case to the competent authority at least 3 months (or such shorter period as the competent authority may specify) before the movement of the installation in those waters with a view to its being operated there[**Article 11(7)**]; and
- (c) the competent authority has accepted the safety case. [**Article 6(5)**]

(2) The owner of a non-production installation must include with the safety case sent to the competent authority a statement made after considering the matters in paragraph (3), that the record of safety and environmental-critical elements and their scheme of maintenance are or will be suitable.

(3) The matters are—

- (a) reports referred to in regulation 2(6)(e);
- (b) comments and reservations made by independent and competent persons referred to in regulation 19(2)(a) and (c)(i);
- (c) findings and recommended remedial action given by such persons referred to in paragraph 5(b) and (c) of Schedule 7; and
- (d) reports or recommendations referred to in regulation 18(2) of the Offshore Installations and Wells (Design and Construction etc.) Regulations 1996.[**Article 17(1) and Annex I, Part 5, paragraph (a). See comments above on regulation 7(5) – not clear what is meant by scheme of maintenance.**]

Design notification and safety case for non-production installation to be converted

9.—(1) Where a non-production installation is to be converted to enable it to be operated as a production installation, the owner shall—

- (a) prepare a design notification in respect of the proposed conversion containing, subject to paragraph (3), the particulars specified in Schedule 1 not contained in any current safety case for that installation; and
- (b) send the design notification to the competent authority,

at such time before completion of the design of the proposed conversion as will enable him to take account (a) in the design, and (b) the safety case prepared pursuant to regulation 7, of any matters raised by the competent authority within 3 months (or such shorter period as the competent authority may specify) of that time.[**Article 11(1)(c); Article 11(3). Thought that design notification for conversion is essentially a design notification that must meet with requirements of the Directive, as it is a 'planned production installation' under Article 11(1)(c).**]

(2) The competent authority must respond to the design notification—

- (a) with comments to be taken into account by the operator in the safety case; or
- (b) where it has no such comments to make, with a statement to that effect.[**Article 11(3), final sentence**]

(3) The particulars specified in Schedule 1 which must be provided in respect of a design notification under paragraph (1) shall be construed as if all references to “operator” were references to the owner of the non-production installation to be converted.

(4) Paragraph (1) shall only require the particulars in the design notification to address the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the design notification to the competent authority.

(5) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the duty holder sending—

- (a) a safety case to the competent authority in accordance with regulation 7(1); or
- (b) revisions to the current safety case to the competent authority in accordance with paragraph (6),

the duty holder shall notify the competent authority of that change as soon as practicable.

(6) Where a non-production installation operated pursuant to a current safety case is converted to a production installation, the operator of that production installation shall ensure that it is not operated as a production installation unless—

- (a) he has prepared revisions to the current safety case for that installation containing the particulars specified in regulation 12 and Schedule 2 not contained in that current safety case;
- (b) he has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority at least 3 months (or such shorter period as the competent authority may specify) before commencing the operation in accordance with regulation 7(2); and
- (c) the competent authority has accepted those revisions to the current safety case.

(7) For the purposes of regulation 2(4) [**combined operations**] and paragraph (6), the operation of that production installation is treated as commenced—[**this is the equivalent of regulation 7(2)**]

- (a) on the commencement of the first well drilling operation from the installation which may involve the release of petroleum from beneath the sea-bed; or
- (b) when petroleum is brought onto the installation for the first time through a pipeline or well,

whichever is earlier.

Notification of combined operations

10.—(1) A duty holder for an installation which is to be involved in a combined operation shall ensure that that installation does not engage [**Article 6(6)**]in a combined operation unless a notification containing the particulars specified in Schedule 4 (other than those already notified to the competent authority pursuant to regulation 17) in respect of that combined operation is sent to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before it is due to commence.

(2) The requirements of paragraph (1) will be satisfied if—

- (a) the duty holders for every installation involved in the combined operation prepare and agree a notification containing the particulars specified in that paragraph; and
- (b) one of them sends it to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before it is due to commence.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to completion of the relevant combined operation, the duty holder shall notify the competent authority of that change as soon as is practicable.[**Article 16(3)**]

(4) Where there is a change in the duty holder or of the installation, the duty holder shall send a notification pursuant to paragraph (1).

(5) A duty holder for an installation which is or is to be involved in a combined operation must not commence the combined operation where the competent authority expresses objections to the content of the notification. [**Article 6(6), Article 18(1) and Article 16(2)**].*[Article 16(2) requires the CA to consider the notification. That happens as a matter of administrative law, because the authority must consider whether to exercise this power to express objections. It may exercise other powers (i.e. ‘take appropriate action’ in words of Article 16(2)) such as those under section 20 HSWA. However, the action ‘may include prohibiting the operation from being commenced’ (Article 16(2)) by means of use of this power.]*

Safety case for dismantling fixed installation

11.—(1) The operator of a fixed installation shall ensure that it is not dismantled unless—

- (a) he has prepared revisions to the current safety case containing, subject to paragraph (2), the particulars specified in regulation 12 and Schedule 5 not contained in the current safety case for that installation;[**Article 11(1)(f), Article 12(5), Article 13(4), Annex I, Part 6, paragraph (3)**]
- (b) he has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority at least 3 months (or such shorter period as the competent authority may specify) before the commencement of the dismantling; and
- (c) the competent authority has accepted those revisions to the current safety case.[**Article 12(6) and Article 13(5)**]

(2) Paragraph (1) shall only require the particulars in the proposed revisions to the current safety case to describe the matters referred to in that paragraph to the extent that it is reasonable to expect the operator to address them at the time of sending the proposed revisions to the competent authority.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the competent authority deciding whether to accept the proposed revisions to the current safety case, the operator shall notify the competent authority of that change as soon as practicable.

(4) In this regulation, “operator”, in relation to a fixed installation, means

- (a) the person appointed by the licensee to manage and control directly or by any other person the execution of dismantling a fixed installation; or
- (b) the licensee, where—
- (c) it is not clear to the competent authority that one person has been appointed to perform the functions described in paragraph (a); or
- (d) in the opinion of the competent authority, any person appointed to perform the functions specified in paragraph (a) is incapable of performing those functions satisfactorily.

Management of health and safety and control of major accident hazards

12.—(1) The duty holder who prepares a safety case pursuant to these Regulations shall, subject to paragraphs (2) and (3), include in the safety case sufficient particulars to demonstrate that—

- (a) his management system is adequate to ensure—

- (i) that the relevant statutory provisions will, in respect of matters within his control, be complied with; and
- (ii) the satisfactory management of arrangements with contractors and sub-contractors;
- (b) he has established adequate arrangements for audit and for the making of reports thereof;
- (c) all hazards with the potential to cause a major accident have been identified;
- (d) all major accident risks have been evaluated, their likelihood and consequences assessed, including any environmental, meteorological and seabed limitations on safe operations, and that suitable measures, including the selection and deployment of associated safety and environmental-critical elements have been, or will be, taken to control those risks to ensure that the relevant statutory provisions will be complied with. **[Annex I, Part 2, paragraph (5); Annex I, Part 3, paragraph (5)]**
- (e) in the case of a non-production installation, that all the major hazards have been identified [for all operations the installation is capable of performing] *[these bracketed words signify why paragraph (d) above appears insufficient here]*, and that the risk of a major accident is reduced so far as is reasonably practicable. **[Annex I, Part 3, paragraph (9)]**

(2) [Paragraph (1) shall only require the particulars in the safety case to demonstrate the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the safety case to the competent authority.] **[No such saving in the Directive]**

(3) In this regulation, “audit” means systematic assessment of the adequacy of the management system to achieve the purpose referred to in paragraph (1)(a) carried out by persons who are sufficiently independent of the system (but who may be employed by the duty holder) to ensure that such assessment is objective.

(4) The demonstration in paragraph (1)(d) must include an assessment of oil spill response effectiveness *[define this]* **[Annex I, Part 2, paragraph 5; Part 3, paragraph (5)].** *[For discussion with DECC.]*

Review of safety case [Article 12(7)]

13.—(1) A duty holder shall thoroughly review a current safety case when directed to do so by the competent authority.

(2) In the absence of a direction under paragraph (1), a duty holder shall thoroughly review a current safety case within 5 years of—

- (a) the date on which the competent authority accepted that current safety case; and
- (b) the date of the previous review.

(3) A duty holder shall send a summary, including the results, **[Article 12(7)]** of each such review to the competent authority—

- (a) where the review is conducted at the direction of the competent authority, within such reasonable time, being a period of not less than 28 days of the direction, as may be specified by the competent authority; or
- (b) in all other cases, within 28 days of its conclusion.

Revision of safety case

14.—(1) In addition to the other occasions on which a duty holder must revise a current safety case pursuant to these Regulations, a duty holder shall revise a current safety case—

- (a) when appropriate **[Article 11(1)(f), Articles 12(1) and 13(1)]**; and
- (b) when directed to do so by the competent authority pursuant to regulation 15(1) **[Article 12(1)]**.

(2) Revisions made under sub-paragraph (a) of paragraph (1) which make a material change to the current safety case shall not be effective unless—**[when read with regulation 7, Article 12(5) and Article 13(5) and (6)]**

- (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority—
 - (i) at least 3 months, or such shorter period as the competent authority may specify; or
 - (ii) where the revisions relate to a combined operation, at least 6 weeks, or such shorter period as the competent authority may specify, before the revisions are to be made; and
 - (b) the competent authority has accepted the revisions.
- (3) Without prejudice to the generality of paragraph (2)—
- (a) no well operation shall constitute a material change;
 - (b) no revision prepared or made pursuant to regulation 27 shall constitute a material change;
 - (c) the movement of a production installation to a new location to be operated there shall constitute a material change; and
 - (d) the conversion of a production installation to enable it to be operated as a non-production installation shall constitute a material change, to the current safety case for the purposes of paragraph (2).
- (4) For the purposes of paragraph (1), it is to be regarded as appropriate to revise a safety case in respect of material changes to an installation.**[Article 12(5) and Article 13(4)]**
- (5) Where appropriate the duty holder must include in the version of the current safety case incorporating the proposed revisions pursuant to paragraph (2)(a), sufficient details to update the description of the internal emergency response arrangements —**[Annex I, Part 6, paragraph (3); Article 28(3), first clause of second sentence]**
- (a) in the case of a production installation, under paragraph 17 of Schedule 2; or
 - (b) in the case of a non-production installation, paragraph 15 of Schedule 3.
- (6) A revised safety case for a production installation must contain the particulars specified in regulation 12 and Schedule 2.**[Article 12(5), Annex I, Part 6, paragraph (3)]***[To be considered further. It seems nothing in the SCR prevents Executive accepting a revised safety case that does not contain the particulars one would usually expect it to contain. This seems rather assumed. Will need to check that those particulars make sense in the light of a revision]*
- (7) A revised safety case for a non-production installation must contain the particulars specified in regulation 12 and Schedule 3.**[Article 13(4), Annex I, Part 6, paragraph (3)]***[To be considered further. It seems nothing in the SCR prevents Executive accepting a revised safety case that does not contain the particulars one would usually expect it to contain. This seems rather assumed. Will need to check that those particulars make sense in the light of a revision]*

Power of competent authority in relation to safety cases and related documents

15.—(1) The competent authority may direct a duty holder to prepare revisions to a current safety case in relation to such matters as the competent authority may notify to him.**[Articles 12(1) and 13(1)]**

(2) When making a direction for the purposes of paragraph (1), the competent authority shall explain why it believes that each revision is necessary and shall specify a period, not being less than 28 days, within which the duty holder shall submit such revisions to the competent authority.

(3) Revisions submitted pursuant to paragraph (1) shall not be effective unless—

- (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the competent authority; and
- (b) the competent authority has accepted the revisions.

(4) After the submission of a design notification required under regulation 6 or 9 and prior to the submission of a safety case in respect of a production installation, the duty holder for that installation shall provide the competent authority with a copy of any document which, in the

opinion of the competent authority, may be directly or indirectly relevant to the duty holder's preparation of the safety case for that installation within such reasonable time of the demand, being a period of not less than 14 days, as may be specified by the competent authority.

(5) The competent authority may suspend any current safety case where it does not accept any proposed revision thereto submitted to it pursuant to regulation 15(3) or 27(2).

(6) When suspending a current safety case in accordance with paragraph (5), the competent authority shall explain why it believes that a suspension is necessary.

(7) During any period in which the current safety case for an installation is suspended, the duty holder for that installation shall ensure that it is not operated.

(8) The competent authority may lift any suspension in respect of a current safety case when it is satisfied that the health and safety of persons who are likely to be affected by the lifting of any suspension will not be prejudiced in consequence of it.

(9) Where further information is necessary before a safety case or revisions to a safety case can be accepted, the duty holder must provide, at the request of the competent authority—

- (a) such information, and
- (b) make any necessary changes to the submitted safety case.[Articles 12(4) and 13(3)]

Duty to conform with safety case and notifications of operation

16.—(1) The duty holder shall ensure that the procedures and arrangements described in the current safety case which may affect health or safety are followed.

(2) In criminal proceedings for a contravention of paragraph (1), it shall be a defence for the accused to prove that—

- (a) in the particular circumstances of the case, it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 14; or
- (b) the commission of the offence was due to a contravention by another person of regulation 8 of the Management Regulations and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

(3) The duty holder must ensure that a combined operation or well operation is conducted in pursuance of the plans stated in, respectively, the notification of combined operations sent pursuant to regulation 10(1) or the notice of well operations sent pursuant to regulation 17(1).[Article 21(1)]

Notification of well operations

17.—(1) Subject to paragraph (2), a well operator shall ensure that no well operation is commenced [Article 6(6)] unless he has sent a notification containing the particulars specified in Schedule 6 to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before commencing that operation.

(2) In the case of a production installation a well operator shall ensure that —

- (a) no well operation which involves—
 - (i) insertion of a hollow pipe in the well; or
 - (ii) altering the construction of the well,is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the competent authority at least 10 days (or such shorter period as the competent authority may specify) before commencing that operation; and

(3) no well operation which involves drilling is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the competent authority at least 21 days (or such shorter period as the competent authority may specify) before commencing that operation.

(4) Where a well operator plans or prepares a material change to any of the particulars notified pursuant to paragraph (1) or (2), the well operator must consult the independent and competent persons selected under the arrangements described in regulation 18(2) of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 about the planned or prepared material change. **[Article 15(3). That Article also calls for the CA to consider the changes and take action if necessary. Assumed that is the case given it has an obligation to exercise its powers as the occasion requires.]**

(5) Where there is a material change in any of the particulars notified pursuant to paragraph (1) or (2) **[Article 15(3) does not make a distinction about what material changes to well operations must be notified]** prior to completion of the relevant well operation, the well operator shall notify the competent authority of that change as soon as practicable.

(6) A well operator must not commence a well operation (of any description) where the competent authority expresses objections to the content of the notification sent in respect of the well operation or any change to that content notified to the competent authority pursuant to paragraph (4). **[Article 6(6), Article 18(a) and Article 15(2)] [Article 15(2) requires the CA to consider the notification. That happens as a matter of administrative law, because the authority must consider whether to exercise this power to express objections. It may exercise other powers (i.e. 'take appropriate action' in words of Article 15(2)) such as those under section 20 HSWA. However, the action 'may include prohibiting the operation from being commenced' (Article 15(2)) by means of use of this power.]**

(7) Subject to paragraph (8), a well operator must include a copy of the corporate major accident prevention policy with a notification sent to the competent authority pursuant to paragraph (1) or (2). **[Article 11(2)]**

(8) Paragraph (7) does not apply where a well operator has previously sent an adequate description of its corporate major accident prevention policy to the competent authority [as part of the safety case for the installation to be used for the well operation]. **[That would be the case when the well operator was also owner or operator.]**

Keeping of documents

18.—(1) A duty holder shall—

- (a) ensure that, when he sends—
 - (i) the design notification, in the case of a production installation; or
 - (ii) the safety case, in the case of a non-production installation,to the competent authority, it is notified of an address in Great Britain for the purposes of sub-paragraphs (b) and (e) below;
- (b) keep copies, at the address referred to in sub-paragraph (a) and on the installation, of the following documents relating to the installation—
 - (i) the current safety case;
 - (ii) any summary of any review of the current safety case prepared pursuant to regulation 13(2); and
 - (iii) each audit report;
- (c) keep copies on the installation of the following documents relating to the installation—
 - (i) any relocation notification and any material changes thereto;
 - (ii) any notification of combined operations and any material changes thereto; and
 - (iii) any notification of well operations and any material changes thereto;
- (d) ensure that, in respect of each audit report, a written statement is made, recording—
 - (i) the main findings of the report;
 - (ii) the recommendations in the report; and
 - (iii) the action proposed to implement those recommendations, including the timescales involved, and a copy of that statement kept on the installation; and

- (e) ensure that a record is made of any action taken in consequence of an audit report, and a copy of that record kept at the address referred to in sub-paragraph (a) and on the installation.

(2) The copy of the current safety case referred to in paragraph (1) and any other relevant documents shall be kept for so long as they are current, and the copy of the audit report, the written statement and the record referred to in that paragraph shall be kept for a period of 3 years after being made.

(3) The duty holder for an installation shall ensure that—

- (a) its verification scheme, any modification of that scheme and any note made pursuant to regulation 19(2)(c) or 20(b) is kept at the address notified to the competent authority pursuant to sub-paragraph (a) of paragraph (1) until the expiration of 6 months after such scheme or, as the case may be, modification of that scheme, has ceased to be current; [*this does not appear to require changing under Article 17(6) – comments on scheme itself need not be recorded – may want to apply the same criterion for retention of records though*] and
- (b) records, sufficient to show the matters described in paragraph 5 of Schedule 7, are kept at the address notified to the competent authority pursuant to paragraph (1)(a) until the the expiration of 6 months after completion of the [offshore oil and gas operations] to which they relate. [**Article 17(6)**]

(4) In this regulation, “audit report” means a report made pursuant to the arrangements referred to in regulation 12(1)(b).

Verification schemes

19.—(1) The duty holder for an installation shall ensure that a record of the safety and environmental-critical elements and the specified plant is made.

(2) After a record has been made in accordance with paragraph (1), the duty holder shall ensure that, in accordance with paragraph (3)—

- (a) comment on that record by an independent and competent person is invited;
- (b) a verification scheme providing for the matters contained in Schedule 7 and complying with paragraph (4) is drawn up by or in consultation with such person;
- (c) a note is made of any reservation expressed by such person as to the contents of—
 - (i) that record; or
 - (ii) that scheme; and
- (d) that scheme is put into effect.

(3) The matters set out in paragraph (2) shall be completed—

- (a) in the case of a production installation, before completion of its design; and
- (b) in the case of a non-production installation, before it is moved into relevant waters with a view to its being operated there.

(4) A verification scheme complies with this paragraph if—[Annex V][*Note, these qualifications must be added to verification under DCR*]]

- (a) [**Annex V, paragraph 2(b)**]tasks under the scheme are appropriately allocated by the independent and competent person to personnel qualified to undertake them;
- (b) [**Annex V, paragraph 2(c)**]includes suitable arrangements for the flow of information between the duty holder and the independent and competent person;
- (c) [**Annex V, paragraph 2(d)**]the independent and competent person is given suitable [*defined term*] authority by the duty holder to be able to carry out the functions under the scheme effectively;
- (d) [**Annex V, paragraph 3**]material changes [*defined term*] are referred to the independent and competent person for further comment in accordance with the scheme.

(5) [Annex V paragraph 3] The outcomes of referral of the kind described in paragraph (4)(d) must be communicated to the competent authority, if it so requests.

Review and revision of verification schemes

20.—(1) The duty holder shall ensure that, as often as may be appropriate—

- (a) the verification scheme for his installation is reviewed and, where necessary, revised or replaced by or in consultation with an independent and competent person; and
- (b) a note is made of any reservation expressed by such person in the course of drawing it up.

Continuing effect of verification schemes

21. The duty holder shall ensure that effect continues to be given to the verification scheme for his installation, or any revision or replacement of it, while that installation remains in being.

Defence

22.—(1) In any proceedings for an offence for a contravention of any of the provisions of regulations 19 to 21 it shall, subject to paragraphs (2) and (3), be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence.

(2) The person charged shall not, without the leave of the court, be entitled to rely on the defence in paragraph (1) unless, within a period ending 7 clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England and Wales; or
- (b) before the intermediate diet, where the proceedings are summary proceedings in Scotland; or
- (c) before the first diet, where the proceedings are solemn proceedings in Scotland, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the 1974 Act, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

Exemptions

23.—(1) Subject to paragraph (2), the competent authority may, by a certificate in writing, exempt any person, installation or well or class of persons, installations or wells from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The competent authority shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it, and that the exemption will be compatible with Article

3(2) of Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling(a).

[Appeals [DECC have stated that if their officials are to be appointed as inspectors to enforce some parts of these regulations they would object to this appeal mechanism. I am advised that the COMAH regulations provide no appeal mechanism. Disgruntled regulated persons governed by those regulations are left chiefly with the option of judicial review. THIS NEEDS TO BE ADDRESSED.]

24.—(1) Any person who is aggrieved by a decision of the Executive—

- (a) as to a finding of fact made by the Executive for the purposes of these Regulations which affects him as a duty holder or licensee or any installation for which he is or may be responsible;
- (b) not to accept a safety case prepared by him and submitted to the Executive pursuant to regulation 7(1) or 8;
- (c) to direct him to prepare revisions to a current safety case in accordance with regulation 15(1);
- (d) not to accept a revision to a current safety case prepared by him and submitted to the Executive in accordance with regulation 9(5), 11(1), 14(2), 15(3) or 27(1) or (2);
- (e) to suspend pursuant to regulation 15(5) a current safety case held by him;
- (f) not to lift a suspension pursuant to regulation 15(8) in respect of a current safety case held by him;
- (g) to revoke an exemption certificate granted to him pursuant to regulation 23(1); or
- (h) to grant to him an exemption certificate subject to a condition or a limit of time pursuant to regulation 23(1),

may appeal to the Secretary of State.

(2) The provisions of Schedule 8 shall apply where an aggrieved person appeals to the Secretary of State.

(3) Any decision of the Executive which is the subject of an appeal under this regulation shall not be suspended pending final determination of the appeal.]

Amendments

25. The instruments referred to in Schedule 9 shall be amended in accordance with that Schedule.

Revocation

26.—(1) Subject to paragraph (2), the 1992 Regulations are hereby revoked.

(2) Regulations 6, 9, 10, 15 and 17 of and Schedule 4 to the 1992 Regulations shall remain in force until 6 October 2007 insofar as they relate to combined operations.

Transitional provisions

27.—(1) Subject to paragraph (4), where there is an intention to carry out combined operations within 3 years of the coming into force of these Regulations a duty holder shall ensure that before the first combined operation is commenced he has made effective revisions to a current safety case accepted by the Executive pursuant to the 1992 Regulations which contain the particulars specified in—

- (a) regulation 12, in relation to combined operations;

(a) O.J. No. L348, 28.11.92, p.9.

- (b) paragraph 14 of Schedule 2, in relation to a production installation; or
 - (c) paragraph 13 of Schedule 3, in relation to a non-production installation,
- not contained in the current safety case for that installation.

(2) Revisions made pursuant to paragraph (1) shall not be effective unless—

- (a) the duty holder has sent a version of the current safety case which incorporates the proposed revisions, showing clearly where they are to be made, to the Executive; and
- (b) the Executive has accepted the revisions.

(3) Subject to paragraph (4), a duty holder shall revise a current safety case accepted by the Executive pursuant to the 1992 Regulations within 3 years of the coming into force of these Regulations so that it includes the particulars specified in—

- (a) regulation 12 and Schedule 2, in relation to a production installation; or
- (b) regulation 12 and Schedule 3, in relation to a non-production installation,

not contained in the current safety case for that installation.

(4) A duty holder may continue to comply with regulations 6, 9, 10 and 15 of and Schedule 4 to the 1992 Regulations in relation to a current safety case for a combined operation accepted by the Executive pursuant to the 1992 Regulations provided that within 18 months of the coming into force of these Regulations he complies with regulations 10, 14, 16, 18 and 27(1) of and Schedule 4 to these Regulations.

(5) For the purpose of this regulation, where there are safety cases under regulations 4(2) and 7 of the 1992 Regulations in respect of an installation “current safety case” means the safety case prepared under regulation 7.

28.—(1) [Omitted.]

Safety zones

29. The prohibition under section 23(1) of the [*Petroleum Act 1987*] on a vessel entering or remaining in a safety zone established around an installation by virtue of that Act shall not apply to a vessel entering or remaining in the safety zone—

- (a) in connection with the laying, inspection, testing, repair, [maintenance], alteration, renewal or removal of any submarine cable or pipe-line in or near that safety zone;
- (b) to provide services for, to transport persons or goods to or from, or under the authority of a government department to inspect, any installation in that safety zone;
- (c) if it is a vessel belonging to a general lighthouse authority performing duties relating to the safety of navigation [see section 193 of the Merchant Shipping Act 1995 for definition of general lighthouse authority for the purposes of Part VIII of that Act];
- (d) in connection with the saving or attempted saving of life or property;
- (e) owing to stress of weather;
- (f) when in distress;
- (g) if there is consent from the operator or owner. [**Article 6(7)(g) – NB Article 6(7)(g) refers to consent of MS: covered by section 23(1)(b) which gives HSE authority to grant consent? Could add Secretary of State consent, or possibly amend Petroleum Act 1997 – in which case be aware regulation 4(4)(a) of the Offshore Safety (Repeals and Modifications) Regulations 1993 (SI 1993/1823) which amends the PA 1987 to grant that consent.**][Don't forget to revoke SI 1987/1331.]

Major accident prevention policy

30.—(1) An operator or owner must prepare in writing [Article 19(5)(a)] a corporate major accident prevention policy[Article 19(1)], including in respect of production and non-production installations of the operator or owner outside of the European Union [Article 19(8)].

(2) The corporate major accident prevention policy must address at least the particulars set out in Schedule [10] and must be prepared in accordance with Schedule [11][Article 19(5), Annex IV][*For discussion, not clear what Annex IV aimed at achieving*]

(3) The corporate major accident prevention policy may in addition outline the commitment of the operator or owner to mechanisms for effective tripartite consultation [Define?]established between the [competent authority], operators and owners and workers' representatives in the United Kingdom[Article 19(4)].

(4) In preparing a corporate major accident prevention policy an operator must take account of the operators' primary responsibility for, among other things, the control of risks of a major accident that are a result of its operations and for continuously improving control of those risks so as to ensure a high level of protection at all times[Article 19(2)].[Article 19(2) refers only to operators and not to owners also.]

(5) An operator or owner must [Article 19(1)]—

- (a) implement the corporate major accident prevention policy throughout its offshore oil and gas operations; and
- (b) set up appropriate monitoring arrangements to assure effectiveness of the policy.

(6) In this regulation a reference to an operator includes a reference to a well operator.

Safety and Environmental Management System [*for discussion*]

31.—(1) The operator or owner of an installation must prepare a document setting out its safety and environmental management system.[*Is it clear what this is?*][Article 19(3)]

(2) The safety and environmental management system is to include organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the corporate major accident prevention policy.[Article 19(5)(b)]

(3) The safety and environmental management system is to be integrated with the overall management system of the operator or owner.[Article 19(5)(b)]

(4) The safety and environmental management system must address the particulars in Schedule [12] and must be prepared in accordance with Schedule [11][Article 19(5), Annex IV][*For discussion, not clear what Annex IV aimed at achieving*].

(5) The document setting out the safety and environmental management system must include a description of—

- (a) the organisational arrangements for the control of major hazards;
- (b) the arrangements for preparing and submitting documents under the relevant statutory provisions; and
- (c) the verification scheme (which description complies with regulation 32). [Article 19(3)(c) and Article 17(1)][*Note, Article 11(2) requires that a description of the scheme be sent with the report on major hazards too. Article 17(1) says that the description shall contain the information in Annex I, Part 5. So far as relevant, that means paragraphs (b) and (c) (paragraph (a) of that Part calls for a statement, which is not really a description, dealt with in this regulation)*][*Note 2: the description must including potentially the DCR verification scheme*]

(6) [In this regulation a reference to an operator includes a reference to a well operator.]

Description of verification scheme [move so follows original regulation 21]

32. For the purposes of regulation 7(1)(a) and paragraph 18 of Schedule 2 [*safety case for production installations*]; regulation 8(1)(a) and paragraph 16 of Schedule 3 [*safety case for non-*

production installations]; and regulation 31(5)(c)][SEMS], a description of the verification scheme complies with this regulation if it includes [Article 17(1), Annex 1, Part 5]—

- (a) a description of the criteria for selection of [independent and competent persons] to carry out functions under the scheme;
- (b) a description of the means of verifying that the safety and environmental-critical elements and any specified plant remain in good repair and condition; and
- (c) details of the arrangements [Directive says ‘principles that will be applied’] to carry out the functions under the scheme and to keep the scheme under review throughout the lifecycle of the installation including—
 - (i) the examination and testing of the safety and environmental critical elements by independent and competent persons;
 - (ii) verification of the design, standard, certification or other system of conformity of the safety and environmental-critical elements;
 - (iii) examination of work in progress;
 - (iv) the reporting of any instances of non-compliance; and
 - (v) remedial actions taken by the operator or owner.

Capacity of operator, owner or well operator to meet requirements

33. Where the [Executive] determines that the operator no longer has the capacity to meet the requirements of the relevant statutory provisions, it must immediately inform the Department of Energy and Climate Change[Article 6(4)][Use expanded definition of ‘operator’, as in reg *Error! Reference source not found.*28(3)].

34. [Omitted.]

Power of the competent authority to prohibit operations [for discussion][Article 18(a)]

35.—(1) This regulation applies where the competent authority is of the opinion that the measures for prevention or limiting the consequences of a major accident proposed in—

- (a) a safety case sent to the competent authority pursuant to regulation 7 or 8;
- (b) a notification of well operations sent to the competent authority pursuant to regulation 17; or
- (c) a notification of combined operations sent to the competent authority pursuant to regulation 10,

are insufficient to fulfil the requirements set out in the relevant statutory provisions.

(2) Where this regulation applies—

- (a) the competent authority must notify the duty holder who sent the document referred to in paragraph (1)(a) to (c) that it is of the opinion described in paragraph (1), and
- (b) the duty holder must not operate or commence operation of the installation to which the document relates.

(3) [Add provision to deal with more than one installation and more than one duty holder.]

36.—(1) [Omitted.]

Duty to control risk [Article 19(9)]

37.—(1) Where an activity carried out by a duty holder [operator or an owner]—

- (a) [poses an immediate danger to human health; or]
- (b) significantly increases the risk of a major accident,

the duty holder must take suitable measures to ensure that the danger or risk is reduced as low as is reasonably practicable] [*Directive says ‘adequately controlled’*].

(2) The measures referred to in paragraph (1) include, where necessary, suspending the relevant activity until the danger or risk is adequately controlled.

(3) The duty holder must notify the competent authority where it has taken measures under paragraph (1).

(4) The duty holder must comply with paragraph (3) immediately after and in any event no later than 24 hours after adopting the measures.

Information on operations conducted outside of the European Union [Article 20(1)]

38.—(1) A UK-registered company conducting, itself or through a subsidiary, offshore oil and gas operations outside the European Union including as licence holder must report to the competent authority, on request, the circumstances of any major accident in which it [or its subsidiary][*possibly controversial, provision can be read as only being concerned with parent company – unlikely CJEU would agree*] has been involved [*What is meant by involved?*]. [*Removed reference to ‘operator’ as that is a term defined for multiple situations and here the word is surely intended to be generic. It would be implicit in the words ‘conducting ...offshore oil and gas operations’ that this including the notion of operating. Adding license holding may not be implicit, but this can be added because license holder is not defined.*]

(2) The details of the information to go in the report must be specified by the competent authority in the request. [**Article 20(2)**]

(3) In paragraph (1)—

“subsidiary” has the meaning given by section 1159 of the Companies Act 2006;

“UK-registered company” has the meaning given by section 1158 of the Companies Act 2006. [*will need to check this definition is wide enough, it excludes an overseas company incorporated abroad that has registered particulars under section 1046 CA 2006, for example*]

39. [Omitted.]

Standards and guidance on best practice

40.—(1) Operators and owners must cooperate with the competent authority to establish and implement a priority plan for the development of standards, guidance and rules which will give effect to best practice in major accident prevention, and limitation of consequences of major accidents should they nonetheless occur.[**Annex IV, paragraph 2**]

(2) Operators and owners must participate in the preparation and revision of standards and guidance on best practice in relation to the control of major hazards throughout the design and operational lifecycle of offshore oil and gas operations [defined term].[**Article 19(7)**][*For discussion: too imprecise an obligation. Draft now waters this down to an obligation to participate*]

(3) The duty in paragraph (2) must be carried out in consultation with the [competent authority] and making use of the exchanges of knowledge, information and experience provided for by [*provisions implementing Article 27(1)*]. [**Article 19(7)**]

(4) In performing the duty in paragraph (2), operators and owners must consider the matters in Schedule [12] with a view to establishing priorities for the development of standards and guidance and giving practical effect to the prevention of major accidents and limitation of their consequences. [**Annex VI, introductory paragraph**].

(5) In this regulation a reference to an operator includes a reference to a well operator.

**Communication of national arrangements for confidential reporting of safety concerns etc.
[Article 22(2)]**

41.—(1) An operator or owner must communicate to the persons specified in paragraph (2) the details of arrangements made by the competent authority for—

- (a) the confidential reporting of safety and environmental concerns relating to offshore oil and gas operations from any source; and
- (b) for investigation of such concerns while maintaining the anonymity of individuals in connection with the confidential reporting of those concerns.

(2) The persons are—

- (a) employees of the operator or owner;
- (b) persons contracted by the operator or owner to conduct offshore oil and gas operations; and
- (c) employees of the persons referred to in sub-paragraph (b).

(3) An operator or owner must make reference to the confidential reporting mentioned in paragraph (1)(a) in relevant training and notices.

(4) In this regulation a reference to an operator includes a reference to a well operator.

Notification of major accident etc.[Article 30(1)]

42.—(1) The operator or, if appropriate, the owner must notify the competent authority without delay of—

- (a) a major accident; or
- (b) a situation where there is an immediate risk of a major accident.

(2) The notification must describe the circumstances, including, where possible, the origin, the potential impacts on the environment and the potential major consequences.

Enforcement

43.—(1) Sections—

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

of the Health and Safety at Work etc. Act 1974, subject to paragraphs (2) and (3), and to the extent they would not otherwise do so, 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 that Act which is exercisable in relation to any function of the Executive 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. *[This essentially ensures that parts of these regulations not made under HSWA (e.g. parts relating to the environment, made in reliance on ECA 1972) are enforceable as health and safety regulations. The last part makes it clear that the Executive can enforce them (arguably it is unnecessary given the first part). Need to find out from COMAH colleague why prohibition notices are excluded. It may be specific to COMAH and we may otherwise wish to apply appeal provisions to prohibition notices. These appeals go to the employment tribunal.]*

(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 Health and Safety at Work etc. Act 1974 has effect accordingly.

(3) Section 18(1) of the Health and Safety at Work etc. Act 1974 (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 Department for Energy and Climate Change], but nothing in this paragraph has the effect of making the [the Department for Energy and Climate Change] an enforcing authority for the purposes of the Health and Safety at Work etc. Act 1974. ***[This makes it the duty of DECC (along with the Executive) to enforce these regulations without permitting DECC to enforce other health and safety regulations. Could be an issue if DECC required to examine anything under PFEER as part of implementation, though provision could easily be made to treat those similarly. Behind the scenes an MoU would make clear exactly which provisions of these regulations DECC would be expected to enforce, or in what respect (e.g. in relation to environmental assessments).]***

(4) [Without prejudice to the provisions of the Health and Safety at Work etc. Act 1974 referred to in paragraph (1), section 108(1) of the Environment Act 1995 has effect in relation to a person authorised by the Agency as if the reference in that section to a pollution control enactment included a reference to these Regulations and as if the reference to a pollution control function included a reference to any function conferred or imposed on the Agency by or under these Regulations.] ***[This has the effect of allowing Environment Agency personnel, who are authorised to exercise powers of entry to enforce pollution control legislation to exercise those powers of entry to enforce these regulations. It also effectively authorises them to exercise the functions on the competent authority under these regulations. DECC say their inspectors ‘have no inherent inspection powers’ and ‘rely on powers to inspect in very specific circumstances’ so we will need to investigate that further.]***

(5) Without prejudice to the functions of an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974, a person referred to in paragraph (4) may, notwithstanding that the person is not an inspector so appointed, serve an improvement notice under section 21 of that Act in respect of a contravention of these regulations, and the reference to an inspector in section 23(4) of that Act is to have effect accordingly. ***[This essentially empowers EA inspectors to serve HSWA improvement notices and enables them to consult the fire and rescue authority. That latter part may be irrelevant to offshore installations. Presumably we would otherwise wish for DECC inspectors to serve improvement notices. We may also wish them to serve prohibition notices.]***

(6) [Notwithstanding the Health and Safety (Enforcing Authority) Regulations 1998 the Executive is, for the purposes of the 1974 Act, the enforcing authority for the relevant statutory provisions at an establishment to which any of these regulations apply.] ***[This provision overrules the enforcement responsibility otherwise determined by the enforcement regulations for COMAH sites. At first glance this appears unnecessary for the offshore regime as those regulations appear to make HSE the enforcement authority in any event (regulation 3(1)). Note this provision has been amended in COMAH to provide for transfer of responsibility, but that is not reproduced here.]***

Internal emergency response

44.—(1) The duty holder must perform the internal emergency response duties consistently with the external emergency response plan; ***[Article 28(1)(b) What in practice is meant by performing these duties consistently?]*** ***[Note, section 12(1) Interpretation Act 1978 provides that Where an Act ... imposes a duty it is implied, unless the contrary intention appears, that the ... the duty is to be performed, from time to time as occasion requires.]***

(2) The duty holder must perform the internal emergency response duties, taking into account [the risk assessment undertaken during preparation of the most recent safety case for the installation]; ***[Article 14(1), second sentence.]*** ***[Note, we do not have a discrete ‘risk assessment’ provision as such for safety cases. Assessment of risk comes under demonstration that ‘all hazards with the potential to cause a major accident have been identified’ (SCR regulation 12(1)(c)) and ‘all major accident risks have been evaluated, their likelihood and consequences***

assessed, including any environmental, meteorological and seabed limitations on safe operations' (SCR regulation 12(1)(d), the latter emphasised words coming from Annex I, Part 2, paragraph (5) and Part 3, paragraph (5)). These provisions are not really conveniently referenced, especially since the latter goes on to refer to measures to taken to control risks, which are not risk assessment, strictly speaking, but a response to risk assessment.]

(3) Where the duty holder has adopted other measures, the duty holder must perform the internal emergency response duties so as to secure a good prospect of personal safety and survival, taking into account the adoption of those other measures. [Article 28(4). Not clear what 'other measures' are – definition attempted below, but may not be that the Directive contemplates.]

(4) Where the duty holder performs the internal emergency response duties in relation to an installation engaged in a combined operation—

- (a) the duty holder must make arrangements for coordinating escape, evacuation and rescue between the installations concerned, to secure a good prospect of survival for persons on the installations during a major accident; and [Annex I, Part 10, paragraph (7)];
- (b) [Article 14(3)] where the installation is a non-production installation—
 - (i) the internal emergency response duties must be performed taking into account the combined operation [Directive says 'the [IERP] shall be amended to cover combined operations']; and
 - (ii) a revised description of the internal emergency response arrangements must be sent to the competent authority (unless a revised description has been sent to the competent authority pursuant to regulation 14(5)(b) in connection with the same operation) [Article 14(3) provides that the IERP must be sent to the competent authority to complement the combined operations notification. Here the Directive does not expressly state that an adequate description will be sufficient.]

(5) [Article 14(2)] Where a mobile non-production installation is to be used for carrying out a well operation—

- (a) the duty holder must perform the internal emergency response duties taking into account the risk assessment undertaken during the preparation of the notification of well operations; and
- (b) where the particular nature or location of a well calls for the internal emergency response duties to be performed in a manner different from how they would be performed in the absence of such circumstances (but for this provision) then the duty holder must perform them in that manner and the owner [Directive says 'well operator'] must send a revised description of the internal emergency response arrangements to the competent authority (unless a revised description has been sent to the competent authority pursuant to regulation 14(5)(b) in connection with the same operation).

(6) Where there is a material change to the safety case for an installation that requires revision of the safety case under regulation 14—

- (a) the duty holder must perform the internal emergency response duties in the light of the revision of the safety case and [Article 28(3), first sentence, second clause. The Directive states that the IERP shall be updated. That is, even if the material changes did not actually require the plan to be altered. This provision attempts to reflect the obligatory nature of the Directive's wording but perhaps allow no amendment to be made if there is no need for one.] [Article 28(3) also requires that the 'update' must be sent to the CA. It is assumed here that this is catered for already by Annex I, Part 6, paragraph (3) – at time of drafting in regulation 14(5) of these regulations. That paragraph requires sufficient details fully to update the IER arrangements, which one may argue amount to updates under Article 28(3).]
- (b) send a revised description of the internal emergency response arrangements to [the authorities responsible for executing the external emergency response plan]. [Article 28(3), second sentence, final clause]

(7) Paragraph (8) applies where there is a material change to the particulars notified pursuant to—

- (a) regulation 6(1), (2) and (3) (design and relocation notifications for a production installation);
 - (b) regulation 9(1) (design notification for the conversion of a non-production installation);
 - (c) regulation 10(1) (notification of combined operations); and
 - (d) regulation 17(1) (notification of well operations).
- (8) Where this paragraph applies the duty holder must—
- (a) perform the internal emergency response duties in the light of the material change; and
 - (b) send a revised description of the internal emergency response arrangements to *[the authorities responsible for executing the external emergency response plan]*.
- (9) The duty holder must maintain expertise relevant to the internal emergency response duties in order for that expertise to be available at all times and to be made available as necessary to *[the authorities responsible for the execution of the external emergency response plan]*.**[Article 28(2)]**
- (10) In this regulation and regulation 45—
- “the internal emergency response duties” means the duties in the following regulations of the PFEER Regulations—
- (a) 5 (assessment);
 - (b) 6 (preparation for emergencies);
 - (c) 8(1), (2), and (3) (emergency response plan);
 - (d) 9(1) (prevention of fire and explosion);
 - (e) 10 (detection of incidents);
 - (f) 11 (communication);
 - (g) 12 (control of emergencies);
 - (h) 13 (mitigation of fire and explosion);
 - (i) 14 (muster areas etc.);
 - (j) 15 (arrangements for evacuation);
 - (k) 17 (arrangements for recovery and rescue);
 - (l) 21(2) (list of safety equipment and resources to cap potential spill);
 - (m) 31 (initiation and direction of emergency response, and liaison with external response authority[ies]); and
 - (n) 32 (arrangements for early warning of major accidents).
- “other measures” means measures relating to protection and rescue of personnel from a stricken installation, apart from any adopted in performance of the internal emergency response duties;

Description of internal emergency response arrangements

45.—(1) For the purposes of [these regulations] a “description of the internal emergency response arrangements” in relation to an installation means a description of the manner of performance of the internal emergency response duties in relation to that installation, together with—

- (a) the analysis of oil spill response effectiveness [for the installation]**[Article 14(1). Does an analysis of oil spill response effectiveness differ from an estimate of it (Annex I, Part 10, paragraph (8))? Note that Annex I, Part 10, paragraph (8) highlights specific items to be considered in the response analysis e.g. weather];** and
- (b) evidence of prior assessments of any chemicals used as dispersants that have been carried out to minimise public health implications and any further environmental damage, **[Annex I, Part 10, paragraph (12)]****[Anything in DECC legislation dealing with this?].**

Signed by authority of the Secretary of State for Work and Pensions.

9th November 2005

Philip A Hunt
Parliamentary Under Secretary of State
Department for Work and Pensions

SCHEDULE 1 Regulations 6(1) and (2) and 9(1)

PARTICULARS TO BE INCLUDED IN A DESIGN NOTIFICATION OR A RELOCATION NOTIFICATION

1. The name and address of the operator of the installation.
2. A description of the design process from an initial concept to the submitted design or selection of an existing installation, the relevant standards used and the design philosophy used to guide the process. **[Annex I, Part 1, paragraph 2]**
3. A description of—
 - (a) the chosen design concept in relation to the major hazard scenarios for the particular installation and its [intended?] location, and the primary risk control features **[Annex I, Part 1, paragraph 3]**, including suitable diagrams, and a summary of the other design options which were considered;
 - (b) how the chosen design concept is intended to ensure—
 - (i) compliance with the requirements set out in regulations 5 [*requirements as to operational integrity and composition*] and 10 [*integrity in dismantlement*] of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996(a); and
 - (ii) that risks with the potential to cause a major accident are reduced to the lowest level that is reasonably practicable **[Annex I, Part 1, paragraph 4]**; and
 - (c) the criteria used to select the chosen design concept and the process by which the selection was made.
4. A description of—**[Annex I, Part 1, paragraph 5]**
 - (a) the principal systems on the installation;
 - (b) the installation layout;
 - (c) the process technology to be used;
 - (d) the principal features of any pipeline;
 - (e) any petroleum-bearing reservoir intended to be exploited using the installation; and
 - (f) the basis of design for any wells to be connected to the installation.
5. A suitable plan of the intended location of the installation and of anything which may be connected to it, and particulars of **[Annex I, Part 1, para 6]**—
 - (a) the meteorological and oceanographic conditions to which the installation may foreseeably be subject; and
 - (b) the properties of the sea-bed and subsoil at its location.
6. Particulars of the types of operation, and activities in connection with an operation, which the installation may perform. **[Annex I, Part 1, para 7]**
7. A general description of the means by which the management system of the operator will ensure that the structure and plant of the installation will be designed, selected, constructed and

(a) S.I. 1996/913, to which there is an amendment not relevant to these Regulations.

commissioned in a way which will control major accident risks to comply with the relevant statutory provisions.

8. A description of the verification scheme prepared pursuant to sub-paragraph (b) of paragraph (2) of regulation 19 and an initial list of the safety and environmental critical elements and their required performance. [**Annex I, Part 1, paragraph 9**]

9. Where a non-production installation is to be converted for use as a production installation, a justification demonstrating that the installation is suitable for such conversion. [**Annex I, Part 1, paragraph 11**]

10. Where a production installation is to be moved to a new location to serve a different production operation, a demonstration that the installation is suitable for the proposed production operation [**Annex I, Part 1, paragraph 10**].

11. A description of any environmental, meteorological and seabed limitations on safe operations [*We appear to ask for this in the safety case, see SCR Schedule 2, para 13*], and the arrangements for identifying risks from seabed and marine hazards such as pipelines and the moorings of adjacent installations [**Annex I, Part 1, Para 6**][**Eventually best to move this paragraph to become new paragraph 5**].

12. A general description of the safety and environmental management system by which the intended major accident risk control measures are to be maintained in good effect. [**Annex I, Part 1, para 8**][*For discussion. Some overlap with paragraph 7 above, but not congruity.*]

SCHEDULE 2

Regulations 7(1) and 9(5)

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR THE OPERATION OF A PRODUCTION INSTALLATION

1. The name and address of the operator of the installation. [**Annex I, part 2, paragraph (2)**]

2. A description of the extent to which the duty holder has taken into account any matters raised by the competent authority pursuant to regulations 6(1) [*production installation design notification*] and (4)(a) [*material changes to design notification of a production installation*] and 9(1) [*design notification for conversion of a non-production installation*] and (4) [*material changes to design notification for conversion of a non-production installation*]. [*Need to be sure that these are all occasions where competent authority gives comments on a design notification*][**Annex 1, part 2, paragraph 1**]]

3. A summary of how any safety representatives for that installation were consulted with regard to the revision, review or preparation of the safety case pursuant to regulation 23(2)(c)(i) of the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989(a). [**Annex I, part 2, paragraph (3)**]. *Directive says ‘any worker involvement’ so that could include worker involvement outside of the OI(SRSC)R 1989. Safest bet is to state ‘A summary of any worker involvement in the preparation of the safety case, including, in particular, a summary of how safety representatives for that installation were ... pursuant to ... [OI(SRSC)R 1989][etc]’.* [*Note also that OI(SRSC)R 1989 currently refer to SCR 1992 and should be updated at least in this respect.*]

4. A description, with suitable diagrams, of—

- (a) the main and secondary structure of the installation and its materials; [**Annex I, part 2, paragraph 4**][it is assumed this entails describing the whole installation. It may be better

(a) S.I. 1989/971, amended by S.I. 1992/2885, 1995/738 and 1999/3242 and to which there are other amendments not relevant to these Regulations.

to alter the headpiece to state ‘A description, with suitable diagrams, of the installation, including a description of—’ to put this beyond doubt.]

- (b) its plant;
- (c) the layout and configuration of its plant;
- (d) the connections to any pipeline or installation; and [Annex I, part 2, paragraph 4]
- (e) any wells connected or to be connected to the installation. [Annex I, part 2, paragraph 4]

5. A suitable plan of the location of the installation and of anything connected to it, and particulars of—

- (a) the meteorological and oceanographic conditions to which the installation may foreseeably be subjected; and
- (b) the properties of the sea-bed and subsoil at its location.

6. Particulars of the types of operation, and activities in connection with an operation—

- (a) which the installation is capable of performing; and
- (b) which are to be carried out.[Annex I, part 2, paragraph (6), first clause][DN for Stefan: need to ensure that it is clear we are not looking for (a) \cap (b) rather we are looking for (a) + (b). Can just opt for (b) if HSE content with that]

7. The maximum number of persons—

- (a) expected to be on the installation at any time;
- (b) that may be on the installation at any time[Annex I part 2 paragraph 6, second clause. Directive says ‘can be’ on the installation, i.e. it is aimed at permissible maximum not likelihood] and
- (c) for whom accommodation is to be provided.

8. Particulars of the plant and arrangements for the control of—

(1) well operations, including those—

- (a) to control pressure in a well;
- (b) to prevent the uncontrolled release of hazardous substances; and
- (c) to minimise the effects of damage to subsea equipment

(2) process safety;[Annex I, part 2, paragraph 7]

(3) containment of hazardous substances [(not already addressed under subparagraph (1)(b))] [Annex I, part 2, paragraph 7];

(4) prevention of fire and explosion [Note, paragraph 10 below is about taking appropriate measures to protect persons on the installation from fire and explosion (which may have occurred), rather than about giving particulars of plant and arrangements specifically to prevent fire and explosion occurring at all] [Annex I, part 2, paragraph 7]; and

(5) protection of the environment from an incipient major accident[Annex I, part 2, paragraph 7]

9. A description of any pipeline with the potential to cause a major accident, including—

- (a) the fluid which it conveys;
- (b) its dimensions and layout;
- (c) its contained volume at declared maximum allowable operating pressure; and
- (d) any apparatus and works intended to secure safety,

together with a summary of the document prepared under regulation 23 of the Pipelines Safety Regulations 1996(a).

10. A description of how the duty holder has ensured, or will ensure, compliance with regulation 4(1) of the PFEER Regulations. [*Note, does not fully transpose Annex I, part 2, paragraph 7, as may be thought.*]

11. A description of the plant used and [Annex I, Part 2, paragraph 8] arrangements made for protecting persons on the installation from hazardous substances [Annex I, part 2, paragraph 7 is not limited to toxic gas], including toxic gas, at all times [other than during any period while they may need to remain on the installation following an incident which is beyond immediate control][*This exception for incidents beyond immediate control is not contained within the Directive, and may have to be removed*].

12. A description of the measures taken or to be taken or the arrangements made or to be made for the protection of persons on the installation from hazards, including [Annex I, part 2, paragraph 8 does not limit the list of hazards] explosion, fire, heat, smoke, toxic gas or fumes [during any period while they may need to remain on the installation following an incident which is beyond immediate control][*no such exception in the Directive*] and for enabling such persons to be evacuated or rescued [Annex I, part 2, paragraph 8] from the installation where necessary, including provision for—

- (a) temporary refuge;
- (b) routes from locations where persons may be present to temporary refuge and for egress therefrom to points from where the installation may be evacuated;
- (c) means of evacuation at those points; and
- (d) facilities within temporary refuge for the monitoring and control of the incident and for organising evacuation.

13. A description of the main requirements in the specification for the design of the installation and its plant, which shall include—

- (a) any limits for safe operation or use specified therein;
- (b) a description of how the duty holder has ensured, or will ensure, compliance with regulation 4 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996;
- (c) a description of how the duty holder has ensured, or will ensure, the suitability of the safety and environmental-critical elements;
- (d) a description of how the duty holder—
 - (i) where he is also the operator in relation to a pipeline, has ensured, or will ensure, compliance with regulation 11 of the Pipelines Safety Regulations 1996; or
 - (ii) where he is not also the operator in relation to a pipeline, has co-operated or will cooperate with the operator in relation to a pipeline to ensure compliance with regulation 11 of the Pipelines Safety Regulations 1996; and
- (e) relevant codes, standards and guidance used in the construction and commissioning of the installation. [Annex I, part 2, paragraph 9].

14. Particulars of any combined operations which may involve the installation, including—[Annex I, part 2, paragraph 13]

- (a) a summary of the arrangements in place for co-ordinating the management systems of all duty holders involved in any such combined operation;
- (b) a summary of the arrangements in place for a joint review of the safety aspects of any such combined operation by all duty holders involved, which shall include the

(a) S.I. 1996/825, to which there are amendments not relevant to these Regulations.

identification of hazards with the potential to cause a major accident and the assessment of risks which may arise during any such combined operation;

- (c) the plant likely to be used during any such combined operation; and
- (d) the likely impact any such combined operation may have on the installations involved.

15. Arrangements for the maintenance of control systems to prevent damage to the installation and the environment in the event that all personnel are evacuated. [Annex I, part 2, paragraph 8]

16. An adequate description of the operator's safety and environmental management system including information from it that is relevant to the production installation. [Annex I, Part 2, paragraph 10; Article 11(2). *Following instructions at meeting of 31 January, SEMS is to form part of the safety case, rather than merely be sent with it. Important because this ensures the SEMS is updated, especially for material changes, and that it is accepted. Management system failure is a major cause of accidents. Wording here retains Annex I, Part 2, para 10 requirement for 'information relevant to the production installation' to be provided.*]

17. A description of the internal emergency response arrangements. [Annex I, Part 2, paragraph 11]

18. A description of the verification scheme pursuant to regulation 33. [Annex I, part 2, paragraph 12, Article 11(2)]

19. Particulars of information obtained pursuant to [PFEER] and [MAR] [*these implement Directive 92/91*], so far as—

- (a) relevant to the prevention of a major accident, and
- (b) not otherwise already required to be provided pursuant to this Schedule. [Annex I, Part 2, paragraph (14)]

20. In respect of operations to be conducted from the installation, any information relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under the relevant statutory provisions, obtained pursuant to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (fn. OJ L 26, 28.1.2012, p. 1–21); [Annex I, part 2, paragraph 15][*Not at all clear what the Directive requires here.*][*Reference DECC legislation?*]

21. An assessment of the identified potential environmental effects resulting from the loss of containment of pollutants arising from a major accident, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring. [Annex I, part 2, paragraph 16] [*Reference DECC legislation?*]

22. A copy of the operator's corporate major accident prevention policy. [Article 11(2).]

23. Any other relevant details. [Annex I, part 2, paragraph 13, first clause]

SCHEDULE 3

Regulation 8

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR A NON-PRODUCTION INSTALLATION

1. The name and address of the owner of the installation. [Annex 1, Part 3, paragraph (1)]

2. A summary of how any safety representatives for that installation were consulted with regard to the revision, review or preparation of the safety case pursuant to regulation 23(2)(c)(i) of the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989. **Annex I, Part 3, paragraph (2).** *Directive says 'any worker involvement' so that could include worker involvement outside of the OI(SRSC)R 1989. Safest bet is to state 'A summary of any worker*

involvement in the preparation of the safety case, including, in particular, a summary of how safety representatives for that installation were ... pursuant to ... [OI(SRSC)R 1989][etc].'

3. A description, with suitable diagrams, of—
 - (a) the main and secondary structure of the installation and its materials; [Annex I, Part 3, paragraph (3)][it is assumed this entails describing the whole installation. It may be better to alter the headpiece to state 'A description, with suitable diagrams, of the installation, including a description of—' to put this beyond doubt.]
 - (b) its plant;
 - (c) the layout and configuration of its plant, and
 - (d) in the case of a mobile installation, its means of transfer between locations and its stationing system[**Annex I, part 3, Paragraph (3)**].
4. Particulars of the types of operation, and activities in connection with an operation, which the installation is capable of performing.
5. The maximum number of persons—
 - (a) expected to be on the installation at any time;
 - (b) that may be on the installation at any time; [Annex I Part 3 paragraph (4), second clause. Directive says 'can be' on the installation, i.e. it is aimed at permissible maximum not likelihood] and
 - (c) for whom accommodation is to be provided.
6. Particulars of the plant and arrangements for the control of—
 - (1) well operations, including those—
 - (a) to control pressure in a well;
 - (b) to prevent the uncontrolled release of hazardous substances; and
 - (c) to minimise the effects of damage to subsea equipment by drilling equipment;
 - (2) process safety [Annex I, Part 3, paragraph (6)]
 - (3) containment of hazardous substances [(not already addressed under subparagraph (1)(b)) **Annex I, Part 3, paragraph (6)**]
 - (4) prevention of fire and explosion [Note, paragraph 8 below is about taking appropriate measures to protect persons on the installation from fire and explosion (which may have occurred), rather than about giving particulars of plant and arrangements specifically to prevent fire and explosion occurring at all] [Annex I, Part 3, paragraph (6)]; and
 - (5) protection of the environment from a major accident.[**Annex I, Part 3, paragraph (6)**]
7. A description of how the duty holder has ensured, or will ensure, compliance with regulation 4(1) of the PFEER Regulations. [*Note, does not fully transpose Annex I, Part 3, paragraph (6), as may be thought.*]
8. A description of the plant used and [**Annex I, Part 3, paragraph (7)**] arrangements made for protecting persons on the installation from hazardous substances [**Annex I, Part 3, paragraph (8)**] toxic gas at [all times other than during any period while they may need to remain on the installation following an incident which is beyond immediate control][*This exception for incidents beyond immediate control is not contained within the Directive, and may have to be removed*].
9. A description of the measures taken or to be taken or the arrangements made or to be made for the protection of persons on the installation from hazards, including [**Annex I, Part 3, paragraph (7)** *does not limit the list of hazards*] explosion, fire, heat, smoke, toxic gas or fumes [during any period while they may need to remain on the installation following an incident which is beyond immediate control][*no such exception in the Directive*] and for enabling such persons to be evacuated or rescued [**Annex I, Part 3, paragraph (7)**] from the installation where necessary, including provision for—

- (a) temporary refuge;
- (b) routes from locations where persons may be present to temporary refuge and for egress therefrom to points from where the installation may be evacuated;
- (c) means of evacuation at those points; and
- (d) facilities within temporary refuge for the monitoring and control of the incident and for organising evacuation.

10. A description of the main requirements in the specification for the design of the installation and its plant, which shall include—

- (a) any limits for safe operation or use specified therein;
- (b) a description of how the duty holder has ensured, or will ensure, compliance with regulation 4 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996;
- (c) a description of how the duty holder has ensured, or will ensure, the suitability of the safety and environmental-critical elements; and
- (d) relevant codes, standards and guidance used in the construction and commissioning of the installation[**Annex I, Part 3, paragraph (8)**].

11. Particulars of—

- (a) the limits of the environmental and meteorological [**Annex I, Part 3, paragraph (10)**] conditions beyond which the installation cannot safely be stationed or operated;
- (b) the properties of the sea-bed and subsoil which are necessary for the safe stationing and operation of the installation[**Annex I, Part 3, paragraph (10)**]; and
- (c) the locations in which the installation may be stationed and operated safely.

12. A description of the arrangements for—

- (a) identifying the risks from seabed and marine hazards, including [**Annex I, Part 3, paragraph (10)**]the routes and locations of pipelines, moorings of adjacent installations, [**Annex I, Part 3, paragraph (10)**] wells and other subsea equipment; and
- (b) assessing the risks that they pose to the installation.

13. Particulars of any combined operations which may involve the installation, including **Annex I, Part 3, paragraph (14)**—

- (a) a summary of the arrangements in place for co-ordinating the management systems of all duty holders involved in any such combined operation;
- (b) a summary of the arrangements in place for a joint review of the safety aspects of any such combined operation by all duty holders involved, which shall include the identification of hazards with the potential to cause a major accident and the assessment of risks which may arise during any such combined operation;
- (c) the plant likely to be used during any such combined operation; and
- (d) the likely impact any such combined operation may have on the installations involved.

14. An adequate description of the operator’s safety and environmental management system including information from it that is relevant to the non-production installation. [**Annex I, Part 3, paragraph (11); Article 11(2). Following instructions at meeting of 31 January, SEMS is to form part of the safety case, rather than merely be sent with it. Wording here retains Annex I, Part 3, para 11 requirement for ‘information relevant to the non-production installation’ to be provided.**]

15. A description of the internal emergency response arrangements;[**Annex I, Part 3, paragraph (12)**]

16. A description of the verification scheme pursuant to regulation 32.[**Annex I, Part 3, paragraph (13)**]

17. In respect of operations to be conducted from the installation, any information relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under the relevant statutory provisions, obtained pursuant to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (fn. OJ L 26, 28.1.2012, p. 1–21); [**Annex I, Part 3, paragraph (15)**][*Not at all clear what the Directive requires here.*]

18. An assessment of the identified potential environmental effects resulting from the loss of containment of pollutants arising from a major accident, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.[**Annex I, Part 3, paragraph (16)**]

19. A copy of the owner’s corporate major accident prevention policy. [**Article 11(2)**]. Following instructions at meeting of 31 January, SEMS is to form part of the safety case, rather than merely be sent with it.]

20. Any other relevant details.[Annex I, Part 3, paragraph 14, first clause]

SCHEDULE 4

Regulation 10(1)

PARTICULARS TO BE INCLUDED IN A NOTIFICATION OF COMBINED OPERATIONS

1. The name and address of each duty holder preparing the notification and a confirmation that every such duty holder has agreed to the contents of the notification.[**Annex I, Part 7, paragraph (2)**]

2. A description, by reference to a bridging document authorised by all parties to the document, [**Annex I, Part 7, paragraph (3)**] of how the management systems for the installations involved in the combined operation will be co-ordinated so as to reduce the risks from a major accident [to comply with the relevant statutory provisions] .

3. Particulars of any plant to be used in connection with the combined operation but which is not described in the current safety case for any of the installations involved in the combined operation.[**Annex I, Part 7, paragraph (4)**]

4. A summary of the joint review referred to in paragraph 14(b) of Schedule 2 or paragraph 13(b) of Schedule 3, which shall include—[**Annex I, Part 7, paragraph (5)**]

- (a) a description of any activities during the combined operation which may involve hazards with the potential to cause a major accident on or in connection with an installation; and [**Annex I, Part 7, paragraph (5)(a)**]
- (b) a description of any risk control measures introduced as a result of that review. [**Annex I, Part 7, paragraph (5)(b)**]

5. A description of the combined operation and a programme of work, which shall include the dates on which the combined operation is expected to commence and finish. [**Annex I, Part 7, paragraph (6)**]

6. The name and address of the operator submitting the notification. [**Annex I, Part 7, paragraph (1)**][*Eventually move to become first paragraph*]

SCHEDULE 5

Regulation 11

PARTICULARS TO BE INCLUDED IN A CURRENT SAFETY CASE IN RESPECT OF THE DISMANTLING OF A FIXED INSTALLATION

1. The name and address of the operator of the installation.[**Article 12(5), Annex I, Part 6, paragraph (1)**]
2. The dates on which dismantling is expected to commence and finish.
3. A summary of any worker involvement in the revised safety case, including how any safety representatives for that installation were consulted with regard to the revision of the safety case pursuant to regulation 23(2)(c)(i) of the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989.[**Article 12(5), Article 13(4), Annex I, Part 6, paragraph (2)**]
4. The maximum number of persons expected to be on the installation at any time during its dismantling.
5. A description of how the duty holder will comply with regulation 4(1) of the PFEER Regulations with regard to the dismantling of the installation.
6. A description of arrangements made for protecting persons on the installation from toxic gas at all times other than during any period while they may need to remain on the installation following an incident which is beyond immediate control.
7. A description of how the proposed arrangements, methods and procedures for dismantling the installation and connected pipelines take adequate account of the design and method of construction of the installation and its plant.
8. Sufficient details to update the description of the internal emergency response arrangements—[**Annex I, Part 6, paragraph (3); Article 28(3), first clause of second sentence**]—
 - (a) in the case of a production installation, under paragraph 17 of Schedule 2; or
 - (b) in the case of a non-production installation, paragraph 15 of Schedule 3.
9. In the case of the dismantling of a fixed production installation—
 - (a) information on the means of isolating all hazardous substances and, in the case of wells connected to the installation, the permanent sealing of the wells from the installation and the environment.[**Article 12(5), Annex I, Part 6, paragraph (4)(a)**]
 - (b) a description of the risks associated with the decommissioning of the installation to workers and the environment, the total exposed population, and the risk control measures.[**Article 12(5), Annex I, Part 6, paragraph (4)(b)**]
 - (c) information on the emergency response arrangements to secure safe evacuation and rescue of personnel and to maintain control systems for preventing a major accident to the environment.[**Article 12(5), Annex I, Part 6, paragraph (4)(c)**]

SCHEDULE 6

Regulation 17

PARTICULARS TO BE INCLUDED IN A NOTIFICATION OF WELL OPERATIONS

1. The name and address of the well operator. [**Annex I, Part 4, paragraph (1)**]
2. Where the well operation is to be carried out—

- (a) from an installation, the name of the installation and the name and address of the duty holder for that installation; or **[Annex I, Part 4, paragraph (2)]**
 - (b) by means of a vessel, the name of that vessel.
3. Particulars of the fluids to be used to control the pressure of the well.
4. Particulars of any plant, not described in the current safety case for the installation, which is to be used in connection with the well operation. **[Annex I, Part 4, paragraph (6)]**
5. Particulars of the type of well, its number, and slot number, association with installations, and the name of any field development of which it may be part. **[Annex I, Part 4, paragraph (3)]**
6. A description of the well operation and a programme of works which includes—
- (a) the date on which each well operation is expected to commence and finish;
 - (b) the intended operational state of the well at the end of each well operation, including whether it is intended to be permanently or temporarily abandoned and whether production equipment is to be placed into the well for future use; **[Annex I, Part 4, paragraph (8). Note paragraph (8) actually refers to a description ‘at the end of operations’ and refers to whether production equipment has been placed on the well, i.e. as if the well notification follows the end of operations. An interpretation is taken here that the intention is for this to be a forecast made before operations of how the well will be at the end of operations, and hence paragraph 6 of Schedule 6 is amended as above]**
 - (c) **[Annex I, Part 4, paragraph (4)]**details of barriers against loss of well control (including the equipment, drilling fluids and cement);
 - (d) directional control of the well path; and
 - (e) limitations on safe operations in keeping with the risk management **[what does this mean? From Annex I, Part 4, paragraph (3)].**
7. A description of—
- (a) any activities on or in connection with an installation or a vessel during the well operation described pursuant to paragraph 6 which may involve any hazards with the potential to cause a major accident; and
 - (b) such hazards.
8. In the case of a well which is to be drilled—
- (a) particulars, with suitable diagrams, of—
 - (i) the location of the top of the well;
 - (ii) the directional path of the well-bore;
 - (iii) its terminal depth and location; and
 - (iv) its position, and that of nearby wells, relative to each other;
 - (b) particulars of the geological strata and formations, and of fluids within them, through which it will pass, and of any hazards with the potential to cause a major accident which they may contain;
 - (c) the procedures for effectively monitoring the direction of the well-bore, and for minimising the likelihood and effects of intersecting nearby wells; and
 - (d) a description of the design of the well, including the limits on its safe operation and use.
9. In the case of an existing well—
- (a) a diagram of the well;
 - (b) a summary of earlier operations in relation to it;
 - (c) the purposes for which it has been used;
 - (d) its current operational state;

- (e) its state of repair;
- (f) the physical conditions within it; and
- (g) its production capacity.

10. Where a well operation is to be carried out by means of a non-production installation or a vessel—

- (a) particulars of—
 - (i) the meteorological and oceanographic conditions to which that installation or, as the case may be, vessel may foreseeably be subjected;
 - (ii) the depth of water; and
 - (iii) the properties of the sea-bed and subsoil at the location at which the well operation will be carried out; and
- (b) a description of how the well operator and—
 - (i) the owner of the installation; or
 - (ii) the operator and owner of the vessel involved in the well operation will co-ordinate their management systems so as to reduce the risks from a major accident to comply with the relevant statutory provisions.

11. *[to be moved to follow paragraph 7 of this schedule]* The findings and comments of the independent and competent persons, obtained under the arrangements described in regulation 18(2) of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996, in relation to the well operation, together with a description of the actions of the well operator in response to those findings and comments *[Article 17(7)]*.

12. In the case of an existing well, information regarding its history and condition. **[Annex I, Part 4, paragraph (5)]**

13. A risk assessment incorporating a description of—**[Annex I, Part 4, paragraph (7)]**

- (a) the particular hazards associated with the well operation including any environmental, meteorological and seabed limitations on safe operations;
- (b) the subsurface hazards;
- (c) any surface or subsea operations which introduce simultaneous major hazard potential;
- (d) suitable control measures;

14. In the case of a modification to a previously submitted notification of well operations, sufficient details fully to update the notification. **[Annex I, Part 4, paragraph (9)]**

15. Where a well is to be constructed, modified or maintained by means of a non-production installation, additional information as follows—**[Annex I, Part 4, paragraph (10)]**

- (a) a description of any environmental, meteorological and seabed limitations on safe operations, and arrangements for identifying risks from seabed and marine hazards such as pipelines and the moorings of adjacent installations;
- (b) a description of environmental conditions that have been taken into account within the internal emergency response arrangements for the installation; *[For discussion with DECC]*
- (c) a description of the internal emergency response arrangements and a description of arrangements for responding in cases of environmental incidents that are not described in the safety case; and *[For discussion with DECC]*
- (d) a description of how the management systems of the operator of the well and the owner are to be coordinated to ensure effective control of major hazards at all times.

16. A report with findings of the independent and competent persons pursuant to regulation 18 of the Offshore Installations and Wells (Design and Construction etc.) Regulations 1996 (and where the well operator plans or prepares a material change, regulation 17(4) of these regulations)

[Annex I, Part 4, paragraph (11), first clause; Article 17(7), first clause], including in particular on the matters in paragraph 6(c) to (e) [**Annex I, Part 4, paragraph (4): that paragraph refers to details on the matters in paragraph 6(c) to (e) being furnished and adds ‘and verification’ – assumed this means the response of the verifiers.**].

17. A statement by the operator of the well, after considering the report referred to in paragraph 16—

- (a) that the risk management relating to well design and its barriers to loss of control are suitable for all anticipated conditions and circumstances; [Annex I, Part 4, paragraph (11), second clause]
- (b) the proposed actions in response to the report referred to in paragraph 16. [Article 17(7)]

18. Particulars of information obtained pursuant to [PFEER] and [MAR] [*these implement Directive 92/91*], so far as— [Annex I, Part 4, paragraph (15)]

- (a) relevant to the prevention of a major accident, and
- (b) not otherwise already required to be provided pursuant to this Schedule.

19. In respect of the well operations to be conducted, particulars of information relevant to the relevant statutory provisions obtained pursuant to Directive 2011/92/EU relating to the prevention of major accidents resulting in significant or serious damage to the environment. [Annex I, Part 4, paragraph (13)] [*Speak to DECC about this. MNE does not show how this was implemented in*
UK: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72011L0092:EN:NOT#FIELD_UK]

SCHEDULE 7

Regulation 19(2)(b)

MATTERS TO BE PROVIDED FOR IN A VERIFICATION SCHEME

1. The principles to be applied by the duty holder for the installation in selecting persons—
 - (a) to perform functions under the scheme; and
 - (b) to keep the scheme under review.
2. Arrangements for the communication of information necessary for the proper implementation, or revision, of the scheme to the persons referred to in paragraph 1.
3. The nature and frequency of examination and testing.
4. Arrangements for review and revision of the scheme.
5. The arrangements for the making and preservation of records showing—
 - (a) the examination and testing carried out;
 - (b) the findings;
 - (c) remedial action recommended; and
 - (d) remedial action performed.
6. Arrangements for communicating the matters specified in paragraph 5 to an appropriate level in the management system of the duty holder for the installation.

SCHEDULE 8

Regulation 24(2)

APPEALS

PART 1

1. In this Schedule—

“appeal” means an appeal under regulation 24;

“appellant” means a person who has brought an appeal;

“appointed person” means a person appointed in accordance with paragraph 2;

“hearing” means a hearing to which Part 2 of this Schedule applies; and

“the parties” means the appellant and the Executive.

2. The Secretary of State shall direct that an appeal shall be determined by a person appointed by him for the purpose and the Secretary of State shall notify the parties in writing of the name of the appointed person.

3. Before the determination of an appeal, the appointed person shall ask the parties whether they wish to appear and be heard on the appeal and—

(a) the appeal may be determined without a hearing of the parties if both of them express a wish not to be heard as aforesaid; or

(b) the appointed person shall, if either party expresses a wish to appear and be heard, afford both of them an opportunity of so doing, in which case the provisions of Part 2 of this Schedule shall apply.

4. An appointed person may give such directions as he thinks appropriate to give effect to his determination.

5. The Secretary of State may pay to an appointed person such remuneration and allowances as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

PART 2

6.—(1) Subject to the following sub-paragraphs of this paragraph, a date, time and place for the holding of the hearing shall be fixed by the appointed person, who shall give not less than 28 days’ notice in writing of such date, time and place to the parties.

(2) With the consent of the parties, the appointed person may give such lesser period of notice as shall be agreed with the parties and in that event he may specify a date for service of the statement referred to in paragraph 7(1) later than the date determined in accordance with that paragraph.

(3) Where it becomes necessary or advisable to vary the date, time or place fixed for the hearing, the appointed person shall give such notice of the variation as may appear to him to be reasonable in the circumstances.

7.—(1) Not later than 21 days before the date of the hearing, or such later date as the appointed person may specify in accordance with paragraph 6(2), the Executive shall serve on the appellant a written statement of any submission which the Executive proposes to put forward at the hearing and shall supply a copy of the statement to the appointed person.

(2) Where the Executive intends to refer to or put in evidence documents (including photographs and plans) at the hearing—

(a) the statement of the Executive shall be accompanied by a list of those documents together with a written notice stating the times and place at which the documents may be inspected by the appellant; and

- (b) the Executive shall afford the appellant a reasonable opportunity to inspect and, where practicable, to take copies of those documents.
- (3) If so required by the appointed person, the appellant shall—
- (a) serve on the Executive and on the appointed person, within such time before the hearing as the appointed person may specify, a written statement of the submissions which he proposes to put forward at the hearing accompanied by a list of any documents (including photographs and plans) which he intends to refer to or put in evidence at the hearing; and
 - (b) afford the Executive a reasonable opportunity to inspect and, where practicable, to take copies of those documents.

8.—(1) The parties shall be entitled to appear at the hearing.

(2) Any other person may appear at the discretion of the appointed person provided that he has, not later than 7 days before the date of the hearing, served on the Executive a statement of his proposed submissions.

(3) The Executive shall send a copy of every statement served on it in accordance with subparagraph (2) to the appointed person and to the appellant.

(4) A body corporate may appear by its clerk or secretary or by any other officer appointed for the purpose by that body, or by counsel or a solicitor.

(5) A person may appear in his own behalf or be represented by counsel, a solicitor or any other person.

(6) Where there are two or more persons having a similar interest in the subject matter of the hearing, the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

9.—(1) All hearings shall be held in private.

(2) Except as otherwise provided in this Part of the Schedule, the procedure of the hearing shall be such as the appointed person shall in his discretion determine and the appointed person shall state at the commencement of the hearing the procedure which, subject to consideration of any submission by the parties, he proposes to adopt.

(3) Unless in a particular case the appointed person, with the consent of the appellant, otherwise determines, the appellant shall be heard first and shall have the right of final reply.

(4) The parties shall be entitled to make an opening statement, call evidence and cross-examine persons giving evidence but any other person appearing at the hearing may only do so to the extent permitted by the appointed person.

(5) Subject to sub-paragraph (6), any evidence may be admitted at the discretion of the appointed person, who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the hearing and that facilities be afforded him to take or obtain copies thereof.

(6) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest.

(7) The appointed person may allow the parties to alter or add to the submissions contained in any statement served under paragraph 7(1) or (3), or to any list of documents which accompanied such statement, so far as may be necessary for the purpose of determining the questions in controversy between them, but shall (if necessary, by adjourning the hearing) give the other party an adequate opportunity of considering any such fresh submission or document.

(8) If any person entitled to appear at the hearing fails to appear, the appointed person may proceed with the hearing at his discretion.

(9) The appointed person shall be entitled (subject to disclosure thereof at the hearing) to take into account any written representations or statements received by him before the hearing from any person.

(10) The appointed person may from time to time adjourn the hearing, and where he does so, shall give reasonable notice to every person entitled or permitted to appear at the hearing of the date, time and place of the adjourned hearing.

10.—(1) Where, after the hearing, the appointed person proposes to take into consideration—

- (a) any new evidence, including expert opinion on a matter of fact; or
- (b) any new issue of fact, not being a matter of government policy or a matter affecting the safety of the State, which was not raised at the hearing and which he considers to be material to his decision, he shall not come to a decision without first notifying the parties of the substance of the new evidence or of the new issue of fact and affording them an opportunity of making representations thereon in writing within 21 days or of asking within that time for the re-opening of the hearing.

(2) If he thinks fit, the appointed person may cause the hearing to be re-opened and shall cause it to be re-opened if asked to do so in accordance with sub-paragraph (1).

(3) Where a hearing is re-opened, paragraph 6(1) shall apply as it applied to the original hearing.

11. The appointed person shall notify the decision on the appeal, and the reasons therefor, in writing to the parties and to any person who, having appeared at the hearing, has asked to be notified of the decision.

SCHEDULE 9 AMENDMENTS

Regulation 25

1.[Amendments (as opposed to revocations) are ‘always speaking’ and so repealing them (without more) technically undoes the amendment. Probably best to revoke the amendments but save them with a simple one-liner. Only save amendments that would still make sense e.g. the one in paragraph 1(a)(i) below would not make sense as if saved it would refer to regulations that no longer existed.][In the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989(a)—

- (a) in regulation 2(1) (interpretation)—
 - (i) after the definition of “the 1995 Regulations” insert—
““the 2005 Regulations” means the Offshore Installations (Safety Case) Regulations 2005(b);” and
 - (ii) after the definition of “appropriate languages” insert—
““current safety case” means a current safety case within the meaning of regulation 2(1) of the 2005 Regulations;”;
- (b) in regulation 18 (documents) for the words “safety case or revision” substitute “current safety case”;
- (c) in regulation 18A—
 - (i) in each place in which they occur for the words “safety case or revision” substitute “current safety case”; and
 - (ii) in paragraph (1)(a) for the words “the Offshore Installations (Safety Case) Regulations 1992” substitute “the 2005 Regulations”; and
- (d) in regulation 23(2)(c)(i) (duties of installation operators and owners, and employers) before the word “preparation” insert “revision, review or”.

(a) S.I. 1989/971, as amended by S.I. 1992/2885, 1995/738 and 1999/3242 and to which there are other amendments not relevant to these Regulations.

(b) S.I. 2005/3117.

2. In the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(a)—

- (a) in regulation 2(1) (interpretation)—
 - (i) omit the definition of “concession owner”;
 - (ii) for the definition of “duty holder”, substitute—
 - ““duty holder” means—
 - (a) in relation to a production installation, the operator; and
 - (b) in relation to a non-production installation, the owner;”;
 - (iii) omit the definition of “fixed installation”;
 - (iv) after the definition of “installation manager”, insert—
 - ““licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998;”;
 - (v) omit the definition of “mobile installation”;
 - (vi) before the definition of “offshore installation”, insert—
 - ““non-production installation” means an installation other than a production installation;”;
 - (vii) for the definition of “operator”, substitute—
 - ““operator” means—
 - (a) the person appointed by the licensee to manage and control directly or by any other person the execution of the main functions of a production installation; or
 - (b) the licensee, where—
 - (i) it is not clear to the Executive that one person has been appointed to perform the functions described in paragraph (a); or
 - (ii) in the opinion of the Executive, any person appointed to perform the functions described in paragraph (a) is incapable of performing those functions satisfactorily;”;
 - (viii) for the definition of “owner”, substitute—
 - ““owner” means the person who controls the operation of a non-production installation;”;
 - (ix) before the definition of “pipeline”, insert—
 - ““petroleum”—
 - (a) includes any mineral oil or relative hydrocarbon and natural gas, whether or not existing in its natural condition in strata; and
 - (b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;”;
 - (x) in the definitions of “pipeline” and “pipeline works”, replace the words “1995” with “2001”; and
 - (xi) after the definition of “pipeline works”, insert—
 - ““production installation” means an installation which—
 - (a) extracts petroleum from beneath the sea-bed by means of a well;
 - (b) stores gas in or under the shore or bed of relevant waters and recovers gas so stored; or
 - (c) is used for the conveyance of petroleum by means of a pipe,

(a) S.I. 1995/738, to which there are amendments not relevant to these Regulations.

and—

- (a) includes a—
 - (i) non-production installation converted for use as a production installation for so long as it is so converted;
 - (ii) production installation which has ceased production for so long as it is not converted to a non-production installation; and
 - (iii) production installation which has not come into use; and
- (b) does not include an installation which, for a period of no more than 90 days, extracts petroleum from beneath the sea-bed for the purposes of well testing;” and
- (b) omit paragraphs 14, 15 and 16 of Part II of Schedule 2 (modifications of instruments);
- (c)
- (d) in regulation 5(1), for the words “no later than” substitute “before”.**[Article 11(4)]**

(2) In the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 [set out changes to DCR, mostly in relation to examining (verifying) material changes (Articles 15(3) and 17(4)) and length of time records are held (Article 17(6)) – changes would be to regulation 18. Also changes to regulation 19 on reports of well operations – see comments in instructions on this, some amendment required.]

3. In the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995(a)—

- (a) in regulation 2(1) (interpretation)—
 - (i) in the definition of “the 1995 Order”, replace the words “1995” with “2001” in both places in which they occur;
 - (ii) omit the definition of “concession owner”;
 - (iii) for the definition of “duty holder”, substitute—
 - ““duty holder” means—
 - (a) in relation to a production installation, the operator; and
 - (b) in relation to a non-production installation, the owner;”;
 - (iv) omit the definition of “fixed installation”;
 - (v) after the definition of “installation”, insert—
 - ““licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998;”;
 - (vi) in the definition of “major accident”, replace the words “1992” with “2005”;
 - (vii) omit the definition of “mobile installation”;
 - (viii) after the definition of “muster areas”, insert—
 - ““non-production installation” means an installation other than a production installation;”;
 - (ix) for the definition of “operator”, substitute—
 - ““operator” means—
 - (a) the person appointed by the licensee to manage and control directly or by any other person the execution of the main functions of a production installation; or
 - (b) the licensee, where—
 - (i) it is not clear to the Executive that one person has been appointed to perform the functions described in paragraph (a); or

(a) S.I. 1995/743, to which there are amendments not relevant to these Regulations.

- (ii) in the opinion of the Executive, any person appointed to perform the functions described in paragraph (a) is incapable of performing those functions satisfactorily;”;
- (x) for the definition of “owner”, substitute—
 - ““owner” means the person who controls the operation of a non-production installation;”;
- (xi) after the definition of “personal protective equipment”, insert—
 - ““petroleum”—
 - (a) includes any mineral oil or relative hydrocarbon and natural gas, whether or not existing in its natural condition in strata; and
 - (b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation; and
 - “production installation” means an installation which—
 - (a) extracts petroleum from beneath the sea-bed by means of a well;
 - (b) stores gas in or under the shore or bed of relevant waters and recovers gas so stored; or
 - (c) is used for the conveyance of petroleum by means of a pipe, and—
 - (a) includes a—
 - (i) non-production installation converted for use as a production installation for so long as it is so converted;
 - (ii) production installation which has ceased production for so long as it is not converted to a non-production installation; and
 - (iii) production installation which has not come into use; and
 - (b) does not include an installation which, for a period of no more than 90 days, extracts petroleum from beneath the sea-bed for the purposes of well testing;”;
 - (b) in regulation 3(1)(b) (application) for the words “1995” substitute “2001”;
 - (c) in regulation 17 (arrangements for recovery and rescue) before the word “include” insert “shall”;
 - (d) omit paragraphs (2) to (8) of regulation 19 (suitability and condition of plant); and
 - (e) omit regulation 24 (amendment of the Offshore Installations (Safety Case) Regulations 1992).

4. In regulation 2(1) (interpretation) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(a), for sub-paragraph (a)(vi) of the definition of “responsible person”, substitute—

“(vi) a dangerous occurrence at a well, the person appointed by a licensee to execute the function of organising and supervising the drilling of, and all operations to be carried out by means of, that well or, where no such person has been appointed, the licensee (and, for this purpose, “licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998);”.

5. In the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996(b)—

- (a) in regulation 2 (interpretation)—

(a) S.I. 1995/3163, to which there are amendments not relevant to these Regulations.
 (b) S.I. 1996/913, to which there is an amendment not relevant to these Regulations.

- (i) in paragraph (1)—
 - (aa) in the definition of “the 1992 Regulations” for the words “1992” substitute “2005”;
 - (bb) omit the definition of “concession owner”;
 - (cc) after the definition of “integrity” insert—

““licensee” means any person to whom a licence to search and bore for and get petroleum in respect of any area within relevant waters is granted pursuant to section 3 of the Petroleum Act 1998;”
 - (dd) in the definition of “mobile installation” omit the words “(other than a floating production platform)”;
 - (ee) in the definition of “safety cases” for the words “1992” substitute “2005”;
 - (ff) in the definition of “well-operator” in each place in which they occur for the words “concession owner” substitute “licensee”; and in paragraph (4)(b) for the words “1992” substitute “2005”.
 - (b) omit regulation 26 and Schedule 2 (modification of the Offshore Installations (Safety Case) Regulations 1992).
- 6. In the Diving at Work Regulations 1997(a) omit paragraph 4 of Schedule 2.**
- 7. In the Health and Safety (Fees) Regulations 2005(b)—**
- (a) in regulation 16 (fees payable in respect of offshore installations)—
 - (i) in paragraph (2), replace the words “who has prepared” with “with regard to”; and
 - (ii) in paragraphs (2) and (3) in each place in which they occur for the words—
 - (aa) “1992” substitute “2005”; and
 - (bb) “safety case” substitute “current safety case”.
 - (b) in Schedule 15 (fees payable in respect of offshore installations)—
 - (i) for the first line of the table substitute—

<p>“Assessing a design notification (sent to the Executive pursuant to regulation 6(1) or 9(1) of the 2005 Regulations) for the purpose of deciding whether to raise matters relating to health and safety and raising such matters</p>	<p>The operator or owner who sent the design notification to the Executive pursuant to that provision</p>
<p>Assessing a relocation notification (sent to the Executive pursuant to regulation 6(2) of the 2005 Regulations) for the purpose of deciding whether to raise matters relating to health and safety and raising such matters</p>	<p>The operator who sent the relocation notification to the Executive pursuant to that provision”</p>

;
 - (ii) in the fourth line in column 1 for the word “17” substitute “23”; and
 - (iii) in each place in which they occur for the words—
 - (aa) “1992” substitute “2005”; and
 - (bb) “safety case” substitute “current safety case”. [These amendments will need to be checked to see whether savings are required.]

(a) S.I. 1997/2776.

(b) S.I. 2005/676, to which there are amendments not relevant to these Regulations.

[Annex I, Part 8] Particulars to be addressed in a corporate major accident prevention policy

1. The responsibility at corporate board level (or in the absence of a board, at a senior level in the organisation) for ensuring, on a continuous basis, that the corporate major accident prevention policy is suitable, implemented, and operating as intended.
2. Measures for building and maintaining a strong safety culture with a high likelihood of continuous safe operation.
3. The extent and intensity of process auditing.
4. Measures for rewarding and recognising desired behaviours.
5. The evaluation of the organisation's [Directive says 'company's'] capabilities and goals.
6. Measures for maintenance of safety and environmental protection standards as an organisational [Directive says 'a corporate'] core value.
7. Formal command and control systems that include board members and senior management of the organisation [Directive says 'company'].
8. The approach to competency at all levels of the organisation [Directive says 'company'].
9. The extent to which the particulars in paragraphs 1 to 8 of this Schedule are applied in the company's offshore oil and gas operations conducted outside the European Union.

SCHEDULE 11 Regulations ~~30(2)30(3)~~ and 31(4)

Matters in accordance with which the corporate major accident prevention policy and safety and environmental management system must be prepared

1. The need to pay particular attention to evaluation of the reliability and integrity requirements of all safety and environmental critical systems and base inspection and maintenance systems on achieving the required level of safety and environmental integrity. [**Annex IV, paragraph 1(a)**]
2. The need to take appropriate measures to ensure as far as reasonably practicable that there is no unplanned escape of hazardous substances from pipelines, vessels and systems intended for their safe confinement. In addition, the need to ensure that no single failure of a containment barrier can lead to a major accident. [**Annex IV, paragraph 1(b)**]
3. The need to ensure there is a suitable framework for monitoring compliance with all relevant statutory provisions by incorporating statutory duties in respect of major hazards control and environmental protection into standard operating procedures; [**Annex IV, paragraph 1(d)**] and
4. The need to pay particular attention to building and maintaining a strong safety culture with a high likelihood of continuous safe operation, including with regard to securing cooperation of employees and contractors [Directive says 'workers'] through, inter alia: [**Annex IV, paragraph 1(e)**]
 - (a) visible commitment to tripartite consultations and actions arising from them;
 - (b) encouraging and rewarding reporting of accidents and near-misses;
 - (c) working effectively with elected safety representatives;
 - (d) protecting whistleblowers.

5. The need to adopt suitable measures to use suitable technical means or procedures in order to promote the reliability of the collection and recording of relevant data and to prevent possible manipulation of that data. [Article 19(10)][‘Black box’ provision. Directive makes it an obligation to ensure this outcome, so there is an infraction risk in taking this route. Instructions are to place this obligation here.].

[Note Annex IV, paragraph 1(c) (inventory of available equipment) has been moved into new draft of PFEER, regulation 30, at the time of writing.]

[Annex I, Part 9] SCHEDULE 12 Regulation 31(4)

Particulars to be addressed in a safety and environmental management system

1. Organisational structure and personnel roles and responsibilities.
2. Identification and evaluation of major hazards as well as their likelihood and potential consequences.
3. Integration of environmental impact into major accident risk assessments in the safety case.
4. Controls of the major hazards during normal operations.
5. Management of change.
6. Emergency planning and response.
7. Limitation of damage to the environment.
8. Monitoring of performance.
9. Audit and review arrangements.
10. The measures in place for participating in tripartite consultations and how actions resulting from those consultations are put into effect.

SCHEDULE 13 Regulation 40(4)

Matters to be considered in preparing and revising standards and guidance on best practice in relation to the control of major hazards [Article 19(7) and Annex VI]

1. Improving well integrity, well control equipment and barriers and monitoring their effectiveness.
2. Improving primary containment.
3. Improving secondary containment that restricts escalation of an incipient major accident, including well blow-outs.
4. Reliable decision making.
5. Management and supervision of major hazard operations.
6. Competency of key post holders.
7. Effective risk management.
8. Reliability assessment for safety and environmental critical systems.
9. Key performance indicators.

10. Effectively integrating safety and environmental management systems between operators and owners and other entities involved in oil and gas operations[defined term].

[EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations replace the Offshore Installations (Safety Case) Regulations 1992 (S.I. 1992/2885) (“the 1992 Regulations”) to provide for the preparation of safety cases for offshore installations and for the notification of specified activities to the Health and Safety Executive (“the Executive”).

2. The 1992 Regulations implemented Article 3(2) of Council Directive 92/91/EEC (O.J. No. L348, 28.11.92, p.9) concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling. These Regulations continue to provide for the implementation of this provision in Great Britain.

3. A safety case is defined in the Regulations as a document containing specified information relating to the management of health and safety and the control of major accident hazards and containing the particulars specified in the Schedule referred to in the provision of the Regulations under which it is prepared (regulations 2(2) and 12).

4. The Regulations—

- (a) require a licensee to ensure that any operator he appoints is capable of carrying out his functions and discharging his duties satisfactorily (regulation 5);
- (b) require an operator to prepare and send to the Executive a design notification for a production installation which is to be established (regulation 6(1)) and a relocation notification for a production installation that is to be moved to a new location (*regulation 6(2)*);
- (c) prohibit the operation of a production installation unless a safety case has been sent to and accepted by the Executive (*regulation 7 and Schedule 2*);
- (d) prohibit the movement of a non-production installation in relevant waters (as defined in *regulation 2(1)*) with a view to its being operated there unless a safety case has been sent to and accepted by the Executive (*regulation 8 and Schedule 3*);
- (e) require a design notification to be sent to the Executive in respect of the conversion of a non-production installation to a production installation (*regulation 9(1)*) and prohibit the operation of a converted installation unless a safety case has been sent to and accepted by the Executive (*regulation 9(5)*);
- (f) prohibit the engagement of an installation in a combined operation with another unless a notification has been sent to the Executive (*regulation 10 and Schedule 4*);
- (g) prohibit the dismantling of a fixed installation unless a revised safety case has been sent to and accepted by the Executive (*regulation 11 and Schedule 5*);
- (h) require a safety case to be reviewed when directed by the Executive and at intervals of 5 years (*regulation 13*);
- (i) require a safety case to be revised when appropriate and when directed by the Executive (*regulation 14*);
- (j) grant to the Executive powers in respect of safety cases and related documents (*regulation 15*);
- (k) require any procedures or arrangements in safety cases to be followed and provide for specified defences for contravention of the requirement (*regulation 16*);
- (l) prohibit the commencement of a well operation unless a notification has been sent to the Executive (*regulation 17*);
- (m) impose requirements with respect to the making and keeping of documents (*regulation 18*);]

- (n) impose requirements with respect to the creation, revision and continuing effect of a verification scheme in respect of an installation and provide a defence for contravention of the requirements (*regulations 19 to 22*);
- (o) provide for the granting of exemptions from the Regulations by the Executive (*regulation 23*);
- (p) provide for an appeal to the Secretary of State against certain decisions of the Executive (*regulation 24*);
- (q) contain transitional provisions in respect of activities in existence or commenced within a specified time of the coming into force of the Regulations (*regulation 27*).

5. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy has been placed in the Library of each House of Parliament.