

## INTRODUCTION

1 This document contains proposals to replace, with changes, the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1995 (the Order).

2 The views of all interested parties are sought on the proposed changes. The draft replacement Order is attached at **Appendix 1**. After consideration of all comments received, the Health and Safety Commission will seek the consent of the Secretary of State to amend the Order, with a view to the revised Order being published in early 2001.

3 Comments on these proposals should be sent to arrive no later than

**11 August 2000** to:

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## BACKGROUND

4 The main element of health and safety law is the Health and Safety at Work etc. Act 1974 (HSWA), which places general duties on employers and others, and provides powers under which health and safety regulations can be made. HSE is responsible for enforcing the Act and regulations made under it. The HSWA applies outside Great Britain to certain premises and activities in the territorial sea or on the UK sector of the continental shelf by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1995/263.

5 Several companies propose to construct structures in the territorial sea to generate energy by utilising wind, waves, tides and currents. Electricity generated from these sources will be fed in to the National Grid. Work has already started to

build the first commercial wind farm in the territorial sea adjacent to Great Britain, and other projects are in the planning stage.

6 The HSWA already applies to the construction of such structures in the territorial sea as well as to their reconstruction, alteration, repair, maintenance, cleaning, demolition and dismantling. However, HSWA does not apply to their operation. We propose to extend the application of the HSWA to cover such structures at all times by amending article 8(1)(a) of the Order. In extending it to the operation of such structures we are also extending it in such a way to allow for future developments without the need to frequently revise the Order.

7 Other developments include proposals to use supplementary units to provide power, control, communications and chemical injection facilities, for offshore oil and gas installations in the territorial sea and on the UK Continental Shelf (UKCS). These units may be wind, wave or conventionally powered. It is important to ensure HSWA is extended to include these units and that they are subject to the same legislative regime as the installations they support.

8 Please let us know if you are aware of any of these units currently being used, or likely to be used, for providing information or substances so that we can include them in the Regulatory Impact Assessment.

9 Whilst making the main amendments outlined above, we also want to deal with some minor issues which have arisen since 1995.

## **PROPOSED AMENDMENTS TO THE ORDER**

### **Article 2 (1) 'diving project'**

10 Article 2 (3) of the current Order refers to 'diving operations' without defining them. However, since the Order was made, the Diving at Work Regulations 1997 (DWR) have come into force. The DWR refer to a 'diving project', defining it as being made up of one or more 'diving operations' (also defined). The DWR do not apply to diving using an atmospheric pressure suit.

11 To avoid the reference to 'diving operations' being taken to mean 'diving operations' within the meaning of DWR, and to maintain the scope of the current Order in relation to diving, the draft Order refers to a 'diving project'. Thus it is given the same definition in regulation 2(1) as in the DWR, except that it is extended to diving in an atmospheric pressure suit.

### **Article 2 (1) 'energy structure'**

12 The draft Order adds a definition of 'energy structure' as being 'a fixed or floating structure, other than a vessel, for producing energy from wind or water.

#### **Article 2 (1) 'supplementary unit'**

13 The draft Order adds a definition of 'supplementary unit' as being 'a fixed or floating structure, other than a vessel, for providing energy, information or substances to an offshore installation'. This supports the extension of the definition of 'offshore installation' in article 4 (2) (b).

#### **Article 2 (1) 'territorial seas'**

14 References to 'territorial waters' have been replaced with 'territorial seas' as it is more customary to use this expression.

#### **Article 4 (1) (c) (ii)**

15 In the current Order, article 4 (1) (b) and (c) cover diving operations in connection with offshore installations and operations involving the "survey and preparation of the sea bed for an offshore installation". But diving projects which occur after the installation has been removed are not covered. These projects may be needed to check the state of the sea bed following the removal of an installation, or to facilitate or carry out remedial work. Such activities are likely to increase with the predicted increase in the complete removal of installations. The draft Order would extend the application of the Act to diving carried out to examine or carry out remedial work on the sea bed consequent on the removal of an installation.

#### **Article 4 (2) (b)**

16 The definition of 'offshore installation' is extended to supplementary units which provide power and other support services to offshore installations (as mentioned above, these units are defined under article 2). Such units may generate energy from waves etc, or they may be conventionally-powered (eg by diesel generators). Our intention is that all such units should be regarded as part of the offshore installation which they support.

#### **Article 4 (3) (d)**

17 This article has been clarified to ensure that where a mobile structure may be intended to be used for a specified purpose on completion of repair etc, it does not

become an 'offshore installation', within the meaning of article 4 (2), until it is ready and preparing to depart for its working stations in UK waters.

## **Article 7**

18 This article has been amended to bring it in line with the wording of the Mines and Quarries Act 1954, as amended by the Management and Administration of Safety and Health at Mines Regulations 1993.

## **Article 8(1)(a)**

19 At present the Order applies to the construction etc. of any building or structure in territorial waters. We wish to extend article 8 to cover the use and operation of all buildings and structures within the territorial sea. In the case of energy structures for the purpose of generating power from wind or waves, we also wish to include the operation of the connections to the National Grid onshore.

Before such a structure is constructed, a temporary unattended fixed structure may be built to gather data on local meteorological or oceanographic conditions to determine the viability of the site. These types of structures will also be brought within the scope of article 8(1)(a). Although the most advanced proposals currently concern wind farms, we wish to be able to cover any future developments in generating power from other offshore non-fossil fuel sources.

## **Article 8(1)(b)**

20 Though the activities of construction, reconstruction, alteration, repair, maintenance, cleaning, demolition and dismantling of structures and any preparation for any such activities are covered, the Order does not include landing of personnel at the offshore site for these purposes, or the loading/unloading of equipment and/or supplies. Therefore we have amended the Order to ensure those activities are covered.

## **Article 8 (2)(a)**

21 The additional caveat clarifies that where other articles in the Order apply, article 8 will not. The introduction of this caveat will reduce the need, when making regulations, to specify where regulations do not apply e.g. to offshore installations.

## **OPEN GOVERNMENT**

22 The Commission tries to make its consultation procedure as thorough and open as possible. Responses to this consultative document will be lodged in the Health and Safety Executive's Information Centre after the close of the consultation period, where they can be inspected by members of the public or be copied to them on payment of the appropriate fees to cover costs.

23 Responses to this consultative document are invited on the basis that those submitting them agree to their being dealt with in this way. Responses, or parts of them, will be withheld from the Information Centre only at the express request of the person making them. In such cases a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

## **COSTS AND BENEFITS**

24 Please see attached Regulatory Impact Assessment (Appendix 2).

## **CONCLUSION**

25 The Commission would welcome comments on any aspect of the proposed amendments to the Order by 11 August 2000.

26 The Commission would also welcome feedback on the consultation itself and would be grateful if you could respond to the questions below.

1 In your view how well does the consultation letter on the proposed replacement of The Health and Safety at Work etc. Act (Application Outside Great Britain) Order 1995 represent the different policy issues involved in this matter (**Tick one box**)

Very Well

Well

Not Well

Poorly

2 If you answered 'not well' or 'poorly' how do you suggest things might be improved for the future [**Please add extra sheets if you wish**]

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