

**Agency Agreement between the Secretary of State for Business, Energy and Industrial Strategy and the Health and Safety Executive relating to the Network and Information Systems Regulations 2018.**

**THIS AGREEMENT** is made between the Secretary of State for Business, Energy and Industrial Strategy ("the SSBEIS") and the Health and Safety Executive ("the Executive") under section 13(4) of the Health and Safety at Work etc. Act 1974 ("the 1974 Act"). It relates to functions exercisable by the SSBEIS which the Executive has agreed to perform, being functions which the Secretary of State for Work and Pensions considers can appropriately be performed by the Executive in connection with the Executive's functions.

**IT IS AGREED THAT:**

1. The Executive shall perform the functions set out in this Agreement in relation to the following sub-sectors listed in column 2 of the table in Schedule 1 to the Network and Information Systems Regulations 2018 ("the 2018 Regulations"):
  - a. the oil subsector in England and Wales and Scotland; and
  - b. the gas subsector in England and Wales and Scotland, but only in relation to the essential services specified in Schedule 2, paragraph 3, sub-paragraphs (5) to (8) of the 2018 Regulations.
  
2. The Executive shall perform on behalf of the SSBEIS the following functions:
  - a. the functions to consult and co-operate under regulation 3(3)(g)(iv) and (v) of the 2018 Regulations to the extent required for the Executive to exercise its functions under this agreement;
  - b. the functions:
    - i. to receive notifications from an operator of an essential service ("OES") about any incident which has a significant impact on the continuity of the essential services that the OES provides under regulation 11(1) and regulation 12(9) of the 2018 Regulations;
    - ii. to assess what further action, if any, is required in respect of that incident under regulation 11(5)(a) of the 2018 Regulations;
    - iii. to share the incident information with the computer security incident response team ("CSIRT") as soon as reasonably practicable under regulation 11(5)(b) of the 2018 Regulations;
    - iv. to notify after receipt of notification of incidents, under regulation 11(7)(a) of the 2018 Regulations;
  - c. the functions in relation to information notices under regulations 15(2), 15(5) and 15(7) of the 2018 Regulations;
  - d. the powers of inspections under regulations 16(1)(a) and (b) of the 2018 Regulations ("Inspections");
  - e. the functions in relation to fees under regulation 16(3)(a) and regulation 21 of the 2018 Regulations;
  - f. the functions in relation to enforcement for breach of duties under regulations 17 (1), 17(3) and (4) of the 2018 Regulations. These will be carried out in accordance with regulation 23 of the 2018 Regulations;
  - g. the function of providing written reasons for a decision following a request made by an OES in accordance with regulation 17(5) of the 2018 Regulations under regulation 17(6) of the 2018 Regulations.

3. If requested by the SSBEIS the Executive shall perform on behalf of the SSBEIS further functions in relation to information notices under regulations 15(1),(4) and (6) of the 2018 Regulations.
4. If requested by the SSBEIS the Executive shall perform on behalf of the SSBEIS the function of producing guidance under regulation 3(3)(b) of the 2018 Regulations. That request shall specify the extent and nature of this guidance.
5. The Executive shall appoint persons ("Inspectors") under regulation 16(1)(b) and 16(4) of the 2018 Regulations to conduct Inspections on its behalf to assess if an OES has fulfilled the duties imposed on it by regulations 10 and 11 of the 2018 Regulations.
6. An Inspector appointed under paragraph 4 above, shall conduct Inspections and is entitled to:
  - a. the cooperation of an OES in accordance with regulation 16(3)(b) of the 2018 Regulations;
  - b. reasonable access to premises in accordance with regulation 16(3)(c) of the 2018 Regulations;
  - c. inspect, copy or remove such documents and information, including information that is held electronically, as the Inspector considers to be relevant to the Inspection in accordance with regulation 16(3)(d) of the 2018 Regulations;
  - d. access to any person from whomsoever the Inspector seeks relevant information for the purposes of Inspection in accordance with regulation 16(3)(e) of the 2018 Regulations.
7. Any document or notice shall be served in accordance with regulation 24 of the 2018 Regulations.
8. Nothing in this Agreement prevents the SSBEIS from exercising any function under the 2018 Regulations, in relation to which they have given written notice to the Executive. The Executive will not exercise any such function, without the agreement of the SSBEIS, after having received the SSBEIS's written notification.
9. The SSBEIS shall indemnify an Inspector appointed by the Executive under paragraph 4 against the whole or part of any damages, costs, or expenses which that Inspector is liable to pay by reason of performing the function of an Inspector under the 2018 Regulations, provided SSBEIS is satisfied that the Inspector believed that the act which incurred liability was within the powers of an Inspector, and was in the circumstances one that the Inspector was required or entitled to perform.
10. This Agreement shall come into effect on 10 May 2018. It shall terminate on the expiry of six months' written notice of termination given by either party to this

Agreement to the other party, or within such shorter period as agreed by the parties.

**Signed by**

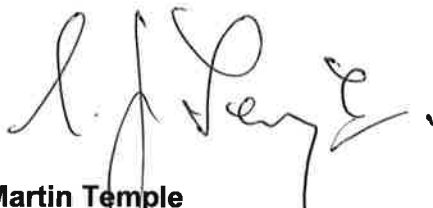


**A duly authorised person for and on behalf of the Secretary of State for Business, Energy and Industrial Strategy.** 23 May 2018

**In witness of this agreement the Common Seal of the Executive has been affixed on** May 2018



**The Common Seal of the Health and Safety Executive is authenticated by**



**Martin Temple  
Chair of the Health and Safety  
Executive**

