

OFFSHORE MAJOR ACCIDENT REGULATOR



Offshore Petroleum Regulator
for Environment & Decommissioning



MEMORANDUM of UNDERSTANDING

between

**THE OFFSHORE PETROLEUM REGULATOR FOR ENVIRONMENT and
DECOMMISSIONING
and THE HEALTH AND SAFETY EXECUTIVE**

1.0 Background

Previously as part of the European Union, the Health and Safety Executive (HSE) and the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) was set up as the Competent Authority (CA) under Directive 2013/30/EU of the European Parliament and of the Council on the safety of offshore oil and gas operations and amending Directive 2004/35/EC.

Under the terms of the European Union (Withdrawal) Act 2018 and the EU (Withdrawal Agreement) Act 2020 the Government intends to maintain the current regulatory regimes and avoid disruption to businesses now that the UK has left the EU.

2.0 Responsibilities, Purpose and Status

2.1 This Memorandum of Understanding (MoU) is between the Offshore Petroleum Regulator for Environment & Decommissioning (OPRED) (part of the Department for Business, Energy and Industrial Strategy (BEIS)) and the Health and Safety Executive (HSE). OPRED and HSE (HSENI in Northern Ireland) act jointly as the Competent Authority (CA) in Great Britain and Northern Ireland to regulate various legislation for the prevention of major accidents including in particular by the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015, similar regulations in Northern Ireland, The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 and the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015.

The Competent Authority for United Kingdom is the Offshore Major Accident Regulator (OMAR).

In Great Britain the competent authority is comprised of HSE and OPRED, (who perform the functions as the Offshore Major Accident Regulator].

In Northern Ireland the competent authority is comprised of OPRED and HSENI with support from HSE. HSE provides operational support to HSENI in connection with HSENI's competent authority functions.

2.2 In addition to its functions as part of the CA, OPRED is responsible for regulating compliance with offshore environmental legislation. In addition to its

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functions as part of the CA, HSE is responsible for regulating compliance with offshore health and safety legislation.

2.3 The purpose of this MoU, together with its various supporting documents, is to establish the necessary mechanisms required for joint operation in the CA by OPRED and HSE. Both HSE and OPRED are committed to the effective liaison and working arrangements to ensure the maintenance of an effective CA.

2.4 All OPRED and HSE staff dealing with matters addressed under this MoU are responsible for ensuring that they adhere to its principles and related procedures.

2.5 The MoU is not a legally binding document and cannot override the statutory duties and powers of either HSE or OPRED, nor can it override the law.

2.6 Partnership working is the expectation, but as independent regulatory authorities, both OPRED and HSE remain free to act unilaterally within their respective jurisdictions.

3.0 Scope

3.1 This MoU establishes the general working arrangements intended to coordinate functions jointly between OPRED and HSE to operate in the CA. It aims to promote high levels of protection from major accidents for people and the environment and sets out in particular the arrangements to be followed to ensure senior management oversight, monitoring and review of the CA, joint planning and inspection, division of responsibility for handling reports on major hazards, joint investigation, internal communications and publication of reports. The purpose of these arrangements is to minimise unnecessary duplication of regulatory effort and functions between HSE and OPRED and to ensure conflicting requirements are not placed on dutyholders and well operators.

3.2 In addition, OPRED and HSE are committed to effective liaison in other areas such as, but not limited to, cooperating on other mutual regulatory interests over separate OPRED and HSE functions, but in which establishing and maintaining collaborative working is in the interests of each organisation and stakeholders. Such areas include, but are not limited to: risks to safety and environment from pipelines; reacting to emergencies; sharing regulatory information; developments in regulatory policy and technical matters; legal issues; disclosure of information; responding to enquiries; staff training and competency.

4.0 Functions of the Competent Authority

4.1 Whilst the UK is no longer a member of the EU the decision is that the UK will continue to use a partnership CA model to regulate major hazard offshore safety and environmental risks. The partnership formed by OPRED and HSE for this purpose is the **Offshore Major Accident Regulator (OMAR)**. It is referred to in this MoU as 'the 'OMAR partnership'.

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4.2 The OMAR partnership will regulate the adequacy of measures taken by those with legal duties to prevent, control and mitigate major safety and environmental hazards and their consequences. Acting in partnership, OPRED and HSE will ensure compliance with the relevant UK legislation.

4.3 The direction and strategy for the OMAR partnership will be set by a Senior Oversight Board and implemented by an Operational Management Team. Both will be established and work in accordance with documented Articles of Governance and Management, which define the Board and Management Team's composition, functions and responsibilities.

4.4 The OMAR partnership will publish a Strategy describing the duties of the CA, setting out its priorities for action and how it is organised. The Senior Oversight Board will review and revise the strategy as necessary to maintain it.

4.5 OPRED and HSE will allocate resource to deliver the OMAR partnership's operational activities. Relevant financial implications of creating and maintaining OMAR infrastructure, such as the website and notifications portal, will be shared as agreed on a case-by-case basis.

4.6 Both partners will work under a set of common OMAR partnership systems and processes. A suite of Process Framework Diagrams sets out the detailed systems and methods designed to enable operational implementation of the UK's obligations under the Directive. These include division of responsibilities for handling, assessment and acceptance of reports on major hazards, safety cases and well operations notifications, general operating procedures, approach to inspections and other enforcement action. These procedures also aim to ensure there is no conflict with duties of HSE and OPRED under other legislation. The core framework diagrams are available on the OMAR partnership website.

4.7 From a stakeholder perspective, this will manifest itself as a single regulatory face including:

4.7.1 A single dedicated website for information relating to the OMAR partnership and a single online portal for all regulatory notifications and submissions regardless of whether related to safety or environmental issues.

4.7.2 A single, coherent set of assessment and acceptance procedures for safety cases, oil pollution emergency plans and the various other regulatory notifications and submissions that are required, including major hazard incident reporting.

4.7.3 A single intervention plan for each owner or operator of offshore installations covering all planned OMAR interventions, with the presumption of joint OPRED\HSE visits where appropriate.



4.7.4 Coordinated investigations, with decisions made at an early stage on a case-by-case basis as to which regulatory partner should lead, with aligned principles of enforcement covering safety and environment.

4.8 HSE will normally lead on issues concerning the health and safety of persons. OPRED will normally lead on issues concerning the environment.

4.9 OPRED and HSE believe in firm but fair enforcement informed by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how the regulators operate and what those regulated may expect; and accountability for the regulators' action.

5.0 Cooperating on Other Mutual Regulatory Interests

5.1 OPRED and HSE each have responsibilities to apply health and safety (HSE) and environmental (OPRED) statutory provisions separate to those made for the purpose of the Directive. These are pursued separately by each organisation, but with cooperation where it is **appropriate** according to this MoU.

5.2 Although they do not fall within the scope of the OSDR partnership many areas of mutual interest also assist in that work. The areas of likely common regulatory interest and working arrangements are set out below and will be periodically reviewed by the Senior Oversight Board. They include but are not limited to:

5.2.1 Pipelines – OPRED and HSE will cooperate as appropriate to support each other over safety and environmental regulatory intelligence, interventions, investigations and enforcement.

5.2.2 Reacting to Incidents and Emergencies – OPRED and HSE will communicate openly and frequently with each other, with operators and other regulators during incidents and emergencies to ensure that regulators are making the most positive and coherent contribution possible to resolution of issues. OPRED and HSE will share up to date emergency contact information to enable efficient mutual communications during emergencies (e.g. on-call rotas and other relevant information).

5.2.3 Sharing Regulatory Information – OPRED and HSE will share such information with each other as appropriate to the respective functions of either organisation regarding the safety and environmental performance of the upstream oil and gas industry. This includes, but is not restricted to: statistics on incidents and hydrocarbon releases; relevant inspection and investigation findings; enforcement notices served and prosecution actions. This will also include sharing of relevant staff contact details (names, work email and phone numbers) to ease and direct communications. Such personal data will be reviewed periodically in accordance with GDPR policies.

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5.2.4 Development of Regulatory Policy and Technical Matters – OPRED and HSE will consult and collaborate where possible to strengthen arrangements for health, safety and environmental protection. This includes providing appropriate input to domestic, and international forums that develop and implement regulatory policy, technical standards and guidance.

5.2.5 Legal Issues – OPRED and HSE will co-operate to assist each other as appropriate when either party is involved in litigation that also affects the jurisdiction of the other.

5.2.6 Disclosure of Information – OPRED and HSE will be open about regulatory activities in compliance with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. Each organisation will make the other aware of any significant proposed information disclosure to the public.

5.2.7 Response to Enquiries – OPRED and HSE will cooperate as appropriate to deal with government, ministerial, parliamentary, media, stakeholder and other such enquiries that cover combined areas of responsibility, with the relevant party taking the lead according to expertise.

5.2.8 Staff Training and Competency – OPRED and HSE have separate arrangements for staff training and competency. Both organisations will identify opportunities to undertake shared training and experience where relevant. Both organisations will make staff aware of the provisions made by this MoU.

6.0 Revision, Amendment and Resolution of Disagreements

6.1 OPRED and HSE will, and by agreement, review and amend this MoU and the working arrangements made under it at any time. Such reviews will normally be undertaken by the Senior Oversight Board.

6.2 Efforts to resolve any disagreement between HSE and OPRED concerning matters addressed under this MoU will begin at the operational management level and escalate progressively in OPRED and HSE's levels of management until resolved.

6.3 This MoU has been tested for clarity with stakeholders. It revises and replaces the previous version dated June 2020.

Signed for and on behalf of BEIS

Emily Bourne
Director,

Philip White
Director,

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