
SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY

Offshore Installations (Safety Case) Order 2008

S. R. & O. No: 7 of 2008

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SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY

Offshore Installations (Safety Case) Order 2008

S. R. & O. No: 7 of 2008

Made: 6 March 2008

Published: 12 March 2008

Coming into force: in accordance with article 2

IN EXERCISE of my powers under section 27(1), 36(2)(b), 36(6) and 77 of the Offshore Minerals Ordinance 1994 (No 16 of 1994) and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order —

1. Title

This Order is the Offshore (Safety Case) Order 2008.

2. Commencement

This Order will come into force on a date appointed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this Order —

“the external application Order” means the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 2008 (SR&O No 6 of 2008); and

“the prescribed provisions of the 1974 Act” has the same meaning as in the external application Order.

4. Application of the Offshore Installations (Safety Case) Regulations 2005

The Offshore Installations (Safety Case) Regulations 2005 (SI 2005/3117) in the form appearing in the Schedule to this Order applies —

(a) in the Falkland Islands; and

(b) to and in relation to activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act apply by virtue of the external application Order.

5. Power to determine fees

The Director of Mineral Resources may by written notice determine fees which are payable to the Governor by such person, and in such amount, as may be described in the notice, in connection with any function which the Director or the Governor is obliged to, or may, carry out under, or in connection with, this Order.

6. Revocation of the Offshore Installations (Safety Case) Order 1998

The Offshore Installations (Safety Case) Order 1998 (SR&O No 7 of 1998) is revoked.

Made 6th March 2008

P. L. Martinez,
Acting Governor

SCHEDULE

Article 4

Offshore Installations (Safety Case) Regulations 2005 as applying under article 4 of this Order

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Safety Case) Regulations 2005 in their application under the law of the Falkland Islands and in such application shall come into force on such date as the Offshore (Safety Case) Order 2008 comes into force.

Interpretation

2. In these Regulations —

“the 1974 Act” means the Health and Safety at Work etc Act 1974;

“the 1992 Regulations” means the Offshore Installations (Safety Case) Regulations 1992 (SI 1992/2885) in their application under the law of the Falkland Islands by virtue of article 3 of the Offshore Installations (Safety Case) Order 1998 (SR&O No 7 of 1998) hereinafter called “the 1998 Order”;

“the 2005 Regulations” means the Offshore Installations (Safety Case) Regulations 2005 in the form they have effect in the United Kingdom;

“current safety case” means a safety case in respect of an installation which has been accepted by the Governor pursuant to these Regulations and includes any revision thereto which —

(a) may take effect without the acceptance of the Governor; or

(b) has been accepted by the Governor;

“Director” means the Director of Minerals Resources;

“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;

“field development programme” means the support document to be submitted to the Governor pursuant to the Guidance Notes on Procedures for Regulating Offshore Oil and Gas Field Developments as issued or re-issued by the Director from time to time;

“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 6 of the Ordinance;

“the Offshore Installations and Wells (Design and Construction, etc) Regulations 1996” means the regulations in their application to the law of the Falkland Islands by virtue of the Offshore Installations and Wells (Design and Construction etc) Order 1998 (SR&O No 13 of 1998);

“major accident” means —

(a) a fire, explosion or the release of a dangerous substance involving 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; or

(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;

“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 in their application under the law of the Falkland Islands by virtue of article 3 of the Offshore Installations and Pipeline Works (Management and Administration) Order 1998 (SR&O No 8 of 1998);

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

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

“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 Governor that one person has been appointed to perform the functions described in paragraph (a); or

(ii) in the opinion of the Governor, any person appointed to perform the functions described in paragraph (a) is incapable of performing those functions satisfactorily;

“the Ordinance” means the Offshore Minerals Ordinance 1994 (No 16 of 1994);

“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 in their application under the law of the Falkland Islands by virtue of article 3 of the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Order 1998 (SR&O No 12 of 1998);

“pipeline” shall be construed in accordance with regulation 3 of the Pipelines Safety Regulations 1996 (SI 1996/825);

“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;

“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 the Falkland Islands up to the seaward limits of the territorial sea; and

(b) any waters which are within the definition of “controlled waters” contained in section 2(1) of the Offshore Minerals Ordinance 1994 (No 16 of 1994);

“safety-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 —

(a) in compliance with regulations 11(1)(a), 13, 15 and 16 of the PFEER Regulations;

(b) 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

(c) 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-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

“well operator”, in relation to a well or proposed well, means —

(a) the person appointed by the licensee for that well or proposed well to execute the function of organising and supervising the drilling of that well and all operations to be carried out by means of that well; or

(b) where no such person has been appointed, the licensee.

(2) Any reference in these Regulations to a design notification, a relocation notification, a safety case or a notification of combined operations or well operations 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 the 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 paragraph (1) of regulation 3 of the Management Regulations.

(4) For the purposes of these Regulations, an installation other than a production installation, the operation of which has not been treated as having commenced in accordance with paragraph (2) of regulation 7, shall be treated as engaged in a combined operation with another such installation or other such installation if an activity carried out temporarily for a purpose related to the other installation or installations and could affect the health or safety of persons on the other installations, and the expression “combined operation” shall be construed accordingly.

(5) 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-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-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 taking of appropriate action following reports by such persons;
- (e) the taking of other such steps as may be properly provided for pursuant to regulation 19 and Schedule 7; and
- (f) the taking of any steps incidental to the means described in sub-paragraphs (a) to (e) of this paragraph.

(7) For the purposes of paragraph (6) 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 as might compromise his objectivity; and
- (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) 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.

(9) 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 electronics 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. These Regulations shall apply —

(a) in the Falkland Islands, and

(b) outside the Falkland Islands as sections 1 to 9 and 80 to 82 of the 1974 Act apply by virtue of articles 4, 5, 6 and 7 of the Health and Safety at Work etc, Act 1974 (Application outside the Falkland Islands) Order 2008 (SR&O No 6 of 2008).

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 Director,

at such time before the submission of a field development programme to the Governor as will enable him to take account in the design of any matters relating to health and safety raised by the Director within 3 months (or such shorter period as the Director may specify) of that time.

(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 Director,

at such time before the submission of a field development programme to the Governor as will enable him to take account of any matters relating to health and safety raised by the Director within 3 months (or such shorter period as the Director may specify) of that time.

(3) 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 Director.

(4) Where there is a material change in any particulars notified pursuant to —

- (a) paragraph (1) prior to the duty holder sending a safety case to the Director in accordance with regulation 7(1)(b); or
- (b) paragraph (2) prior to the duty holder sending —
 - (i) a safety case to the Director in accordance with regulation 7(1)(b); or
 - (ii) revisions to the current safety case to the Director in accordance with regulation 14(2),

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

Safety case for production installation

7.—(1) 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;

(b) he has sent the safety case to the Director at least 6 months (or such shorter period as the Director may specify) before commencing the operation; and

(c) the Governor has accepted the safety case.

(2) For the purposes of paragraph (4) of regulation 2 and paragraph (1), the operation of an 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 Governor 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 Director in accordance with paragraph (1)(b) and regulation 9(5)(b).

Safety case for non-production installation

8. The owner of a non-production installation shall ensure that it is not 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 Director at least 3 months (or such shorter period as the Director may specify) before the movement of the installation in those waters with a view to its being operated there; and

(c) the Governor has accepted the safety case.

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 Director,

at such time before completion of the design of the proposed conversion as will enable him to take account in the design of the proposed conversion as will enable him to take account in the design of any matters relating to health and safety raised by the Director within 3 months (or such shorter period as the Director may specify) of that time.

(2) 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.

(3) 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 Director.

(4) 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 Director in accordance with regulation 7(1); or

(b) revisions to the current safety case to the Director in accordance with paragraph (5),

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

(5) 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 Director at least 3 months (or such shorter period as the Director may specify) before commencing the operation in accordance with paragraph (2) of regulation 7; and

(c) the Governor has accepted those revisions to the current safety case.

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 in a combined operation unless a notification containing the particulars specified in Schedule 4 (other than those already notified to the

Director pursuant to regulation 17) in respect of that combined operation is sent to the Director at least 21 days (or such shorter period as the Director 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 Director at least 21 days (or such shorter period as the Director 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 Director of that change as soon as is practicable.

(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).

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;

(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 Director at least 3 months (or such shorter period as the Director may specify) before the commencement of the dismantling; and

(c) the Governor has accepted those revisions to the current safety case.

(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 as the time of sending the proposed revisions to the Director.

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to the Governor deciding whether to accept the proposed revisions to the current safety case, the operator shall notify the Director 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 —

(i) it is not clear to the Director that one person has been appointed to perform the functions described in paragraph (a); or

(ii) in the opinion of the Director, 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; and

(d) all major accident risks have been evaluated and measures have been, or will be, taken to control those risks to ensure that the relevant statutory provisions will be complied with.

(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 Director.

(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.

Review of safety case

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

(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 Governor accepted that current safety case; and

(b) the date of the previous review.

(3) A duty holder shall send a summary of each such review to the Director —

(a) where the review is conducted at the direction of the Director, within such reasonable time, being a period of not less than 28 days of the direction, as may be specified by the Director, 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; and

(b) when directed to do so by the Director pursuant to regulation 15(1).

(2) Revisions made under paragraph (1)(a) which make a material change to the current safety case 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 Director —

(i) at least 3 months, or such shorter period as the Director may specify; or

(ii) where the revisions relate to a combined operation, at least 6 weeks, or such shorter period as the Director may specify,

before the revisions are to be made; and

(b) the Governor has accepted the revisions.

(3) Without prejudice to the generality of paragraph (2) —

(a) no well operation shall constitute a material change;

(b) the movement of a production installation to a new location to be operated there shall constitute a material change; and

(c) 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).

Powers of Director and Governor in relation to safety cases and related documents

15.—(1) The Director may direct a duty holder to prepare revisions to a current safety case in relation to such matters as the Director may notify to him.

(2) When making a direction for the purposes of paragraph (1), the Director shall explain why he 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 Director.

(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 Director; and

(b) the Governor 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 Director with a copy of any document which, in the opinion of the Director, 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 Director.

(5) The Governor may suspend any current safety case where the Governor does not accept any proposed revision thereto submitted to it pursuant to regulation 15(3).

(6) When suspending a current safety case in accordance with paragraph (5), the Governor shall explain why the Governor 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 Governor may lift any suspension in respect of a current safety case when 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.

Duty to conform with safety case

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.

Notification of well operations

17.—(1) Subject to paragraph (2), a well operator shall ensure that no well operation is commenced unless he has sent a notification containing the particulars specified in Schedule 6 to the Director at least 21 days (or such shorter period as the Director 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 Director at least 10 days (or such shorter period as the Director may specify) before commencing that operation; and

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

(3) Where there is a material change in any of the particulars notified pursuant to paragraph (1) prior to completion of the relevant well operation, the well operator shall notify the Director of that change as soon as practicable.

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 Director, he is notified of an address in the Falkland Islands for the purposes of subparagraphs (b) and (e) below;

(b) keep copies, at the address referred to in subparagraph (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 subparagraph (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 Director pursuant to subparagraph (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; and
 - (b) records, sufficient to show the matters described in paragraph 5 of Schedule 7, are kept at the address notified to the Director pursuant to subparagraph (a) of paragraph (1) until the expiration of 6 months after the scheme pursuant to which they were compiled has ceased to be current.
- (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-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 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.

Review and revision of verification schemes

20. 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 10 clear days before the commencement of the hearing 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 Governor 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 Governor 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 and 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.

Appeals

24.—(1) Any person who is aggrieved by a decision of the Governor or the Director, as the case may be —

(a) as to a finding of fact 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 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 in accordance with regulation 9(5), 11(1), 14(2) or 15(3);

(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 Supreme Court.

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

(3) Any decision 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.

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 and the design philosophy used to guide the process.

3. A description of—

(a) the chosen design concept, 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 and 10 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996; and

(ii) that risks with the potential to cause a major accident are reduced to the lowest level that is reasonably practicable; and

(c) the criteria used to select the chosen design concept and the process by which the selection was made.

4. A description of—

(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—

(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.

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

8. A summary of the verification scheme prepared pursuant to regulation 19(2)(b).

9. Where a non-production installation is to be converted for use as a production installation, an explanation of why the owner considers the installation suitable for conversion.

10. Where a production installation is to be moved to a new location, an explanation of why the operator considers the installation suitable for the new location.

Schedule 2

regulation 7

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.
2. A description of the extent to which the duty holder has taken into account any matters raised by the Director pursuant to regulations 6(1) and (4)(a) and 9(1) and (4).
3. Omitted.
4. A description, with suitable diagrams, of—
 - (a) the main and secondary structure of the installation and its materials;
 - (b) its plant;
 - (c) the layout and configuration of its plant;
 - (d) the connections to any pipeline or installation; and
 - (e) any wells connected or to be connected to the installation.
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, which the installation is capable of performing.
7. The maximum number of persons—
 - (a) expected to be on the installation at any time; and
 - (b) for whom accommodation is to be provided.
8. Particulars of the plant and arrangements for the control of well operations, including those—
 - (a) to control pressure in a well;

- (b) to prevent the uncontrollable release of hazardous substances; and
- (c) to minimise the effects of damage to subsea equipment by drilling equipment.

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 (SI 1996/825).

10. A description of how the duty holder has ensured, or will ensure, compliance with regulation 4(1) of the PFEER Regulations.

11. 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.

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 of 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 and for enabling such persons to be evacuated 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-critical elements; and

(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 co-operate with the operator in relation to a pipeline to ensure compliance with regulation 11 of the Pipelines Safety Regulations 1996.

14. Particulars of any combined operations which may involve the installation, including —

(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.

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.

2. Omitted.

3. A description, with suitable diagrams, of —

(a) the main and secondary structure of the installation and its materials;

(b) its plant; and

- (c) the layout and configuration of its plant.
- 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; and
 - (b) for whom accommodation is to be provided.
- 6. Particulars of the plant and arrangements for the control of well operations, including those—
 - (a) to control pressure in a well;
 - (b) to prevent the uncontrollable release of hazardous substances; and
 - (c) to minimise the effects of damage to subsea equipment by drilling equipment.
- 7. A description of how the duty holder has ensured, or will ensure, compliance with regulation 4(1) of the PFEER Regulations.
- 8. 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.
- 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 of 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 and for enabling such persons to be evacuated 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-critical elements.

11. Particulars of—

(a) the limits of the environmental 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; and

(c) the locations in which the installation may be stationed and operated safely.

12. A description of the arrangements for —

(a) identifying the routes and locations of pipelines, 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 —

(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.

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.

2. A description 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.
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 —
 - (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
 - (b) a description of any risk control measures introduced as a result of that review.
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.

Schedule 5

regulation 11

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

1. The name and address of the operator of the installation.
2. The dates on which dismantling is expected to commence and finish.
3. Omitted.
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.

Schedule 6

regulation 17

PARTICULARS TO BE INCLUDED IN A NOTIFICATION OF WELL OPERATIONS

1. The name and address of the well operator.
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
 - (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.
5. Particulars of the type of well, its number, and slot number, and the name of any field development of which it may be part.
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; and
 - (b) the intended operational state of the well at the end of each well operation.
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 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.

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 Governor or the Director (according to which of them made the decision appealed against).

2. The Supreme Court shall direct that an appeal shall be determined by a person appointed by him for the purpose and the court 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. There may be paid to the appointed person such remuneration and allowances as the Chief Justice, after consultation with the Governor, may agree.

Part 2

6.—(1) Subject to the following subparagraphs 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 Director shall serve on the appellant a

written statement of any submission which the Governor (if he is the respondent or the Director) proposes to put forward at the hearing and shall supply a copy of the statement to the appointed person.

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

(a) the statement of the Director 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 Director shall afford the appellant a reasonable opportunity to inspect and, where practicable, to take copies of those documents.

(3) If required by the appointed person, the appellant shall —

(a) serve on the Director 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 Director 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 Director a statement of his proposed submissions.

(3) The Director shall send a copy of every statement served on the Director 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 a legal practitioner.

(5) A person may appear in person or be represented by a legal practitioner 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 subparagraph (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 therefore, 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

regulation 25

AMENDMENTS

1. Omitted.

1A. In this Schedule —

(a) “the Diving at Work Regulations 1997” means the regulations in their application to the law of the Falkland Islands by virtue of the Diving at Work Order 1998 (SR&O No 25 of 1998); and

(b) “the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1995” means those Regulations as they apply as part of the law of the Falkland Islands by virtue of article 3 of the Reporting of Injuries Diseases and Dangerous Occurrences) Order 1998 (SR&O No 14 of 1998).

2. In the Management Regulations —

(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 6 of the Offshore Minerals Ordinance 1994 (No 16 of 1994)”;

(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 Director that one person has been appointed to perform the functions described in paragraph (a); or

(ii) in the opinion of the Director, 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) Omitted.

(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,

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) Omitted.

3. In the PFEER Regulations —

(a) in regulation 2(1) (interpretation) —

- (i) Omitted;
- (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 6 of the Offshore Minerals Ordinance 1994;”;

(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 Director that one person has been appointed to perform the functions described in paragraph (a); or

(ii) in the opinion of the Director, 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 (7) of regulation 19 (suitability and condition of plant); and

(e) omit regulation 24 (amendment of the Offshore Installations (Safety Case) Regulations 1991).

4. In regulation 2(1) (interpretation) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, for subparagraph (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 6 of the Offshore Minerals Ordinance 1994);”.

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

(a) in regulation 2 (interpretation) —

(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 6 of the Offshore Minerals Ordinance 1994;”

(dd) in the definition of “mobile installation” omit the words “(other than a floating production platform)”;

(ee) in the definition of “safety case” 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

(ii) in paragraph (4)(b) for the words “1992” substitute “2005”.

(b) omit regulation 26 and Schedule 2 (modification of the Offshore Installation (Safety Case) Regulations 1992).

6. In the Diving at Work Regulations 1997 omit paragraph 4 of Schedule 2.

7. Omitted.

EXPLANATORY NOTE
(not forming part of the above Order)

1. Article 3 of the Offshore Installations (Safety Case) Order 1998 gave effect in Falkland Islands law to the Offshore Installations (Safety Case) Regulations 1992 in the form set out in the Schedule to the Order.

2. This Order replaces the 1998 Order and gives effect to the Offshore Installations (Safety Case) Regulations 2005 which replace the 1992 Regulations. The 1992 Regulations contained minimum requirements as to the safety and health protection of workers in the offshore petroleum extracting industry through drilling. The 2005 Regulations continue to do so.

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 Director of Mineral Resources a design notification for a production installation which is to be established (regulation 6(1)) and a relocation notification for a production 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 Governor (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 the Director and accepted by the Governor (regulation 8 and Schedule 3);

(e) require a design notification to be sent to the Director 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 Governor (regulation 9(5));

(f) prohibit the engagement of an installation in a combined operation with another unless a notification has been sent to the Director (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 Governor (regulation 11 and Schedule 5);

(h) require a safety case to be reviewed when directed by the Director and at intervals of 5 years (regulation 13);

(i) require a safety case to be revised when appropriate and when directed by the Director (regulation 14);

(j) grant to the Director 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 Director (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 Governor (regulation 23); and

(p) provide for an appeal to the Supreme Court against certain decisions of the Governor and of the Director (regulation 24).