
SUBSIDIARY LEGISLATION

**OFFSHORE MINERALS
HEALTH AND SAFETY**

**Health and Safety at Work etc. Act 1974
(Application outside the Falkland Islands) Order 2008**

S. R. & O. No: 6 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 36(4) and (6) 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 Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) 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

(1) In this Order, unless the context otherwise requires —

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

“activity” includes a diving project;

“designated area” has the meaning given by Proclamation No 1 of 1991 and “within a designated area” includes over and under it;

“diving project” has the same meaning as it has in the Diving at Work Regulations 1997 save that it includes an activity in which a person takes part as a diver wearing an atmospheric pressure suit and without breathing in air or other gas at a pressure greater than atmospheric pressure;

“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);

“energy structure” means a fixed or floating structure, other than a vessel, for producing energy from wind or water;

“offshore installation” shall be construed in accordance with article 5(2) and (3) of this Order;

“the prescribed provisions of the 1974 Act” means sections 1 to 59 and 80 to 82 of the 1974 Act;

“supplementary unit” means a fixed or floating structure, other than a vessel, for providing energy, information or substances to an offshore installation;

“stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;

“territorial sea” means the territorial sea adjacent to the Falkland Islands and “within the territorial sea” includes on, over and under it;

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

(2) For the purposes of this Order, any structures and devices on top of a well shall be treated as forming part of the well.

4. Application of the 1974 Act outside the Falkland Islands

(1) The prescribed provisions of the 1974 Act shall, to the extent specified in the following articles of this Order, apply to and in relation to the premises and activities outside the Falkland Islands which are so specified as those provisions apply within Great Britain as if those provisions had been extended to the Falkland Islands.

(2) The reference in paragraph (1) of this article to premises and activities includes a reference to any person, article or substance on those premises or engaged in or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

5. Offshore installations

(1) The prescribed provisions of the 1974 Act shall apply within the territorial sea or a designated area to and in relation to —

(a) any offshore installation and any activity on it;

(b) any activity in connection with an offshore 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 —

(i) transporting, towing or navigating the installation; and

(ii) any activity in or from a vessel being used as a stand-by vessel;

(c) a diving project involving —

- (i) the survey and preparation of the sea bed for an offshore installation;
- (ii) the survey and restoration of the sea bed consequent on the removal of an offshore installation.

(2) In this Order “offshore installation” means, subject to paragraph (3) of this article, a structure which is, or is to be, or has been, used while standing or stationed in water, or on the foreshore or other land intermittently covered with water —

- (i) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;
- (ii) for the storage of gas in or under the shore or bed of any water or the recovery of gas so stored;
- (iii) for the conveyance of things by means of a pipe; or
- (iv) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this sub-paragraph,

together with any supplementary unit which is ordinarily connected to it, and all the connections.

(3) Any reference in paragraph (2) to a structure or unit does not include —

- (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
- (b) a well;
- (c) a structure which has ceased to be used for any of the purposes specified in paragraph (2)(b) of this article and has since been used for a purpose not so specified;
- (d) a mobile structure which has been taken out of use and is not yet being moved with a view to its being used for any of the purposes specified in paragraph (2)(b) of this article; and
- (e) any part of a pipeline.

6. Wells

(1) Subject to paragraph (2) of this article, the prescribed provisions of the 1974 Act shall apply within the territorial sea or a designated area to and in relation to —

- (a) a well and any activity in connection with it; and
- (b) an activity which is immediately preparatory to any activity in sub-paragraph (a) above.

(2) Paragraph (1) of this article includes keeping a vessel on station for the purpose of working on a well but otherwise does not include navigation or an activity connected with navigation.

7. Pipelines

(1) The prescribed provisions of the 1974 Act shall apply within the territorial sea or a designated area to and in relation to —

- (a) any pipeline;
- (b) any pipeline works;
- (c) the following activities in connection with pipeline works —
 - (i) the loading, unloading, fuelling or provisioning of a vessel;
 - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft in a vessel, being in either case a vessel which is engaged in pipeline works.

(2) In this article —

“pipeline” means a pipe or system of pipes for the conveyance of any thing, together with —

- (a) any apparatus for inducing or facilitating the flow of any thing through, or through part of, the pipe or system;
- (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
- (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
- (d) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in the preceding paragraphs;
- (e) apparatus for the transmission of information for the operation of the pipe or system;
- (f) apparatus for the cathodic protection of the pipe or system; and
- (g) a structure used or to be used solely for the support of a part of the pipe or system;

but not including a pipeline of which no initial or terminal point is situated in the Falkland Islands, within the territorial sea adjacent to the Falkland Islands, or within a designated area;

“pipeline works” means —

- (a) assembling or placing a pipeline or length of pipeline including the provision of internal or external protection for it;
- (b) inspecting, testing, maintaining, adjusting, repairing, altering or renewing a pipeline or length of pipeline;
- (c) changing the position of or dismantling or removing a pipeline or length of pipeline;
- (d) opening the bed of the sea for the purposes of the works mentioned in sub-paragraphs (a) to (c) of this definition, and tunnelling or boring for those purposes;
- (e) any activities incidental to the activities described in sub-paragraphs (a) to (d) of this definition;
- (f) a diving project in connection with any of the works mentioned in sub-paragraphs (a) to (e) of this definition or for the purpose of determining whether a place is suitable as part of the site of a proposed pipeline and the carrying out of surveying operations for settling the route of a proposed pipeline.

8. Other activities within the territorial sea

(1) Subject to paragraph (2), the prescribed provisions of the 1974 Act shall apply within the territorial sea to and in relation to —

- (a) the construction, reconstruction, alteration, repair, maintenance, cleaning, use, operation, demolition and dismantling of any building, energy structure or other structure, not being in any case a vessel, or any preparation for any such activity;
- (b) the transfer of people or goods between a vessel or aircraft and a structure (including a building) mentioned in sub-paragraph (a) of this paragraph;
- (c) the loading, unloading, fuelling or provisioning of a vessel;
- (d) a diving project;
- (e) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel except when carried out by the master or any officer or member of the crew of that vessel;
- (f) the maintaining on a station of a vessel which would be an offshore installation were it not a structure to which paragraph (3)(d) of article 5 of this Order applies;
- (g) the operation of a cable for transmitting electricity from an energy structure to the Falkland Islands;
- (h) the transfer of people or goods between a vessel or aircraft and a structure mentioned in sub-paragraph (f) of this paragraph.

(2) This article shall not apply —

(a) to a case where article 5, 6 or 7 of this Order applies; or

(b) to vessels which are registered outside the Falkland Islands and are on passage through the territorial sea.

9. Legal proceedings

Proceedings for any offence under section 33 of the 1974 Act, being an offence to which that section applies by virtue of this Order, may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the Falkland Islands.

10. Miscellaneous provisions

The prescribed provisions of the 1974 Act shall apply in accordance with this Order to individuals whether or not they are British subjects, and to bodies corporate whether or not they are incorporated under the law of the Falkland Islands.

11. Revocation

The Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998 (SR&O No 6 of 1998) is hereby revoked.

12. Saving

Nothing in this Order shall be taken to limit or prejudice the operation which any Act or legislative instrument may, apart from this Order, have in the territorial sea or elsewhere.

Made 6th March 2008

P. L. Martinez,
Acting Governor

EXPLANATORY NOTE
(not forming part of the above Order)

1. This Order revokes and re-enacts with amendments the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998 (“the 1998 Order”), which applied certain provisions of the Health and Safety at Work etc. Act 1974 (“the prescribed provisions”) to certain premises and activities in the territorial sea adjacent to the Falkland Islands and to areas designated under Proclamation No 1 of 1991. In addition to minor and drafting amendments, this Order makes the following changes of substance.

2. The application by *article 4(1)* of the prescribed provisions to certain premises or activities within the territorial sea or a designated area now extends to a “diving project” (defined in *article 2(1)*) involving the survey and preparation of the sea bed consequent on the removal of an offshore installation (*article 4(1)(c)*).
3. The definition in *article 4(2)* of “offshore installation” now includes a supplementary unit (defined in *article 2(1)*) connected to it, and all the connections.
4. The application by *article 7* of the prescribed provisions to certain premises and activities within the territorial sea now includes (*article 7(1)(a)*) specified activities in relation to an “energy structure” (defined in *article 2(1)*), and (*article 7(1)(b)*) the transfer of people or goods to or from any structure mentioned in *article 7(1)(a)*.
5. Article 7 does not now apply to a case where articles 4 to 6 apply (*article 7(2)*).