
SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Health and Safety Order 1998

(S. R. & O. No. 5 of 1998)

Made: 23 January 1998
Published: 30 January 1998
Coming into force on: 1 February 1998

IN EXERCISE of my powers under section 36(1) and (6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Health and Safety Order 1998 and shall come into force on 1st February 1998.

Application of the Offshore Safety Act 1992 and Part 1 of the Health and Safety at Work etc. Act 1974

2.—(1) The Offshore Safety Act 1992(b) applies to the Falkland Islands subject to the modifications specified in Schedule 1 to this Order.

(2) Part 1 of the Health and Safety at Work etc. Act 1974(c) shall, subject to the exceptions and modifications specified in Schedule 2 to this Order, have effect in such parts of the controlled waters(d) as constitute the relevant waters. .

(3) In this article, “relevant waters” means—

(a) the tidal waters and parts of the sea adjacent to the Falkland Islands up to the seaward limits of the territorial sea adjacent to the Falkland Islands; and

(a) No. 16 of 1994

(b) 1992 c. 15

(c) 1974 c.37

(d) “controlled waters”, “designated area of the continental shelf” and “continental shelf” have the same meaning here as they are given by s.2(1) of the Offshore Minerals Ordinance 1994.

(b) any designated area of the continental shelf.

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE 1

Modifications and exceptions to application of the Offshore Safety Act 1992 in the Falkland Islands


General

1. In the following provisions of this Schedule, a reference to a numbered (and, where appropriate, otherwise designated) provision is, unless the context otherwise requires, a reference to the provision so numbered or otherwise designated of the Offshore Safety Act 1992.

Modifications and exceptions

2. Section 1 shall have effect as if—

(a) in subsection (1) the words appearing after paragraph (d) read—

“and that Part shall have effect in such parts of the controlled waters as constitute the relevant waters as if the provisions mentioned in subsection (3) in the manner it is to be construed in the Falkland Islands were existing statutory provisions within the meaning of that Part and, in the case of the enactments there mentioned, were specified in the third column  Schedule 1 to that Act.”;

(b) the references in section (3) to the United Kingdom statutory provisions specified therein were references to the corresponding provisions of Falkland Islands law specified in section 36(3) of the Offshore Minerals Ordinance 1994;

(c) subsection (4) read—

“(4) In this section—

“controlled waters” has the same meaning as it has in section 2(1) of the Offshore Minerals Ordinance 1994;

“offshore installation” means an installation other than—

(a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes, and

(b) a well,

if the installation is one which is, or at any time is to be or has been, stood or stationed in the controlled waters and there used—

(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 relevant waters 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 used for one or more of the purposes mentioned in (i) to (iii) above,

but—

(A) an installation which would by reason of the foregoing otherwise be an offshore installation shall not be treated as an offshore installation if—

(I) the installation has ceased to be used for any purpose mentioned in (i) to (iii) above and since it was last so used has been both used and maintained for a purpose other than one so mentioned; or

(II) the installation is a mobile structure which has been taken out of such use as is so mentioned and, for the time being, is neither intended to be so used in the future nor maintained with a view to the possibility of its being so used in the future, and

(B) notwithstanding (b) above, where a well is for the time being connected by pipe or cable to an installation which is by reason of the foregoing an offshore installation, that well shall be deemed to be part of that offshore installation;

“pipe-line” has the same meaning as it has under section 38(1) of the Offshore Minerals Ordinance 1994;

“pipe-line works” has the same meaning as it has under section 28(2) of the Offshore Minerals Ordinance 1994; and

“relevant waters” has the same meaning as it has under article 2 of the Offshore Health and Safety Order 1998.”; and

(d) subsection (5) were omitted.

3. Section 2 shall have effect as if—

(a) there were omitted from subsection (1) all words appearing therein after paragraph (c);

(b) “pipe-line” were defined therein as having the same meaning as it has for the purposes of section 38(1) of the Offshore Minerals Ordinance 1994; and

(c) subsections (2), (3) and (4) were omitted.

4. Sections 3, 5, 6 and 7(2), (3) and (4) are omitted.

SCHEDULE 2

Modifications and exceptions to application of Part I of the Health and Safety at Work etc. Act 1974 to the controlled waters

General

1. In the following provisions of this Schedule, a reference to the 1974 Act is a reference to the Health and Safety at Work etc. Act 1974 and a reference to a numbered (and, where appropriate, otherwise designated) provision is, unless the context otherwise requires, a reference to the provision so numbered (and, where appropriate, otherwise designated) of that Act.

Modifications and exceptions

2. Subject to the subsequent provisions of this Schedule—

(a) the words “the Commission”, “the Secretary of State”, “a Minister of the Crown” or “the Executive”, wherever they appear in Part I of the 1974 Act shall have effect as if they read “the Governor” and wherever, consequential upon the foregoing, it is appropriate, the provisions of Part I of the 1974 Act shall have effect as if substitutions had been made therein of the word “he”, “him” or “his”, as the context requires, for any pronoun referring or relating to the Commission, the Secretary of State, a Minister of the Crown or the Executive;

(b) the word “constable” shall have effect as if it read “police officer”; and

(c) the words “on summary conviction”, wherever they appear in Part 1 of the 1974 Act, shall have effect as if they read “on conviction”.

3. Sections 5, 10, 11(2)(d), (3),(4) and (5) are omitted.

4. Section 11(6) shall have effect as if it read—

“(6) The Governor shall have power to do anything (except borrow money) which is calculated to facilitate, or is conducive or incidental to, the performance of any of his functions under this Part (including the power to delegate or authorise (as the case may be) the performance or exercise of any of his functions under this Part to or by any public officer notified by notice published in the *Gazette* in relation to the performance or exercise of the function in question, but without prejudice, notwithstanding any such delegation or authorisation, to the power of the Governor himself to perform or exercise that function).”

5. Sections 12 and 13 are omitted.

6. Section 14 shall have effect as if—

(a) in subsection (1) the words “and for the purposes of this subsection” onwards to the end of that subsection did not appear;

(b) in subsection (2) the words “the Executive” were omitted in paragraph (a) and the words “with the consent of the Secretary of State” were omitted in paragraph (b); and

(c) in subsection (6) the words “,with the approval of the Minister for the Civil Service,” were omitted in paragraph (a), and the words “,with the like approval,” were omitted in paragraph (b).

7. Section 15 shall have effect as if —

(a) subsection (1) read—

“(1) The Governor shall have power to make regulations under this section for any of the general purposes of this Part (and regulations so made are in this Part referred to as “health and safety regulations”).”;

(b) subsection (9) were omitted.

8. Section 16 shall have effect as if subsection (2) were omitted and as if subsection (5) read —

“(5) The Governor may at any time withdraw his approval from any code of practice approved under this section.”.

9. Section 18 is omitted.

10. Section 19(1) shall have effect as if it read—

“(1) The Governor may appoint as inspectors (under whatever title he may from time to time determine) such persons having suitable qualifications as he thinks necessary for carrying into effect the relevant statutory provisions and may vary or terminate any appointment made under this section.”.

11. Section 20(8) shall have effect as if the words from and including the words “High Court” onwards to the end of the subsection were replaced by the words “Supreme Court of the Falkland Islands”.

12. Section 23 shall have effect—

(a) as if subsection (3) were omitted; and

(b) as if all words appearing in subsection (4) from and including the words “fire authority”, where they first appear in the subsection, were replaced by the words “Chief Fire Officer”.

13. Section 25A (3) shall have effect as if all words appearing after the words “Good Friday” were replaced by the words “or a day which is a public holiday in the Falkland Islands”.

14. Section 26 shall have effect as if—

(a) the words “the enforcing authority which appointed him” were replaced by the words “the Governor”;

(b) the words “that authority may, nevertheless” were replaced by the words “the Governor shall”; and

(c) the words “if the authority is satisfied” were replaced by the words “if the Governor is satisfied”.

15. Section 27 shall have effect as if—

(a) the words “or, as the case may be, to the enforcing authority in question” were omitted from subsection (1); and

(b) subsections (2), (3) and (4) were omitted.

16. Section 27A is omitted.

17. Section 28 shall have effect as if—

(a) the words “under section 27A or” in subsection (1) were omitted;

(b) subsection (3) were replaced by—

“(3) The preceding subsection shall not apply to—

(a) disclosure of information to the Governor or to any public officer to whom the Governor may have delegated the performance or exercise of any of his functions under this Part, or whom he may have authorised to perform or exercise any of his functions under this Part;

(b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions or in relation to the protection or preservation of public health, public safety or the environment;

(c) disclosure to a police officer authorised by the Chief Police Officer to receive it;

(d) disclosure by the recipient of information in a form calculated to prevent it being identified as relating to a particular person or case; or

(e) disclosure for the purpose of any legal proceedings or an investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).”

(c) subsection (4) were omitted;

(d) subsection (5) were replaced by the following—

“(5) A person to whom information is disclosed in pursuance of subsection (3) above shall not use the information for a purpose other than—

(a) in a case falling within paragraph (a) of that subsection, a purpose of this Part or for purposes in connection with the relevant statutory provisions, or for the protection or preservation of public health, public safety or of the environment, or the safety of the Falkland Islands, as the case may be;

(b) in a case falling within paragraph (b) of that subsection, for purposes conferred upon the recipient by any relevant statutory provision or in relation to the protection or preservation of public health, public safety or the environment; or

(c) in the case of information given to a police officer, the purposes of the police in connection with the

relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the Falkland Islands.”; and

(e) subsections (6) and (10) were omitted.

18. Section 33 shall have effect as if—

(a) in subsection (1)(h) the words “or to obstruct a customs officer in the exercise of his powers under section 25A” were omitted;

(b) subsection (1)(i) and (j) were omitted;

(c) in subsection (1A) paragraphs (a) and (b) were replaced by the words “on conviction to a fine not exceeding £100,000”;

(d) in subsection (2) all words appearing after the words “section 20” were replaced by the words “shall be liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale”;

(e) in subsection (2A) paragraphs (a) and (b) were replaced by the words “to imprisonment for a term not exceeding two years or to a fine not exceeding £250,000, or both.”;

(f) in subsection (3)—

(i) as if the words “or by virtue of paragraph 2(2) of Schedule 3” were omitted;

(ii) as if paragraph (a) were omitted;

(iii) as if the words “on indictment” in paragraph (b) were omitted; and

(g) in subsection (4) as if paragraph (e) were omitted.

19. Section 34(1)(d), (5) and (6) are omitted.

20. Section 38 shall have effect as if the words “England and Wales” were replaced by the words “Falkland Islands” and as if the words “Director of Public Prosecutions” were replaced by the words “Attorney General of the Falkland Islands”.

21. Section 39(1) shall have effect as if—

(a) the words “, if authorised in that behalf by an enforcing authority,” were omitted; and

(b) the words “a magistrates’ court” were replaced by the words “a court of summary jurisdiction”.

22. Sections 43 to 45 are omitted.

23. Section 46 shall have effect as if—

(a) the words “and of section 26 of the Interpretation Act 1889 (service of documents by post) in its application to this section,” were omitted from subsection (4); and

(b) as if the words “and of section 26 of the Interpretation Act 1889” were omitted from subsection (5).

24. Section 47(1)(c) is omitted.

25. Section 48(6) shall have effect as if the words “in its application under the law of the Falkland Islands by virtue of the Application of Enactments Ordinance 1954”(e) appeared immediately after the words “the Crown Proceedings Act 1947”.

26. Sections 49, 50 and 54 are omitted.

EXPLANATORY NOTE
(not forming part of the Order)

The Offshore Safety Act 1992 (“the 1992 Act”) was enacted in the United Kingdom to give statutory effect to a number of the recommendations of Lord Cullen’s report on the Piper Alpha disaster in the North Sea. Those recommendations envisaged a fundamental change of approach from the then current system of regulations under the Mineral Workings (Offshore Installations) Act 1971 (which in the Falkland Islands might have an equivalent under section 27 of the Offshore Minerals Ordinance 1994 (“the 1994 Ordinance”)) prescribing detailed requirements with which operators had to comply, to a system under which the regulations would take the form of stating objectives to be met (referred to as “goal-setting objectives”), thus following the philosophy which was adopted by the report of the Robens Committee Report in 1972, which gave rise to the Health and Safety at Work etc. Act 1974 (“the 1974 Act”). The Robens Report considered that the major defect in the then existing, onshore, statutory health and safety regime was that there was too much law. This had the unfortunate effect of conditioning people to think of health and safety at work as primarily a matter of compliance with detailed rules imposed by external agencies, instead of the encouragement of personal responsibility and voluntary, self-generating effort, with a view to influencing attitudes and creating a framework for better safety and health organisation and action by industry itself. To achieve, in relation to offshore petroleum exploration and exploitation operations and matters connected with them, the new approach recommended by the Robens Report in relation to health and safety at work matters on land, the 1992 Act extended the general purposes of the 1974 Act to cover the purposes of the English statutory provisions to which sections 22 to 35 of the Offshore Minerals Ordinance 1994 (“the Ordinance”) of the Falkland Islands correspond, and so as to allow the existing regulations to be replaced by regulations made under section 15 of the 1974 Act.

(e) No.13 of 1954

This Order, made under section 36 of the Ordinance, applies the Offshore Safety Act 1992 and Part I of the 1974 Act to the controlled waters of the Falkland Islands so as to allow the system of regulation recommended by the Cullen Report to be adopted in relation to offshore health and safety.