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STATUTORY INSTRUMENTS

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**2017 No. 304**

**HEALTH AND SAFETY**

**The Health and Safety (Miscellaneous Amendments and Revocation) Regulations 2017**

<i>Made</i> - - - -	<i>8th March 2017</i>
<i>Laid before Parliament</i>	<i>9th March 2017</i>
<i>Coming into force</i> - -	<i>6th April 2017</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances(b) and measures in the veterinary and phytosanitary fields for the protection of public health(c).

The Secretary of State makes these regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972;
- (b) sections 15(1), (2) and (9) and 82(3)(a) of, and paragraph 15(1) of Schedule 3 to, the Health and Safety at Work etc. Act 1974(d); and
- (c) section 23(1)(b) of the Petroleum Act 1987(e).

The Secretary of State makes these Regulations, so far as made in exercise of the powers cited in paragraph (b), for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Executive under section 11(3)(f) of the Health and Safety at Work etc. Act 1974 after the carrying out of consultations by the Executive in accordance with section 50(3)(g) of that Act.

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(a) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27, and the European Union (Amendment) Act 2008 (c. 7), section 3 and Part 1 of the Schedule.

(b) S.I. 1998/1750.

(c) S.I. 1999/2027; the Secretary of State is also designated in relation to anything supplemental or related to measures in the veterinary and phytosanitary fields for the protection of public health, under article 2(2) of that Order.

(d) 1974 c.37; section 15(1) was substituted by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 6 and amended by S.I. 2002/794. Section 15(2) was amended by the Energy Act 2013 (c. 32), Schedule 12, paragraphs 1 and 5. The general purposes of Part 1 of the Health and Safety at Work etc. Act 1974 were extended by section 1(1) of the Offshore Safety Act 1992 (c. 15).

(e) 1987 c. 12; section 23(1)(b), which is amended by S.I. 1993/1823 and S.R. (NI) 1993/384, creates a prohibition on a vessel entering or remaining in a safety zone; it extends to Northern Ireland. Section 23(8), which defines “vessel,” was amended by the Merchant Shipping Act 1995 (c. 21), Schedule 13, paragraph 78.

(f) Section 11 was substituted by article 5 of S.I. 2008/960.

(g) Section 50(3) was amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 16(3), the Health and Social Care Act 2012 (c. 7), Schedule 7, paragraphs 4 and 6, the Energy Act 2013 (c. 32) Schedule 12, paragraph 11 and S.I. 2008/960.

## PART 1

### General

#### **Citation, extent, application outside Great Britain and commencement**

1.—(1) These Regulations may be cited as the Health and Safety (Miscellaneous Amendments and Revocation) Regulations 2017.

(2) These Regulations extend to Great Britain, except for regulation 3 which extends only to Northern Ireland.

(3) The amendments made by these Regulations to—

(a) the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013(a) (“the 2013 Regulations”); and

(b) the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015(b) (“the 2015 Regulations”),

apply outside Great Britain in the same way that those Regulations apply outside Great Britain by virtue of, respectively, regulation 19 of the 2013 Regulations and regulation 4 of the 2015 Regulations.

(4) These Regulations come into force on 6th April 2017.

## PART 2

### Miscellaneous Amendment to Primary Legislation

#### **The Natural Environment and Rural Communities Act 2006**

2.—(1) The Natural Environment and Rural Communities Act 2006(c) is amended as follows.

(2) In section 43 (possession of pesticides harmful to wildlife), in subsection (3), for paragraph (d) substitute—

“(d) Regulation (EC) No 1107/2009 of the European Parliament and of the Council(d).”.

## PART 3

### Miscellaneous Amendments to Secondary Legislation

#### **The Offshore Installations (Safety Zones) Regulations 1987**

3.—(1) The Offshore Installations (Safety Zones) Regulations 1987(e) are amended as follows.

(2) In regulation 2 (prohibition on the entry into or remaining of a vessel in a safety zone: exceptions)—

(a) in paragraph (e) omit “or”;

(b) at the end of paragraph (f) insert “or”; and

(c) at the end insert—

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(a) S.I. 2013/1471, amended by S.I. 2015/398; there are other amending instruments but none is relevant.

(b) S.I. 2015/398, to which there are amendments not relevant to these Regulations.

(c) 2006 c. 16; paragraph (c) of subsection (3) was substituted by S.I. 2013/1506, paragraph 2, Part 1, Schedule 5.

(d) OJ No L 309, 24.11.2009, p1.

(e) S.I. 1987/1331. These Regulations were revoked, in relation to Great Britain, by S.I. 2015/398 (which did not extend to Northern Ireland), subject to transitional and saving provisions in respect of external waters; see regulation 4(3) of, and Part 2 of Schedule 13 and Part 2 of Schedule 14 to, S.I. 2015/398.

“(g) if there is consent from the duty holder (as “duty holder” is defined in regulation 2(1) of the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations (Northern Ireland) 2016)(a).”.

(3) After regulation 2 insert—

#### **“Review**

**3.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 6th April 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(b) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how Article 6(7) of Directive 2013/30/EU of the European Parliament and of the Council of 12th June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC(c) is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015.”.

#### **The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013**

**4.**—(1) The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013(d) are amended as follows.

(2) In regulation 2(1) (interpretation), at the appropriate place insert—

““working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of Great Britain;”.

(3) In regulation 15 (restriction on parallel requirements), after paragraph (4) insert—

“(5) Where the responsible person is under—

- (a) a requirement to make a report under these Regulations; and—
- (b) either or both—

- (i) a requirement to make a report under the EU Reporting Regulation, other than one that may be satisfied by making a report under these regulations; and

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(a) S.R. (NI) 2016/406.

(b) 2015 c. 26. Section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19. See section 32 for the definition of “regulatory provision”.

(c) OJ L 178, 28.6.2013, p 66-106.

(d) S.I. 2013/1471, amended by S.I. 2015/398; there are other amending instruments but none is relevant.

- (ii) a requirement to make a report under regulation 9 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996<sup>(a)</sup> (reporting of danger to an installation) in respect of an installation in external waters,

only one report is required if the conditions in paragraph (6) are met.

(6) The conditions referred to in paragraph (5) are—

- (a) the facts giving rise to each requirement are identical;
- (b) the facts occur on or after 6th April 2017;
- (c) the information required to be provided by each requirement is provided; and
- (d) the report is made within 10 working days.

(7) In paragraph (5), “EU Reporting Regulation” means Commission Implementing Regulation (EU) No 1112/2014 of 13 October 2014 determining a common format for sharing of information on major hazard indicators by the operators and owners of offshore oil and gas installations and a common format for the publication of the information on major hazard indicators by the Member States.”.

(4) In paragraph 1(4) of Schedule 1, omit paragraph (a).

### **The Control of Major Accident Hazards Regulations 2015**

**5.**—(1) The Control of Major Accident Hazards Regulations 2015<sup>(b)</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

- (a) in the definition of “the Directive”, for “96/98/EC” substitute “96/82/EC”;
- (b) omit the definition of “pipelines”;
- (c) for the definition of “storage” substitute—

““storage” includes warehousing, depositing in safe custody or keeping in stock;”.

(3) In regulation 3 (application and exceptions), in paragraph (2) after sub-paragraph (c) insert—

“(ca) the transport of dangerous substances in pipelines, including associated apparatus, except where that activity takes place at a site which is an establishment despite that activity;

(cb) the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards, except where that activity takes place at a site which is an establishment despite that activity;”.

### **The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015**

**6.**—(1) The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015<sup>(c)</sup> are amended as follows.

(2) In regulation 2(4) (construction of the expression “combined operation”)—

- (a) for “another installation or installations” substitute “another such installation or other such installations”; and
- (b) in paragraph (a), for “another” substitute “the other”.

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(a) S.I. 1996/913, to which there are amendments not relevant to these Regulations.

(b) S.I. 2015/483, amended by S.I. 2015/1393.

(c) S.I. 2015/398, to which there are amendments not relevant to these Regulations.

## **The Dangerous Goods in Harbour Areas Regulations 2016**

7. In the Dangerous Goods in Harbour Areas Regulations 2016(a), for regulation 5(1) substitute—

“5.—(1) These Regulations apply to—

- (a) every harbour area in Great Britain;
- (b) premises or activities in any part of a harbour area in the territorial sea adjacent to Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply under Articles 6 (but only to the extent it relates to monobuoys) and 11 of the Health and Safety at Work etc. Act (Application outside Great Britain) Order 2013(b) but not, except as provided in regulation 14, elsewhere.”.

## **PART 4**

### **Revocation of the Health and Safety (Miscellaneous Amendments) Regulations 2017**

#### **Revocation**

8. The Health and Safety (Miscellaneous Amendments) Regulations 2017(c) are revoked.

Signed by authority of the Secretary of State for Work and Pensions

*Penny Mordaunt*  
Minister of State,

8th March 2017

Department for Work and Pensions

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Health and Safety (Miscellaneous Amendments) Regulations 2017. Those Regulations contained errors in the numbering of their individual regulations. The amendments which were to be made by those revoked Regulations are made by these Regulations. The amendments are to primary and secondary legislation relating to health and safety.

Regulation 2 amends the Natural Environment and Rural Communities Act 2006 to create a defence for a person charged with an offence under section 43 of that Act (possession of pesticides harmful to wildlife) to prove that possession of a pesticide was for the purposes of doing anything in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ No L 309, 24.11.2009, p1).

Regulation 3 extends only to Northern Ireland. It amends the Offshore Installations (Safety Zones) Regulations 1987 (“the 1987 Regulations”), which also extend only to Northern Ireland, to provide an exception to the prohibition under section 23(1) of the Petroleum Act 1987 on a vessel entering or remaining in a safety zone established around an installation, namely, when there is consent from the duty holder. The regulation implements in part Article 6(7)(g) of Directive 2013/30/EU on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ No L 178, 28.06.13, p66). In Northern Ireland, the majority of the health and safety requirements

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(a) S.I. 2016/721.  
(b) S.I. 2013/240.  
(c) S.I. 2017/238.

in that Directive are implemented in the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations (Northern Ireland) (S.R. 2016/406) and a transposition note for that implementation was published with the Explanatory Memorandum for those Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk). The amendment also provides for the review of the 1987 Regulations.

Regulation 4 amends the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013. It makes provision for when only one report is required when the dangerous occurrence to be reported arises out of facts which separately require a report under either or both of the EU Reporting Regulation (which is defined in paragraph (7) of the inserted amendments) and a report of danger to an installation under the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996. Where that one report is to be made, it must be made within 10 working days.

Regulation 5 makes amendments to the Control of Major Accident Hazards Regulations 2015. Paragraph (2) removes an unnecessary definition of “pipelines” and amends the definition of “storage”. Paragraph (3) amends regulation 3 of those Regulations (concerning application and exceptions) by including exceptions in relation to the transport of dangerous substances in pipelines where that activity takes place outside of an establishment, and also the transport of dangerous substances and directly related intermediate temporary storage where that activity takes place outside of an establishment.

Regulation 6 makes an amendment to the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 to clarify that production installations, the operation of which has not commenced, are not included in reckoning whether there is a combined operation under those Regulations.

Regulation 7 makes amendment to clarify that the Dangerous Goods in Harbour Areas Regulations 2016 apply to harbour areas within the territorial seas adjacent to Great Britain.

Regulation 8 revokes the Health and Safety (Miscellaneous Amendments) Regulations 2017.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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