

1989 No. 971

OFFSHORE INSTALLATIONS

**The Offshore Installations (Safety Representatives and
Safety Committees) Regulations 1989**

<i>Made - - - -</i>	<i>12th June 1989</i>
<i>Laid before Parliament</i>	<i>12th June 1989</i>
<i>Coming into force</i>	<i>18th September 1989</i>

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Whereas the Secretary of State has consulted pursuant to section 7(1) of the Mineral Workings (Offshore Installations) Act 1971 (a) (hereinafter referred to as "the 1971 Act") with organisations in the United Kingdom appearing to him to be representative of those persons who will be affected by the following Regulations;

Now, therefore, the Secretary of State, in exercise of his powers under sections 6 and 7 of, and paragraphs 1 and 6 of the Schedule to, the 1971 Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 and shall come into force on 18th September 1989.

Interpretation

2. In these Regulations—

"the 1974 Act" means the Health and Safety at Work etc. Act 1974(b);

"appropriate languages" in relation to any information to be displayed on the installation under these Regulations means English and such other languages as are necessary to enable the information to be understood by all persons on the installation who may need to refer to it;

"elected" includes being declared the safety representative for a constituency under regulation 12 below by virtue of being the only candidate duly nominated for that position;

"employed" means employed or engaged under a contract of service or for services and related expressions shall be construed accordingly;

(a) 1971 c.61; section 6 was amended by section 37 of, and Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c.23).

(b) 1974 c.37.

“installation logbook” means a logbook which is required to be maintained under regulation 2 of the Offshore Installations (Logbooks and Registration of Death) Regulations 1972(a);

“installation manager” includes, where no manager is appointed pursuant to section 4 of the 1971 Act, any person made responsible by the installation owner for safety, health and welfare on board an offshore installation;

“occupational health and safety” means the health and safety of the workforce while on or working from an installation and while boarding or leaving it;

“the prescribed period” means the period of five weeks or such shorter period as is reasonably practicable to make representations, or nominations, or to vote as the case may be;

“a week” means any period of seven days;

“workforce” includes every person who is for the time being working on or from an offshore installation under a contract of service or a contract for services, other than the installation manager, a body corporate or an unincorporated body of persons.

Application

3. These Regulations shall apply to an offshore installation, not being a dredging installation registered in the United Kingdom or elsewhere, which—

- (a) is maintained on a working station in controlled waters for the carrying on of an activity to which the 1971 Act applies, and
- (b) is normally manned.

ELECTION OF SAFETY REPRESENTATIVES ETC.

Safety representatives

4. The workforce shall be entitled to nominate and elect safety representatives in accordance with the following provisions of these Regulations.

Constituencies

5.—(1) The installation manager shall establish and thereafter, in consultation with any safety committee established in accordance with regulation 19 below, maintain for the purposes of these Regulations a system of constituencies, which shall be established by reference to one or more of the following factors—

- (a) the areas of the offshore installation,
- (b) the activities undertaken on or from the installation,
- (c) the employers of members of the workforce, and
- (d) other objective criteria which appear to the installation manager to be appropriate to the circumstances of the installation.

(2) The system of constituencies shall be such that—

- (a) there shall be at least two constituencies;
- (b) every member of the workforce can be assigned to a constituency; and
- (c) the number of persons who may at any time be assigned to a constituency shall not exceed forty and shall be no fewer than three.

(3) In determining the number of persons to be assigned to a constituency the installation manager shall have regard, in particular, to the nature of the work undertaken by the members of the constituency and the hazards related thereto.

(4) The installation manager shall signify the establishment or modification of a constituency by ensuring the posting in appropriate languages at suitable places on the installation so that they can easily be read by all the members of the workforce of—

- (a) particulars of the establishment or modification of the constituency; and

(a) S.I. 1972/1542.

(b) subject to paragraph (7) below, notice that the installation manager will consider any representations with regard to such particulars as may be made to him within the prescribed period commencing with the date of their posting in accordance with paragraph (5) below.

(5) Subject to paragraph (7) below, representations may be made by any member of the workforce and, if the constituency is intended to be comprised exclusively of persons employed by the same employer, that employer.

(6) If any representations are made to him in accordance with paragraph (4)(b) above, the installation manager shall forthwith consider them, and if he considers that they necessitate amendment of the particulars referred to in paragraph (4)(a) above he shall ensure that amended particulars in appropriate languages are posted at suitable places as prescribed in paragraph (4) above.

(7) Where an installation manager proposes to establish a constituency and there is in existence on the installation a safety committee established under regulation 19 below, paragraphs (4)(b), (5) and (6) above shall not apply but the installation manager shall consult the safety committee and if the constituency is intended to be comprised exclusively of persons employed by the same employer, that employer.

Membership of constituency

6.—(1) The installation manager shall as soon as practicable ensure that every member of the workforce is assigned to a constituency established under regulation 5 above.

(2) The installation manager shall subsequently ensure that each new member is assigned to a constituency and informed in writing of the constituency to which he has been assigned and of the name of the safety representative of that constituency and the safety representative shall be informed in writing of the name of any new member of the workforce assigned to his constituency.

(3) Paragraphs (1) and (2) above shall not apply to any member of the workforce who at no time while on the offshore installation is expected to remain thereon for any period longer than forty-eight hours.

Elections

7. Subject to regulation 15 below, the members of the workforce assigned to a constituency may elect one safety representative in accordance with the provisions of regulations 8 to 13 below.

Nominations

8. As soon as practicable after—

- (a) the establishment or modification of a constituency, or
- (b) the expiry of a period of two years since the safety representative was last elected, or
- (c) a person's ceasing to be the safety representative in accordance with paragraph (b), (c) or (d) of regulation 14 below,

the installation manager shall ensure that a notice in appropriate languages is posted at suitable places as prescribed in regulation 5(4) above and that an election is to take place in relation to the constituency in question, with details of the members of that constituency; and he shall invite the nomination of candidates for election to be made to him during the prescribed period commencing with the date of posting of the notice.

Candidates

9.—(1) A person shall be eligible to be a candidate for election as the safety representative for a constituency if the installation manager is satisfied that he is a member of that constituency, that he is willing to stand as a candidate for the constituency, that he has been nominated by a second member of the constituency, and that his nomination has been seconded by a third member.

(2) The installation manager shall provide every person who is eligible to be a candidate with reasonable facilities to enable him to promote his election campaign.

List of candidates

10. After the expiry of the period allowed for nominations under regulation 8 above and within one week from that date, the installation manager shall ensure that there is displayed in appropriate languages at suitable places as prescribed in regulation 5(4) above—

- (a) a list of duly nominated candidates; or
- (b) if no candidate has been duly nominated, notice of the existence of a vacancy.

Secret ballot

11.—(1) If in any constituency more than one candidate is duly nominated, the installation manager shall, throughout the prescribed period commencing with the expiry of the one week period specified in regulation 10 above, conduct a secret ballot in which each member of that constituency shall be entitled to vote for one candidate in the constituency.

(2) If the Secretary of State receives a claim in writing from a member of the workforce that a ballot held for the purposes of paragraph (1) above does not comply with the requirements of that paragraph or has not been conducted fairly, he may, if he is satisfied that the claim is justified, declare the ballot to be a nullity and direct the installation manager or the installation owner to conduct a further ballot in accordance with such requirements as the Secretary of State may specify.

(3) The installation manager or the installation owner shall comply with any directions given by the Secretary of State under paragraph (2) above.

Results

12. The installation manager shall—

- (a) ensure that within one week from the expiry of the election period prescribed in regulation 11(1) above or specified under regulation 11(2) above a notice in appropriate languages is posted at suitable places as prescribed in regulation 5(4) above certifying the result of the ballot or, in the case of a constituency for which only one candidate has been duly nominated, declaring that candidate to be the safety representative for that constituency; and
- (b) as soon as is practicable thereafter issue to every person elected to be a safety representative a document signed and dated by him which certifies the date on which the person was elected, the name of the person's employer (if any), the name or other designation of the offshore installation and a description which is sufficient to identify the constituency he represents.

No candidate

13. If in any constituency no candidate has been nominated in accordance with regulation 9 above and no safety representative holds that position by virtue of regulation 15 below—

- (a) the installation manager shall, until a candidate has been so nominated or a safety representative holds that position under the said regulation 15, keep and update at monthly intervals a list of members for the time being of the constituency and the latest copy of the list shall be posted at suitable places as prescribed in regulation 5(4) above on the installation; and
- (b) the installation manager shall record those facts in the installation logbook, and if an eligible candidate is subsequently nominated in accordance with regulation 9 above the installation manager shall arrange for an election to be held for the constituency, in accordance with the foregoing provisions of these Regulations concerning elections.

Cessation of representation

14. A person shall cease to be a safety representative for the purposes of these Regulations—

- (a) on the election of another representative for his constituency in accordance with regulations 8 to 13 above, or
- (b) if he resigns, or
- (c) if his employment is terminated, or
- (d) if he has been absent from the installation for which he is a safety representative for a continuous period of twelve weeks.

Safety representatives for single employer constituencies

15.—(1) Where a person has not more than two years previously been elected in accordance with the foregoing provisions of these Regulations as a safety representative on an offshore installation for a constituency, the members of which were exclusively the employees of his present employer, he may, subject to paragraphs (2) and (3) below, continue to hold that position without re-election as a safety representative for a constituency, the members of which are exclusively employees of his present employer, on any other offshore installation on which he is subsequently a member of the workforce.

(2) Subject to paragraph (3) below, no person shall hold a position as a safety representative for a constituency under paragraph (1) above if the constituency is already represented by a safety representative.

(3) No person shall hold a position as a safety representative under paragraph (1) above on more than one offshore installation at any time unless the installations are for the time being normally linked by a bridge.

Functions of safety representatives

16. Each safety representative shall have the following functions—

- (a) to investigate potential hazards and dangerous occurrences and to examine the causes of accidents where the interests of the members of his constituency might be involved or those of any other member of the workforce when that person's safety representative is not available or there is no safety representative for that person's constituency;
- (b) to investigate complaints by any member of his constituency relating to the occupational health and safety of any member of the workforce and to investigate complaints by any other member of the workforce when that person's safety representative is not available or there is no safety representative for that person's constituency;
- (c) to make representations to the installation manager and, where appropriate, to every employer on matters arising out of paragraph (a) or (b) above;
- (d) to make representations to the installation manager and, where appropriate, to any employer on general matters affecting the occupational health and safety of members of the workforce;
- (e) to attend meetings of the safety committee established under regulations 19 and 20 below;
- (f) to represent his constituency members in consultations on the offshore installation with Inspectors appointed under section 6(4) of 1971 Act; and
- (g) to consult members of his constituency either individually or, so far as is reasonably practicable, collectively on any matters arising out of the foregoing provisions of this regulation and the provisions set out in regulation 22 below, as appropriate;

but no function conferred on a safety representative by this regulation shall be construed as imposing a duty on him.

Powers of safety representatives

17.—(1) To enable him to fulfil his functions under regulation 16 above, a safety representative may exercise the powers set out in paragraphs (2), (3), (4)(b) and (5) of

this regulation and he may seek advice and guidance whether from persons on the offshore installation or elsewhere on any matters arising out of regulation 16 above and regulation 22 below, as appropriate.

(2) A safety representative may inspect any part of the offshore installation or its equipment if—

- (a) he has given the installation manager and, if his employer is not the installation owner, his employer, reasonable notice in writing of his intention to do so, and
- (b) he has not inspected that part of the installation or its equipment in the previous three months;

and he may carry out more frequent inspections by agreement with the installation manager and, if his employer is not the installation owner, his employer.

(3) If—

- (a) there has been a notifiable incident, and
- (b) it is safe for an inspection to be carried out, and
- (c) the interests of the members of his constituency might be involved,

a safety representative may inspect the part of the installation or the equipment concerned and, so far as is necessary for the purpose of determining the cause, he may inspect any other part of the installation or its equipment; provided that the safety representative shall first notify of his intention to carry out the inspection—

- (i) the installation manager; and
- (ii) where his employer is not the installation owner and it is reasonably practicable to notify him, his employer.

(4) Where two or more safety representatives consider there is an imminent risk of serious personal injury arising from an activity carried out on the installation—

- (a) they shall make representations to the installation manager who shall prepare and send a report in writing on the matter to an inspector appointed under section 6(4) of the 1971 Act as soon as is reasonably practicable; and
- (b) a safety representative may make a report in writing by the fastest practicable means to an inspector appointed under section 6(4) of the 1971 Act.

(5) A safety representative may receive information given under section 28(8) of the 1974 Act by an inspector appointed under section 19 of that Act.

(6) In this regulation, “notifiable incident” means any casualty, accident, injury or disease which is required to be notified by the installation owner or the installation manager under regulation 9 or 12 of the Offshore Installations (Inspectors and Casualties) Regulations 1973(a).

Documents

18. A safety representative shall be entitled to see and be supplied, by or on behalf of the installation manager, with copies of any document relating to the occupational health and safety at work of the workforce which is required by any statutory provision to be kept on the offshore installation, except a document consisting of or relating to any health record of an identifiable individual.

SAFETY COMMITTEES

Safety committee—establishment

19. The owner of an offshore installation for which one or more safety representatives have been elected or hold that position by virtue of regulation 15 above shall establish a safety committee.

(a) S.I. 1973/1842.

Membership of safety committee

20.—(1) The safety committee shall include the installation manager as chairman, one further person who may be appointed by the installation owner or the installation manager, all the safety representatives, and such other persons as the safety committee may co-opt by the unanimous vote of the members of the committee present and voting on the co-option.

(2) A person co-opted to the safety committee under paragraph (1) above shall not be entitled to vote on the co-option of another person to the committee.

Safety committee—meetings

21.—(1) The first meeting of a safety committee shall be called by the chairman within six weeks of the date of its establishment, and thereafter the chairman shall call a meeting at least once in every three months.

(2) In calling a meeting, the chairman shall endeavour to appoint a date on which the members can attend.

(3) A safety representative may nominate a member of his constituency to attend meetings as a member in his stead when he is unable to attend.

(4) The quorum for a meeting of a safety committee shall be the chairman and such number of safety representatives or persons nominated under paragraph (3) above as represent a third (rounded up to a whole number) of the number of safety representatives holding office at the date the meeting is called.

Safety committee—functions

22.—(1) A safety committee shall have the following functions in relation to the offshore installation which it serves—

- (a) without prejudice to the performance of any obligation imposed on the installation manager or any other person by or under any enactment, to keep under review the measures taken to ensure the occupational health and safety of the workforce;
- (b) to keep under review, and to make recommendations to the installation manager with regard to, the system of the constituencies so as to ensure adequate representation of the workforce on health and safety matters;
- (c) to keep under review the arrangements for the training of safety representatives in accordance with regulation 27 below and to make representations to the employers as appropriate;
- (d) without prejudice to the requirements of regulation 21(1) above, to keep under review the frequency of safety committee meetings, the circumstances under which they may be called and to make representations to the installation manager as appropriate;
- (e) to consider representations from any member of the safety committee on any matter affecting the occupational health and safety of the workforce and make recommendations to the installation manager as appropriate;
- (f) to consider the causes of accidents, dangerous occurrences and cases of occupational ill health and make recommendations to the installation manager as appropriate;
- (g) to consider any document relating to the occupational health and safety of the workforce which is required by any statutory provision to be kept on the offshore installation, except any document consisting of or relating to any health record of an identifiable individual;
- (h) to prepare and maintain a record of its business a copy of which shall be kept on the installation for one year from the date of the meeting and as soon as practicable after each meeting send the record of that meeting to the installation owner who shall keep it at a place onshore in the United Kingdom until the sixth anniversary of the expiry of the year to which the record relates;

but no function given to a safety committee by this regulation shall be construed as imposing a duty on it.

(2) A safety committee shall seek to advance co-operation on matters affecting occupational health and safety between all parties on the installation which the committee serves and to that end shall seek to promote and develop measures to ensure the occupational health and safety of the workforce.

INSTALLATION OWNERS, INSTALLATION MANAGERS AND EMPLOYERS

Duties of installation owners and installation managers

23. In respect of every offshore installation served by a safety committee it shall be the duty of the installation owner and of the installation manager—

- (a) to facilitate the exercise by the committee of its functions and by the safety representatives of their functions and powers in respect of the installation under these Regulations, and for that purpose to make available the necessary accommodation, facilities for communication and office equipment supplies; and
- (b) to consult safety representatives with a view to the making and maintenance of arrangements which will enable them and the workforce to co-operate effectively in promoting and developing measures to ensure the health and safety of persons working on or from the installation, and in checking the effectiveness of such arrangements.

Information

24. It shall be the duty of the installation owner, the installation manager and any employer of members of the workforce each to make available to safety representatives the information relating to occupational health and safety within his knowledge as may be necessary to enable the safety representatives to fulfil their functions except—

- (a) any information the disclosure of which would be against the interests of national security, or
- (b) any information which cannot be disclosed without contravening a prohibition imposed by or under an enactment, or
- (c) any information relating specifically to an individual, unless he has consented to its being disclosed, or
- (d) any information the disclosure of which would, for reasons other than its effect on occupational health and safety, cause substantial injury to the undertaking of any of the parties on whom the duty is imposed or, where the information has been supplied to any of the parties by some other person, to the undertaking of that other person, or
- (e) any information obtained by the employer for the purpose of bringing, prosecuting or defending any legal proceedings.

Documents etc.

25.—(1) It shall be the duty of the installation owner, installation manager, and any employer of members of the workforce on the offshore installation, to make available to safety representatives and safety committees any documents which safety representatives and safety committees are entitled to see under regulation 18 above.

(2) It shall be the duty of the installation owner to ensure that at least one copy of these Regulations is readily available on the installation for inspection by the workforce.

Time off

26.—(1) It shall be the duty of the employer of a safety representative to permit him to take such time off from his work on the offshore installation without loss of pay during his working hours as is necessary—

- (a) for the purpose of performing his functions as a safety representative, and
- (b) to undertake training in accordance with regulation 27 below.

(2) Where a safety representative is permitted to take time off in accordance with paragraph (1) above, his employer shall pay him—

- (a) where the safety representative's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, as if he had worked at that work for the whole of that time;
- (b) where the safety representative's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work (ascertained in accordance with paragraph (3) below).

(3) The average hourly earnings referred to in paragraph 2(b) above are the average hourly earnings of the safety representative concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.

(4) Any payment to a safety representative by an employer in respect of a period of time off—

- (a) if it is a payment under any contractual obligation, shall go towards discharging the employer's liability in respect of the same period under paragraph (2) above;
- (b) if it is a payment under paragraph (2) above, shall go towards discharging any liability of the employer to pay contractual remuneration in respect of the same period.

Training

27. It shall be the duty of the employer of a safety representative to ensure that he is provided with such training in aspects of the functions of a safety representative as may be reasonable in all the circumstances and the employer shall meet any reasonable costs associated with such training including travel and subsistence costs.

MISCELLANEOUS

Offences

28.—(1) If an installation owner, installation manager or employer fails to comply with an obligation imposed upon him by these Regulations he shall be guilty of an offence.

(2) In proceedings for an offence under this regulation, it shall be a defence for the person charged to prove—

- (a) that he exercised all due diligence to prevent the commission of the offence; and
- (b) that the relevant failure to comply was committed without his consent connivance or wilful default.

Exercise of functions

29. No requirement imposed or power conferred upon any person by these Regulations shall be construed as requiring or empowering that person to disregard any requirement imposed upon him by or under any enactment.

12th June 1989

Cecil Parkinson
Secretary of State for Energy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to offshore installations to which the Mineral Workings (Offshore Installations) Act 1971 applies.

The Regulations contain provisions for the election of safety representatives and confer on them functions and powers in relation to the health and safety of the installation workforce. They also provide for time off with pay for safety representatives in order that they may perform their functions and undergo training in aspects of those functions.

The Regulations contain provisions for the owner of an installation to establish safety committees in accordance with these Regulations. The safety committee's functions include keeping under review health and safety on the installation and making representations and recommendations to the installation manager, as appropriate.

The Regulations impose duties on installation owners, installation managers and employers of persons on installations to give effect to these requirements and make breaches of those duties a criminal offence.