

2007 No. 77

PETROLEUM

**The Offshore Petroleum Activities (Conservation of Habitats)
(Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>16th January 2007</i>
<i>Laid before Parliament</i>		<i>19th January 2007</i>
<i>Coming into force</i>	- -	<i>18th February 2007</i>

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the conservation of natural habitats and of wild fauna and flora(b).

In exercise of the powers conferred upon him by that section, he makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 and shall come into force on 18th February 2007.

Amendment of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001

2.—(1) The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001(c) are amended as follows.

(2) In paragraph (1) of regulation 2 (Interpretation)—

(a) after the definition of “address” insert—

““appropriate nature conservation body” means such body with responsibilities for providing relevant advice on nature conservation in relation to the land or waters within or adjacent to the relevant site, which the Secretary of State considers appropriate;”;

(b) for the definition of “consent” substitute—

““consent” is to be construed in accordance with regulation 4(3);”;

(c) after the definition of “consent” insert—

““designated area” means any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(d);”;

(d) after the definition of “Natura 2000” insert—

(a) 1972 c. 68.

(b) SI 1992/2870, to which there is an amendment not relevant to these Regulations.

(c) SI 2001/1754.

(d) 1964 c. 29; section 1(7) was amended by paragraph 1 of Schedule 13 to the Oil and Gas (Enterprise) Act 1982 (c.23).

““offshore oil and gas activities” means oil and gas activities carried out wholly or partly in a relevant area;

“oil and gas activities” means any activities carried out for or in connection with the exploration for or production of petroleum;”;

(e) after the definition of “petroleum” insert—

““Petroleum Act licence” means a licence which is granted under or has effect as if granted under the 1998 Act or a licence which is to be granted under that Act;

“relevant area” means an area comprising any of the following—

(a) UK waters;

(b) waters in a designated area; or

(c) the seabed and subsoil under the waters referred to in paragraphs (a) and (b) above; ”;

(f) in the definitions of “relevant function”, “relevant power” and “relevant project”, for “UKCS oil and gas activities” substitute “offshore oil and gas activities”;

(g) in the definition of “relevant site”, for “Joint Nature Conservation Committee” at both places in which it occurs substitute “appropriate nature conservation body”;

(h) omit the definition of “UKCS licence”;

(i) for the definition of “UKCS oil and gas activities” substitute—

““UKCS oil and gas activities” means oil and gas activities where the petroleum is situated wholly or partly in a designated area;”;

(j) omit the definition of “UKCS pipe-line”; and

(k) after the definition of “UKCS oil and gas activities” insert—

““UK waters” means parts of the sea in or adjacent to the United Kingdom from the low water mark up to the seaward limits of territorial waters; and”.

(3) For regulation 3 (Application of Directives) substitute—

“**3.**—(1) To the extent not already provided for by the 1994 Regulations, the Secretary of State shall exercise relevant functions conferred on him in such manner and to such extent as he shall consider necessary to secure that offshore oil and gas activities are carried out in a manner that is consistent with the requirements of the Directives.

(2) In this regulation, the “1994 Regulations” means the Conservation (Natural Habitats, &c) Regulations 1994(a).”.

(4) For regulation 4 (Consent for geological surveys) substitute—

“**4.**—(1) In so far as they relate to oil and gas activities, the following activities or procedures shall not be carried out in a relevant area without the prior written consent of the Secretary of State—

(a) prospecting or carrying out geological surveys by physical or chemical means;

(b) drilling for the purpose of obtaining geological information about strata; or

(c) testing the surveying or drilling equipment to be used in the activities or procedures falling within (a) or (b).

(2) Paragraph (1) above shall apply notwithstanding any provision in any Petroleum Act licence.

(3) For the purposes of regulations 5 and 7 below, “consent” means—

(a) a consent granted pursuant to paragraph (1) above; or

(a) SI 1994/2716, to which there are amendments not relevant to these Regulations.

- (b) a consent granted pursuant to a Petroleum Act licence, including any consent required pursuant to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(a).”.

(5) In regulation 5 (Appropriate assessments)—

- (a) in paragraph (1), for “UKCS licence” substitute “Petroleum Act licence”; and
- (b) in paragraph (2) and paragraph (4), for “Joint Nature Conservation Committee” substitute “appropriate nature conservation body”.

(6) In regulation 6 (Projects which should be carried out for imperative reasons of overriding public interest)—

- (a) in paragraph (3), for “Joint Nature Conservation Committee” substitute “appropriate nature conservation body”; and
- (b) in sub-paragraph (a) of paragraph (4), for “UKCS oil and gas activities” substitute “offshore oil and gas activities”.

(7) In regulation 7 (Control of activities under licence)—

- (a) in paragraph (1), for “UKCS licence,” substitute “Petroleum Act licence, consent,”;
- (b) in sub-paragraph (c) of paragraph (2), for “UKCS oil and gas activities” substitute “offshore oil and gas activities”;
- (c) in paragraph (3), for “Joint Nature Conservation Committee” substitute “appropriate nature conservation body”; and
- (d) in paragraph (9)—
 - (i) for “Joint Nature Conservation Committee” substitute “appropriate nature conservation body”; and
 - (ii) for “UKCS licence,” substitute “Petroleum Act licence, consent,”.

Lord Truscott

Parliamentary Under Secretary of State for Energy
Department of Trade and Industry

16th January 2007

(a) SI 1999/360.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (the “2001 Regulations”) which implement Council Directive 92/43/EEC of May 21, 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”) and Council Directive 79/409/EEC of April 2, 1979 on the conservation of wild birds (the “Wild Birds Directive”), in relation to oil and gas activities carried out wholly or partly on the UK continental shelf (the “UKCS”).

Separate Regulations implement the Habitats and Wild Birds Directives in relation to certain activities carried out onshore and in tidal and territorial waters: see the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), as amended (the “1994 Regulations”).

Under regulation 4 of the 2001 Regulations, holders of a licence under the Petroleum Act 1998 (c. 17) relating wholly or partly to the UKCS are required to obtain the written consent of the Secretary of State before carrying out geological surveys wholly or partly on the UKCS. However, the 1994 Regulations do not require such consent from the Secretary of State for the carrying out of geological surveys in parts of the sea in or adjacent to the UK (“UK waters”).

Regulation 2 of these Regulations amends the 2001 Regulations so as to extend the requirement for obtaining the prior written consent of the Secretary of State to include UK waters; prior consent is therefore required by any person who intends to carry out geological surveys in relation to oil and gas activities: (a) on the UKCS, or (b) in UK waters.

Regulation 2 of these Regulations also amends the 2001 Regulations so that the prior written consent of the Secretary of State is required by any person who intends to test equipment to be used in geological surveys relating to oil and gas activities where the testing of that equipment takes place on the UKCS or in UK waters. Prior written consent is required irrespective of any provision in a licence awarded under the Petroleum Act 1998. Before such consent is granted, the Secretary of State must consider whether an appropriate assessment is required pursuant to regulation 5 of the 2001 Regulations (as amended by these Regulations).

Regulation 2 of these Regulations also requires the Secretary of State to consider whether an appropriate assessment is necessary under regulation 5 of the 2001 Regulations (as amended by these Regulations) before granting a licence under the Petroleum Act 1998. Previously, licences under the Petroleum Act 1998 were only covered by the 2001 Regulations where the licence related to an area located wholly or partly on the UKCS.

A separate regulatory impact assessment has not been prepared for these Regulations as they put on a statutory footing a situation that in practical terms already exists and there is therefore no significant impact on costs for business. A regulatory impact assessment identifying the impact on business was published at the time the 2001 Regulations were laid before Parliament and an amended version of this regulatory impact assessment is available on request from the Energy Development Unit, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

A separate transposition note has not been prepared. These Regulations implement Articles 6(3) and 6(4) of the Habitats Directive in relation to licences to be granted under the Petroleum Act 1998, and to geological surveys related to oil and gas activities in UK waters.

Article 6(3) requires a competent authority to carry out an appropriate assessment of a plan or project that is likely to have a significant effect on any Special Areas of Conservation and, by way of Articles 3 and 7 of the Habitats Directive, Special Protection Areas classified under the Wild Birds Directive. Member States may only grant consent where it has been ascertained that the plan or project will not adversely affect the integrity of the relevant site. Article 6(4) allows Member States, in certain circumstances, to grant consent to a plan or project even where there has been a negative assessment of the implications for the relevant site for imperative reasons of overriding public interest.

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