

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT OFFSHORE COMBUSTION  
INSTALLATIONS (POLLUTION PREVENTION AND  
CONTROL) (AMENDMENT) REGULATIONS 2018

*Tuesday 22 May 2018*

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**The Committee consisted of the following Members:**

*Chair:* MR VIRENDRA SHARMA

- |  |   |
|--|---|
| † Afolami, Bim ( <i>Hitchin and Harpenden</i> ) (Con)                    | † Mc Nally, John ( <i>Falkirk</i> ) (SNP)                       |
| † Baron, Mr John ( <i>Basildon and Billericay</i> ) (Con)                | † McGovern, Alison ( <i>Wirral South</i> ) (Lab)                |
| Benyon, Richard ( <i>Newbury</i> ) (Con)                                 | † Pawsey, Mark ( <i>Rugby</i> ) (Con)                           |
| † Charalambous, Bambos ( <i>Enfield, Southgate</i> ) (Lab)               | † Perry, Claire ( <i>Minister for Energy and Clean Growth</i> ) |
| Cooper, Rosie ( <i>West Lancashire</i> ) (Lab)                           | † Robinson, Mary ( <i>Cheadle</i> ) (Con)                       |
| † Efford, Clive ( <i>Eltham</i> ) (Lab)                                  | † Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)                    |
| † Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † Whitehead, Dr Alan ( <i>Southampton, Test</i> ) (Lab)         |
| † Howell, John ( <i>Henley</i> ) (Con)                                   | Kenneth Fox, <i>Committee Clerk</i>                             |
| † Huq, Dr Rupa ( <i>Ealing Central and Acton</i> ) (Lab)                 | † <b>attended the Committee</b>                                 |
| † Kerr, Stephen ( <i>Stirling</i> ) (Con)                                |   |

## Second Delegated Legislation Committee

Tuesday 22 May 2018

[MR VIRENDRA SHARMA *in the Chair*]

### Draft Offshore Combustion Installations (Pollution Prevention and Control) (Amendment) Regulations 2018

2.31 pm

**The Minister for Energy and Clean Growth (Claire Perry):** I beg to move,

That the Committee has considered the draft Offshore Combustion Installations (Pollution Prevention and Control) (Amendment) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Sharma. It is nice to see so many familiar faces on both sides of the Committee as we return once again to the superb regulatory structure that gives us one of the safest offshore drilling regimes in the world. These regulations, which I shall refer to as the 2018 regulations, will provide our Offshore Petroleum Regulator for Environment and Decommissioning—OPRED—with powers to impose emissions monitoring and reporting controls on specific atmospheric pollutants from certain types of combustion plant on offshore installations. We touched on this subject in a debate last week, and I again place on the record my thanks to and admiration for the team at OPRED, who carry out a superb job and often in very difficult circumstances.

The 2018 regulations are needed to control and reduce emissions of air pollutants that are harmful to the environment and human health, and to implement two EU directives. Without the powers to control and monitor those air pollutants at individual plant level, it is difficult to quantify the pollutants that arise from individual large and medium-sized combustion plant and to ensure compliance.

The existing regulations, which date from 2013 and implement the provisions of chapters I, II and VII of the industrial emissions directive, are enforced through a permit. The permit conditions place controls on specified atmospheric emissions from combustion plant, such as gas turbines and engines, on offshore facilities that alone or when aggregated together have a thermal rated input equal to or greater than 50 MW. At the time when that directive was being implemented, there were no offshore facilities with qualifying large combustion plant and none was foreseen, so the obligations relating to that size of plant in chapter III were not transposed. However, there are now two offshore facilities that would fall within scope, and these regulations—this is why we are all gathered here on such a sunny day—will transpose those requirements in order to ensure that that large plant is captured.

The obligations under the medium combustion plant directive—it gets better—mean that we also need to extend our regime to medium-sized combustion plant, such as boilers, heaters and dual-fuel engines. I point out, because I know that the hon. Member for Southampton, Test will ask me, that 12 offshore installations will be captured by the new requirements.

Therefore, to transpose both directives, there will be new requirements to control, monitor and annually report data on the specified emissions from large boilers, heaters and diesel engines and from medium-sized boilers, heaters and dual-fuel engines. Carbon monoxide emissions will also have to be monitored, but not controlled.

Existing permits issued under the 2013 regulations will be revised and, where necessary, new ones will be issued. The 2018 regulations will also extend the provisions in the 2013 regulations on OPRED's inspection plans and ensure that inspection reports are made publicly available. That will mean affected operators' permits being amended to encompass the new requirements, and that of course will avoid the issuing and holding of multiple permits that fulfil similar obligations under both directives.

The broadening of the regulations does not—to be clear—remove any existing requirements. It brings into scope plant that was out of scope under the previous regulations, given its size. As always, we conducted a four-week public consultation last year. There were eight responses seeking clarifications of concerns. The Government's response addressed these comments and we agreed to publish an updated guidance note to support operators' compliance with these new regulations.

There was, however, one substantive issue regarding provisions in regulation 15, which allows emissions limit values to be placed within a permit to control the level of pollutants emitted into the atmosphere. There was a concern that by restricting the level of pollutants emanating from this plant, there may be an impact on hydrocarbon exploitation and production. In some cases, the pollutants may not be fully controllable because of limitations on space—plants were designed a long time ago—and space on offshore facilities is at a premium and is intrinsically linked to safe production.

We took account of those industry concerns by making it clear that we will work with operators to implement these regulations in line with the specifications. This may result in some periods of non-compliance for qualifying plants, where those plants are determined to be safety and environmentally critical elements. This is intended to avoid those offshore installations entering early cessation of production, making sure we maintain the security of our energy supplies and maximise the economic opportunity for the recovery of hydrocarbons.

In summary, the objective of the 2018 PPC regulations is to control atmospheric emissions from offshore combustion plant—which we would all like—which are both harmful to the environment and human health, in line with the EU directive requirements, effectively capturing as in scope those plants that were outside scope when the original directive was laid. This will be achieved through permits for qualifying combustion plant, conducting offshore inspections and investigation of breaches, and the use of enforcement notices to instruct operators to take action to address those breaches within specified timescales. I commend the regulations to the Committee.

2.37 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship this afternoon, Mr Sharma. I thank the Minister not only for her explanation of the regulations, but for her valiant attempts to make them sound interesting.

**Claire Perry:** I try my best every time.

**Dr Whitehead:** It really did sound quite interesting as a result. I say that because these are particularly dense regulations—dense in the sense of close-packed. Essentially, as the Minister has said, they are the process of transposing European directives into UK legislation, which I notice that we were supposed to have done under the directives by 19 December 2017. We are a little behind time and, should we get an extension of our leaving point of Brexit, issues could arise from that.

**Claire Perry:** I am always amazed by the hon. Gentleman's ability to get Brexit into every conversation and I take the chastisement. Of course, we would not want to detain the Committee any further by delaying these regulations today.

**Dr Whitehead:** That is absolutely right. Let me make it clear that it is right and proper that we transpose the directives in the way the Minister has described, particularly in terms of the newer circumstances now in place offshore, which were not the case in 2013 when the original regulations came into place.

We have no issues with the process being undertaken. It seems to be a thoroughly sensible and well worked-out process. I am glad it now covers the installations operating in the North sea in the way the Minister has described. Indeed, she mentioned the two larger offshore plants—over 50 MW—and the existing 13 smaller offshore plants that will be covered by the transposition of the medium combustion plant directive.

I would like some brief clarification on a few points relating to those plants and how the regulations apply to them. First, the regulations include a phased implementation for both the IED and MCPD requirements on the point at which plants will not be deemed to be compliant and could be chased for enforcement on not being compliant. The regulations state that existing plants with a thermal input of greater than 5 MW will require a permit from 1 January 2024 and those with a thermal input of greater than 1 MW but equal to or less than 5 MW will require a permit from 1 January 2029.

I have two observations about that transposition. In fact, that grace period—as it were—before compliance is deemed to be necessary is not a transposition but a choice we have made in UK legislation. Strictly speaking, it does not relate to those two directives, and the ranges for the permits are different from those covered by the directives. The IED covers plants of over 50 MW and the MCPD covers plants of 1 MW to 50 MW. We therefore now have a different compliance regime here from that in the two directives. The question is, therefore, which side of our compliance line do the plants that we have mentioned—the 13 covered by the MCPD and the two by the IED—fall? For example, are all the plants listed as being covered by the MCPD under 5 MW? If so, they will have a long period before they require a permit. If they are mostly above 5 MW, the period for them is the same as for those covered by the IED.

The date of 1 January 2029 sounds like a very long way away and a long grace period as far as compliance is concerned. Can the Minister give further elucidation on why that period was chosen? If the smaller plants are all more than 5 MW, it may be that it does not cover

anything; in which case, it is an academic exercise. That may well not be the case, but we have not had elucidation on that, which would be useful.

Secondly, are all the smaller plants external or internal? They are all present on rigs in one way or another, and clearly the larger plants will all be external, but the smaller plants could be partly or completely internal to the rigs. If that is the case, further safeguards may need to be considered for their operation. The Minister mentioned, for example, that there is no limit on carbon monoxide emissions, which could be relevant should those plants be internal.

Thirdly, to what extent do the draft regulations sit alongside or in any way supersede or otherwise replace the regulations that the Department for Environment, Food and Rural Affairs has made under the IED concerning concentrations of emissions from diesel plant generally? I assume that it is mostly diesel plant on the offshore rigs, and that might well be covered by the DEFRA regulations as well. I am not clear from what we have before us whether there will be any dual or cumulative effect from passing both sets of regulations.

My final question is on penalties. I assume that the penalty regime that we discussed last week is the one that will apply as far as the plants are concerned, but how does it relate to the penalty regime that was in the 2013 regulations? That 2013 penalty regime has been left virtually unamended by the draft regulations before us. If hon. Members refer to the 2013 regulations, they will find little to enlighten them, in as much as the penalty regime relates simply to the maximum penalty provided for in statute, and that appears in principle to have been superseded by the penalties in the regulations that we discussed last week. Will the Minister confirm whether that is the case? Have the regulations from last week in effect produced another layer on the draft regulations before us through assumption of that penalty regime? If not, is there any necessity to look further at what the penalty regime in the 2013 regulations refers to, so that it is fully compliant with what has been put forward in the new regulations before us?

I hope that my bowling this afternoon will have been regarded as fairly easy. I look forward to hearing from the Minister what she has to say about those particular points, with a view to making the draft regulations as good as we can get them.

2.47 pm

**Claire Perry:** Anyone who thinks that the hon. Member for Southampton, Test is not earning his keep only needs to come to one of our many meetings to see an incredible level of scrutiny and questioning. I genuinely welcome that. Once again, he asked very pertinent questions, which certainly keep my officials on their toes. All the questions asked were relevant and important.

I may have to write to the hon. Gentleman with one or two answers, but what I have been able to glean so far is that the DEFRA regulatory regime applies onshore and we are discussing the offshore regime, so there is no transposition of the DEFRA regulations. He made a very good point about the fact that there could be internal plant, which of course might be generating carbon monoxide, and that could be a concern for the health and safety of workers. I believe that both new and existing plant could potentially be inside. Carbon

*[Claire Perry]*

monoxide is monitored, but no limit is set. In effect, I suppose, just as in our homes we would have carbon monoxide alarms to alert us to any sign of danger.

The hon. Gentleman wondered whether all the plants were diesel ones. Certainly some of the larger plants have gas turbines as well—again, a different form of emissions.

The hon. Gentleman asked careful questions about the timings of the introductions. I am assured that the phased timings align with article 5 of the medium combustion plant directive, but I shall ensure that the questions he asked about grace periods are properly answered after the debate. As I said at the start of the Committee, there was a realisation that some safety-critical equipment might be non-compliant for a time and be given a grace period to adjust. I shall take the grace period questions away and ensure that we write to him properly.

As always, I appreciate the scrutiny, as I think we all do. We make better legislation through doing it together, and the draft regulations are sensible. The hon. Gentleman

also asked about the penalty regime. I wonder why we did not debate the statutory instruments together, which is a lesson for me to take to the parliamentary unit, because although they might be separate pieces of legislation they are in effect part of the OPRED arsenal of regulations. We might have saved right hon. and hon. Members some time.

I believe that the draft regulations are subject to the penalty regime that we referenced in last week's regulations—the regime that already exists for emissions permits. The regime we debated last week related in essence to spills of oil and chemicals. Any significant breaches of the draft regulations would fall under the existing penalty regime, which is therefore another part of the arsenal.

On that basis, if the hon. Gentleman is content, I hope that the Committee will agree that we have considered the draft regulations.

*Question put and agreed to.*

2.51 pm

*Committee rose.*