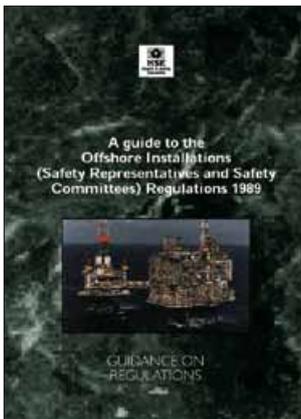


A guide to the Offshore Installations

(Safety Representatives and Safety Committees)

Regulations 1989

Guidance on Regulations



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ISBN 978 0 7176 1549 0

Price £8.50

This guidance to the Offshore Regulations (Safety Representatives and Safety Committees) Regulations 1989 is designed to advise people in the offshore industry on what the Regulations require, and what they need to do to comply with them. It's a simple explanation of the main provisions of the Regulations to assist duty holders, employers, installation managers, safety representatives, safety committee members and all members of the workforce.

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First published 1989
Reprinted 1992, 1997
Second edition 1998

ISBN 978 0 7176 1549 0

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Preface

This guide to the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 (SI 1989 No 971, as amended) is designed to help people in the offshore industry understand what the Regulations require, and what they need to do to comply with them. It is a simple explanation of the main provisions of the Regulations to assist duty holders, employers, installation managers, safety representatives, safety committee members and all members of the workforce.

This guidance supersedes and replaces the guidance notes produced by the Department of Energy in 1989 (ISBN 0 11 885738 X; reprinted by HSE in 1992). It has been prepared following consultation with representatives of offshore industry employer associations and trade unions representing offshore workers. When the Regulations were introduced, they were enforced by the Department of Energy but they are now enforced by HSE. No comment is offered where the Regulations are self-explanatory, but some suggested ways of complying with the Regulations are included.

Relationships with other legislation

The Regulations in this guidance incorporate amendments made since the Regulations first came into force on 18 September 1989. The amendments were made by the following legislation:

- (a) the Offshore Installations (Safety Case) Regulations 1992 (SI 1992 No 2885);
- (b) the Offshore Safety (Repeals and Modifications) Regulations 1993 (SI 1993 No 1823);
- (c) the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 (SI 1995 No 738);
- (d) the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (SI 1995 No 743); and
- (e) the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (SI 1995 No 3163).

The text of the Regulations appearing in this book incorporates all of the amendments current at the time of printing. The guidance reflects the effects of these changes.

The Health and Safety at Work etc Act 1974 (HSW Act), sections 2 and 3, places general duties on employers to ensure, as far as is reasonably practicable, the health and safety of their employees and others who may be affected by their undertaking.

The following publications contain other HSE guidance which may be helpful:

A guide to the Offshore Installations (Safety Case) Regulations 1992. Guidance on Regulations L30 HSE Books 1992 ISBN 0 11 882055 9 (currently under revision)

Play your part: how offshore workers can improve health and safety HSE Books 1994 ISBN 0 7176 0786 0

A guide to the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 L70 HSE Books 1995 ISBN 0 7176 0938 3

You can do it: the what, why and how of improving health and safety - a self-help guide HSE Books 1994 ISBN 0 7176 0726 7

Introduction

- 1 Everyone who works on an offshore installation, or is associated with its activities, has a role to play in ensuring health and safety. Although the primary responsibility for healthy and safe working conditions on an offshore installation rests with the duty holder (in these Regulations, the operator of a fixed installation and the owner of a mobile installation) and with employers, all members of the workforce must play their part if risks are to be eliminated or minimised.
- 2 The Regulations allow members of the offshore installation workforce to elect safety representatives from among their number. It also allows for the formation of a safety committee on the installation. The purpose of the Regulations is to ensure that the whole workforce is formally involved in promoting health and safety, through freely elected safety representatives and a safety committee. The Regulations do not in any way reduce the primary responsibilities of duty holders and other employers.
- 3 Co-operation between duty holders, other employers, installation managers and the workforce is essential, and should be encouraged when applying the Regulations:
 - (a) installation managers should actively encourage the election and involvement of safety representatives;
 - (b) the workforce should co-operate with duty holders, employers and installation managers in securing improvements to avoid accidents and ill health; and
 - (c) the safety committee should be seen as having an essential role in considering both day-to-day and strategic health and safety issues on the installation.
- 4 Every effort should be made to ensure that safety committees are provided with the necessary information and resources to function effectively, and that proper account is taken of their recommendations.
- 5 No safety representative should be disadvantaged by fulfilling their functions or exercising their powers (see also Appendix 1, which describes the legal position in this area). The duty holder should pay particular attention to the business of the safety committee and matters arising from its meetings.
- 6 The proper training of safety representatives is of vital importance. It enables them to represent their constituents effectively and to exercise good judgement in fulfilling their functions and using their powers.

Preliminary

Citation and commencement

Regulation

1

Regulation 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

Regulation

2

Regulation 2

In these Regulations -

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1995 Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995;

“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;

“duty holder” in relation to an offshore installation means the person who is the duty holder within the meaning of regulation 2(1) of the 1995 Regulations for the purpose of those Regulations;

Guidance

2

7 The ‘duty holder’ is the operator in the case of a fixed installation (including fixed production and storage units); and the owner in the case of a mobile installation.

Regulation

2

“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;

“installation manager” has the meaning given by regulation 2(1) of the 1995 Regulations;

Guidance

2

8 The installation manager is a competent person appointed by the duty holder to manage the installation on the duty holder’s behalf. The manager is normally responsible to the duty holder for the day-to-day management of the offshore installation, and is in charge of the health, safety and welfare of people on or about the installation.

Regulation

2

“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;

Regulation

2

“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;

Guidance

2

9 Elections have to take place within a timetable, set out in the Regulations, which allows the whole workforce to take part, bearing in mind crew changing requirements. The term ‘prescribed period’ is used in the Regulations to set time limits on the various steps. A period of five weeks has been set in order to reflect crew changing cycles, which vary from installation to installation. Five weeks is a maximum period, to take account of those installations with long crew changing cycles.

10 The ‘prescribed period’ can and should be reduced on installations with short crew change cycles, in order to cut down the overall election timetable. Significantly shorter periods may be particularly appropriate for mobile, single-employer constituency elections (see regulation 15 and paragraphs 45-51 in this guidance), where the employer’s team is scheduled to be on the installation only for a relatively short time. It is important to ensure that, as far as possible, all constituency members (except those who are unavailable, for example absent due to sickness, holidays or training) should take part.

Regulation

2

“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

Regulation

3

Regulation 3

These Regulations shall apply to an offshore installation at a working station in controlled waters which normally has persons on board.

Guidance

3

11 The Regulations apply to any normally attended offshore installation which is at a working station in controlled waters (ie Great Britain tidal waters, territorial waters and the United Kingdom Continental Shelf). They apply on drilling rigs, staffed production platforms, accommodation installations and floating production, storage and offloading vessels (FPSOs). The general principle is that each installation has its own health and safety issues, and that the workforce should be involved in dealing with these issues at their workplace. The Regulations apply to all such installations, regardless of the number of people permanently on board. This includes installations under construction or those being dismantled on station, but not those in transit.

Election of safety representatives etc

Safety representatives

Regulation

4

Regulation 4

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

Constituencies

Regulation

5

Regulation 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.

Guidance

5

12 This regulation describes the system of constituencies to be established for electing safety representatives. The purpose of dividing the workforce into constituencies is to provide for appropriate groupings of the workforce from which safety representatives can be elected.

13 An upper limit of 40 people to a constituency is set to ensure a sufficient number of safety representatives and an appropriate spread of safety representatives across an installation. An installation, however small the permanent workforce, may not have less than two constituencies.

Guidance

14 The working arrangements, and number of people on board, vary widely from installation to installation. The Regulations give the installation manager a considerable degree of flexibility in setting up the system of constituencies. The Regulations set out a number of factors which the installation manager must take into account when determining the size and composition of each constituency.

15 The division into constituencies should be as natural as possible. The objectives of the division should be that constituency members generally know each other, are familiar with common hazards and will be able easily to identify with the group. Examples of natural constituencies might therefore include:

- (a) geographical - related to the part of the installation where members normally work;
- (b) functional - related to the type of work done by members; or
- (c) employment based - related to the employer of the members.

16 The system of constituencies might, of course, include a combination of these approaches. For example, constituencies might be based on: administration; production; drilling floor; catering and accommodation; maintenance; divers; employees of major long-term construction contractors; and/or employees of a single employer. Consideration might also be given to having a separate constituency for supervisors.

17 On larger installations, constituencies may need to be divided where they cover large numbers. On a smaller installation, constituency divisions may need to be on a broader basis to ensure that they are of a workable size. Shift patterns and crew changing arrangements should also be taken into account when establishing the system. The aim should be to ensure that there are always sufficient numbers of safety representatives on the installation.

5

Regulation

(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 members of the workforce of -

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

(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 at paragraph (4) above.

5

Guidance

18 Consultation is an important part of the process of establishing constituencies. The installation manager must post up details of the constituencies. Any member of the workforce, or any employee where there is a single-employer constituency, can make representations, which the installation manager must consider before going ahead. Any changes must then be posted up.

5

Regulation

5

(7) When 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.

Guidance

5

19 Once a safety committee has been established, one of its functions (under regulation 22) is to keep the system of constituencies under review so as to ensure adequate representation of the workforce on health and safety matters.

20 If the installation manager wishes to create new constituencies, they must consult the safety committees. However, rather than consulting on each and every occasion a change is proposed, safety committees and installation managers may prefer to establish a general policy for guiding the creation of new or modified constituencies.

21 Where two or more installations are temporarily bridge linked (such as production and accommodation platforms), each installation will have its own safety committee and system of safety representatives (see also paragraph 79). Employees with an interest in both installations may be eligible for election as a safety representative on either (but not both) of them. It makes sense for workers to be represented by one safety representative only. Installation managers and safety committees should therefore consult about the system of constituencies on their respective installations. In certain circumstances, HSE will consider applications for exemption to regulation 5 when two or more installations are temporarily bridge linked.

22 The installation manager should also consult with their safety committee over recognising a single-employer constituency when it joins the installation. Recognition should be given unless there are compelling reasons not to do so. Any such reasons held by the installation manager should be shared with the safety committee so that it may give its view.

Membership of constituency

Regulation

Regulation 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.*

6

Guidance

23 Having taken into consideration any views received, and having set up the constituencies, the installation manager must ensure that every person on the installation is assigned to a constituency before proceeding with elections. The assignment process is continuous and the installation manager must assign every new arrival to a constituency. Once assigned to a constituency, a member of the workforce should normally continue to be a member of that constituency on return to the installation following absence.

24 If the constituency has a safety representative, a new arrival must be told the safety representative's name, in writing; and the safety representative must be told, again in writing, of the new constituency member.

25 If the constituency does not have a safety representative, a new arrival should be told about the nomination and election arrangements, possibly by directing their attention to relevant noticeboards.

26 As there will be many cases where the assignment of a new arrival is necessary, a system for dealing with them should be set up. In most cases, it should be possible to extend existing arrival formalities (such as notification of muster points and allocation of berths) to include a routine procedure for notifying new arrivals about their safety representatives, and vice versa. One means of helping all new arrivals to identify their respective safety representatives is to have photographs of the safety representatives, together with their names and particulars of the constituencies they represent, displayed in a convenient place.

27 The only exception to the assignment requirements is where a person is not expected to remain on the installation for longer than 48 hours. Those workers who do not need to be assigned to a constituency should nevertheless be advised by the installation manager about the safety representation and safety committee arrangements on the installation during their safety briefing.

6

Elections

Regulation

7

Regulation 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.

Guidance

7

28 Elections need to be held when:

- (a) a new constituency is set up (or a constituency is modified);
- (b) when a safety representative has completed two years in office; or
- (c) when a safety representative steps down because of resignation, termination of employment, or ceasing to be on the installation for 12 weeks.

A summary of the steps to be taken in the election process, from establishing constituencies to issuing election certificates, is included in Appendix 2.

29 It is recommended that records are maintained of all the relevant facts surrounding the encouragement of constituents to nominate candidates, their nomination, the subsequent election process and its outcome.

Nominations

Regulation

8

Regulation 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 nomination of candidates for election to be made to him during the prescribed period commencing with the date of posting the notice.

Candidates

Regulation

9

Regulation 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.

Guidance

9

30 Constituency members can nominate any other members of their constituency as candidates, for election as their safety representatives by secret ballot. To be eligible for election, a person must be willing to stand, and must be nominated and seconded by members of that constituency. No other criteria apply. It is up to constituency members to nominate the person they think can best do the job. They may wish to take into account such matters as experience and qualifications, but they should use their own judgement. The installation manager may not exclude any candidate who has been properly nominated and seconded.

31 Duty holders (usually through the installation manager) should make every effort to create a positive atmosphere for the election of safety representatives and encourage constituencies to nominate candidates. The installation manager should actively encourage constituencies to nominate candidates to fill a vacancy, although the ultimate right to nominate lies with constituency members, and it is essential that duty holders should not favour a particular candidate.

Regulation

9

(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.

Guidance

9

32 Each candidate standing for election must be provided with reasonable facilities to conduct an election campaign. These should include, for example, arrangements for typing and copying an election address, use of official noticeboard space to display it and/or agreement that it may be distributed personally to all members of the constituency. The election address could set out the candidate's background, training, qualifications and experience, including any previous experience as a safety representative.

List of candidates

Regulation

10

Regulation 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.*

Guidance

10

33 The installation manager should actively encourage constituencies to nominate candidates to fill a vacancy. HSE inspectors may wish to discuss the absence of a safety representative nomination with constituency members when they visit the installation.

Secret ballot

Regulation

11

Regulation 11

(1) If in any constituency more than one candidate is duly nominated, the duty holder 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 Executive 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 duty holder to conduct a further ballot in accordance with such requirements as the Executive may specify.*

(3) The duty holder shall comply with any directions given by the Executive under paragraph (2) above.

* The statutory three-person Health and Safety Executive. Previous references to the Secretary of State are to be construed as references to the Executive, by the Offshore Safety (Repeals and Modifications) Regulations 1993.

Guidance

11

34 If only one candidate is nominated by a constituency, a secret ballot need not be held and the candidate can be declared as the safety representative. Where two or more eligible candidates are put forward by members of the constituency, a secret ballot of the constituency must take place.

35 Appendix 3 of this guidance sets out a recommended procedure for conducting secret ballots. The objective should always be to ensure that the ballot is carried out correctly and fairly. Any member of the workforce who is not satisfied about the conduct or fairness of the secret ballot can contact HSE, who may call for another ballot to be held. Every effort should be made to ensure that the conduct of the ballot is not open to criticism.

Results

Regulation

Regulation 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 language 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.*

12

Guidance

36 Once safety representatives are elected, the installation manager is required to post up the result and provide those elected with a certificate, which confirms their election. It also sets out the election date, the employer's name (if any), the installation name or designation and particulars of the constituency. This ensures that the term of up to two years as a safety representative can be defined: this is particularly important in relation to safety representatives in a mobile constituency.

12

No candidate

Regulation

Regulation 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) 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.*

13

Guidance

37 Where no candidate is nominated, and so there is no safety representative for that constituency, the installation manager should ensure that everyone in that constituency is aware of the position and frequently remind them that an election can take place at any time, once an eligible candidate is put forward.

13

Cessation of representation

Regulation

14

Regulation 14

A person shall cease to be a safety representative for the purposes of these Regulations -

- (a) on the election of another safety 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.*

Guidance

14

38 Elected safety representatives remain in office unless:

- (a) they resign;
- (b) their employment is terminated; or
- (c) they have been absent for a continuous period of 12 weeks from the installation on which they were elected.

39 When a safety representative has been in office for two years, an election must be held for a new safety representative. Safety representatives completing their two years can stand again providing they are nominated and seconded by their constituents.

40 Cessation of representation by a particular individual may be triggered by the ending of their employment or their long-term absence. Termination of employment may occur for a number of reasons, *none of which may relate to legitimate activities as a safety representative* (see Appendix 1).

41 The 12 week absence provision is included in the Regulations to ensure that a constituency is not left unrepresented indefinitely by absences such as long-term sick leave, or transfer to another installation. But transfer to another installation must not be as a result of legitimate activities as a safety representative (see Appendix 1).

42 It should be noted that there is no provision in the Regulations for a constituency to remove an elected safety representative from office.

Safety representatives for single-employer constituencies

Regulation

Regulation 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.*

15

Guidance

43 There may be a situation where a safety representative was elected by members of a constituency, all of whom including the safety representative were with the same employer, and that group of workers then moves to another installation. In this case, the safety representative can continue to be a safety representative on the other installation, subject to recognition of the mobile constituency by the manager of the subsequent installation (see paragraph 47 of this guidance).

44 The safety representative of a mobile constituency may only be a safety representative on one installation at a time.

45 Such single-employer groups may, in the normal course of events, move from onshore to offshore and from installation to installation. In such cases, installation managers should consult with employers about establishing a constituency exclusively for that body of workers. The employers should also consult the relevant employees on this matter. The Regulations allow (with qualification) mobile single-employer constituencies to elect a safety representative to accompany them from installation to installation. Individual members of the mobile constituency do not have to remain the same on each installation they visit, provided they all remain employed by the same employer.

46 Some advantages of mobile single-employer constituencies are:

- (a) they allow continuity of representation;
- (b) they avoid the need to establish new short-term constituencies or to arbitrarily allocate visiting specialist groups to existing constituencies;
- (c) they allow the full benefit of safety representative training and experience to be realised; and
- (d) they allow for the immediate involvement of the safety representatives in the work of safety committees.

15

Guidance

47 For this to work in practice, installation managers need to consult with safety committees over recognising such a constituency when it joins the installation; recognition should be given unless there are compelling reasons not to do so. Any such reasons held by the installation manager should be shared with the safety committee so that it may give its view.

48 In particular, 'hook-ups' offshore are generally characterised by short periods of high activity, associated with rapid changes of personnel and wide fluctuations in the numbers of people on the installation. In these circumstances, it is important that a system of constituencies is established at the earliest opportunity, rather than wait until the workforce numbers and composition have stabilised.

49 Where a contractor is putting together teams, either:

- (a) to go offshore long-term or permanently; or
- (b) to undertake a specific job for a limited period (for example, during a 'hook-up');

the contractor, in consultation with the duty holder, could consider setting up constituencies and holding elections for safety representatives within those teams before they go offshore. The aim would be for duty holders to set up effective safety representatives and safety committees as soon as possible, for example for major offshore refurbishment, construction and decommissioning activities. For situations involving large transient workforces, such as major offshore refurbishment work or the construction and commissioning of new installations, duty holders should consult with the other employers involved so that constituencies can be established and elections held with a minimum of delay. Where possible, duty holders and contractor employers should consider setting up constituencies and arranging for the election of single-employer safety representatives prior to mobilisation offshore.

50 When a single-employer constituency, which has an elected safety representative, is expected to arrive on an installation, the employer, the duty holder and the installation manager should liaise to confirm that the constituency and elected safety representative will be recognised on the installation. This would ensure that the incoming workers are immediately covered by a safety representative and that the incoming safety representative can be invited to the next safety committee meeting.

51 HSE recognises, however, that it may be impracticable for safety representatives to be elected before the start of work, as their electors may not be on hand. If safety representatives are not elected prior to mobilisation offshore, then the duty holder should ensure that the process of establishing new constituencies, nominations and elections is initiated immediately.

Functions of safety representatives

Regulation

Regulation 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 19 of the 1974 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 of 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.

16

Guidance

52 The Regulations set out a number of important functions to be carried out by safety representatives. These do not, however, impose statutory duties: safety representatives cannot be held to account for not carrying out these functions. But as these functions are the principal basis of the safety representative system, safety representatives should endeavour to carry them out as fully as possible.

53 The main function of safety representatives is to contribute to a safe and healthy working environment. They have an important role in investigating hazards and incidents, and in promoting health and safety among the workforce. Increasingly, they are consulted by management over a wide range of health and safety issues, including the installation safety case. They are not, however, part of the management of an installation and should not be regarded as such. Their role is to represent individual members of the workforce on day-to-day health and safety issues and hazards, and to raise them with management. As such, their role is to represent their constituents, meet management, and report back to their constituency. They can also speak to HSE inspectors on behalf of constituency members and should be free to do so without a management presence.

16

Guidance

54 To fulfil their functions, safety representatives should:

- (a) maintain a two-way dialogue with the members of their constituencies on all aspects of health and safety concerning their constituency in particular and the installation in general;
- (b) encourage everyone on their installation to co-operate in promoting and developing essential measures to ensure workforce health and safety, and to check the effectiveness of such measures;
- (c) make sure they are informed about the law relating to health and safety at work, and about the particular hazards of the workplace and the measures deemed necessary to eliminate or reduce risks arising from those hazards;
- (d) inform the installation manager and relevant employers, preferably in writing, of any conditions or working practices coming to their attention which, in their view, are unsafe or unhealthy;
- (e) feed back information to safety representatives and constituencies; and
- (f) promote discussion and awareness of health and safety issues within the constituencies.

55 Making a written report does not stop safety representatives bringing such matters to the installation manager's attention orally in the first instance, especially in situations where they feel that urgent remedial action is called for. It is also appropriate for minor matters to be discussed without the need for a formal written approach. It is important that safety representatives are able to take matters up with management without delay. It is therefore essential that they have ready access to the installation manager, and the installation manager should take steps to ensure that this can happen.

16

Powers of safety representatives

Regulation

Regulation 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.

17

Guidance

56 Safety representatives are entitled to seek advice and guidance from people on the installation or elsewhere. This will usually be informally sought, for example from management, the safety office, trade union health and safety advisers or HSE inspectors. Installation managers should ensure that they provide facilities for the safety representatives to do this and should not hinder them in any way from seeking advice from any source. If a safety representative considers it necessary to seek formal advice externally (eg for a noise survey or hazards analysis), it is suggested that the matter be raised first in the safety committee. If it agrees, the safety committee may request the duty holder to make provisions for such advice.

17

Regulation

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

- (a) he has given the duty holder 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 duty holder 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 duty holder; and
- (ii) where his employer is not the installation owner and it is reasonably practicable to notify him, his employer.

17

Guidance

57 Safety representatives possess a very important power in carrying out inspections, both on a regular basis and following an incident. This can be of great benefit to the duty holder because it brings an independent look at health and safety factors from the workforce viewpoint. Workers are in the front line and are often well placed to see problems and put forward practical suggestions.

58 The Regulations define how frequently inspections by safety representatives may take place. Where there are high-risk activities or rapidly changing circumstances confined to a particular area or activity, it may be appropriate for more frequent inspections of that area or activity to be agreed between the parties.

59 Safety representatives must give the installation manager and their employer (where this is not the duty holder) reasonable notice of their intention to carry out an inspection. Ideally the installation manager, the employer (if appropriate) and the safety representative should together plan a programme of formal inspections in advance; any variation to this planned programme should be subject to further discussion and agreement.

60 In many instances, it will be appropriate for safety representatives and duty holders to conduct joint inspections, and this should be encouraged wherever possible.

61 In addition to formal inspections carried out by safety representatives and the installation manager, safety representatives may wish to carry out independent investigations or have private discussions with members of their constituencies. Safety representatives should co-ordinate their work to avoid unnecessary duplication.

17

Guidance

62 Formal inspections may take various forms and it will be for the safety representatives to agree with their installation manager and their employers, as appropriate, about this. The following types of inspection, or a combination of them over a period of time, may be appropriate:

- (a) a general inspection of any part of the installation where the interests of constituency members might be involved;
- (b) a systematic sampling of particular high-risk activities, processes or areas; and
- (c) a general inspection of particularly high-risk activities, processes or areas.

63 The number of safety representatives taking part in a formal inspection should be a matter for agreement between safety representatives and the installation manager, in the light of their own particular circumstances and the nature of the inspection. Often, it will be appropriate for the installation safety officer or other specialist advisers to be available to give technical advice on health and safety matters arising during the inspection.

64 On larger installations, it is impracticable to conduct a formal inspection of an entire part of the installation in a single session or by the same safety representative. In these circumstances, the parties might agree to subdivide each inspection into more manageable parts. It may also be appropriate, as part of a planned inspection programme, for different safety representatives to carry out inspections in different parts of the installation. This could happen either simultaneously or at different times, but in a way that would ensure complete coverage before the next round of formal inspections becomes due.

65 After an inspection, safety representatives should write a report of the inspection, drawing attention to any unsafe or unhealthy conditions, together with any appropriate recommendations. The report should be copied to the installation manager and any appropriate employer.

66 The installation manager should make arrangements for appropriate action to be taken and should tell the safety representatives what is proposed. If remedial action is not considered appropriate or cannot be taken within a reasonable period of time, then the installation manager should explain the reasons fully and in writing to the safety representative. Similarly, if the form of remedial action is not acceptable to the safety representative, they should put their reasons in writing to the installation manager.

67 Where remedial action has been taken, the safety representatives should be given the opportunity to make a reinspection in order to satisfy themselves that the matter(s) notified have received appropriate attention. They should also be given a further opportunity to record their views. Remedial action should also be publicised widely throughout the installation and brought to the attention of the safety committee.

68 In order to uncover the circumstances of a notifiable incident (as defined in regulation 17(6)), safety representatives may need to examine any relevant machinery, plant, equipment or substance on the installation. The main purpose of the examination should be to determine the cause of the incident, so that action to prevent a recurrence can be considered.

Guidance

69 It is therefore important that the problem should be approached jointly with the installation manager (or some other representative of the duty holder), any relevant employers and the safety representatives. The installation manager, following a notifiable incident, may need to take immediate steps to safeguard against further hazards, in which case the safety representatives should be involved at the earliest opportunity. If this is not possible, they should be notified in writing of the action taken by the installation manager.

17

70 Examinations might include visual inspection, photographs (subject to any permit-to-work requirements) and discussions with people likely to have relevant information and knowledge about circumstances surrounding the notifiable incident. The examination must not, however, cause interference with any evidence, or include testing any machinery, plant, equipment or substance which might disturb or destroy any factual evidence before HSE inspectors have an opportunity to investigate. If a death or major injury has occurred, the site must not be disturbed without an HSE inspector's permission.

Regulation

(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 duty holder who shall prepare and send a report in writing on the matter to an inspector appointed under section 19 of the 1974 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 19 of that Act.*

17

Guidance

71 Safety representatives do not have the direct power to stop activities which they consider to involve imminent risk of serious personal injury. Where two or more of them consider there to be imminent risk, however, they are empowered by regulation 17(4) to make representations to the installation manager as the representative of the duty holder. The installation manager is then required to report the matter in writing to HSE without undue delay (for example by fax, telex, etc). The installation manager should not delay taking any necessary immediate remedial action by making a report, and the report should contain details of the action taken.

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72 In addition, safety representatives may make their own written report on the matter to HSE by the fastest practicable means (for example by fax or telex). They will, however, need to exercise good judgement before invoking this requirement and it should be reserved only for genuinely imminent danger. Safety representative training should assist them in identifying such situations.

Regulation
17

(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.

Guidance

73 Section 28(8) of the HSW Act requires inspectors appointed under that Act to give certain factual and other information concerning their actions to employees or their representatives. Information is normally provided in the form of letters from HSE inspectors, and the Regulations allow safety representatives to receive such information. It is recommended that arrangements are made to ensure that any information provided by an inspector is circulated to all safety representatives who, in turn, can inform their constituents.

17

Regulation

17

(6) In this regulation, "notifiable incident" means any death, injury, disease or dangerous occurrence which is required to be reported under the Reporting of Injuries, Diseases or Dangerous Occurrences Regulations 1995.

Documents

Regulation

18

Regulation 18

A safety representative shall subject to regulation 18A(2)(a) below 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 of or relating to any health record of an identifiable individual or a safety case or revision to which regulation 18A below applies.

Guidance

18

74 In the course of their duties and, in particular, while they are undertaking formal inspections or inspections following an incident, safety representatives and safety committees have the right to see and be supplied with copies of relevant documents. 'Relevant documents' might include, for example, the installation safety case (or extracts thereof), any prohibition or enforcement notices issued by HSE and records of notifiable incidents. (See also the guidance in paragraph 77.)

Regulation

18A

Regulation 18A

(1) *A safety representative shall be entitled -*

- (a) *to be supplied, by or on behalf of the installation manager, with a written summary of the main features of a safety case or revision thereof relating to the offshore installation and prepared pursuant to the Offshore Installations (Safety Case) Regulations 1992, such summary to include any particulars concerning remedial work and the time by which it will be done;*
- (b) *to see a copy of that safety case or revision;*
- (c) *to be supplied, by or on behalf of the installation manager, with copies of such parts of that safety case or revision thereof as the safety representative needs for the purpose of performing any of his functions in circumstances where his entitlement under sub-paragraphs (a) and (b) is insufficient for that purpose.*

(2) *The references in -*

- (a) *regulation 18 to seeing a document, where the statutory provision concerned allows the information in the document to be kept on film or in electronic form and it is so kept;*
- (b) *regulation 18A(1)(a) to seeing a safety case or revision, where the information in it is kept on film or in electronic form on the installation;*

are references to having appropriate facilities to enable him to read that information.

Guidance

18A

75 The reference to 'documents', here and elsewhere in the Regulations, should be construed as also meaning information and data held electronically, on microfilm, or in any other form. Where such documents are held in non-paper form, suitable document retrieval equipment should be provided by duty holders and employers, and made readily accessible to safety representatives. Where this is not possible, printed hard copies should be provided.

76 The Offshore Installations (Safety Case) Regulations 1992 amended the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 by the addition of regulation 18A.

Guidance

18A

77 These amendments, under regulation 18A, require duty holders to carry out the following on every installation served by a safety committee:

- (a) allow safety representatives to see the complete installation safety case;
- (b) provide safety representatives with a summary of the key features of the installation safety case, including necessary remedial work and the timescales for such work; and
- (c) provide copies of extracts of the installation safety case where this is necessary for safety representatives to carry out their functions.

(See regulation 23 for consultation requirements during the preparation of safety cases.)

Safety committees Safety committee - establishment

Regulation

19

Regulation 19

The duty holder in relation to 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.

Guidance

19

78 If there are one or more safety representatives on an installation, the duty holder must establish a safety committee. Although the Regulations set out an overall framework for establishing safety committees, including their membership, functions and the timing of meetings, the committees should organise and conduct their business in ways that best suit the installations they serve. Duty holders will recognise the benefits of having available a group of individuals trained in health and safety. They will be intimately involved in the work of the installation, and be able to throw new light on potential health and safety problems, and to recommend solutions.

79 Where there are several geographically close installations under single management, each with a small number of personnel on board, it may be desirable to operate a joint safety committee rather than have a separate safety committee on each installation. HSE is willing to consider whether two or more installations under common management, which are bridge linked, can be defined as a single installation for the purposes of these Regulations. A prime factor would be whether, and to what extent, the workforce employed on the group of installations has been consulted and accepts the proposal. Duty holders considering this issue are therefore advised to discuss the matter with HSE.

80 As with individual safety representatives, however, the safety committee should *not* be seen as part of the management structure. It is an important channel for communicating health and safety information, and is a forum for discussing the health and safety implications of changes affecting installations from the point of view of the workforce.

Membership of safety committee

Regulation

Regulation 20

(1) The safety committee shall include the installation manager as chairman, one further person who may be appointed by the duty holder, 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.

20

(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.

Guidance

81 In view of their usual co-ordination role, and because of the usual complexities of staffing arrangements normally found offshore, it is likely that the installation manager will be the most appropriate person to chair safety committee meetings.

82 The Regulations also permit a further member of the safety committee to be appointed by the duty holder. It may be appropriate for this to be a representative of the onshore management who is not directly involved in the day-to-day operations of the installation. This would ensure a direct and continuous link with the onshore management when pursuing any improvements that cannot be made with resources directly available to the installation manager. It would also enable solutions to common problems, encountered on other installations under the same ownership or management, to be relayed directly to other safety committees, thereby ensuring a consistent approach.

83 The Regulations allow the safety committee, by unanimous vote, to co-opt additional people, but these co-optees are not entitled to vote on the co-option of others. No restriction is placed on who the co-optees may be. It may be of benefit if the installation safety officer (where appointed) is one of them. Other possibilities for co-optees include specialists in particular activities on the installation. There may also be an advantage in co-opting someone, not involved with the safety committee, to take the minutes of meetings.

20

Safety committee - meetings

Regulation

Regulation 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.*

21

Guidance

84 Safety committee meetings must take place at least once every three months. One of the functions of the safety committee (under regulation 22) is to keep under review the frequency of meetings and the circumstances under which they may be called. The three month interval between meetings is a maximum. In general, safety committees should meet as frequently as activities suggest are appropriate. For example, meetings may be very frequent during hook-up in order to properly monitor the health and safety of people on the installation. The safety committee can also decide arrangements for calling extraordinary meetings. These would be appropriate, for example, following an incident or if an urgent matter arises.

85 The arrangement and format for meetings are left to individual safety committees, but normally every meeting, except those called for specific urgent reasons, should cover certain basic items, for example:

- (a) any feedback from the onshore management on items considered at previous meetings;
- (b) all incidents involving the installation since the safety committee last met;
- (c) any incidents or hazards to health which happened on other installations operated by the same duty holder, which may have implications for their own installation (for this they would need briefing from the onshore management);
- (d) any major changes in equipment or methods of operating planned for the installation;
- (e) anything else which could possibly affect the health and safety of people working on the installation.

86 It will often be difficult to set safety committee meeting dates when all members can attend. A safety representative who has to miss a meeting (for whatever reason) can nominate another member of that constituency to attend instead. The nominee should act on the safety representative's behalf at the meeting, but has no other functions or powers under the Regulations.

21

Guidance

87 Safety committees on temporarily bridge-linked installations may decide to co-ordinate their business. For example, it may be appropriate for meetings to rotate between installations, with all safety committee members being invited to attend each meeting. Such meetings would probably be chaired by the host installation manager. An overriding consideration, however, is that each installation safety committee is autonomous under the Regulations and must therefore meet on its own installation at least once every three months.

88 Safety committee members should be treated as 'equal partners' at meetings, with everyone being given an opportunity to contribute to the proceedings by the use of a carefully drafted agenda. Apart from the issues listed in guidance paragraph 85, regular provision should also be made to discuss local organisational issues (for example safety representative training provision). Many such issues would need careful handling by the installation manager.

89 In order to make the best use of meeting time, it may be appropriate to invite discussion topics from all safety committee members in advance of each meeting. Where numerous topics are suggested, it would be appropriate for the safety committee to determine: those issues which should receive immediate attention; those issues which may be dealt with between meetings; and those issues to be carried forward to a future meeting.

21

Safety committee - functions

Regulation

Regulation 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 duty holder 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 duty holder 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 duty holder 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 duty holder 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 duty holder as appropriate;*
- (f) to consider the causes of accidents, dangerous occurrences and causes of occupational ill health and make recommendations to the duty holder 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;*

22

Regulation

22

(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 duty holder 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.*

Guidance

22

90 The general philosophy behind the Regulations is that safety committees will:

- (a) promote co-operation on all occupational health and safety matters affecting everyone on the installation; and
- (b) seek to promote and develop measures to ensure the occupational health and safety of the workforce.

Safety committees should not be expected to replace normal day-to-day channels of communication on specific health and safety issues between individual workers, their immediate supervisor and, ultimately, the installation manager. Issues should normally be resolved as soon as possible and at the lowest appropriate level - they should not be stored up for the next safety committee meeting. But the meetings should raise matters where issues cannot be satisfactorily settled by other means, and they should discuss any ongoing health and safety issues.

91 Full minutes of meetings should be made and copied onshore to the duty holder. It is recommended that meeting minutes be signed both by the installation manager and by a safety representative who attended the meeting, to confirm that they are an accurate record. HSE inspectors may wish to see safety committee minutes and matters that are of concern to the workforce.

92 The onshore management should take careful note of safety committee proceedings and should have systems to respond to the various matters raised offshore.

93 Safety committee members should bear in mind that it may not always be possible for immediate action to be taken on their recommendations. Where long-term improvements requiring significant resources are required, a reasonable timetable for completion should be agreed and recorded, in consultation with the onshore management as appropriate. The installation manager should keep the safety committee fully informed of progress on agreed actions. Any agreement on future action should not, however, prevent interim action from being taken to minimise any immediate hazard.

Installation owners, installation managers and employers

Duties of installation operators and owners, and employers

Regulation

Regulation 23

(1) *The provisions of this regulation shall apply to every offshore installation served by a safety committee.*

(2) *It shall be the duty of the duty holder -*

(a) *to facilitate the exercise by the committee of its function 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;*

(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 an installation, and in checking the effectiveness of such arrangements; and*

(c) *without prejudice to sub-paragraph (b) above, to consult safety representatives in good time with regard to -*

(i) *the preparation of a safety case relating to the installation under the Offshore Installations (Safety Case) Regulations 1992;*

(ii) *the introduction to the installation of any measure which may substantially affect the health and safety of the workforce;*

(iii) *the health and safety consequences for the workforce of the introduction (including the planning thereof) to the installation of new technologies; and*

(iv) *the arrangements for the appointment of persons referred to in regulation 6(1) of the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995.*

(3) *It shall be the duty of the duty holder and any employer of members of a workforce to consult safety representatives in good time with regard to -*

(a) *any health and safety information he is required to provide to members of a workforce by or under the relevant statutory provisions; and*

(b) *the planning and organisation of any health and safety training he is to provide to members of a workforce by or under the relevant statutory provisions.*

Regulation

23

(4) It shall be the duty of every employer of members of a workforce to consult safety representatives in good time with regard to his arrangements for appointing persons in accordance with regulation 6(1) of the Management of Health and Safety at Work Regulations 1992.

Guidance

94 The importance of regulation 23 cannot be overemphasised. It places responsibilities on duty holders and other employers to consult safety representatives on health and safety arrangements. This includes mandatory consultation of safety representatives over the preparation of installation safety cases or their subsequent amendment; and makes it possible for duty holders and other employers to fulfil their statutory functions. It places similar responsibilities on duty holders and other employers in respect of safety committees.

95 Consultation and co-operation among all parties to achieve improvements in health and safety is at the core of these Regulations. Co-operation of this nature can only benefit everyone concerned. The Regulations place duties of consultation on duty holders, but it is up to the duty holder and the workforce to establish the necessary co-operative environment on each installation. Failure to do so will create the wrong atmosphere and, more importantly, may lead to injuries or worse. Specific areas on which there must be consultation are listed in the regulation.

96 Safety representatives and safety committees must be provided with the necessary accommodation, communication facilities and office supplies. Examples of such facilities may include:

- (a) a room to hold safety committee meetings and other meetings which safety representatives may need to call for consulting constituency members collectively (although the room may not be exclusively used for such meetings);
- (b) access to telephone, telex and/or fax facilities;
- (c) access to typing and photocopying facilities where they exist on the installation; and
- (d) arrangements for taking minutes at safety committee meetings and circulating the records as necessary.

23

Information

Regulation

Regulation 24

It shall be the duty of the duty holder 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 it 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.*

24

Guidance

97 The Regulations require the duty holder and any employer of members of the workforce to make health and safety information within their knowledge available to safety representatives as necessary, to enable them to fulfil their functions. This should include:

- (a) information about the plans and performance of activities on the installation and any changes proposed which may affect workforce health and safety;
- (b) any other information relating specifically to other installations (both within the company and concerning other companies) physically connected to the installation or with a transport link, and the results of any measurements taken when checking the effectiveness of health and safety arrangements;
- (c) information of a technical nature about hazards to health and safety in respect of machinery, plant, equipment, processes, systems of work and substances in use on the installation, plus any precautions deemed necessary to eliminate or minimise them. This could include information provided by consultants or designers, or by manufacturers, importers or suppliers of any articles or substances used (or proposed to be used) on the installation; and
- (d) information which is kept about incidents and any statistical records relating to such incidents.

24

Documents

Regulation

25

Regulation 25

(1) It shall be the duty of the duty holder 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 or 18A and to provide the facilities to which a safety representative is entitled under those regulations.

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

Guidance

25

98 Again, references to 'documents' should be construed as also meaning information and data held electronically, on microfilm, or other media. Where such documents are held in non-paper form, suitable document retrieval equipment must be provided by duty holders and employers and made readily available to safety representatives.

Time off

Regulation

26

Regulation 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.

Regulation

26

(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.

Guidance

26

99 Regulation 26(1) is quite explicit: safety representatives must be given adequate time off from work on their installation to undertake their work as safety representatives, which can clearly only be undertaken while they are on board an installation (ie during a tour of work).

100 Regulation 26 also refers to time off for safety representatives to receive training. While it is obvious that they could only undertake functional aspects of their role while aboard an installation, it may be less obvious that the provision also applies to their attendance on training courses away from the installation. Most, if not all, training should therefore be conducted during the time that safety representatives would otherwise expect to be offshore.

101 Safety representatives should be permitted time off for their basic training, without loss of pay, during their normal working hours for which they would normally expect to be remunerated. Such training should be made available as soon after their election as possible (but see guidance paragraphs 102-114).

102 The regulation also stipulates that safety representatives will be paid during their training and when they exercise their roles as safety representatives. Their rate of remuneration at these times will depend on how the safety representative is normally paid. If remuneration is paid at a fixed rate, payment during this time should be the same as that payable when they undertake their usual work. If the safety representative is not paid at a fixed rate, payment during this time should be calculated in accordance with the averaging formula prescribed in regulation 26(3). Their remuneration should therefore not be reduced as a consequence of their responsibilities as safety representatives.

Training

Regulation

27

Regulation 27

It shall be the duty of the duty holder to ensure that -

- (a) a safety representative for the installation is provided with such training in aspects of the functions of a safety representative as are reasonable in all the circumstances; and*
- (b) any costs associated with such training, including travel and subsistence costs, are not borne by the safety representative.*

Guidance

27

103 It would normally be appropriate for safety representative training to be arranged and paid for by operators for their own employees. Where a number of employees are contracted from several relatively small contractors (eg for specific maintenance tasks, or for catering), it may also be appropriate for their training to be arranged and paid for by the operator. This may be less appropriate where there is a large contract workforce employed by a single contractor, or the workforce is on a mobile installation working alongside a fixed installation, as the safety representatives may have received their training via their employer (the contractor or installation owner). In both instances, however, duty holders are responsible for ensuring that safety representatives are properly trained and that the cost of their training is not borne by the safety representatives. Such training may be provided and paid for directly by duty holders in respect of their own workforce and for contract workers employed on their installation. Alternatively, duty holders may satisfy themselves that contract workforce safety representatives have received proper training paid for by the contractor.

104 The effectiveness of any safety representative will depend to a large extent on the quality of the training received. This needs to go beyond just awareness of the law and potential hazards in order for them to be fully effective. Effectiveness is also dependent on how soon newly elected safety representatives receive their initial training. This should be provided with minimal delay and, although it may not always be possible to arrange it immediately following election, the aim should be to provide it as soon as possible. In some instances, it may be appropriate to provide a self-teaching package until formal training can be provided.

105 As a follow-up, consideration should also be given to developmental training needs covering (for example) new legislation, changing technologies or differing working practices. There may also be a need to consider appropriate top-up training from time to time, either to reinforce existing skills or when safety representative duties are resumed after a break of several months.

106 The length of training required is not prescribed but basic training should take into account the functions of safety representatives placed on them by the Regulations. In particular, basic training (which could be delivered in several stages) should provide an understanding of the safety representative's role and that of safety committees in relation to:

- (a) the law relating to installation workforce health and safety;
- (b) the nature and extent of workplace hazards, and the measures necessary to reduce them;
- (c) the employer's health and safety policy, and the organisation and arrangements for carrying out the policy.

Guidance

107 Safety representatives are not part of management. Management and safety representatives should work together to bring about a greater involvement of the complete offshore community in health and safety. The aim should be to create shared health and safety values and enhanced joint ownership of the aim to make offshore installations safer and healthier places to work. Safety representatives are elected by colleagues to represent them in dealing with management. They therefore also need:

- (a) to be instructed in inspection and investigation techniques in order to exercise good judgement in recommending action;
- (b) an appreciation of the appropriate level of response to problems, and how to pursue any action with management. For example, a relatively minor housekeeping problem might only need raising orally with management, whereas an imminent risk of serious personal injury (such as people working at height without adequate means of preventing them falling) may warrant invoking formal powers in regulation 17(4), with resultant reports to HSE;
- (c) to acquire new skills in using basic sources of legal and official information, as well as the information provided by or through management;
- (d) to gain an understanding of the role and powers of HSE and their relationships with the regulator;
- (e) the key skills of communication, presentation and representation in order to adequately fulfil their elected role. Not all training packages will cover these issues, although many courses do give proper emphasis to gaining such competencies.

108 Duty holders, employers and safety representatives will all wish to ensure that any training offered is not only wholly relevant to their needs, but that it has also been properly validated by a body fully conversant with the offshore industry.

109 The safety committee has a function to keep safety representative training arrangements under review, and to make representations and recommendations to employers. In addition, individual safety representatives may prefer to attend a particular course and a prudent employer would take this into account when making the final decision. The overall intention should be for safety representatives and their employers to mutually agree which course(s) safety representatives will attend. HSE inspectors make a specific point of discussing training with safety representatives to assess whether their needs are being met through effective training provision. They would raise any identified shortcomings with duty holders.

110 There are two significant organisations concerned with standards for safety representative training:

- (a) the Trades Union Congress (TUC) has a long history of providing training in the onshore sector, particularly in the representative skills that are central to a safety representative's task. More recently, the TUC has developed an education and training course for offshore oil and gas industry safety representatives, which includes distance learning; and
- (b) the Offshore Petroleum Industry Training Organisation (OPITO) is the offshore industry lead body with the responsibility for approving training standards.

111 Although they should not be seen as a replacement for traditional training courses, the range of distance and/or flexible learning packages could provide at least an introduction to the functions and powers of safety representatives, or a 'stopgap', until a formal training course can be arranged. Few training providers will offer distance learning packages that are offshore-specific. The content and detail of such packages will also vary considerably, from the broad-brush introduction to the fully documented, modular approach offered by a range of training providers.

Guidance

112 Duty holders and employers are therefore encouraged to consider all available training providers and courses. Their decision on the suitability of a course (or set of courses) should be agreed with individual safety representatives, whose wishes and preferences should be fully considered. Final decisions about which courses to use should take into account all factors and preferences, with the availability of all training provision being considered each time courses need arranging. Duty holders should keep an open mind and periodically review all available training provision in order to take full account of all available options.

113 Where a safety representative initially attends an external course, additional in-company training specifically related to the activities of the employer and/or the duty holder is recommended. Such company-specific training could include:

- (a) company structure, safety organisations and responsibilities;
- (b) management safety meetings and committees;
- (c) company safety policy and safety training arrangements;
- (d) company safety procedures and practices; and
- (e) sources of information and advice.

114 Further training will be needed from time to time where safety representatives have special responsibilities or where such training is necessary to meet changes in circumstances or relevant legislation. HSE inspectors may, during their visits to offshore installations, seek to ensure that safety representatives have been provided with suitable opportunities to become competent for their role, including the requisite interpersonal skills of communication, presentation and representation.

115 Additional training to refresh earlier training, and to add to existing knowledge and skills, will also be required from time to time, as discussed at guidance paragraph 105.

116 The number of safety representatives attending training courses at any one time should be reasonable in the given circumstances, bearing in mind such factors as the availability of relevant courses and operational requirements.

117 Safety representatives and management should aim to agree arrangements for training, and any problems which may arise should be referred to the safety committee. In addition, any constituency member who is nominated by the safety representative to attend safety committee meetings when the safety representative is unable to do so, would also benefit from limited training specifically related to the purpose, functions and conduct of the safety committee.

118 Duty holders and installation managers should make allowances in contractual arrangements for contractor employees who may be elected as safety representatives. That contractor will then have to ensure that time off for training is available, that training is provided, and that the necessary time off to perform their functions is provided.

119 Finally, although not covered by the Regulations, management (and in particular installation managers) may need to be trained in relation to their role and duties under these Regulations.

Miscellaneous Offences

Regulation

28

Regulation 28

(1) If a duty holder 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

Regulation

29

Regulation 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.

Appendix 1

Protection against victimisation on health and safety grounds

Background

1 Before 1992, offshore workers had no protection against unfair treatment on the grounds of health and safety issues. The **Offshore Safety (Protection Against Victimisation) Act 1992** was introduced following Lord Cullen's report into the Piper Alpha disaster. The 1992 Act protected offshore safety representatives and safety committee members against being victimised for carrying out their health and safety functions. In practice, it extended existing onshore provisions against unfair dismissal to the offshore sector, in respect of health and safety issues *only*. In line with the onshore provisions at that time, it only applied to employees with at least two years continuous service working at least 16 hours a week, or five years continuous service working between 8 and 16 hours a week.

Current law

2 The **Employment Rights Act 1996** entitles all onshore and offshore employees (not just safety representatives or safety committee members), irrespective of their length of service or hours of work, to complain to an industrial tribunal if they are dismissed, selected for redundancy or subjected to any other detriment by their employer because they:

- (a) carry out, or propose to carry out, any activities designated by their employer in connection with preventing or reducing risks to health and safety at work;
- (b) perform, or propose to perform, their functions as official or employer-acknowledged safety representatives or safety committee members;
- (c) bring to their employer's attention, by reasonable means (in the absence of a safety representative or safety committee with whom it could be raised), a concern about circumstances at work which they believe are harmful to health or safety;
- (d) in the event of a danger which they believe to be both serious and imminent, and which they could not reasonably expect to avert, leave or propose to leave the workplace or any dangerous part of it; or while the danger persists, refuse to return; or
- (e) in circumstances of danger which they believe to be both serious and imminent, take or propose to take appropriate steps to protect themselves and other persons from danger.

What this means for the offshore workforce

3 So far as offshore safety representatives and safety committee members are concerned, this means that they, in common with all other members of the workforce, can expect not to be disciplined, dismissed, 'blacklisted' or 'not required back' (NRB), transferred to other duties or to another installation, or otherwise disadvantaged in any way, because of any actions they take on health and safety grounds.

4 Any employee who believes that they have suffered some detriment because of any actions that they have taken on health and safety grounds, now has the right to complain to an industrial tribunal, regardless of their age or length of service.

Appendix 2

Summary of steps in the election process

The following steps are provided as an aide-memoire for holding elections. It should be considered in conjunction with the Regulations and the main text of this guidance.

- 1 **Establish a system of constituencies** (regulations 5(1) (2) (3) & 15)
Refer to the Regulations and to the main text of this guidance for the criteria to use in first establishing the system of constituencies on the installation.
- 2 **Post up particulars of the constituencies on the installation** (regulation 5(4))
Having established the system, the workforce and employers must be informed about the constituencies by displaying the particulars in appropriate languages and at suitable places, so that they can be easily read by all members of the workforce.
- 3(a) **Consultation - no safety committee yet established** (regulation 5(4)(b), (5) & (6))
During the period for displaying the notice referred to in the previous paragraph, receive and consider representations on the proposals from the workforce and from employers of any proposed single-employer constituency. Subsequently, display (in appropriate languages and at suitable places so that they can easily be read by all members of the workforce) amended particulars if necessary.
- 3(b) **Consultation - safety committee already established** (regulation 5(1)(7))
The safety committee must be consulted before establishing a new constituency, or modifying an existing one. This must take place before particulars of the proposed constituency, or modification to existing constituencies, are displayed. Reference may be made to any policy for establishing (or modifying) constituencies that has been agreed in advance with the safety committee. The employer must also be consulted if the proposal concerns a single-employer constituency.
- 4 **Assign members of the workforce to constituencies** (regulation 6)
All members of the workforce, except those on the installation for less than 48 hours, must be assigned to constituencies.

- 5 **Invite nomination of candidates for election** (regulation 8)
Display a notice informing the workforce that:
 - (a) an election is to take place for a constituency/constituencies;
 - (b) the names listed on the notice are the constituency members; and
 - (c) nomination of candidates is invited during the period specified in the notice.
- 6 **Consider eligibility of nominated candidates** (regulation 9(1))
Must be satisfied that any nominated candidate:
 - (a) is willing to stand; and
 - (b) has been nominated and seconded by members of the constituency.
- 7 **Provide reasonable facilities to promote election campaign**
(regulation 9(2))
Such facilities might include typing and photocopying facilities, noticeboard space, etc.
- 8 **Display list of candidates** (regulation 10)
Within a week of the end of the nomination period, inform the workforce of the nominated candidates for any constituency by displaying a list of them.
- 9(a) **If only one candidate is nominated for a constituency, declare that nominee to be the safety representative for the constituency**
(regulation 12(a))
No secret ballot is required but a notice should be displayed declaring the candidate to be the safety representative for that constituency.
- 9(b) **If more than one candidate is nominated for a constituency, conduct a secret ballot** (regulation 11(1))
The secret ballot must commence one week after the nomination period and continue throughout the election period. Appendix 3 sets out a recommended procedure to follow in conducting a secret ballot.
- 9(c) **If no candidate is nominated for a constituency by the end of the nomination period** (regulations 10 & 13)
Within a week, post up a notice that a vacancy exists and thereafter keep, update at monthly intervals and display the latest copy of the list of members of the vacant constituency. Must also record the fact and arrange for an election to be held (ie from step 6 above) if a nomination is subsequently received.
- 10 **Display a notice certifying the result of the ballot** (regulation 12(a))
Must be done within a week of the end of the election period.
- 11 **Issue a certificate of election to each safety representative**
(regulation 12(b))
Issue personally to each elected safety representative, including those elected without a ballot, and it should contain the particulars set out in the regulation.

Appendix 3

Recommended procedures for the secret ballot

- 1 To ensure that the secret ballot is fair and seen to be so, it is recommended that the installation manager conducts it jointly with a member of the workforce who is not standing for election and who is acceptable to all of the candidates. The safety committee (where one exists) may be able to propose a suitable person.
- 2 In preparing for the secret ballot, it is recommended that the following are provided:
 - (a) an up-to-date list of all the people in each constituency for which a secret ballot has to be conducted;
 - (b) an adequate supply of ballot papers identifying:
 - the constituency;
 - the candidates for the constituency with a space next to each for marking by the voter; and
 - the date and time of the end of the election period;
 - (c) a suitable ballot box fitted with a lock and key; and
 - (d) arrangements to enable each member of the workforce concerned, at a place adjacent to the ballot box, to mark the paper screened from observation, before depositing it in the ballot box.
- 3 Every person entitled to vote should be issued with one ballot paper and their name marked off the list of constituency members concerned by the person issuing the ballot paper.
- 4 The person voting should, after marking the ballot paper with one cross next to the chosen candidate, fold it so as to cover the marking and deposit it in the ballot box.
- 5 At the end of the election period, the ballot papers should be examined and the votes counted by the people conducting the ballot.
- 6 Within one week of the end of the election period, the installation manager must post up a notice certifying the result of the election in accordance with regulation 12(a). Although not specified in the Regulations, it would be appropriate if the people conducting the secret ballot each signed the notice.
- 7 Thereafter, the installation manager must issue to each elected safety representative a certificate containing the particulars set out in regulation 12(b).

Further information

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