

 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	Implementation of Directive 2013/30/EU on the safety of oil and gas operations and on updating UK oil and gas legislation	
<b>Lead Department/Agency</b>	Health and Safety Executive	
<b>Stage</b>	Consultation	
<b>IA Number</b>	Not provided	
<b>Origin</b>	European	
<b>Expected date of implementation</b>	April 2015 (SNR 9)	
<b>Date submitted to RPC</b>	17 April 2014	
<b>RPC Opinion date and reference</b>	27 May 2014	RPC14-HSE-2078
<b>Overall Assessment</b>	<b>GREEN</b>	
<p><b>RPC comments</b></p> <p>The IA is fit for purpose. It gives a detailed description and analysis of a complex set of measures. The IA considers a number of options for the forming of the offshore Competent Authority (CA), where the UK has some discretion in terms of implementation. The HSE has already sought information from a baseline study and focus groups to provide a clear and detailed monetisation of costs. This should help provide for an effective consultation. There are some areas identified below where the IA should be strengthened or clarified further for final stage, particularly in the OITO assessment. In particular, we note some non-monetised costs relating to the compliance with Article 38 of the Environmental Liability Directive. The IA would benefit from providing a further explanation of these at final stage.</p>		
<p><b>Background (extracts from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p><i>“In 2011, the EC published proposals for a direct acting European Regulation to strengthen the EU Offshore oil and gas regulatory system. The UK argued strongly for a Directive to enable it to build the new requirements into its existing world-class regime. The Directive, which must be implemented by 19<sup>th</sup> July 2015, contains requirements relating to licensing, environmental protection and oil spill response, and liability in addition to safety matters, and therefore requires a coordinated implementation approach between the relevant Government departments. Intervention is necessary to establish an offshore competent authority (CA), to amend existing legislation or implement new provisions and to introduce administrative measures to fully transpose the Directive within the stated time-frame. Offshore oil and gas legislation needs to be updated to simplify definitions, fill gaps, reduce the stock of regulations and to bring emerging energy technologies within the scope of the legislation.”</i></p> <p><b>What are the policy objectives and the intended effects?</b></p> <p><i>“The UK Policy objectives are: (1) To fully transpose the Directive by: Building on the UK’s exemplary offshore safety and environmental regimes and further enhancing it; maintaining the existing high levels of protection for worker’s safety and the</i></p>		

*environment; and keeping burdens on industry to a minimum.*

*(2) To simplify and update oil and gas major hazard legislation to take account of operational lessons learned and maintain industry/public confidence in the regulation of emerging energy technologies.”*

### **Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options**

The proposal is to transpose the Offshore Safety Directive to strengthen the oil and gas regulatory system while maintaining existing levels of safety and environmental protection. The UK will need to establish a competent authority to oversee the required changes in order to implement the Directive. Businesses face two main costs: paying for the CA and complying with the regulations.

The IA gives a detailed description and analysis of a complex set of measures. It sets out the rationale for the measures and presents a number of options for the forming of the offshore CA, where the UK has some discretion in terms of implementation. Using information from a baseline study and focus groups, the IA provides a clear and detailed monetisation of costs. This should help provide for an effective consultation.

There are a few areas where the IA could be strengthened further:

*Benefits.* The Department is unable to quantify the benefits of the proposal. This may be because the benefits might generally be very limited, given the mature and robust nature of the UK’s present regulatory structure. The IA would benefit from further consideration of benefits at final stage, with a view to providing a clearer assessment of whether the proposals are likely to be net beneficial or costly to the UK.

*Unquantified Costs.* There are relatively few non-monetised costs in the IA. However, the IA states that compliance with Article 38 of the Environmental Liability Directive has the “*potential to show a large cost to industry*” (page 105). The IA would benefit from further explanation of this potential. This issue will need to be addressed further at final stage.

*Sensitivity Analysis/Low and High Estimates.* The IA explains that where a range has not been established through the focus groups, the IA adds or subtracts 10% to or from the point estimates provided (paragraph 59, page 21). The IA would benefit from further consideration of how far this adjustment adds value to the treatment of uncertainty.

### **Comments on the robustness of the Small & Micro Business Assessment (SaMBA)**

The IA includes a section on small and micro-businesses (pages 107-108). Nearly all of the measures in the overall policy proposal derive from EU requirements, and therefore a SaMBA is not required for these. The Department states that there is one measure not derived from an EU directive, for new domestic requirements that relate to combustible gas storage and recovery. The IA notes that there are several operators involved in this sector who may have fewer than 10 employees. The IA

explains why it would not be appropriate to exempt these companies, on the basis of major hazard risk, but that these businesses are in any case already complying with the standards. The SaMBA is sufficient.

**Comments on the robustness of the OITO assessment.**

The Department assesses the policy proposal to be out of scope of OITO. This is on the basis that the large majority of the measures meet the minimum requirements of the Offshore Safety Directive and, where measures go further than this, it is only to maintain existing standards. Overall, this appears to be a reasonable assessment, but one that will need to be confirmed at final stage.

The IA would benefit from a summary table of the OITO treatment for the individual measures, or groups of measures. The measures seem to fall into the following groups:

- a) implement the minimum requirements of the Offshore Safety Directive (the large majority of the measures);
- b) are interpreted as meeting the minimum requirements of Directive 92/91 (Underground Coal Gasification (UCG), page 38 of the IA);
- c) go beyond the minimum EU requirements but maintaining existing UK standards (the health and safety measures on page 29);
- d) within c), measures that would in any case be covered by other international requirements (the environmental measures on page 34);
- e) are not covered by any of the above (e.g. any consolidation/reducing stock of regulation that are not related to minimising the cost of implementing EU requirements).

The Department should explain and justify further the interpretation under b) at final stage, given that it is acknowledged that UCG was not foreseen at the time Directive 92/91 came into force. The Department has already attempted to identify the costs of c) (pages 85 and 97). The Department should aim to strengthen this assessment at final stage.

The Department should use the consultation to strengthen further the evidence for its estimated EANCB, so that the RPC can validate it at final stage.

**Signed**



**Michael Gibbons, Chairman**