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Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,432, 29 ta' Mejju, 2015
Taqsima B

L.N. 173 of 2015

AUTHORITY FOR TRANSPORT IN MALTA ACT (CAP. 499)

Offshore (Oil and Gas) External Emergency Response Regulations, 2015

IN exercise of the powers conferred by article 43(3) of the Authority for Transport in Malta Act, the Minister for Transport and Infrastructure has made the following regulations:-

1. The short title of these regulations is the Offshore (Oil and Gas) External Emergency Response Regulations, 2015. Citation.

2. (1) The scope of these regulations is to transpose Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC and, for that purpose, to extend the powers of the Maritime Safety and Pollution Prevention Committee established under regulation 20 of the Vessel Traffic Monitoring and Reporting Requirements Regulations. Scope. S.L. 499.34

(2) These regulations shall be without prejudice to European Union law concerning safety and health of workers at work, in particular Directives 89/391/EEC and 92/91/EEC.

(3) These regulations shall be without prejudice to Directives 94/22/EC, 2001/42/EC, 2003/4/EC, 2003/35/EC, 2010/75/EU and 2011/92/EU.

3. (1) In these regulations, unless the context otherwise requires: Interpretation.

"the Act" means the Authority for Transport in Malta Act; Cap. 499.

"the Committee" means the Maritime Safety and Pollution Prevention Committee established under regulation 20 of the Vessel Traffic Monitoring and Reporting Requirements Regulations; S.L. 499.34.

"the Minister" means the Minister responsible for transport, and includes any person authorised by such Minister in that behalf.

(2) Unless the context otherwise requires, the definitions provided in regulation 3 of the Offshore Safety (Oil and Gas) Regulations shall, *mutatis mutandis*, apply to these regulations.

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Extension of powers of the Committee. S.L. 499.34.

4. (1) The Committee, without prejudice to the powers assigned to it under the Vessel Traffic Monitoring and Reporting Requirements Regulations, shall have the additional powers assigned to it by these regulations.

(2) When exercising its powers under these regulations, the application of the Committee's powers shall extend to the continental shelf having the same meaning as assigned to it by article 2 of the Continental Shelf Act.

Cap. 535.

External emergency response plans.

5. The Committee shall prepare external emergency response plans covering all offshore oil and gas installations or connected infrastructure and potentially affected areas within its jurisdiction.

Role and financial obligation of licensees and operators.

6. The Committee shall specify the role and financial obligation of licensees and operators in the external emergency response plans.

Preparation of the external emergency response plans.

7. External emergency response plans shall be prepared in cooperation with relevant operators and owners and, as appropriate, licensees and the competent authority and shall take into account the most up to date version of the internal emergency response plans of the existing or planned installations or connected infrastructure in the area covered by the external emergency response plan.

Availability of external emergency response plans.

8. External emergency response plans shall be prepared in accordance with Schedule One, and shall be made available to the European Commission, other potentially affected Member States and the public. In this respect, the disclosed information shall not pose risks to the safety and security of offshore oil and gas installations and their operation and shall not harm the national economic interests of the Government of Malta or the personal safety and well-being of its government officials.

Compatibility and interoperability of response equipment and expertise.

9. The Committee shall take suitable measures to achieve a high level of compatibility and interoperability of response equipment and expertise with that of other Member States in a geographical region, and further afield where appropriate. The Committee shall consult with the Government to encourage industry to develop response equipment and contracted services that are compatible and interoperable throughout the geographical region.

Records of emergency response equipment.

10. The Committee shall keep records of emergency response equipment and services in accordance with item 1 of Schedule Two. Those records shall be available to the other potentially affected Member States and the European Commission and, on a reciprocal basis, to neighbouring third countries.

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Testing of emergency preparedness.

11. The Committee shall ensure that operators and owners regularly test their preparedness to respond effectively to major accidents in close cooperation with the relevant authorities of other Member States.

Cooperation between competent authorities.

12. The Committee shall ensure that competent authorities or, where appropriate, contact points, develop cooperation scenarios for emergencies. Such scenarios shall be regularly assessed and updated as necessary.

Notification in case of a major accident.

13. (1) The operator or, if appropriate, the owner shall notify without delay the Committee of a major accident or of a situation where there is an immediate risk of a major accident. That notification shall describe the circumstances, including, where possible, the origin, the potential impacts on the environment and the potential major consequences.

(2) The Committee shall ensure that in the event of a major accident, the operator or the owner takes all suitable measures to prevent its escalation and to limit its consequences. The Committee may assist the operator or owner, including with the supply of additional resources.

(3) In the course of the emergency response, the Committee shall collect the information necessary for thorough investigation pursuant to regulation 18(1).

Transboundary emergency preparedness and response.

14. (1) Where the Committee considers that a major hazard relating to offshore oil and gas operations that are to take place under its jurisdiction is likely to have significant effects on the environment in another Member State, it shall, prior to the commencement of operations, forward the relevant information to the potentially affected Member State and shall endeavour, jointly with that Member State, to adopt measures to prevent damage.

(2) If the Committee considers the area under its jurisdiction to be potentially affected by offshore oil and gas operations taking place outside its jurisdiction, it may request the Member State in whose jurisdiction the offshore oil and gas operation is to take place, to forward all relevant information to it. Together with such Member State, the Committee may jointly assess the effectiveness of the measures, without prejudice to the regulatory functions of the competent authority with jurisdiction for the operation concerned under regulation 17(1)(a), (b) and (c) of the Offshore Safety (Oil and Gas) Regulations.

(3) The major hazards identified pursuant to sub-regulation (1) shall be taken into account in internal and external emergency

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response plans to facilitate joint effective response to a major accident.

(4) Where there is a risk of the foreseeable transboundary effects of major accidents affecting third countries, the Committee shall, on a reciprocal basis, make information available to the third countries.

(5) In the event that the Committee becomes aware of potential negative effects of offshore oil and gas operations carried out in areas outside of the European Union, the Committee shall coordinate measures with its European Union counterparts in order to prevent such negative effects.

(6) The Committee shall regularly test its preparedness to respond effectively to major accidents in cooperation with potentially affected Member States, relevant European Union agencies and, on a reciprocal basis, potentially affected third countries.

(7) In the event of a major accident in its jurisdiction, or of an imminent threat thereof, which has or is capable of having transboundary effects, the Committee shall, without delay, notify the European Commission and those Member States or third countries which may be affected by the situation and shall continuously provide information relevant for an effective emergency response.

Sharing of information.

15. Operators and owners shall provide the Committee, as a minimum, with the information described in Schedule Three.

Transparency.

16. The Committee shall make the information referred to in Schedule Three publicly available.

Reporting requirements.

17. (1) The Committee shall submit an annual report to the European Commission containing the information specified in item 3 of Schedule Three.

(2) The Committee shall be responsible for exchanging information pursuant to regulation 15 and for publication of information pursuant to regulation 16.

Investigations following a major accident.

18. (1) The Committee shall initiate thorough investigations of major accidents occurring in its jurisdiction.

(2) A summary of the findings pursuant to sub-regulation (1) shall be made available to the European Commission either at the conclusion of the investigation or at the conclusion of legal proceedings as appropriate.

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(3) A non-confidential version of the findings shall be made publicly available by the Committee.

(4) The Committee shall ensure that following the investigations pursuant to sub-regulation (1), the competent authority implements any recommendations of the investigation that are within its powers to act.

Compensation claims. Cap. 387.

19. Any person claiming compensation under these regulations shall bring such a claim in accordance with the Arbitration Act.

Penalties.

20. Whosoever knowingly acts in violation of any provisions of these regulations shall be guilty, by reason merely of having done so and without prejudice to prosecution under any provision of law, of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one hundred thousand euro (€100,000) or to imprisonment which shall not exceed a term of eighteen months, or to both such fine and imprisonment:

Provided that where the act constituting the offence subsists for more than one day, the Court may in addition impose a fine (*multa*) not exceeding one thousand and five hundred euro (€1,500) for each day during which such act subsists, which fine (*multa*) shall also be applicable for the purposes of article 377(3) of the Criminal Code. Cap. 9.

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Schedule One

Information to be provided in external emergency response plans pursuant to regulation 8

External emergency response plans shall include but not be limited to:

(a) names and positions of persons authorised to initiate emergency procedures, and of persons authorised to direct the external emergency response;

(b) arrangements for receiving early warning of major accidents, and the associated alert and emergency response procedures;

(c) arrangements for coordinating resources necessary to implement the external emergency response plan;

(d) arrangements for providing assistance to the internal emergency response;

(e) a detailed description of the external emergency response arrangements;

(f) arrangements for providing persons and organisations that may be affected by the major accident with suitable information and advice relating to it;

(g) arrangements for the provision of information to the emergency services of other Member States and the European Commission in the event of a major accident with possible transboundary consequences;

(h) arrangements for the mitigation of the negative impacts on wildlife both onshore and offshore including the situations where oiled animals reach shore earlier than the actual spill.

Schedule Two

Particulars to be included in the preparation of external emergency response plans pursuant to regulation 10

1. The authority or authorities responsible for coordinating emergency response shall make the following available:

(a) an inventory of available equipment, its ownership, location, means of transport to and mode of deployment at the site of the major

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accident;

(b) a description of the measures in place to ensure equipment and procedures are maintained in operable condition;

(c) an inventory of industry-owned equipment that can be made available in an emergency;

(d) a description of the general arrangements for responding to major accidents, including competencies and responsibilities of all involved parties and the bodies responsible for maintaining such arrangements;

(e) measures to ensure that equipment, personnel and procedures are available and up to date and sufficient members of trained personnel are available at all times;

(f) evidence of prior environment and health assessments of any chemicals foreseen for use as dispersants.

2. External emergency response plans shall clearly explain the role of the authorities, emergency responders, coordinators and other subjects active in emergency response, so that cooperation is ensured in responding to major accidents.

3. Arrangements shall include provisions for responding to a major accident that potentially overwhelms Malta's ability to respond to such an accident or exceeds its boundaries by:

(a) sharing external emergency response plans with adjacent Member States and the European Commission;

(b) compiling at cross-border level the inventories of response assets, both industry and publicly owned and all necessary adaptations to make equipment and procedures compatible between adjacent countries and Member States;

(c) procedures for invoking the European Union Civil Protection Mechanism;

(d) arranging transboundary exercises of external emergency response.

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Schedule Three

Sharing of information and transparency pursuant to regulations 15, 16 and 17

1. The common data reporting format for major hazard indicators shall make it possible to compare information from competent authorities and to compare information from individual operators and owners.

2. The information to be shared by the Committee and operators and owners shall include information relating to:

(a) unintended release of oil, gas or other hazardous substances, whether or not ignited;

(b) loss of well control requiring actuation of well control equipment, or failure of a well barrier requiring its replacement or repair;

(c) failure of a safety and environmental critical element;

(d) significant loss of structural integrity, or loss of protection against the effects of fire or explosion, or loss of station keeping in relation to a mobile installation;

(e) vessels on collision course and actual vessel collisions with an offshore installation;

(f) helicopter accidents, on or near offshore installations;

(g) any fatal accident;

(h) any serious injuries to 5 or more persons in the same accident;

(i) any evacuation of personnel;

(j) a major environmental incident.

3. The annual reports to be submitted by the Committee pursuant to regulation 17(1) shall contain as a minimum the following information:

(a) the number, age and location of installations;

(b) the number and type of inspections and investigations carried out, any enforcement actions or convictions;

(c) incident data pursuant to the common reporting system required in regulation 15;

(d) any major change in the offshore regulatory framework;

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(e) the performance of offshore oil and gas operations in relation to prevention of major accidents and the limiting of consequences of major accidents that do occur.

4. The information referred to in item 2 above shall consist of both factual information and analytical data regarding oil and gas operations, and shall be unambiguous. The information and data provided shall be such that the performance of individual operators and owners can be compared and the performance of the industry as a whole can be compared between Member States.

5. The information collected and assembled referred to in item 2 above shall enable the Committee to provide advanced warning of potential deterioration of safety and environmentally critical barriers, and shall enable them to take preventive action. The information shall also demonstrate the overall effectiveness of measures and controls implemented by individual operators and owners, and industry as a whole, in particular to prevent major accidents and to minimise risks for the environment.

6. In order to meet the requirements of regulation 16, a simplified format shall be developed to facilitate publication of relevant data pursuant to item 2 above and preparation of reports pursuant to regulation 17(1) in a way that is easily accessible to the public and facilitates transboundary comparison of data.

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