

Subsidiary Legislation made under s.58.

Factories (Boreholes (Offshore Installations) Health and Safety) Regulations 1997

LN. 1997/062

Commencement **12.6.1997**

Transposing:
Directive 92/91/EEC

ARRANGEMENT OF REGULATIONS

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In exercise of the powers conferred on him by section 58 of the Factories Act and of all other enabling powers, and for the purpose of transposing into the law of Gibraltar Council Directive 92/91/EEC, the Governor has made the following regulations –

Title.

1. These Regulations may be cited as the Factories (Boreholes (Offshore Installations) Health and Safety) Regulations 1997.

Interpretation.

2.(1) In these Regulations, unless the context otherwise requires–

“acoustic signal” means a coded sound signal which is released and transmitted by a device designed for that purpose, without the use of a human or artificial voice;

“associated structure” means, in relation to an offshore installation, a vessel, aircraft or hovercraft attendant on the installation or any floating surface used in connection with the installation;

“competent authority” means the Minister charged with responsibility for employment;

“concession owner” means, in relation to an offshore installation, the person who at any time has the right to exploit or explore mineral resources in any area, or to store gas in any area and to recover gas so stored if, at that time, the installation is, or is to be, used in the exercise of that right;

“duty holder” means–

(a) in relation to a fixed installation, the operator; and

(b) in relation to a mobile installation, the owner;

“emergency” means an emergency of a kind which can require evacuation, escape or rescue;

“emergency response” means action to safeguard the health and safety of persons on or near an installation in an emergency;

“evacuation” means the leaving of an installation and its vicinity, in an emergency, in a systematic manner and without directly entering the sea;

“explosion” means unplanned explosion;

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“fire” means unplanned or uncontrolled fire;

“fixed installation” means an installation other than a mobile installation;

“illuminated sign” means a sign produced by a device made of transparent or translucent materials which are illuminated from the inside or the rear in such a way as to give the appearance of a luminous surface;

“installation manager” means, in relation to an offshore installation, the person appointed for the purposes of regulation 24(1)(a) who is for the time being in charge of it;

“mobile installation” means an offshore installation (other than a floating production platform) which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“muster areas” shall be construed in accordance with regulation 15(1)(a);

“offshore installation” shall be construed in accordance with regulation 3;

“operator” in relation to—

- (a) a fixed installation means the person appointed by a concession owner to execute any function of organising and supervising any operation to be carried out by such installation or, where no such person has been appointed, the concession owner; and
- (b) a mobile installation means the person for whom the owner has agreed to carry out the operation concerned or, where no such person has been appointed, the concession owner;

“owner” in relation to a mobile installation means the person who controls the operation of the installation;

“personal protective equipment” has the same meaning as in regulation 2(1) of the Personal Protective Equipment at Work Regulations 1996;

“relevant employee” means an employee—

- (a) who is ordinarily resident in Gibraltar; or

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- (b) who is not ordinarily resident in Gibraltar but who has been present in Gibraltar and territorial waters in the course of employment there for a continuous period of not less than 7 days;

“territorial waters” means tidal waters and parts of the sea in or adjacent to Gibraltar as are subject to the dominion of Her Majesty;

“vessel” includes a hovercraft and any floating structure which is capable of being staffed.

(2) Any reference in these Regulations to operating an offshore installation is a reference to using the installation for any of the purposes described in regulation 3(1).

(3) The provisions of these Regulations are relevant statutory provisions.

(4) These provisions are without prejudice to the generality of the Management of Health and Safety at Work Regulations 1996.

Meaning of “offshore installation”.

3.(1) Subject to the provisions of this regulation, in these Regulations the expression “offshore installation” means a structure other than an exempted structure which is, or is to be, or has been used, while standing or stationed in territorial waters, or on the foreshore or other land intermittently covered with water—

- (a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;
- (b) for the storage of gas in or under the shore or bed of territorial waters or the recovery of gas so stored;
- (c) for the conveyance of things by means of a pipe; or
- (d) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this subregulation.
- (2) For the purposes of subregulation (1), the excepted structures are—
- (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
- (b) a well;

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- (c) a structure or device which does not project above the sea at any state of the tide;
- (d) a structure which has ceased to be used for any of the purposes specified in subregulation (1), and has since been used for a purpose not so specified;
- (e) a mobile structure which has been taken out of use and is not for the time being intended to be used for any of the purposes specified in subregulation (1); and
- (f) any part of a pipeline.

(3) For the purposes of these Regulations there shall be deemed to be part of an offshore installation—

- (a) any well for the time being connected to it by pipe or cable;
- (b) such part of any pipeline connected to it as is within 500 metres of any part of its main structure;
- (c) any apparatus or works which are situated—
 - (i) on or affixed to its main structure; or
 - (ii) wholly or partly within 500 metres of any part of its main structure and associated with a pipe or system of pipes connected to any part of that installation.

(4) Where two or more structures are, or are to be, connected permanently above the sea at high tide they shall for the purposes of these Regulations be deemed to comprise a single offshore installation.

Application.

4. These Regulations shall apply to and in relation to an offshore installation in the territorial waters of Gibraltar.

General duty.

5.(1) For each offshore installation there shall be a duty holder.

(2) The duty holder shall take appropriate measures with a view to—

- (a) protecting persons on the installation from fire and explosion; and

(b) securing effective emergency response.

(3) More detailed requirements in regulations 7 to 22 for the purposes referred to in subregulation (2) shall be without prejudice to the generality of subregulation (2).

Assessment.

6.(1) The duty holder shall carry out as often as may be appropriate an assessment in relation to the installation.

(2) The assessment shall consist of—

(a) the identification of the various events which could give rise to—

(i) a major accident involving fire or explosion; or

(ii) the need (whether or not by reason of fire or explosion) for evacuation, escape or rescue to avoid or minimise a major accident;

(b) the evaluation of the likelihood and consequences of such events;

(c) the establishment of appropriate standards of performance to be attained by anything provided by measures for—

(i) ensuring effective evacuation, escape, recovery and rescue to avoid or minimise a major accident; and

(ii) otherwise protecting persons from a major accident involving fire or explosion; and

(d) the selection of appropriate measures.

(3) The duty holder shall keep a record of the assessment (including each repetition of it) at an address in Gibraltar and notify the competent authority of that address.

Preparation for emergencies.

7.(1) The duty holder shall set up an organisation to have effect in, or in preparation for, an emergency and arrange—

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- (a) for command by competent persons which can be maintained, so far as is practicable, throughout an emergency;
 - (b) for there to be a sufficient number of persons on the installation competent to undertake emergency duties and operate relevant equipment;
 - (c) in the case of an installation on which persons are present, for a sufficient number of such persons to be in attendance at the helicopter landing area during helicopter movements; and
 - (d) for lists of persons referred to in paragraphs (a), (b) and (c) to be posted at suitable locations on the installation.
- (2) The duty holder shall ensure that every person on the installation—
- (a) is provided with adequate instruction and training in the appropriate action to take in an emergency; and
 - (b) can consult written information on the use of emergency plant.

Equipment for helicopter emergencies.

8. The duty holder shall ensure that equipment for use in the event of an accident involving a helicopter is kept available near the helicopter landing area.

Emergency response plan.

9.(1) The duty holder shall, after consulting persons who are likely to become involved in emergency response, prepare and, as often as is appropriate, revise an emergency response plan containing sufficient information, for the guidance of such persons, on—

- (a) the organisation and arrangements which are to have effect in an emergency; and
 - (b) procedures by way of emergency response to be followed in different circumstances.
- (2) The duty holder shall ensure that—
- (a) the emergency response plan is available to all persons on the installation; and

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- (b) each person on the installation, and each person who may be called upon to assist in implementing the emergency response plan, are given such notification of its contents as is sufficient for them.

(3) The duty holder shall ensure that the organisation, arrangements and procedures referred to in subregulation (1) are tested, by practice and otherwise, as often as may be appropriate.

(4) Every person on the installation shall, in an emergency, so far as is practicable, conform to the appropriate procedure in the plan.

Prevention of fire and explosion.

10.(1) The duty holder shall take appropriate measures with a view to preventing fire and explosion, including such measures to—

- (a) ensure the safe production, processing, use, storage, handling, treatment, movement and other dealings with flammable and explosive substances;
- (b) prevent the uncontrolled release of flammable or explosive substances;
- (c) prevent the unwanted or unnecessary accumulation of combustible, flammable or explosive substances and atmospheres; and
- (d) prevent the ignition of such substances and atmospheres.

(2) The measures to prevent ignition referred to in subregulation (1) shall include—

- (a) identifying and designating areas in which there is a risk of a flammable or explosive atmosphere occurring;
- (b) controlling the carrying on of hazardous activities in such areas;
- (c) ensuring that, save under procedures pursuant to paragraph (b), no plant is used in such areas unless suitable for use within them; and
- (d) controlling the placing or use in such areas of electrical fixtures or other sources of ignition.

Detection of incidents.

11. The duty holder shall take appropriate measures—

- (a) with a view to detecting fire and other events which may require emergency response, including the provision of means for—
 - (i) detecting and recording accumulations of flammable or toxic gases; and
 - (ii) identifying leakages of flammable liquids; and
- (b) with a view to enabling information regarding such incidents to be conveyed forthwith to places from which control action can be instigated.

Communication.

- 12.(1) The duty holder shall make appropriate arrangements—
- (a) for giving warning of an emergency, by audible and, where necessary, visual alarm systems, to all persons on the installation; and
 - (b) for the purpose of emergency response, for communication between—
 - (i) persons on the installation;
 - (ii) the installation and persons not on it and engaged in activities in connection with it; and
 - (iii) the installation and persons beyond it.
- (2) The duty holder shall ensure that, so far as is reasonably practicable, the arrangements are capable of remaining effective in an emergency.
- (3) The visual alarm sign provided pursuant to subregulation (1)(a) shall be—
- (a) in the case of a warning of toxic gas, a red flashing sign; and
 - (b) in all other cases, a yellow flashing sign.
- (4) The acoustic signal provided pursuant to subregulation (1)(a) shall be—
- (a) in the case of a warning to prepare for evacuation, a continuous signal of variable frequency;

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- (b) in the case of a warning of toxic gas, a continuous signal of a constant frequency; and
- (c) in all other cases, an intermittent signal of a constant frequency.

Control of emergencies.

13. The duty holder shall—

- (a) take appropriate measures with a view to limiting the extent of an emergency, including measures to combat fire and explosion; and
- (b) shall ensure that—
 - (i) where appropriate, those measures include provision for the remote operation of plant; and
 - (ii) so far as is reasonably practicable, any arrangements made, and plant provided, pursuant to this regulation are capable of remaining effective in an emergency.

Mitigation of fire and explosion.

14. The duty holder shall—

- (a) take appropriate measures with a view to protecting persons on the installation during an emergency from the effects of fire and explosion; and
- (b) ensure that, so far as is reasonably practicable, any arrangements made and plant provided pursuant to this regulation are capable of remaining effective in an emergency.

Muster areas, etc.

15.(1) The duty holder shall make appropriate provision for—

- (a) areas for persons to muster safely in an emergency;
- (b) safe means of leaving accommodation and work areas, and safe access to muster areas, temporary refuge, and evacuation and escape points; and
- (c) safe evacuation and escape points.

(2) The duty holder shall ensure that the muster areas, ways in and out, and evacuation and escape points referred to in subregulation (1)–

- (a) are kept unobstructed;
- (b) are provided with adequate emergency lighting; and
- (c) are marked by suitable signs.

(3) The duty holder shall take appropriate measures to ensure that, so far as is reasonably practicable, the ways out and access remain passable in an emergency.

(4) The duty holder shall ensure that–

- (a) doors for use in an emergency–
 - (i) open in the appropriate direction or, if this is not possible, are sliding doors; and
 - (ii) are not so fastened that they cannot readily be opened by any person who may require to use them in an emergency; and

(b) accommodation areas are provided at each level with at least two ways out situated at an appropriate distance apart.

(5) The duty holder shall ensure that–

- (a) each person on the installation is assigned to a muster area; and
- (b) for each muster area a list of names of persons assigned to it is kept up-to-date and displayed.

(6) The duty holder shall establish procedures–

- (a) for mustering at muster areas; and
- (b) for accounting for persons who have mustered or who have failed to muster.

Arrangements for evacuation.

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16.(1) The duty holder shall ensure that arrangements are made for evacuation as will ensure, so far as is reasonably practicable, the safe evacuation of all persons and their being taken to a place of safety, or to a place from which they can be recovered and taken to a place of safety under arrangements made pursuant to regulation 18.

- (2) The arrangements shall include to the extent necessary—
- (a) the provision of plant on the installation; and
 - (b) arrangements with suitable persons beyond the installation.

Means of escape.

17. The duty holder shall provide such means as will ensure, so far as is reasonably practicable, the safe escape of all persons from the installation in case arrangements for evacuation fail.

Arrangements for recovery and rescue.

18.(1) The duty holder shall ensure that effective arrangements are made, which include arrangements with suitable persons beyond the installation, for—

- (a) recovery of persons following their evacuation or escape from the installation;
 - (b) rescue of persons near the installation; and
 - (c) taking such persons to a place of safety.
- (2) For the purposes of this regulation arrangements shall be regarded as being effective if they secure a good prospect of those persons being recovered, rescued and taken to a place of safety.

Suitability of personal protective equipment for use in an emergency.

19.(1) In relation to personal protective equipment which protects a person in an emergency against risks to his health and safety—

- (a) in conditions of fire, heat, smoke, fumes or toxic gas; or
- (b) in the event of his immersion in the sea,

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the duty holder shall, for the purposes of the Personal Protective Equipment at Work Regulations 1996 be treated as the only employer of all persons on the installation, and such persons shall be treated as only employed by him.

(2) The duty holder shall ensure that there is prepared and operated a written scheme for the systematic examination and, where appropriate, testing, by a competent person, of the equipment referred to in subregulation (1) and for recording the results thereof.

Suitability and condition of plant.

20.(1) The duty holder shall ensure that all plant on the installation provided in compliance with these Regulations (other than aircraft, or equipment to which regulation 19 applies)–

- (a) is so constructed or adapted as to be suitable for the purpose for which it is used or provided; and
- (b) is maintained in an efficient state, in efficient working order and in good repair.

(2) Without prejudice to the generality of subregulation (1) and subject to subregulation (3), the duty holder shall ensure that there is prepared and operated a suitable written scheme for the systematic examination, by a competent and independent person, of plant (other than aircraft, or equipment to which regulation 19 applies), provided–

- (a) in compliance with regulations 12(1)(a), and 14 to 16;
- (b) as means required to be provided by regulation 11–
 - (i) for detecting fire; and
 - (ii) for detecting and recording accumulations of flammable gases; and
- (c) pursuant to the measures required by regulation 13 to combat fire and explosion,

and for recording results thereof.

(3) A scheme prepared pursuant to subregulation (2) shall–

- (a) specify the nature and frequency of examination;
- (b) provide for an examination to be carried out, where appropriate, before plant is–
 - (i) first used on the installation; and

- (ii) first used on the installation after modification or repairs (other than running repairs),

and it may make different provision for different plant or categories of plant.

(4) In this regulation, reference to examination is reference to careful and critical scrutiny of plant, in or out of service as appropriate, using suitable techniques, including testing where appropriate—

- (a) to assess its suitability for the purpose for which it is used or provided;
- (b) to assess its actual condition; and
- (c) to determine any remedial measures that should be taken.

(5) Subject to subregulation (6), reference in subregulation (2) to the suitability of the scheme is reference to its suitability for the purpose of discharging the duties specified in subregulation (1).

(6) For the purpose of subregulation (2) a person is independent where, even though he may be employed by the duty holder, he is sufficiently independent of any other persons accountable to the duty holder for the discharge of his duties under these Regulations in respect of the installation to ensure that the discharge of his duty under the scheme will not be prejudiced.

Life-saving appliances.

21. The duty holder shall ensure that survival craft, life-rafts, life-buoys, life-jackets and plant for like purposes are—

- (a) of such colour as will make them conspicuous when in use;
- (b) (where applicable) suitably equipped; and
- (c) kept available for immediate use in sufficient numbers.

Information regarding plant.

22. The duty holder shall ensure that information, giving the location of—

- (a) areas in which there is a risk of a flammable or explosive atmosphere occurring;

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- (b) non-automatic plant for fighting fire; and
- (c) plant to which regulations 19 and 21 apply (other than plant issued to particular persons),

is available to all persons on the installation.

Notification concerning offshore installations.

23(1) The duty holder shall, no later than the date on which an offshore installation is due to enter or leave territorial waters, notify the competent authority in writing of the date of its intended entry into or departure from such waters.

(2) Where there is a change of duty holder in relation to an offshore installation, the new duty holder shall ensure that it is not operated until the competent authority has been notified in writing of—

- (a) the date of such change;
- (b) the name and address of the new duty holder; and
- (c) where the address furnished pursuant to paragraph (b) is outside Gibraltar, an address in Gibraltar to which communications to him may be sent.

Managers.

24.(1) The duty holder shall ensure that—

- (a) the offshore installation is at all times under the charge of a competent person appointed by him to manage on his behalf the installation and the persons on it; and a reference to the installation manager is a reference to such person while he is in charge;
- (b) the installation manager is provided with appropriate resources to be able to carry out effectively his function, and the duties he may have to discharge under regulation 26; and
- (c) the identity of the installation manager is known to or readily ascertainable by every person on the installation.

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(2) For the purpose of subregulation (1)(a), a person is not in charge of an offshore installation when he is not on it unless he remains in communication with it and, in a case where it might be necessary to exercise his functions, is able to reach it promptly.

Restraint and putting ashore.

25. If an installation manager has reasonable cause to believe that it is necessary or expedient to do so for the purpose of securing the safety of the offshore installation or the health or safety of persons on or near it, he may take such measures as are reasonable against a person on the installation, including putting him ashore in Gibraltar as soon as is practicable.

Co-operation.

26.(1) Every person shall co-operate—

- (a) with the installation manager, and any other person on whom any duty is placed by regulations 23 to 37, so far as is necessary to enable him to comply with the relevant statutory provisions, including this regulation;
- (b) with the installation manager, so far as is necessary to enable him to discharge his functions described in regulations 24 and 25; and
- (c) with the helicopter landing officer, so far as is necessary to enable him to perform his function referred to in regulation 31.

(2) In addition to the duty placed on him by subregulation (1), an installation manager shall co-operate with the manager of another offshore installation, where an activity carried out from, by means of, or on one of the installations could affect the health and safety of persons on the other installation or of persons engaged in an activity in connection with the other installation.

(3) The duty in subregulation (1) is without prejudice to any duty owed by a master, captain or person in charge of a vessel or aircraft.

Records.

27.(1) The duty holder shall ensure that there is kept on the offshore installation, or at a place in Gibraltar, a record of the persons who are for the time being on, or working from the installation, and containing, in relation to each such person—

- (a) his full name; and

- (b) the name and address of his employer, if any,

and in this regulation such a record is referred to as "the offshore record".

(2) The duty holder shall ensure that, as soon as possible after an entry is made in the offshore record, a like entry is made together with the following additional information—

- (a) the nationality of the person working on or from the installation;
- (b) his date of birth;
- (c) his usual residence; and
- (d) the name, address and relationship of any next of kin of his,

in another record, in this regulation referred to as "the onshore record".

(3) The duty holder shall ensure that an entry in the onshore record relating to any person is thereafter kept readily available at an address in Gibraltar until 28 days after he ceases to be on or to work from the installation.

Permits to work.

28. In cases where, because of—

- (a) the kind of work which may be done on the offshore installation; or
- (b) the circumstances in which work may be done on the offshore installation,

it is necessary for the health or safety of persons to do so, the duty holder shall introduce arrangements for securing that, in such a case, a person does not do such work save in accordance with the terms of a permit, given by a competent person authorised by or on behalf of the duty holder.

Instructions.

29. The duty holder shall ensure that, where necessary, for the health and safety of persons—

- (a) comprehensible instructions on procedures to be observed on the offshore installation are put in writing; and

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- (b) the relevant part of such instructions is brought to the attention of every person who is to do anything to which that part relates.

Communication.

30.(1) The duty holder shall ensure that arrangements, which are appropriate for health and safety purposes, are in place for effective communication between the offshore installation and the shore, vessels, aircraft and other installations.

(2) The duty holder shall also ensure that there is a means of communication between the offshore installation and a helicopter which is intending to land on the installation or has just taken-off from the installation, unless the offshore installation is unmanned in which case the duty holder shall ensure that the helicopter can communicate with premises ashore.

Helicopters.

31.(1) The duty holder shall ensure that a helicopter landing officer is present on the installation during helideck operations.

(2) The duty holder shall ensure that procedures are established, and plant provided, as will secure, so far as is reasonably practicable, that helideck operations are without risks to health and safety.

(3) For the purpose of this regulation—

- (a) “helicopter landing officer” is the person in control of helideck operations on the offshore installation; and
- (b) “helideck operations” include the landing and taking-off of helicopters.

Operational information.

32. The duty holder shall make arrangements for the collection and keeping of—

- (a) such meteorological and oceanographic information; and
- (b) such information relating to the motions of the offshore installation,

as is necessary for securing, so far as is reasonably practicable, the safe operation of the installation and the safety of persons on or near it.

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33.(1) The duty holder shall ensure that the address and telephone number of the office of the competent authority is known to or readily ascertainable by every person on the installation.

(2) The employer of a person who is not on an offshore installation, and who is engaged in—

- (a) an activity in connection with an offshore installation;
- (b) an activity in connection with a well;
- (c) pipeline works; or
- (d) any of the following activities in connection with pipeline works—
 - (i) the loading, unloading, fuelling or provisioning of a vessel;
 - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel,

being in either case a vessel which is engaged in pipeline works,

shall ensure that the address and telephone number of the office of the competent authority is known to or readily ascertainable by such person.

Health surveillance.

34.(1) An employer of a person engaged in work on an offshore installation shall ensure that he is provided with such health surveillance as is appropriate to the health and safety risks incurred in the work; and, where that person is assigned to the work after the coming into force of these Regulations, the health surveillance shall be commenced before he is so assigned.

(2) In this regulation "appropriate" means appropriate having regard to the nature and magnitude of the risks to the safety and health of the employee created by the relevant work.

Drinking water.

35. The duty holder shall ensure that—

- (a) an adequate supply of clean, wholesome drinking water is available on the offshore installation; and

- (b) such locations are clearly marked to show that drinking water is there.

Provisions.

36. The duty holder shall ensure that all provisions for consumption by persons on the offshore installation are fit for human consumption.

Identification of the offshore installation.

37. Save where the nature of the structure makes it impracticable to do so, the duty holder shall ensure that the offshore installation—

- (a) displays its name or other designation in such a manner as to make the installation readily identifiable on approach by sea or air; and
- (b) displays no name, letters or figures likely to be confused with the name or other designation of another offshore installation.

Certificates of exemption.

38.(1) Subject to subregulation (2) and to obligations imposed by the European Community in respect of the encouragement of improvements in the health and safety of workers at work, the competent authority may, by a certificate in writing, exempt any person, offshore installation or class of persons or offshore installations from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The competent authority shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.