EXPLANATORY MEMORANDUM TO

THE HEALTH AND SAFETY AT WORK ETC. ACT 1974 (APPLICATION OUTSIDE GREAT BRITAIN) (VARIATION) ORDER 2026

2026 No. 184

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Sir Stephen Timms, Minister of State for Social Security and Disability at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Haire, Deputy Director (SCS1) of the Engagement and Policy Division at the HSE, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rachel McCann at the HSE can be contacted by telephone: 07825 900 941 or email: rachel.mccann@hse.gov.uk with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2013[1] (AOGBO) extends the application of specified health and safety regulations to specified activities when they take place offshore. This instrument varies the AOGBO to extend the specified health and safety regulations to offshore hydrogen production. Offshore hydrogen production covers a variety of technologies that can be utilised to produce hydrogen at offshore installations with either very low or zero emissions of carbon dioxide (CO_2), as defined by the UK Government's Low Carbon Hydrogen Standard[2].

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is specified activities in the territorial sea adjacent to Great Britain (England and Wales, and Scotland) and to areas designated under the Continental Shelf Act 1964[3].

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[1] The Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2013 - https://www.legislation.gov.uk/uksi/2013/240/contents/made

[2] UK Government Low Carbon Hydrogen Standard - https://www.gov.uk/government/publications/uk-low-carbon-hydrogen-standard-emissions-reporting-and-sustainability-criteria

[3] Continental Shelf Act 1964 - https://www.legislation.gov.uk/ukpga/1964/29/contents

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the territorial sea adjacent to Great Britain (England and Wales, and Scotland) and areas designated under the Continental Shelf Act 1964.

5. Policy Context

What is being done and why?

5.1 This instrument supports a fundamental purpose of the Health and Safety at Work etc. Act 1974[4] to secure the health, safety, and welfare of persons at work. It also recognises the approach of the HSE, as a regulator, towards industries and technologies such as offshore hydrogen production which have the potential to cause significant damage to people or the environment, to be regulated as major hazard risks.

5.2 The Government has a legally binding target to achieve Net Zero by 2050 under the Climate Change Act 2008[5], which requires changes to the UK's energy mix (the methods used to produce electricity), the development of technologies that produce hydrogen with low or zero emissions of carbon dioxide (CO_2), and the development of new technologies to reduce emissions in sectors such as cement and steel production where it is difficult to reduce emissions.

5.3 The AOGBO extends specific health and safety regulations to specific activities when they are carried out offshore and was mainly written for the regulation of the offshore oil and gas industry. This instrument extends the AOGBO to offshore hydrogen production activities to allow HSE to carry out appropriate and proportionate regulatory activity.

What was the previous policy, how is this different?

5.4 The AOGBO contains a definition of 'offshore installation' and defines specific work activities that health and safety regulations are extended to when those activities take place offshore. The previous definition did not include offshore hydrogen production. This instrument varies the AOGBO to extend health and safety regulations to offshore installations involved in offshore hydrogen production.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument varies the existing AOGBO to extend the powers HSE has offshore to offshore hydrogen production. This ensures there is a suitable regulatory framework in place and that HSE has appropriate powers to ensure that duty holders are managing health and safety risks appropriately, including by means of enforcement action where required.

Why was this approach taken to change the law?

6.2 This is the only possible approach to extend HSE's powers to offshore hydrogen production activities. There are no other legal alternatives.

[4] Health and Safety at Work etc. Act 1974 - https://www.legislation.gov.uk/ukpga/1974/37/contents
[5] Climate Change Act 2008 - https://www.legislation.gov.uk/ukpga/2008/27/contents

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation[6] on the proposed amendments ran for ten weeks from 4 June to 13 August 2025. This consultation sought views on proposed changes to health and safety legislation with regard to Carbon Capture Utilisation and Storage (CCUS) operations offshore and transport of CO_2 by pipeline, and offshore hydrogen production, and to specifically extend the AOGBO to these activities.

7.2 The consultation was promoted through HSE e-bulletins with over 90,000 subscribers. A total of 77 responses were received, and the 'HSE response to consultation on Carbon Capture Utilisation and Storage and Offshore hydrogen production'[7] will be published on the HSE Consultation Hub on 11 March 2026. Between 30 and 34 respondents provided views on the proposal with the majority being broadly supportive.

7.3 Single figures of responses were negative and although respondents were given the opportunity to explain their response, it was not possible to identify clear rationales for opposition from the information provided. Other responses indicated that extending health and safety regulations to the relevant sectors would help address the risks, that the amendments to regulations were relevant to the industry and should be proportionate to the hazards.

7.4 Relevant government departments and organisations including the Department for Energy Security and Net Zero[8], the North Sea Transition Authority[9] and the Offshore Petroleum Regulator for Environment and Decommissioning[10] were engaged during the development of this instrument.

8. Applicable Guidance

8.1 Existing guidance on HSE's website is being reviewed as part of a wider workstream as other changes are also required that fall outside of the scope of the changes made by this instrument. Interim guidance pages have been published for offshore activities[11] and for pipelines[12].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. The Impact Assessment includes costs associated with the Carbon Capture Utilisation and

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[6] Regulatory proposals for Carbon Capture Utilisation and Storage and offshore hydrogen production – Public Consultation - https://consultations.hse.gov.uk/hse/proposals-carbon-capture-utilisation-storage/

[7] Regulatory proposals for Carbon Capture Utilisation and Storage and offshore hydrogen production – Formal Response - https://consultations.hse.gov.uk/hse/proposals-carbon-capture-utilisation-storage/results/responsereport-ccusresponsereport.pdf

[8] Department for Energy Security and Net Zero - https://www.gov.uk/government/organisations/department-for-energy-security-and-net-zero

[9] North Sea Transition Authority - https://www.nstauthority.co.uk/

[10] Offshore Petroleum Regulator for Environment and Decommissioning - https://www.gov.uk/government/organisations/offshore-petroleum-regulator-for-environment-and-decommissioning

[11] Offshore Oil and Gas Resources - https://www.hse.gov.uk/offshore/resources.htm

[12] Pipelines Resources - https://www.hse.gov.uk/pipelines/index.htm

Storage and Offshore Hydrogen Production (Miscellaneous Amendments) Safety Regulations 2026 (S.I. 2026/185).

Impact on businesses, charities and voluntary bodies

9.2 There is an impact on business as the likely annualised cost of compliance per offshore hydrogen installation is estimated to be between £590k and £2.1m, with a best estimate of £1.3m per installation. There is uncertainty around these estimates due to limited existing data, limited cost data provided during consultation, and the emerging status of these industries. There is no impact on charities and voluntary bodies.

9.3 This legislation does impact small or micro businesses.

9.4 There is no exemption for small and micro businesses. A key principle of regulation for work activities considered to constitute a major accident hazard is that the proportionality of regulatory measures is related to the level of risk, and not the size of a business.

9.5 There is no, or no significant, impact on the public sector as the regulations apply to operators of offshore hydrogen production.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is to use HSE's established channels of engagement with its various stakeholders at monthly, quarterly, and bi-annual intervals to actively seek feedback on this instrument.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015[13], Sir Stephen Timms, Minister of State for Social Security and Disability, has made the following statement:

"In my view, it is disproportionate to include a statutory provision to review the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2026."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This memorandum should be read in conjunction with the explanatory memorandum to the Carbon Capture Utilisation and Storage and Offshore Hydrogen Production (Miscellaneous Amendments) Safety Regulations 2026 (S.I. 2026/185) which amends existing offshore installations and pipeline regulations to extend their scope to CCUS operations offshore and transport of carbon dioxide (CO_2) by pipeline, and offshore hydrogen production.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

[13]Small Business, Enterprise and Employment Act 2015 - https://www.legislation.gov.uk/ukpga/2015/26/contents

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").