

# International Law

International law governs the relationships between sovereign states and other international institutions recognised under such rules of international law, such as the United Nations. Only sovereign states and recognised institutions can enter into agreements in international law and any rules are only binding on these sovereign states and recognised institutions. In general states must incorporate such rules into their own legislation (or municipal law) in order for the rules to become binding on other persons or bodies.

International treaty law is in general by definition written and appears in the form of the text of the Treaty. **Conventions, agreements and protocols** all fall under treaty law. It should be recognised that in addition to Treaty law, there are also other forms of international agreement in particular customary international law, which do not stem from a written text. A rule can only be considered to be customary international law if it is both widespread among states in terms of its adoption and if it is adhered to out of a sense of legal obligation. However, customary international law is extremely difficult to characterise at any point in time particularly for environmental matters. The following therefore focuses on Treaty Law.

In treaty law, the parties to a treaty make their own law and for these parties a rule of customary international law can be modified or overridden by a rule of treaty law. Treaties are, however, only binding on the states, which are parties to them, and their relations with other (non-party) states continue to be regulated by customary international law.

The creation of treaty law has several important stages involving firstly the development of the text at diplomatic conferences. Once this process is complete and the text finalised the treaty will be open for signature. Signing the treaty, however, does not make it law though there are certain obligations on signatories for example, to refrain from acts which would defeat the object and purpose of the treaty.

Each treaty will normally set out the conditions under which it will enter into effect, and these nearly always require a specified number of states to become parties to it. This is achieved by the process of ratification (for signatory states) and accession (for non-signatory states) whereby each state will deposit a document of ratification (or accession) with the body identified in the treaty for this purpose. By this process, states bind themselves to the treaty and will give effect to its provisions in their own laws. The entry into force of a treaty normally occurs after a specified period following the receipt of the last of the specified number of ratifications or accessions.

There are a number of documents, which are issued by international conferences, which can easily be mistaken for treaties, particularly where they are signed by the participating states. In particular, **Declarations and Decisions** are frequently mistaken for treaty law. These may often contain obligations which are stronger than codes or guidance but do not necessarily have the same binding character as treaty law. It should be noted that Decisions made under the OSPAR Convention are binding on signatory parties, whereas Recommendations are not binding.

Historically the development of international treaty law for offshore oil and gas activities can be traced to the UN Geneva Conference of 1958 sometimes referred to as UNCLOS I. This conference adopted four Conventions on the law of the sea and one of these, the **Convention on the Continental Shelf 1958**, provided coastal states with sovereign rights to explore and

exploit the mineral resources of their continental shelves, thus providing for the development of the offshore oil industry.

Concern for the marine environment and for its protection, while the subject of a general requirement in the Continental Shelf Convention, was more sharply focused on the transportation of oil, and since 1954 with the adoption of the OILPOL convention, there has been international regulation of discharges of oil from shipping.

In 1972, the UN Conference on the Human Environment (UNCHE) and its Declaration of Principles laid down in general terms requirements for the protection of the marine environment from toxic and other wastes, for the development of liability arrangements, and for the conservation of flora and fauna. The conference established an action plan and instituted the United Nations Environment Programme (UNEP), part of which has resulted in the development of framework conventions for now 11 regional sea areas. The North Sea legal regime, however, whilst quite similar to that provided by the regional sea conventions developed separately and was begun in advance of the regional seas programme.

The North Sea legal regime derives principally from the Oslo Convention on the Prevention of Marine Pollution by Dumping from Ships and Aircraft (1972), the Paris Convention on the Prevention of Marine Pollution from Land-based Sources (1974) and the Bonn Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances (1983, but for oil dating from 1969). The latter applies only to the North Sea and English Channel but similar arrangements can be found in the Lisbon Cooperation Agreement for the Protection of the Coasts and Waters of the North East Atlantic Against Pollution (1990), which apply, to other parts of the UKCS. The Oslo and Paris Conventions, however, applied to the North-East Atlantic area as a whole excluding the Baltic and Mediterranean Sea areas. Both the Oslo and Paris Conventions established Commissions are now combined in a joint Oslo and Paris Commission (OSPARCOM), which additionally services the meetings held under the Bonn Agreement.

A new Convention on the Protection of the Marine Environment of the North East Atlantic signed in Paris in 1992 has now replaced the earlier Oslo (1972) and Paris (1974) Conventions. This has introduced some significant changes from the historical approach of the prevention of pollution of the sea towards a regime concerned more generally with the protection of the marine environment. Central to the **OSPAR Convention** are provisions to protect the marine environment through the use of Best Available Techniques, Best Environmental Practice and where appropriate clean technologies. These concepts were developed and extended over time through the Oslo and Paris Conventions and are now firmly embodied in the new OSPAR Convention.

One future strand of international initiatives can be identified as perhaps at least having been initiated at the United Nations Conference on Environment and Development held in Rio in June 1992 and the Declaration of Principles adopted by it. In this the world's nations embraced the concept of sustainable development and recognised the need to adopt sustainable approaches to both resource and environmental conservation and management.

## European Community Law

Although EC law can be considered as the next tier in the statutory regime, its basis, the **Treaty of Rome (1957)**, which established the European Economic Community, is certainly part of

international treaty law. The Treaty of Rome, provided a framework for common social and economic policies between its contracting parties or Member States and for the unified development of these within what really amounts to a supra-national rather than international institution. Accordingly, the means of creating rules and indeed of enforcing them are distinctly different within this special European legal framework.

Whilst the Treaty of Rome specifically provided for the development of a common agricultural policy, a common fisheries and transport policy no specific provisions were made for a common environmental policy. This omission was recognised, and at the Paris Summit in 1972, agreement was given for the Community to develop an Environmental Action Programme. The main instrument used to give effect to such actions has been the Directive (defined in Article 189 of the Treaty of Rome). In 1986 the Single European Act, which provides for the realisation of the internal market (ensuring there are no internal frontiers to the free movement of capital, goods, services and persons), revised the Treaty of Rome and established the objectives, principles and conditions for community action on the environment. Article 130R sets out the following objectives:

- To preserve, protect and improve the quality of the environment;
- To contribute towards protecting human health; and
- To ensure prudent and rational utilisation of natural resources.

In the case of the latter, however, a declaration annexed to the Act asserts that the Community's environmental actions should not interfere with national policies regarding the exploitation of energy resources. Energy sources and their use, however, are seen as closely linked to wider environmental policy. The principles of Community action on the environment are established as: preventative actions; the polluter pays principle; the rectification at source of environmental damage; and the integration of environmental matters in other community policies.

Six bodies are involved in the process of developing EU law. The responsibility and authority of each body is defined in the Treaty of Rome as amended by the Single European Act 1986, the Treaty on European Union of 1992 (adopted by the Maastricht Agreement) and the Amsterdam Treaty of 1997. These bodies are:

- The European Commission
- The Council of the European Ministers
- The European Parliament
- The European Court of Justice
- The Economic and Social Committee
- The Committee of the Regions

Of these, the European Court of Justice, the Economic and Social Committee and the Committee of the Regions are not directly involved in the preparation of legal instruments, but are involved in either interpretation of the law or providing opinions on proposed measures. In addition to the above institutions, the European Environment Agency has been established with the primary role of monitoring and data collection.

According to Article 249 of the Amsterdam Treaty, the Council and Commission shall make regulations, issue directives, take decisions make recommendations or deliver opinions. There are also additional instruments in the form of Resolution and Green and White Papers. All legal instruments are published in the Official Journal. These instruments have different levels and means of implementation in the Member States:

A **Directive** is an instruction to the Member States to introduce legislation. It is binding only insofar as the result to be achieved by each Member State. However, each authority may choose the form and methods to achieve those results within its own constitutional and legislative framework. Most EU legislation of relevance to offshore environmental control is in this form.

A **Regulation** has general application, is binding in its entirety and is directly applicable in all Member States. It is used when there is no overriding need to allow some flexibility at Member State level and where flexibility is unacceptable. An example of this is the Council Regulation allowing voluntary participation by companies in the industrial sector in a community eco-management and audit scheme (EMAS) 761/2001.

A **Decision** is binding in its entirety upon those to whom it is addressed. The addressees may be one or more Member States, specific commercial enterprises or social-economic groups. Decisions may include fines. An example of this is the European Parliament and Council Decision setting up a Community framework for cooperation in the field of accidental or deliberate marine pollution 2850/2000/EC.

**Opinions and Recommendations** are not binding and are meant to encourage certain desirable but generally unenforceable ways of behaviour in the EU.

**Resolutions** are issued by the Council and/or Parliament. They are intended to establish the fundamental principles on which Community Action shall be based and to determine the period of action. They are only declarations of intention.

**Green Papers and White Papers** are issued solely by the Commission. Both are consultative documents. Green Papers are orientation papers whereas White Papers may lead to proposals for legislation.

Recommended further reading on the EU Legislative Process can be found in Brandt J and Martin DE (1999). The European Union Legislative Process. Concawe Report No 99/61. Concawe, Brussels.

## UK Law

UK law is made by the Queen in Parliament and Bills discussed by the House of Commons and House of Lords are technically petitions to the Queen. While Parliament is frequently seen as the legislature, all Acts are “enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons”, in Parliament assembled. It should be noted however, that with the creation of the Scottish Parliament and Welsh Assembly in 1999, legislation specific to Scotland and Wales, is on the whole (including environmental legislation) made under these devolved legislative powers. Different (but essentially similar in content) Acts and Regulations are often now seen for England, Wales and Scotland.

Whilst many other legislatures have been content to lay down general principles in enacting legislation, and to authorise the detail to be developed by administrative decree the UK retains an historical suspicion of legislation by decree. There is no general constitutional power for such delegated regulation. Instead as legislation has grown in both size and complexity specific powers have been given for specific purposes but these are closely scrutinised and each Act of Parliament specifically describes any such powers delegated to legislation by statutory instrument.

Generally these powers are exercised as one of the functions of a Minister, and Acts frequently specify the powers of a Secretary of State to direct or impose or require actions of other persons or bodies and to make further regulations for specified purposes on specific matters.

Detailed measures introduced by a Minister in accordance with the provisions of an Act are done by Regulations; Orders are used generally for purposes that are more specific and frequently for bringing certain parts of an Act into force. Orders are also used to extend the application of specific legislation by extending definitions in the Act, for example, but only another Act can repeal or amend existing Acts unless the original Act specifically provides for such an amendment or repeal by future Regulations or Orders. The repeal and re-enactment of statutes however can often leave a confusing scenario in its wake, particularly in instances where subordinate legislation is made under an Act that is subsequently repealed. General rules on the interpretation of statutes are available in law through the Interpretation Act of 1978, sections 15, 16 and 17 of which provide for the repeal and enactment of statutes. Section 17(2) of the Act, for example, states:

*“Where an Act repeals and re-enacts, with or without modification, a previous enactment then, unless the contrary intention appears:*

*a) Any reference in any other enactment to the enactment repealed shall be considered as a reference to the provision re-enacted.*

*b) Insofar as any subordinate legislation made or other thing done under the enactment repealed, or having effect as if made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision.”*

These provisions have important implications for UK environment law, for example subordinate legislation made under the Control of Pollution Act 1974 may still be in effect notwithstanding that the majority of the 1974 Act has now been repealed and replaced by the Environmental Protection Act 1990.

UK law frequently prohibits an activity, but permits exemptions from the prohibition subject to conditions. The legislation rarely specifies such matters but enables a Secretary of State to grant exemption from certain provision “subject to such conditions as he sees fit”. The exemption and its stated conditions is a legal document, enforceable by the courts but as such conditions can be case specific and change with time, it is difficult to be definitive about typical conditions attached to such exemptions. The environmental legislation guide identifies such exemptions where appropriate but describes attached conditions only where some standardised approach to their application is evident.

In recent years, there has been a shift in the mode of UK environmental legislation applied to the offshore industry, with an increase in legislation enabling permits to be issued for undertaking certain activities or discharges (for example the Offshore Chemical Regulations 2002). These

permits will often have conditions or discharge limits set. This is a significant change, with permission being granted including conditions, rather than a blanket ban being imposed with exemptions to this ban being issued.

In summary, there are a number of statutory instruments within the UK regulatory regime, in particular:

A **Bill** is a proposal for law which has to pass through the often lengthy Parliamentary decision making process before being accepted by Parliament. After this, once it receives Royal Assent, it becomes an Act.

An **Act of Parliament** is a Bill that has passed into statute law. Acts often deal with a number of subjects, and often do not provide for the specific regulation of every detail for each of the subject areas. An Act will therefore commonly confer powers for the making of more detailed rules through Regulations and Orders.

**Regulations and Orders** are the vehicles through which provisions of Acts are implemented, usually in the form of Statutory Instruments (SIs) or (in Scotland) Scottish Statutory Instruments (SSIs). SIs and SSIs are published by Her Majesty's Stationery Office (HMSO).

**Guidance Notes** on the implementation of legislation is often issued in the form of notes, **Codes of Practice or Circulars**. They are commonly issued as accompanying guidance, which provides advice for regulatory authorities on the implementation of Regulations. Guidance notes are updated and amended to reflect experience gained in the practical implementation of legislation and to reflect technological advances in best practice. Guidance Notes or Codes of Practice may be given statutory backing through the adoption of Orders.

## Concepts In The Legislation

### Emission Standards v Quality Objectives

Traditionally international environmental legislation has focused on the development and reduction of specific emission standards, permissible oil in oily water discharges for example, often dictated by technological capability or "Best Available Technology", widened in more recent years to Best Available Techniques (BAT) (see below). Current debate in international fora suggests that this broadly prescriptive approach will continue to provide an important element of future environmental legislation.

Where the relevant international provisions have been implemented in the United Kingdom, this approach manifests itself in the national UK environmental legislative regime, see for example, the recent Merchant Shipping (Prevention of Oil Pollution) Regulations 1996. This is perhaps ironic in light of the fact that the UK has historically argued against this prescriptive approach and in the EU, for example, has argued in favour of Environmental Quality Objectives (EQOs). The European Union's concession to the UK stance has seen a dual approach emerge in European Union Law enabling both emission standards and quality objectives to be used, and this alternative approach can also be seen in UK environment law.

In effect, UK environmental law can be characterised by these two quite different approaches – the prescriptive and goal setting. These two alternative philosophies are likely to continue to provide the foundation on which future environmental law will be based – there is nothing in current environmental debates, which would suggest otherwise.

There are, however, a number of other important emerging concepts in this debate, which will shape the course that future environment law takes and will thus undoubtedly influence future requirements for of the oil and gas industry.

#### Precautionary Principle

The first of these is the precautionary principle, first enunciated by the German Government in 1976, which suggests that prevention measures be taken, where there are reasonable grounds for concern, to avoid potentially damaging impacts even where there is no conclusive evidence of a casual link between, for example, an emission, and an effect.

The precautionary principle was adopted at the Third North Sea Conference, held in The Hague in March 1990 and was instrumental in the conference calling on the Paris Commission to look into the possibility of reducing oil levels on cuttings.

furthermore the concept figures prominently in the Convention for the Protection of the Marine Environment of the North East Atlantic, 1992 (OSPAR Convention) and is likely to provide the rationale behind further steps towards tightening emission standards and ultimately towards zero discharge limits in, for example, areas such as oil and water based mud discharges.

#### Sustainable Development

The second concept is that of sustainable development, which requires environment and development issues to be addressed in an integrated manner in order to meet the various needs of the present, and to take into account the needs of future generations. The concept was first embraced by the United Nations Stockholm Conference on the Environment in 1972, and in its present form, it is usually given the definition contained in the report of the World Commission on Environment and Development 1987 as:

*“development that meets the needs of the present without compromising the ability of future generations to meet their own needs”*

Sustainable development was however given its most comprehensive set of objectives in Agenda 21, the draft text debated at the United Nations Conference on Environment and Development, held at Rio in 1992. Section 8.17 of the agenda calls on governments to assess their laws and enacted regulations in the fields of environment and sustainable development with a view to rendering them more effective in practice. The concept of sustainable development continues to be reflected in international law, for example, the Climate Change Convention affirms that responses to climate change should be coordinated with social and economic development in an integrated manner.

In the UK, the concept of sustainable development has become an important element of Government policy. The UK Strategy document “Sustainable Development: the UK Strategy” which is regularly updated, reviews UK policies and sets out the agenda in all areas, including pollution control, for achieving a sustainable economy.

Sustainable development, though first recognised at the international level in 1972, is still a relatively new trend in environmental legislation and the meaning and interpretation of the concept into national legislation is still being explored. The concept of sustainable development is probably the most important emerging trend in environmental law.

Integrated Pollution Control (IPC), IPPC and Best Practicable Environmental Option (BPEO)

The third concept, which continues to have an important influence on the future development of environmental law, is that of Integrated Pollution Control, (IPC). IPC developed out of the realisation that pollution control concentrated in any one environmental media, (water, air, soil, etc.) could often lead to damage in another media and that what was required was an integrated approach to pollution control that considered all media in order to minimise damage to the environment as a whole. The concept was first implemented in UK legislation with the entry into force of Part I of the Environmental Protection Act 1990.

Of further importance, however, is the role that IPC can be seen to play in the development of the Best Practicable Environmental Options (BPEO) statement. The concept of BPEO evolved from the recognition of the need for co-ordinated pollution control but it has wider implications. The selection of the BPEO requires a systematic approach to decision taking in which the practicality of all reasonable options is examined and in which environmental impact is a major factor in the final choice. The BPEO methodology is currently employed in licensing the disposal of waste at sea under the provisions of Part II of the Food and Environmental Protection Act 1985; before issuing a license the regulatory authorities must be satisfied that all alternative options have been considered. Its future importance lies in the role which it is likely to play in the submission of abandonment plans under the requirements of the Petroleum Act 1998, particularly where decommissioning activities involve the disposal of material at sea.

The EU Directive on Integrated Pollution Prevention and Control 96/61/EC (IPPC Directive) was formally adopted on 24 September 1996. The Directive requires Member States, by 30 October 1997, to ensure that none of the installations listed in Annex I of the Directive (which includes oil refineries) operate without a permit issued in accordance with the Directive. For existing installations, the deadline is extended to 2005. Such permits are to be issued subject to conditions setting, inter alia, emission limit values, for all emissions to the environment based on Best Available Techniques (BAT) (see below). The IPPC Directive has been enacted in the UK by the Pollution Prevention and Control Act 1999 (PPC Act).

IPPC has a wider remit than IPC, including the consideration of waste reduction and recovery, energy efficiency, prevention of accidents and site restoration. IPPC also takes into account more environmental impacts than IPC and requires comprehensive information on which to base the permit conditions and limits. This is an example of the growing commonality between IPPC applications and EIA (and EMS). IPPC has now fully replaced IPC in the UK.

The role of IPPC in offshore environmental regulation in the UK is set to grow over the next few years.

#### Best Available Techniques (BAT) and Best Environmental Practice (BEP)

The concept of Best Available Techniques (BAT) (previously often Best Available Technology but this has now largely been replaced with the term “techniques” embracing wider management and operational practices as well as purely technological solutions) is widely used in the environmental legislation and is common to both the OSPAR Convention and its Decisions/Recommendation as well as EU legislation. The OSPAR Convention provides detailed definitions of both BAT and BEP in Appendix 1 to the text of the Convention.

BAT is defined as *“the latest stage of development (state of the art) of processes, of facilities or of methods of operation, which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste”*. The definition includes consideration of economic feasibility and the reliability of the technology amongst others. BAT is not static and allowance is



made in the definition for changes in technology, economic and social factors and scientific knowledge over time. Techniques are defined as including “*both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled*”.

Best Environmental Practice (BEP) is defined as “the application of the most appropriate combination of environmental control measures and strategies”. The definition of BEP encompasses consideration of a number of issues, including (amongst others):

- The development of codes of good environmental practice
- Public access to information and product labelling
- Saving of resources including energy
- Recycling, recovery and reuse of resources and waste
- Substitution by less polluting activities or substances
- Continual monitoring and reassessment of what constitutes BEP

#### Strategic Environmental Assessment (SEA)

Historically the EIA process has been undertaken on an individual project basis and has tended to only consider the potential impacts from the proposed development, ignoring those from other activities in the area. As a result of the limitations encountered in the application of the EIA process solely at the level of individual project development, there is now a push from some sectors towards utilising EIA at much more strategic stages of the development process – so called Strategic Environmental Assessment (SEA).

Strategic Environmental Assessment can be defined as “*the formalised, systematic and comprehensive process of evaluating the environmental impacts of a policy, plan or programme and its alternatives*”. SEA has a number of advantages, including inter alia the consideration of environmental objectives at policy and planning stages, facilitation of consultation, consideration of alternatives, provides a common basis for EIA preparation and avoids duplication, and ensures that total activity level in one region does not impose unacceptable regional environmental impacts.

SEA has been recognised by the EC since the late 1980’s, however progress was slow until the recent adoption of the Council Directive on the assessment of the effects of certain plans and programmes on the environment 2001/42/EC (SEA Directive). This Directive is yet to be implemented in the UK, although DECC is in the process of undertaking a series of strategic environmental assessments for regions of the UKCS.

#### Polluter Pays Principle

The polluter pays principle is the term commonly used to describe the process of determining the costs of environmental degradation and to impose those costs on those that create the problem. Assessing the cost of environmental damage is however a controversial and complex issue. As a result, it is often practice to charge an operator for restoration, remediation or prevention costs, which are easier to estimate, rather than attempt to put a value on the damage caused. More commonly, the polluter pays principle has been implemented through direct charges at point of discharge or waste generation through the imposition of fees and licence costs.

The EU Directive on Environmental Liability, 2004/35/EC, has the polluter pays principle at its core and its objective is that “*wherever possible, in accordance with the polluter pays principle, the operator, who has caused the environmental damage or who is faced with an imminent threat of such damage occurring, must ultimately bear the cost associated with those measures*”.

## Key Regulatory Bodies

Department for Energy Security and Net Zero (DESNZ) – [Department for Energy Security and Net Zero – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/department-for-energy-security-and-net-zero)

DESNZ brings together much of the Climate Change Group, previously housed within the [Department for Environment, Food and Rural Affairs \(Defra\)](https://www.gov.uk/government/organisations/department-for-environment-food-and-rural-affairs), with the Energy Group from the [Department for Business, Enterprise and Regulatory Reform \(BERR\)](https://www.gov.uk/government/organisations/department-for-business-enterprise-and-regulatory-reform).

DESNZ is the UK government department with responsibility for regulating the offshore oil and gas industry. Oil and gas activities sit within the Energy Development Unit (EDU) with two groups managing environmental aspects of offshore oil and gas activities – Licensing Exploration and Development (EDU-LED) and Environment & Decommissioning (EDU-ED).

DESNZ has regulatory responsibility for environmental protection from low water mark out across the UK continental shelf. They are the principal environmental regulator for the offshore oil and gas industry for every stage of activity from licensing, to exploration, through new projects and operations to decommissioning. DESNZ also has, on an agency basis on behalf of the MCA, an oil spill planning regulatory function for the offshore oil and gas industry.

Key legislation for which DESNZ has enabled powers are the Petroleum Act 1998 and the Pollution, Prevention and Control Act 1999.

**Department for Environment Food and Rural Affairs (DEFRA) – in England and Wales –**  
[www.defra.gov.uk](https://www.defra.gov.uk)

**Scottish Government Environment Directorate (SGED) – in Scotland –** [www.scotland.gov.uk](https://www.scotland.gov.uk)  
**Centre for Environment, Fisheries and Aquaculture Science (CEFAS) –** [www.cefas.co.uk](https://www.cefas.co.uk)  
**Marine Scotland (MS) –** [www.scotland.gov.uk/About/Directorates/marinescotland](https://www.scotland.gov.uk/About/Directorates/marinescotland)

DESNZ and the Scottish Government Environment Directorate as Government departments, have responsibility for implementation of Government programmes for the protection of the environment, food (including fisheries) and rural affairs. This includes drafting and implementation of statutory instruments and the production of Guidance Notes and Codes of Practice. At the European and international level, DESNZ represents the UK’s environmental interests at meetings and conventions, including OSPAR.

These agencies and departments will provide advice to other Government Departments (including DESNZ) and Agencies (including EA/SEPA) on a range of subjects, in particular on: the interaction between fisheries and offshore operations, rig location, seismic surveys, pipeline laying and seabed mining, dumping at sea including decommissioning, marine pollution including dispersant and chemical use and pipeline discharges.

In Scotland, many advisory responsibilities to the offshore oil and gas industry are delegated to MS, an executive agency of the Scottish Government. MS now integrates the work of several precursor bodies including the Fisheries Research Services (FRS).

CEFAS is the equivalent to MS in England and Wales, and also provides an advisory role to government. CEFAS also has a particular role in the licensing of chemicals for offshore use.

The main operational functions of MS and DEFRA/CEFAS directly affecting environmental controls of offshore activity include:

- Offshore drilling, production and utility chemicals including: testing and classification of chemicals, consultation over large-scale use, advice to DECC on the Offshore Chemical Notification Scheme (OCNS);
- Licensing, testing and permission to use dispersants;
- Consultee and advisor to DESNZ on development of oil spill plans in order to discharge their responsibility for marine environmental protection;
- Consultee and advisor to DESNZ on submitted Environmental Statements; and
- Licensing of dumping at sea including pipelines and decommissioning.

Key legislation for which DEFRA and Scottish Government/MS have enabled powers are the Environmental Protection Act 1990 and the Food and Environment Protection Act 1985.

Joint Nature Conservation Committee (JNCC) – [jncc.defra.gov.uk](http://jncc.defra.gov.uk)

The JNCC are the UK body with responsibility for promoting nature conservation at UK and international levels and is one of four statutory bodies with responsibility for nature conservation in Britain. The JNCC is the coordinating body for the national councils (Countryside Council for Wales, Natural England and Scottish Natural Heritage).

The JNCC are the main government and oil industry advisor on offshore sensitivities with respect to seabirds and cetaceans. Their key functions include:

- Advice to government on licensing areas;
- Government consultee on a wide range of issues including development plans, pipeline authorisations, decommissioning plans and environmental impact assessments;
- Consultee for the oil and gas industry on offshore acreage environmental sensitivity, seismic/drilling/production plans, oil spill plans, environmental assessments, decommissioning plans;
- Research into offshore seabirds and cetaceans; and
- Advice on best practice in offshore seismic operations (including requirements for Marine Mammal Observers).

The JNCC is also the body responsible for identification and recommendation on offshore conservation areas under the EU Habitats Directive.

**OSPAR Commission** – [www.ospar.org](http://www.ospar.org)

The OSPAR Commission are responsible for administration of the Convention for the Protection of the North East Atlantic 1992 (OSPAR Convention). The OSPAR Commission has the status of an international organisation in terms of UK legislation and the OSPAR Secretariat is based in London.

The OSPAR Commission is organised into various tiers of committees, working groups and task teams as shown in the figure below. There are two main committees: Programmes and Measures Committee (PRAM) and Environmental Assessment and Monitoring Committee (ASMO). The function of PRAM is to draw up programmes and measures for the prevention and elimination of pollution of the maritime area. The function of ASMO is generally to review the condition of the maritime area, the effectiveness of the measures being adopted, the priorities and the need for additional or different measures in accordance with Annex IV of the OSPAR Convention 1992.

Reporting to each of these committees are several third tier working groups. Of these, the Working Group on Sea Based Activities (SEBA) is concerned mainly with offshore oil and gas activities.

Maritime and Coastguard Agency (MCA) – [www.mcga.gov.uk](http://www.mcga.gov.uk)

The MCA are an executive agency of the Department for Transport, and are responsible for implementing the Government's maritime safety policy. This includes coordinating search and rescue at sea through Her Majesty's Coastguard, and checking that ships meet UK and international safety rules. The MCA also works to prevent pollution from shipping and pollution of the coastline.

The MCA has regulatory authority over those aspects of the offshore oil and gas industry that fall under the MARPOL Convention 73/78, including machinery space discharge, sewage discharges and garbage at sea.

The MCA are also the UK national competent authority for oil spill response and planning, although they have granted to DECC, on an agency basis, their oil spill planning regulatory function for offshore oil and gas installations. They have retained this role for all ships (including tankers), ports, harbours and coastal terminals. The Secretary of State's Representative (SOSREP) has the power of intervention for large scale oil spill incidents from ships (including offshore platforms).

The key enabling legislation is the Merchant Shipping Act 1995 and the Merchant Shipping and Maritime Security Act 1997.

Environment Agency (EA) – in England and Wales – [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)  
Scottish Environment Protection Agency (SEPA) – in Scotland – [www.sepa.org.uk](http://www.sepa.org.uk)

EA and SEPA are non-departmental public bodies, ultimately responsible to the UK Government through the Secretary of State for the Environment (for EA) and the Secretary of State for Scotland (for SEPA).

The EA and SEPA are responsible for protecting and enhancing the environment in their respective regions in an integrated manner. EA/SEPA have statutory responsibilities and powers in relation to pollution control (water, land and air), water resources, flood defence, waste management and a range of other functions including contaminated land, producer responsibility and the National Waste Strategy. EA and SEPA have the following key functions:

- Issuing of authorisations, licences and consents for emissions, discharges and disposal to air, water and land; monitoring compliance and enforcement, including prosecutions under IPPC and water legislation;

- Waste management licensing, including the registration of carriers, regulating the movement of waste, and the regulation of special waste and radioactive waste disposal, production of technical guidance on waste management;
- Regulation of contaminated land;
- Provision of advice and guidance to industry and others on best environmental practice;
- Control of industrial installations under COMAH Regulations (jointly with the HSE).

In England and Wales, some of the responsibilities under IPPC have been retained by the local authorities (see below).

Key legislation enabling powers of SEPA and EA are the Environment Act 1995, the Environmental Protection Act 1990 and the Pollution Prevention and Control Act 1999.

NatureScot – <https://www.nature.scot/>

Natural England (NE) – [www.naturalengland.org.uk](http://www.naturalengland.org.uk)

Countryside Commission for Wales (CCW) – [www.ccw.gov.uk](http://www.ccw.gov.uk)

NatureScot/NE/CCW are government agencies, ultimately responsible to Parliament through the Scottish Secretary, Department of the Environment and Welsh Secretary respectively. Their main role is to provide advice and recommendations to Government and others about the management and use of natural heritage. Management of natural heritage is focused on areas designated as Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs), Special Protection Areas (SPAs), National Nature Reserves (NNRs) and National Scenic Areas (NSAs).

NatureScot/NE/CCW provide an advisory function to government on nature conservation issues in their respective regions. Examples include provision of advice to local authorities regarding planning applications for new oil/gas facilities, or nature conservation interest of coastlines, and provision of advice to SEPA/EA (as appropriate) regarding consents and authorisations. Although SNH/EN/CCW are widely consulted for the majority of planning applications and consents to discharge, they have greater powers and responsibilities for applications which may affect statutory conservation areas as listed above.

#### Local Authorities

Local authorities are responsible for a number of areas of environmental control, in particular:

- Regulation of planning matters including new onshore oil/gas operations and onshore pipelines
- Enforcement of the Clean Air Act 1993, including regulation of smoke, grit, dust and fumes from furnaces
- Enforcement of noise control legislation and other statutory nuisance legislation
- Issue of consents for hazardous substances

In addition, in England and Wales, the local authorities have retained responsibility for local air pollution control (Part B) processes under Part I of the Environmental Protection Act 1990.

Health and Safety Executive (HSE) – [www.hse.gov.uk](http://www.hse.gov.uk)

The HSE is the government agency responsible for enforcing regulations and legislation on health and safety, which extends to some environmental matters e.g. transport of dangerous goods, chemical hazards, toxic substances and prevention of accidents. HSE functions include:

- Issuing of consents and registration for hazardous substances, and the accumulation of radioactive materials
- Control of industrial installations under COMAH Regulations (jointly with SEPA/EA)
- Control of pipelines under the Pipeline Safety Regulations