



Department for
Business, Energy
& Industrial Strategy

The Offshore Environmental Civil Sanctions Regulations 2018 – Draft Guidance

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Introduction

1.1 The UK Government is committed to ensuring environmental compliance. One of the Department for Business, Energy and Industrial Strategy's Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) most important roles is to protect the marine environment and ensure that all oil and gas operations are conducted in compliance with current environmental legislation.

1.2 Where a responsible person causes, or risks causing harm to the environment or fails to comply with the conditions of a permit granted to them or other legislative requirements or fails to obtain the relevant authorisations, OPRED needs to be able to act quickly and effectively to rectify this. The Offshore Environmental Civil Sanctions Regulations 2018 (the 2018 Regulations) have been introduced to ensure that OPRED has available to them a full range of appropriate and proportionate enforcement responses that are consistent with those of other UK environmental regulators and are in line with the Government's commitment to move away from unnecessary criminal offences and shift to civil sanctions in accordance with the Macrory principles on regulatory enforcement.

1.3 This guidance document is designed to set out how OPRED will apply the civil sanctions regime under the 2018 Regulations; how it makes decisions, and the processes followed by it. These civil penalties are distinct from the civil penalties available under the European Union Emissions Trading Scheme (EU ETS). As OPRED is the regulator for offshore oil and gas installations only, this guidance document is only relevant to offshore oil and gas installations. Further information on offshore oil and gas regulation can be found in OPRED's Enforcement Policy.

The 2018 Regulations

1.4 The 2018 Regulations came into force on 1 October 2018 and allow OPRED to apply civil sanctions ranging from £500 to £50,000 for breaches of existing environmental legislation; those being;

- The Offshore Chemicals Regulations 2002;
- The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005;
- The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013;



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- The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 and;
- The Offshore Installations (Emergency Pollution Control) Regulations 2002.

1.5 No changes have been made to the existing criminal offences, nor have any additional offences been created. The Secretary of State has exercised the same powers, expanded by section 62 of The Regulatory Enforcement and Sanctions Act 2008 (RESA), to provide for civil sanctions.

1.6 The 2018 Regulations allow for the imposition of both fixed and variable financial penalties;

- A fixed monetary penalty is most suitable for offences where a low-level monetary penalty is more likely to change an offender's behaviour and encourage future compliance, for example because advice and guidance has failed;
- A variable monetary penalty is most suitable for the more serious of offences under the 2018 Regulations where the imposition of the variable penalty may change the offender's behaviour, deter others and/or lead to a faster resolution. A variable monetary penalty may be appropriate in cases where there is evidence of negligence or mismanagement, or where fixed monetary penalties have been issued in response to previous breaches but have failed to change the offender's behaviour.

1.7 The full table of the offences to which the 2018 Regulations apply and appropriate civil sanctions applicable to each, is attached to this document at Annex A.

1.8 The civil penalties in the 2018 Regulations may only be applied in relation to offences occurring on, or after, 1 November 2018.

Establishing liability

1.9 OPRED must be satisfied **beyond all reasonable doubt** that an offence has been committed before a civil sanction under the 2018 Regulations can be imposed. When we do decide to impose such a sanction the same safeguards will apply as when we decide to pursue a prosecution.

1.10 OPRED have in place robust internal governance arrangements for enforcement decisions which ensure that decisions about the use of enforcement action are made at an appropriate level in the organisation. For example, decisions relating to the liability of the potential recipient of a sanction will be made by trained investigations officers with extensive knowledge of the criminal justice system and the associated legal and evidential requirements. These decisions will be subject to internal scrutiny by managers not directly involved in the investigation, and in some cases, to additional scrutiny by lawyers external to OPRED. As well



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as ensuring that liability has been established to the required legal standard (beyond reasonable doubt) this scrutiny will also ensure that the requirement of the Regulators Code have been followed and that the decision re liability is proportionate, fair and consistent with decisions taken in relation to similar cases. These arrangements will apply to the application of civil sanctions under the 2018 Regulations.

1.11 OPRED will ensure that the recipient of a notice of intent understands the case against them. To achieve this, OPRED will set out the circumstances of the alleged offence to the extent that they are known to us and the reasons for the proposed action, including the evidence held. If OPRED know of any material which weakens our case or assists in a defence, we will disclose this. If evidence is so sensitive a court should rule on its disclosure or admissibility OPRED will consider whether we should prosecute instead of imposing a civil sanction.

1.12 There are additional safeguards relating to the imposition of fixed and variable civil sanctions, these include;

- Any person who receives from OPRED a notice of intent to issue a civil penalty (fixed or variable) is entitled to submit representations to OPRED before a final decision is made;
- Any person who receives a civil penalty notice from OPRED following the receipt of a notice of intent is entitled to appeal against the decision to serve the civil penalty notice, whether or not they have already made representations.

1.13 These additional safeguards ensure that there are mechanisms to influence, and where appropriate, challenge the actions of OPRED.

1.14 OPRED will carefully consider and weigh any representations received and review our evidence in light of this. Decisions to proceed with a civil sanction in the face of representations to the contrary will be reviewed internally by managers who were not directly involved in the investigation.

1.15 When issuing a civil penalty notice OPRED will always include information on any right to appeal against that notice.

Determining whether a civil sanction is appropriate

1.16 Where OPRED is satisfied that there is sufficient evidence to prove beyond reasonable doubt that an offence giving rise to a civil sanction under the 2018 Regulations has occurred, OPRED must consider whether the imposition of a civil sanction is appropriate. To do this we will refer to the principles of enforcement set out in the Enforcement Policy and listed as follows;



- **Proportionality** – OPRED aims to ensure that the level of enforcement action reflects the seriousness of the breach. The more serious the breach, the more likely a civil sanction will be applied.
- **Targeting**– OPRED aims to ensure regulatory enforcement effort is directed primarily towards those whose activities are the least in line with the Regulations. For example, if persons have been subject to previous warnings or enforcement action with no evidence of improvement, or have a history of reportable incidents, the imposition of a civil sanction is more likely.
- **Consistency of approach** – OPRED recognises that consistency cannot be as simple as conformity and we take into account a number of factors including, but not limited to, the scale of the breach, causal factors and circumstances that gave rise to the breach, including those that arose as the result of something which could not reasonably have been prevented or was due to something done as a matter of urgency for the purpose of securing the safety of any person. Each situation is unique and there is discretion within the framework of this policy to exercise professional judgement to ensure appropriate action is taken.
- **Transparency** – OPRED aims to help those being regulated to understand what is expected of them and what they should expect from OPRED. As such we have safeguards to ensure that any civil sanction action is clearly explained within the notice of intent.
- **Accountability** – OPRED is accountable to the Secretary of State, Parliament and to the public for our actions. To achieve this, we have policies and standards against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

1.17 OPRED will also consider the facts of the individual case against public interest factors, the importance of each of these factors may vary on a case by case basis. Deciding on public interest is not simply a matter of adding up the number of factors in favour of or against applying a civil sanction. OPRED will decide how important each factor is in the circumstances of each individual case and will make an overall judgement. The public interest factors OPRED will consider will include, but not be limited to;

- **Intent** – Offences that are committed deliberately, recklessly or with gross negligence are more likely to result in the imposition of a civil sanction than those resulting from an accident or genuine mistake;
- **Foreseeability** – Where the circumstances leading to the offence could reasonably have been foreseen, and no avoiding and/or preventative measures were taken a civil sanction is more likely to be imposed;



- **Environmental Impact** – OPRED will consider the extent and significance of the potential and/or actual harm to the environment. Whether steps have been taken to mitigate any harm and/or restore the environment. Non-compliance with environmental legislation could lead to a significant offshore incident with detrimental environmental consequences.
- **Nature of the Offence** – Where the offence impacts OPRED's ability to be an efficient and effective regulator, for example where an inspector is obstructed, and this obstruction has prevented them carrying out their duties; or where we are intentionally, recklessly or wilfully provided with false or misleading information, consideration will be given to the imposition of a civil sanction;
- **Financial Implications** – Where profits are made, or costs avoided, or the offence is motivated by financial gain, a civil sanction is more likely to be imposed;
- **Deterrent Effect** – OPRED will consider the deterrent effect on both the offender and others when considering the imposition of a civil sanction;
- **Previous History** – The level of offending and/or non-compliance by an operator will be considered and our enforcement response will normally escalate where previous action has failed to achieve the desired outcome. For example, where an Enforcement Notice has been served but has failed to encourage a change of behaviour and/or prevent repeat offending, it is more likely a civil sanction will be considered;
- **Attitude of the Offender** – Where an operator has a poor attitude towards the offence and/or is uncooperative with the investigation consideration will be given to a civil sanction. Conversely, where an operator voluntarily reports a potential offence through the self-reporting mechanism and/or cooperates with any subsequent investigation this will be taken into account.

1.18 Prior to imposing any sanction, OPRED will send a notice of intent to potential recipients, setting out the rationale behind our provisional decision that a civil sanction would be appropriate in this case. The potential recipient will have the opportunity to submit written representations to OPRED, setting out why they feel a sanction would not be appropriate, which OPRED will consider fully before coming to a final decision.

1.19 As with the decision establishing liability, the decision as to whether a civil sanction is appropriate will be subject to internal scrutiny by managers not directly involved in the investigation, and in some cases, to additional scrutiny by lawyers external to OPRED, before a final decision is made.



Procedure for imposing fixed monetary penalties

1.20 A fixed monetary penalty (FMP) is a financial penalty which OPRED may impose for specified offences. There are three levels of FMP's which OPRED may impose those being; £500, £1,000 and £2,500. The amount of the penalty which may be imposed in relation to a particular offence, is fixed and is detailed within Annex A. FMPs are not available for all offences. The offences for which an FMP can be imposed are set out in Annex A.

1.21 Before imposing an FMP, OPRED must be satisfied, beyond reasonable doubt, that an offence has been committed. Furthermore, the imposition of an FMP is not appropriate under the following circumstances;

- An FMP has already been imposed on that person for the same offence;
- A variable monetary penalty notice has been served on that person for the same offence;
- A person has discharged liability for an FMP in relation to the same offence;
- An undertaking from the same person in relation to the same offence has been accepted by OPRED and complied with;
- Criminal proceedings have already commenced in relation to the same offence.

1.22 Where OPRED considers it appropriate to impose an FMP we will serve a notice of intent giving the person an opportunity to make representations, within 28 calendar days from the date of the notice. The notice of intent will contain the following information:

- A description of the offence which OPRED considers having been committed;
- A summary of the evidence being relied upon;
- The amount of the FMP proposed;
- Information about the right to discharge liability including how payment can be made;
- Information about the right to make representations in relation to the proposed FMP.

1.23 The person on whom the notice of intent is served may discharge their liability for the FMP by paying two-thirds of the amount of the proposed FMP within a period of 28 days beginning with the day on which the notice of intent is received.

1.24 Representations may include evidence that;



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- the offence alleged in the notice of intent did not occur, or was not committed by the recipient;
- there is a defence available.

1.25 OPRED will take account of any representations received in response to the notice of intent and make a decision on whether we intend to impose an FMP at the earliest practicable time.

1.26 If, after the period for representations has expired, no representation has been made OPRED will issue the final FMP notice, unless other evidence has come to light that changes this decision. If OPRED decide not to issue the FMP final notice, we will inform the person of this decision in writing.

1.27 Once a final decision has been made, we will notify the person of this. Where the decision is to impose a civil penalty, a final FMP notice will be issued containing a summary of the reasons for its imposition. The penalty notice will include the following;

- a description of the offence that has been committed;
- the amount of the FMP;
- how payment is to be made;
- when payment is due;
- information about the right to appeal against the imposition of the FMP;
- the consequences of non-payment.

1.28 An FMP may be used alone or combined with other enforcement action (except a variable monetary penalty, enforcement undertaking or prosecution) to achieve the desired outcome.

1.29 A person on whom a final notice is served can appeal to the First-tier Tribunal (General Regulatory Chamber) within 28 days of receiving the final FMP notice, on the basis that;

- the decision was based on an error of fact;
- the decision was wrong in law;
- the decision was unreasonable;
- any other reason.

OPRED will provide details in the final notice about how to appeal. An appeal means that payment of the penalty is postponed until after the appeal has concluded.



1.30 An FMP must be paid within a period of 28 days beginning with the day on which the final notice is received. If a person fails to pay an FMP, it is recoverable as a civil debt.

Procedure for imposing variable monetary penalties

1.31 A variable monetary penalty (VMP) is a financial penalty which OPRED may impose for specified offences. The maximum penalty amount OPRED can impose is £50,000 for any single offence. The offences for which a VMP can be imposed are set out in Annex A.

1.32 Before imposing an VMP, OPRED must be satisfied, beyond reasonable doubt, that an offence has been committed. Furthermore, the imposition of an VMP is not appropriate under the following circumstances;

- A VMP has already been imposed on that person for the same offence;
- An FMP has already been imposed on that person for the same offence;
- A person has discharged liability for an FMP in relation to the same offence;
- An undertaking from the same person dealing with the same offence has been accepted by OPRED and complied with (although a reduced VMP may be imposed at the time of accepting the undertaking if the undertaking is not considered sufficient to fully reflect the seriousness of the offence);
- Criminal proceedings have already commenced in relation to the same offence.

1.33 Where OPRED considers it appropriate to impose an VMP we will serve a notice of intent giving the person an opportunity to make representations, usually within 28 calendar days from the date of the notice. The notice of intent will contain the following information:

- A description of the offence which OPRED considers having been committed;
- A summary of the evidence being relied upon;
- The amount of the VMP proposed;
- Information about the right to make representations in relation to the proposed VMP;

1.34 Representations may include information that;

- the offence alleged in the notice of intent did not occur or was not committed by the recipient;
- there is a defence available;
- the amount of the VMP is incorrect or unreasonable.



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1.35 OPRED will take account of any representations received in response to the notice of intent and make a decision on whether we intend to impose an VMP at the earliest practicable time.

1.36 If, after the period for representations has expired, no representation has been made OPRED will issue the final VMP notice, unless other evidence has come to light that changes this decision. If OPRED decide not to issue the VMP final notice, we will inform the person of this decision in writing.

1.37 Once a final decision has been made, we will notify the person of this. Where the decision is to impose a civil penalty, a penalty notice will be issued containing a summary of the reasons for its imposition. The penalty notice will include the following;

- a description of the offence that has been committed;
- the amount of the VMP;
- how payment is to be made;
- when payment is due;
- information about the right to appeal against the imposition of the FMP;
- the consequences of non-payment.

1.38 A VMP may be used alone or combined with other enforcement action (except a fixed monetary penalty or prosecution) to achieve the desired outcome.

1.39 A responsible person can appeal to the First-tier Tribunal (General Regulatory Chamber) within 28 days of receiving the final VMP notice, on the basis that;

- the decision was based on an error of fact;
- the decision was wrong in law;
- the amount of the penalty is unreasonable;
- the decision was unreasonable for any other reason;
- any other reason.

OPRED will provide details in the final notice about how to appeal. An appeal means that payment of the penalty is postponed until after the appeal has concluded.

1.40 A VMP must be paid within a period of 28 days beginning with the day on which the final notice is received. If a person fails to pay a VMP, it is recoverable as a civil debt.



Calculating the amount of a Variable Monetary Penalty

1.41 OPRED has the discretion to decide on the level of VMP to impose in each individual case and will take into account the key principles of proportionality, consistency, transparency, targeting of action and accountability when making its decision.

1.42 VMPs are only available in relation to the more serious offences. The starting point for a VMP will generally be £5,000, this will then be adjusted up or down to reflect the aggravating or mitigating factors of the case, up to a maximum of £50,000, with no minimum amount. In addition to the public interest factors listed in 1.17 of this guidance OPRED will have consideration for the following when determining the amount of a VMP. Whether:

- environmental harm has been, is likely to be, or potentially could have been caused by the offence;
- the regulatory system has been undermined by the offence; for example, a failure to comply with an enforcement notice;
- there has been financial benefit or competitive advantage; for example, operating without a permit;
- advice and guidance in relation to previous similar offences has already been issued by OPRED;
- the offence is ongoing;
- remedial steps have been taken to return to compliance;
- the offence is a first-time offence;
- there has been voluntary reporting of the offence.

1.43 It is important to highlight that when deciding on the amount of a VMP consistency will not equate to conformity and the circumstances of each individual case will be considered before coming to a final decision.

1.44 The final decision on the amount of a VMP to be imposed will be made at an appropriate level in the organisation.

Variable Monetary Penalty Undertakings

1.45 In response to OPRED issuing a VMP notice of intent a person can offer a variable monetary penalty undertaking to make amends for non-compliance and its effects and to prevent recurrence. This is a limited opportunity for a person to make an offer which brings benefit to any person affected by the non-compliance.



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1.46 The period in which a person can offer an undertaking is within 35 days, beginning on the day in which the penalty notice was received.

1.47 VMP undertakings are intended to encourage positive behaviour by allowing the responsible person to use their resources to the greater benefit of those affected by the non-compliance, in place of paying part or all the penalty imposed. The offer of a VMP undertaking by a person may comprise a range of actions for the following purposes;

- To ensure the position, including the condition of the environment, is restored to what it would have been if the offence had not been committed;
- To provide benefit to those affected that matches the extent of harm arising from the offence;
- To ensure that no financial benefit has accrued to the responsible person as a result of the offence being committed.

1.48 The offer of a VMP undertaking needs to be accepted by OPRED and whilst we are under no obligation to accept any offer of a VMP undertaking we have included below guidance about making an acceptable offer.

1.49 OPRED will consider an offer of a VMP undertaking in the following circumstances where;

- Any financial benefit accrued has been negated by the enforcement undertaking
- The measures proposed are likely to ensure no repeat offending;
- It delivers a better environmental outcome, demonstrating a commitment to long term actions to prevent recurrence;
- It demonstrates a positive change of behaviour of the responsible person;
- OPRED believe the responsible person will comply with the conditions of the enforcement undertaking.

1.50 If requested and where appropriate OPRED will give some feedback on draft proposals for the offer of a VMP undertaking submitted by a person, however we do not intend to enter protracted negotiations about the offer. We will either accept or decline an offer based on its content. We expect the person to address the following points when making an offer;

- To prevent recurrence;
- To demonstrative longer-term preventative benefits for the environment and those affected;
- To go beyond the minimum required to restore the environment;
- To remove more than any financial benefit gained.

OPRED will look more favourably on an offer which;



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- Demonstrates longer term preventative benefits for the environment and those affected;
- Delivers restoration to the environment and those affected;
- Sets clear and measurable objectives and timescales

1.51 OPRED will confirm in writing whether or not we will accept an offer of a VMP undertaking. If an undertaking is accepted, then OPRED will take this into account in deciding whether a VMP should be imposed and if so whether it should be for a lower amount than that stated in the notice of intent.

1.52 If an offer of a VMP undertaking is declined by OPRED, the responsible person making the offer has no right of appeal against that decision.

1.53 If a responsible person fails to comply with a VMP undertaking accepted by OPRED, a non-compliance penalty may be served on that person. This will include circumstances where a responsible person uses their accepted undertaking to delay returning to compliance or to delay the remediation and restoration of the environment. Where a VMP undertaking has been accepted and as a result no VMP has been imposed, OPRED may issue a VMP or consider prosecution if the VMP undertaking is not complied with.

Non-compliance penalties

1.54 A non-compliance penalty (NCP) is a monetary penalty, up to a maximum of £50,000, which OPRED can impose when a responsible person has failed to comply with an accepted VMP undertaking. This means that the responsible person has failed to deliver on one or more of the agreed actions.

1.55 OPRED will impose the NCP by issuing an NCP notice to the responsible person. An NCP notice can be issued where there has been full or partial non-compliance with the VMP undertaking and OPRED will give consideration to the reasons for non-compliance before issuing an NCP notice.

1.56 OPRED are unable to issue an NCP when the responsible person has failed to comply with;

- A fixed monetary penalty;
- A variable monetary penalty.

1.57 The starting point for assessing the level of NCP to be imposed will always be the amount of the VMP proposed in the notice of intent and stated in the acceptance of the VMP undertaking with an uplift dependent on the circumstances of the non-compliance with the VMP undertaking up to a maximum of £50,000. An NCP is a separate penalty and where a (reduced)



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VMP has been imposed alongside the VMP undertaking, then the VMP will remain payable in addition to the NCP.

1.58 An NCP notice will be issued containing the following;

- The grounds for imposing the NCP;
- the amount of the NCP;
- how payment is to be made;
- when payment is due;
- information about the right to appeal against the imposition of the FMP;
- the consequences of non-payment.

1.59 The responsible person has the right to appeal to the First-tier Tribunal (General Regulatory Chamber) within 28 days of receiving the NCP notice on the basis that;

- The decision to serve the NCP notice was based on an error of fact;
- The decision was wrong in law;
- The decision was unreasonable for any reason (including that the amount is unreasonable);
- Any other reason.

OPRED will provide details about how to make an appeal in the NCP Notice. An appeal means that payment of the penalty is postponed until after the appeal is concluded.

1.60 An NCP must be paid within a period of 28 days beginning with the day on which the NCP notice is received. If a person fails to pay a VMP, it is recoverable as a civil debt.

Publication of civil penalties

1.61 The 2018 Regulations include a requirement for publication of enforcement action. Publication will take place as soon as possible after the expiry of the period for appealing the imposition of a penalty; or when an appeal has been made, after the determination or withdrawal of that appeal. The following cases will be published;

- The cases in which a fixed or variable monetary penalty or a non-compliance penalty has been imposed (other than cases where the penalty has been imposed but overturned on appeal);



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- The cases in which liability for a fixed monetary penalty has been discharged by payment under regulation 5(4) of the 2018 Regulations;
- The cases in which an undertaking has been accepted and complied with.

1.62 Generally, OPRED will include the following information in any publication:

- the person on whom the penalty was imposed or undertaking accepted and complied with;
- details of the offence; and
- the amount of any penalty.

OPRED is not required to publish anything that it thinks not suitable for publication.

1.63 Publication means publishing details on the GOV.UK web-pages.



Annex A – Table of Offences and Civil Penalties Applicable

| Regulation | Offence | Level of Sanction |
|---|---|--|
| The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 | To operate an offshore combustion installation (a) without a permit or (b) in breach of the conditions of a permit | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | To fail to comply with an information, enforcement or prohibition notice | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | To make a false or misleading statement | £1,000 fixed monetary penalty |
| | To obstruct an inspector in the exercise or performance of his powers or duties. | £1,000 fixed monetary penalty |
| | To fail to comply with a requirement under regulation 25 - requirement to answer questions, produce records, afford facilities and assistance | £1,000 fixed monetary penalty |
| | To prevent a person appearing before an inspector or answering a question to which the inspector may require an answer | £1,000 fixed monetary penalty |

| Regulation | Offence | Level of Sanction |
|---|---|---|
| The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 | To contravene regulation 3(1) – no oil to be discharged except in accordance with the permit for the installation | A variable monetary penalty up to a maximum of £50,000 |
| | To contravene regulation 3A – to release oil or allow a release to continue | A variable monetary penalty up to a maximum of £50,000 |
| | To fail to comply with the terms of an enforcement or prohibition notice | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating |



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| | | factors. |
| | To fail to supply information required to be supplied by virtue of regulation 11A – information required by the Secretary of State | £1,000 fixed monetary penalty |
| | To fail to supply information required to be supplied by virtue of the terms or conditions of any permit | £1,000 fixed monetary penalty |
| | To wilfully obstruct an inspector appointed under regulation 12 | £1,000 fixed monetary penalty |
| | Without reasonable excuse, fail to comply with a requirement imposed under regulation 12(3) – requirement to answer questions, produce documents, afford facilities and assistance | £1,000 fixed monetary penalty |
| | To make a false or misleading statement | £1,000 fixed monetary penalty |

| Regulation | Offence | Level of Sanction |
|---|--|--|
| The Offshore Installations (Emergency Pollution Control) Regulations 2002 | To contravene or fail to comply with a direction given to the person under regulation 3 – Secretary of State giving direction | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | To intentionally obstruct a person who is acting on behalf of the Secretary of State in connection with giving a direction, acting in compliance with a direction, acting under regulation 3(4) or (5) | £1,000 fixed monetary penalty |

| Regulation | Offence | Level of Sanction |
|---|--|---|
| The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 | The operator of an oil handling facility or responsible person to fail to submit an Oil Pollution Emergency Plan (OPEP) in accordance with | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, |



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| | regulation 4(3), (4) or (5) | where there are aggravating factors. |
| | The operator of an oil handling facility or responsible person to fail to implement its OPEP in contravention of regulation 4(8) | £1,000 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | A responsible person (a) to fail to comply with a duty under regulation 4(9) or (b) to breach an obligation in regulation 4(10) | £1,000 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | An operator of an oil handling facility to breach an obligation in regulation 4(11) | £1,000 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | To fail to comply with a requirement under regulation 5 or 6 or to make a report | £1,000 fixed monetary penalty |
| | The operator of an oil handling facility or responsible person to fail to maintain an OPEP as approved under regulation 4(5) to (7) | £500 fixed monetary penalty |

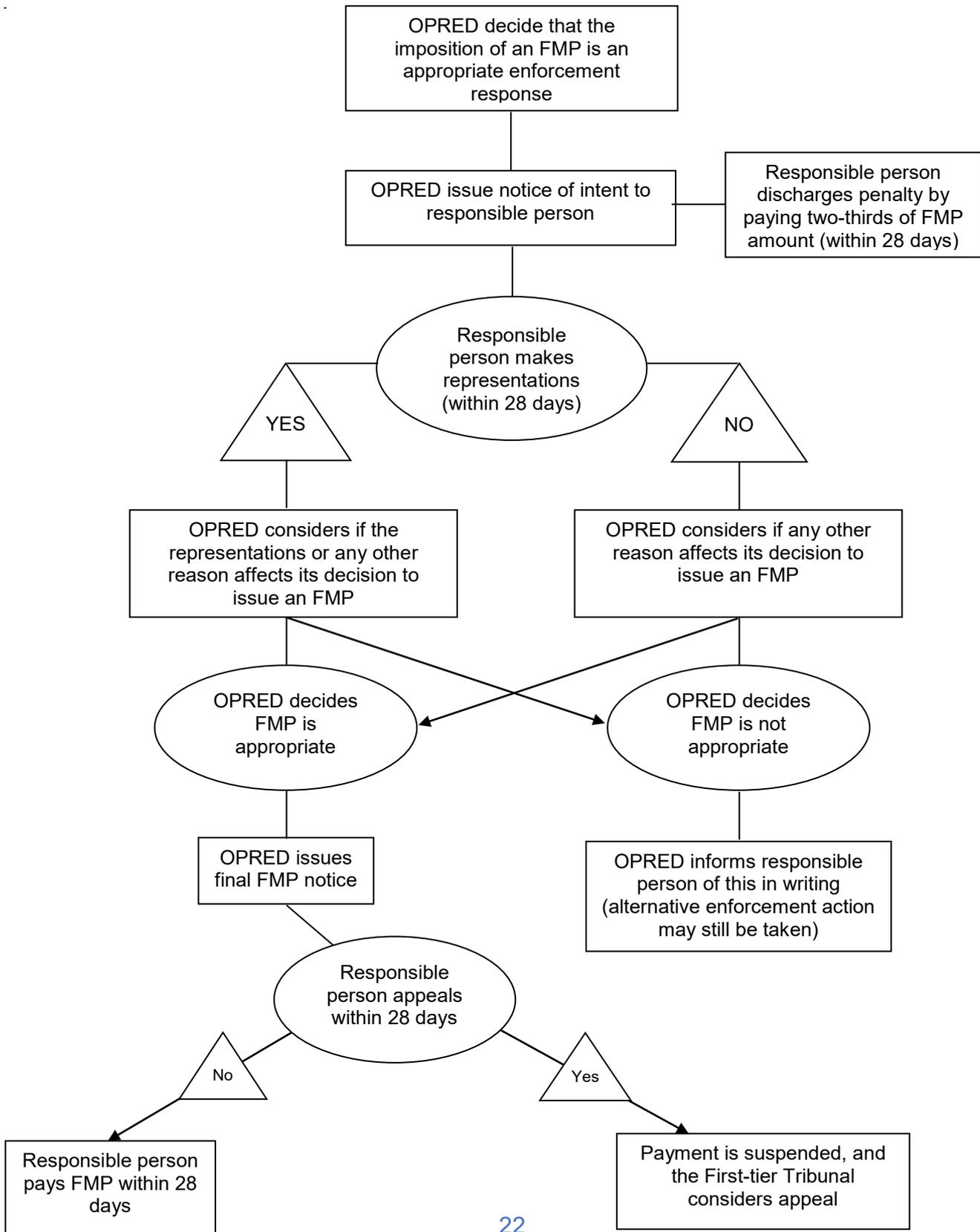
| Regulation | Offence | Level of Sanction |
|---|---|--|
| The Offshore Chemicals Regulations 2002 | To contravene regulation 3(1) – the requirement for a permit to use or discharge offshore chemicals | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | To contravene regulation 3A – prohibition on the release of offshore chemicals | £2,500 fixed monetary penalty for a single breach with no aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | Failure to comply with the terms of an enforcement or | £2,500 fixed monetary penalty for a single breach with no |



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| | prohibition notice | aggravating factors. Variable monetary penalty up to a maximum of £50,000, where there are aggravating factors. |
| | Failure to supply information required to be supplied by virtue of regulation 15 | £1,000 fixed monetary penalty |
| | Failure to supply any information required to be supplied by the terms of any permit | £1,000 fixed monetary penalty |
| | Knowingly or recklessly makes a false statement in connection with, or for the purposes of, any permit application, permit transfer or any application under regulations 10 – renewal of a permit, or 11 – variation of a permit | £1,000 fixed monetary penalty |
| | Knowingly or recklessly makes a false statement for the purposes of satisfying and requirement for the supply of information to the Secretary of State or an inspector | £1,000 fixed monetary penalty |
| | Without reasonable excuse fails to comply with a requirement imposed under regulation 16 or prevents a person from complying with regulation 16 | £1,000 fixed monetary penalty |
| | Wilfully obstructing an inspector | £1,000 fixed monetary penalty |

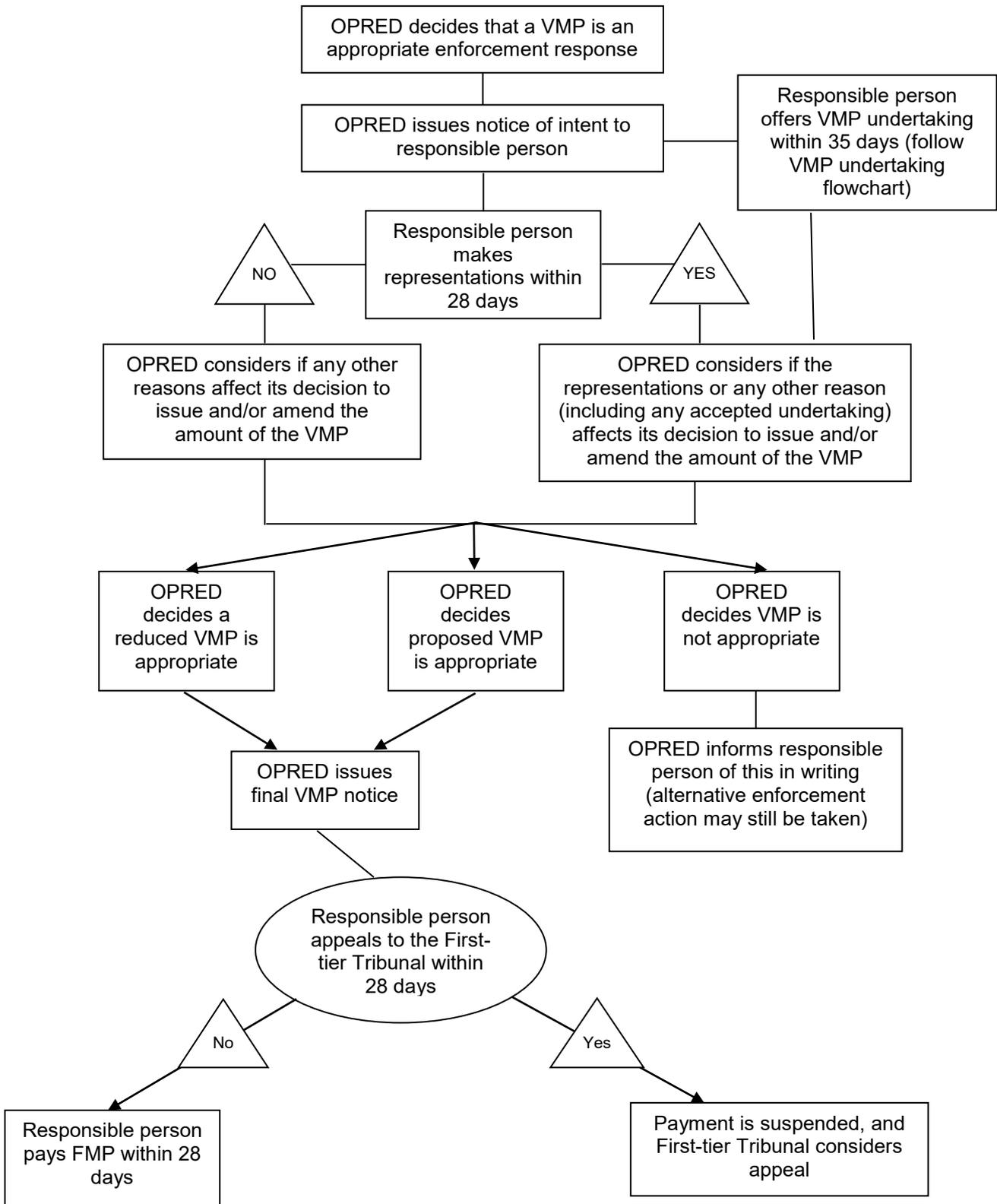


Annex B – Fixed Monetary Penalty Flowchart





Annex C – Variable Monetary Penalty Flowchart





Annex D – Variable Monetary Penalty Undertaking Flowchart

