



Number 26 of 2015

Petroleum (Exploration and Extraction) Safety Act 2015



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PETROLEUM (EXPLORATION AND EXTRACTION) SAFETY ACT 2015

CONTENTS

Section

1. Definitions
2. Interpretation - Part IIA of Act of 1999
3. Competent authority
4. Functions of Commission relating to petroleum safety
5. Emergency preparedness
6. Petroleum safety framework
7. Obligations on petroleum undertakings, operators and owners
8. Safety case guidelines
9. Safety case and revised safety case
10. Review and revision of safety cases
11. Duty to conform with safety case
12. Notifications
13. Safety permit
14. Refusal or revocation of safety permit
15. Reportable petroleum incident
16. Actions Commission may take following report of petroleum incident or notification of immediate danger
17. Reporting of petroleum incidents to Minister by Commission
18. Regulations - Part IIA of Act of 1999
19. Improvement plan and notice
20. Access to safety case information
21. Miscellaneous amendments - Act of 1999
22. Amendment of Petroleum and Other Minerals Development Act 1960 - definitions, assessment of licence applicant and approval of operator
23. Amendment to section 6 of Continental Shelf Act 1968 - protection of installations in designated areas
24. Short title and commencement

[No. 26.]

Petroleum (Exploration and Extraction) Safety Act 2015.

[2015.]

ACTS REFERRED TO

Continental Shelf Act 1968 (No. 14)

Electricity Regulation Act 1999 (No. 23)

Foreshore Act 1933 (No. 12)

Gas Act 1976 (No. 30)

Petroleum (Exploration and Extraction) Safety Act 2010 (No. 4)

Petroleum and Other Minerals Development Act 1960 (No. 7)

Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8)



Number 26 of 2015

PETROLEUM (EXPLORATION AND EXTRACTION) SAFETY ACT 2015

An Act to give effect to Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013¹ and for that purpose to amend the Petroleum and Other Minerals Development Act 1960, section 6 of the Continental Shelf Act 1968 and the Electricity Regulation Act 1999 and to provide for related matters. [22nd July, 2015]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Act of 1999” means Electricity Regulation Act 1999;

“Act of 2010” means Petroleum (Exploration and Extraction) Safety Act 2010.

Interpretation - Part IIA of Act of 1999

2. The following is substituted for section 13A (inserted by the Act of 2010) of the Act of 1999:

“13A.(1) In this Part—

‘Act of 1960’ means Petroleum and Other Minerals Development Act 1960;

‘Act of 1968’ means Continental Shelf Act 1968;

‘Act of 1976’ means Gas Act 1976;

‘accepted safety case’ means a safety case in respect of a designated petroleum activity or activities which has been accepted by the Commission under this Part and includes any revision made to a safety case which—

(a) may take effect without prior acceptance by the Commission, or

(b) has been accepted by the Commission;

‘combined operation’ means a designated petroleum activity carried out from an installation with another installation for purposes related to the other installation which thereby materially affects the risks to

¹ OJ No. L178, 28.6.2013 p.66

the safety of persons or the protection of the environment on any or all of the installations;

‘Commission’ means Commission for Energy Regulation;

‘competent authority’ means Commission;

‘contact points’ means the body or authority appointed by another Member State without offshore oil and gas operations under its jurisdiction for the purposes of exchanging information with competent authorities in other Member States;

‘contractor’ means any entity contracted by an operator or owner to perform any activity on behalf of the operator or owner;

‘Court’ means High Court;

‘decommissioning’, in relation to petroleum infrastructure, means taking the facility, structure or installation, or any part of such facility, structure or installation, permanently out of use with a view to its abandonment *in situ* or removal;

‘designated area’ means an area designated by order under section 2 of the Act of 1968;

‘designated petroleum activity’ means a petroleum activity which is designated by regulations under section 13D;

‘Directive’ means Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013²;

‘Environmental Liability Regulations’ means European Communities (Environmental Liability) Regulations 2008 (S.I. No. 547 of 2008) (as amended by the European Communities (Environmental Liability) (Amendment) Regulations 2011 (S.I. No. 307 of 2011));

‘established petroleum activity’ means a designated petroleum activity which immediately before 22 May 2010 was being carried out by a petroleum undertaking and continued to be carried on after 22 May 2010 by a petroleum undertaking;

‘European Union Offshore Oil and Gas Authorities Group’ means the forum set up under Commission Decision (2012/C18/07) of 19 January 2012³;

‘exclusive economic zone’, ‘internal waters’ and ‘territorial seas’ have the meanings assigned to them, respectively, by Part 3 of the Sea-Fisheries and Maritime Jurisdiction Act 2006;

‘foreshore’ has the same meaning as in section 1 of the Foreshore Act 1933;

² OJ No. L178, 28.6.2013 p.66

³ OJ No. C18, 21.1.2012, p.8

‘installation’ means the class of petroleum infrastructure which includes a stationary, fixed or mobile facility, or combination of facilities permanently inter-connected by bridges or other structures, used for carrying out activities or in connection with such activities;

‘licensed area’ means the whole or any part of—

- (a) the State, including the internal waters and the territorial seas, and
- (b) a designated area,

in respect of which a petroleum authorisation is in force;

‘major accident’ means, in relation to petroleum infrastructure or petroleum activities—

- (a) an event involving an explosion, fire, loss of well control, or release of oil, gas or dangerous substances involving, or with a significant potential to cause, fatalities or serious personal injury,
- (b) an event leading to serious damage of petroleum infrastructure involving, or with a significant potential to cause, fatalities or serious personal injury,
- (c) any other event leading to fatalities or serious injury to multiple persons, or
- (d) any major environmental incident resulting from incidents referred to in paragraphs (a), (b) and (c) and which relates to petroleum activities carried out offshore;

‘major accident hazard’ means a hazard that if realised could result in a major accident;

‘major environmental incident’ means an incident which results, or is likely to result, in significant adverse effects on the environment in accordance with the Environmental Liability Regulations;

‘non-production installation’ means the class of installation involved in carrying out offshore petroleum exploration or other designated petroleum activity or activities whilst stationed in the licensed area, but does not include installations involved in production of petroleum;

‘offshore’ means situated in the territorial seas, the exclusive economic zone or a designated area;

‘operator’ means the entity appointed under section 13KA(1) to conduct designated petroleum activities including managing and controlling the functions of petroleum infrastructure (except non-production installations) in carrying out petroleum activities;

‘owner’ means a person entitled to control the operation of a non-production installation;

‘petroleum’ includes—

(a) any mineral oil or relative hydrocarbon and natural gas and other liquid or gaseous hydrocarbons and their derivatives or constituent substances existing in its natural condition in strata (including, without limitation, distillate, condensate, casinghead gasoline and other substances that are ordinarily produced from oil and gas wells), and

(b) any other substance contained in oil and natural gas brought to the surface with them in the normal process of extraction,

but does not include coal and bituminous shales and other stratified deposits from which oil can be extracted by distillation;

‘petroleum authorisation’ means any one or more of the following:

(a) an exploration licence granted under section 8 of the Act of 1960;

(b) a petroleum prospecting licence granted under section 9 of the Act of 1960;

(c) a reserved area licence granted under section 19 of the Act of 1960;

(d) a lease undertaking granted under section 10 of the Act of 1960;

(e) a petroleum lease granted under section 13 of the Act of 1960;

(f) a consent given under section 40 of the Act of 1976;

‘petroleum incident’ means an event or occurrence in, at or in the precincts of petroleum infrastructure which is an event or occurrence of a class prescribed by regulations made by the Commission under section 13V and includes all major accidents;

‘petroleum infrastructure’ means any facility, structure or installation which is or has been established, maintained or operated, or is intended to be established, for the purpose of carrying on a petroleum activity and includes onshore and offshore facilities, installations and structures or a combination of such facilities, installations and structures;

‘petroleum undertaking’ means a person to whom a petroleum authorisation has been given or granted;

‘processing’, in relation to petroleum, means the treatment of unprocessed or partially processed petroleum at a processing plant or terminal or offshore processing installation;

‘published in the prescribed manner’, in relation to any document or information (howsoever described), means—

(a) published on a relevant internet website, or

(b) available for inspection, at the offices of the Commission and at all reasonable times, by members of the public;

‘relevant internet website’ means the internet website of the Commission (including part of such a website)—

- (a) to which access is readily available by members of the public, and
- (b) where anything published on the website is readily available for inspection by members of the public;

‘revised safety case’ means a safety case submitted for review under section 13N;

‘safety case’ means a document, in accordance with the safety case guidelines, describing the components of the safety management system relating to the designated petroleum activity concerned, or the safety and environmental management system with respect to designated petroleum activities carried out offshore (and all petroleum infrastructure associated with carrying out that designated petroleum activity);

‘safety case guidelines’ means guidelines prepared under section 13L;

‘safety framework’ means the risk-based petroleum safety framework established under section 13I;

‘safety permit’ means a permit issued under section 13P;

‘tripartite consultation’ means a formal arrangement established by the Commission under section 13H(2)(h) to enable dialogue and cooperation between the Commission, operators and owners, and workers’ representatives;

‘upstream pipeline’ means so much of any pipeline (including the subsea and onshore sections) operated or constructed—

- (a) as part of a petroleum production project, or
 - (b) for the purpose of conveying unprocessed petroleum from one or more than one such project to a processing plant or terminal or final coastal landing terminal.
- (2) (a) In this Part, ‘petroleum activity’ includes any activity referred to in paragraph (b)—
- (i) that is authorised to be carried on under or in connection with a petroleum authorisation,
 - (ii) which is carried on from, by means of or on, or for purposes connected with, any petroleum infrastructure, and
 - (iii) which is carried on in a licensed area.
- (b) The activities referred to in paragraph (a) include, but are not limited to, the following:

- (i) petroleum exploration activities carried on under any one or more of the authorisations referred to in paragraphs (a) to (d) of the definition of ‘petroleum authorisation’ in subsection (1) and in respect of which petroleum infrastructure for the drilling of exploration wells in the seabed or subsoil is intended to be established, maintained or operated;
 - (ii) petroleum extraction activities carried on under an authorisation referred to in paragraph (e) of the definition of ‘petroleum authorisation’ in subsection (1) and in respect of which petroleum infrastructure for the drilling of wells as part of a petroleum field plan of development and the subsequent extraction, and processing of petroleum, and offshore storage and loading of petroleum is intended to be established, maintained or operated;
 - (iii) activities relating to the conveyance of unprocessed, partially processed or fully processed petroleum by subsea pipelines or vessels and petroleum infrastructure, including the onshore section of any subsea pipeline carried on pursuant to an authorisation referred to in paragraph (f) of the definition of ‘petroleum authorisation’ in subsection (1);
 - (iv) activities relating to the processing of petroleum at a petroleum processing plant or terminal, offshore installation or other similar facility carried on under the terms and conditions of an authorisation referred to in paragraph (e) of the definition of ‘petroleum authorisation’ in subsection (1);
 - (v) activities relating to the decommissioning of petroleum infrastructure.
- (3) Any reference in this Part to a petroleum activity or a designated petroleum activity includes, unless the context otherwise requires, a reference to the establishment, maintenance or operation of any petroleum infrastructure for the purpose of carrying on the petroleum activity or designated petroleum activity.
- (4) A word or expression that is used in this Part and is also used in the Directive has, unless the contrary intention appears, the same meaning in this Part as it has in the Directive.”.

Competent authority

3. The following is inserted after section 13G (inserted by the Act of 2010) of the Act of 1999:

“**13GA.**(1)The Commission is appointed as the competent authority in the State for the purposes of Article 8 of the Directive.

- (2) The principal objective of the Commission in exercising its functions as competent authority is the effective safety regulatory oversight of operator and owner compliance with this Part in reducing the risk and potential consequences (including major environmental incidents) of major accidents offshore to a level that is as low as is reasonably practicable.
- (3) The Commission shall—
 - (a) monitor and enforce compliance by operators and owners with their obligations under this Part with respect to safety;
 - (b) regularly exchange knowledge, information and experience with other competent authorities in other Member States, *inter alia*, through the European Union Offshore Oil and Gas Authorities Group;
 - (c) prepare and submit an annual report to the European Commission;
 - (d) co-operate with other competent authorities and contact points under Article 27 of the Directive;
 - (e) establish mechanisms for—
 - (i) the confidential reporting of safety and environmental concerns relating to offshore designated petroleum activities from any source, and
 - (ii) the appropriate investigation of such reports while maintaining the anonymity of the individuals concerned;
 - (f) prepare and send to the European Commission a report of the summary findings of any investigation of petroleum incidents which resulted in an offshore major accident, at the conclusion of the investigation or at the conclusion of the legal proceedings with respect to the petroleum incident as appropriate;
 - (g) operate in accordance with the requirements of this Act and Annex III to the Directive.
- (4) Where the Commission considers that a major accident hazard relating to designated petroleum activities to be carried out offshore is likely to have significant effects on the environment in another Member State, the Commission shall, prior to making its decision under section 13P(1) to accept a safety case or a revised safety case, forward the relevant information to the competent authority of the potentially affected Member State. The Commission shall endeavour, jointly with the competent authority of that Member State, to adopt measures to prevent damage without prejudice to its regulatory functions.
- (5) The Commission may—

- (a) advise the Minister on matters relating to the functions and obligations of the competent authority;
- (b) request a petroleum undertaking, operator or owner to provide a report on the circumstances of any major accident in which they have been involved, either themselves or through subsidiaries outside of the European Union. The report shall be in such form, provided in such timeframe, and accompanied by such additional information and particulars as may be determined by the Commission.”.

Functions of Commission relating to petroleum safety

4. The following is substituted for section 13H of the Act of 1999:

“**13H.**(1) The Commission shall do all things necessary and reasonable to further its objectives and shall exercise its powers and perform its functions in the public interest.

(2) Without prejudice to the generality of subsection (1), the Commission’s functions under this Part are—

- (a) to regulate designated petroleum activities with respect to safety, which may include specifying standards and codes of practice referred to in section 13L(3),
- (b) subject to sections 13S to 13U, to investigate and report to the Minister in writing on petroleum incidents,
- (c) to monitor and enforce compliance by petroleum undertakings, operators and owners with their obligations under this Part,
- (d) to issue safety permits,
- (e) to provide safety information to the public when appropriate,
- (f) to assess, and where relevant accept or reject, safety cases and notifications submitted by operators and owners under this Part,
- (g) to carry out the objectives of the competent authority as set out in section 13GA,
- (h) to establish a mechanism for tripartite consultation on—
 - (i) the safety framework established under section 13I,
 - (ii) the safety case guidelines under section 13L,
 - (iii) matters set out in Annex VI to the Directive, and
 - (iv) any other matter considered necessary by the Commission.

(3) The Commission shall, in performing its functions under this Part, have regard to—

- (a) such functions with respect to the safety of petroleum activities as may be performed by the persons specified in subsection (4),
- (b) the need to co-operate and consult with the persons specified in subsection (4) for the purpose of—
 - (i) encouraging and fostering safety in the carrying on of petroleum activities, and
 - (ii) avoiding duplication of activities by the Commission and the persons specified in subsection (4).
- (4) The following are the persons to whom paragraphs (a) and (b) of subsection (3) apply:
 - (a) the National Standards Authority of Ireland;
 - (b) the Health and Safety Authority;
 - (c) the Environmental Protection Agency;
 - (d) the Minister for Transport, Tourism and Sport;
 - (e) the Irish Aviation Authority;
 - (f) such other persons as may be prescribed by order by the Minister.
- (5) Where necessary, the Commission may prepare and implement coordinated or joint procedures with other authorities, specified in subsection (4), to carry out its functions under this Part.
- (6) The Commission shall—
 - (a) make annual plans for the purpose of carrying out its function to monitor and enforce compliance under subsection (2)(c),
 - (b) provide advice on any matter requested by the Minister—
 - (i) under section 9A(3) of the Act of 1960 to support the Minister’s consideration of the technical capability of a person under that section, and
 - (ii) on the technical capacity of any operator proposed by a petroleum undertaking to the Minister,
 - and
 - (c) inform the Minister immediately in circumstances where it determines that an operator no longer has the capacity to meet its obligations under this Part.
- (7) Subsections (3), (4) and (5) of section 9 do not apply to the functions of the Commission under this Part.”.

Emergency preparedness

5. The following is inserted after section 13H (inserted by the Act of 2010) of the Act of

1999:

“13HA.The Commission may—

- (a) at its own behest or following consultation with other agencies, direct operators and owners to conduct tests or exercises on their preparedness to respond effectively to major accidents, and
- (b) where a petroleum undertaking assumes the responsibility for the discharge of operator responsibility under section 9B(2) or (4) of the Act of 1960, take, or direct the petroleum undertaking to take, adequate measures to ensure the continuing safety of designated petroleum activities up to and including prohibiting designated petroleum activities taking place.”.

Petroleum safety framework

6. Section 13I (inserted by the Act of 2010) of the Act of 1999 is amended—

(a) by substituting for subsection (1) the following:

“(1) In exercising its functions under section 13H, the Commission shall, subject to subsection (5) and after consultation with such of the persons specified in subsection (2) as the Commission considers appropriate, establish and implement a risk-based petroleum safety framework (in this Part referred to as a ‘safety framework’).”.

and

(b) in subsection (3)(b), by substituting for subparagraphs (ii) and (iii) the following:

“(ii) procedures for the assessment by the Commission of safety cases and notifications;

(iii) the processes used by the Commission to assure compliance by petroleum undertakings operators and owners with the safety framework and this Part. These processes shall include, but are not limited to, audit and inspection by the Commission of petroleum undertakings, operators and owners and the establishment of a scheme of independent verification by owners and operators in accordance with requirements and procedures stated by the Commission;”.

Obligations on petroleum undertakings, operators and owners

7. The following sections are inserted after section 13K (inserted by the Act of 2010) of the Act of 1999:

“Obligations on petroleum undertakings

13KA.(1)A petroleum undertaking shall appoint an operator prior to carrying out any designated petroleum activities. A petroleum undertaking shall ensure that the operator has the capacity to meet the requirements of

this Act for the carrying out of designated petroleum activities under the appointment.

- (2) Prior to the appointment of an operator by a petroleum undertaking, the petroleum undertaking shall notify the Minister of its proposed appointment and seek the approval of the Minister for the appointment.
- (3) Where the Minister objects to the appointment of an operator by a petroleum undertaking under section 13KA(1), the petroleum undertaking shall comply with any direction by the Minister to—
 - (a) propose a suitable alternative operator to the Minister for consideration as soon as possible, or
 - (b) assume the responsibilities of the operator under this Part.
- (4) Where a petroleum undertaking has received a notification from the Minister under section 9B(4) of the Act of 1960 regarding the determination of the Commission on the capacity of the operator, the petroleum undertaking shall assume responsibility for the discharge of operator responsibilities, and shall, without delay, propose a replacement operator to the Minister.
- (5) A petroleum undertaking shall not change the appointed operator without the prior written approval of the Minister.
- (6) A petroleum undertaking shall take all reasonable steps to ensure that its appointed operator is discharging his or her obligations under section 13KB in carrying out designated petroleum activities and is complying with the requirements of this Part.
- (7) A petroleum undertaking shall comply with any request by the Commission for a report on the circumstances of any major accident in which the undertaking has been involved, either itself or through a subsidiary, in conducting oil or gas operations outside of the European Union.
- (8) A petroleum undertaking shall communicate details of the mechanism established by the Commission for the confidential reporting of safety concerns to its employees and ensure that reference to confidential reporting is included in relevant training and notices.
- (9) Without prejudice to the existing scope of liability relating to the prevention and remediation of environmental damage under the Environmental Liability Regulations, a petroleum undertaking is financially liable for the prevention and remediation of environmental damage within the meaning of those Regulations, caused by offshore petroleum activities carried out pursuant to a petroleum authorisation.

- (10) A petroleum undertaking shall comply with any request by the Commission for such information as it requires to discharge its functions under this Part.
- (11) A petroleum undertaking shall put in place any necessary arrangements to ensure that it has the continued technical and financial capability to discharge its obligations under this Part and the conditions of its petroleum authorisation.

Obligations on operators

- 13KB.**(1) An operator shall ensure that the risk of all major accident hazards in carrying out designated petroleum activities is reduced to a level that is as low as is reasonably practicable.
- (2) The use of contractors by an operator in carrying out petroleum activities and any action or omissions carried out by contractors which may lead or contribute to a major accident does not relieve the operator of his or her duties under this Act.
 - (3) An operator shall have primary responsibility for, *inter alia*, the control of risks of a major accident that are a result of its carrying on designated petroleum activities and for continuously improving control of those risks so as to ensure that the risks are reduced to a level that is as low as is reasonably practicable.
 - (4) An operator shall comply with any direction issued by the Commission under section 13HA.
 - (5) Where an activity carried out by an operator poses an immediate danger to human health or significantly increases the risk of a major accident, the operator shall take suitable measures which may include, suspending the relevant activity until the danger or risk is adequately controlled.
 - (6) In the case of a major accident, the operator shall take all suitable measures to prevent its escalation and to limit the consequences for human health and the environment and shall put into action without delay the internal emergency response plan described in the accepted safety case.
 - (7) An operator shall take measures to use technical means or procedures, as the Commission considers adequate, in order to promote the reliability of the collection and recording of relevant data in the discharge of its reporting requirements to the Commission and to prevent possible manipulation thereof.
 - (8) An operator shall comply with any request of the Commission for a report on the circumstances of any major accident in which the operator has been involved, either itself or through a subsidiary, in conducting oil or gas operations outside of the European Union.

- (9) An operator shall communicate details of the mechanism established by the Commission for the confidential reporting of safety concerns to its employees and contractors connected with carrying out designated petroleum activities, and shall ensure that reference to confidential reporting is included in relevant training and notices.
- (10) Where requested by the Commission, an operator shall provide the Commission, or any other person acting under the direction of the Commission, with transport to or from the petroleum infrastructure associated with petroleum activities, including the conveyance of their equipment, at any reasonable time, and with accommodation, meals and other subsistence in connection with the visits, for the purpose of facilitating the Commission in carrying out its functions under this Part.
- (11) An operator shall comply with any request by the Commission for such information as it requires to discharge its functions under this Part.

Obligations on owners

- 13KC.**(1) An owner shall ensure that the risk of all major accident hazards related to a non-production installation in carrying out designated petroleum activities is reduced to a level that is as low as is reasonably practicable.
- (2) An owner shall comply with any direction issued by the Commission under section 13HA.
 - (3) Where an activity carried out by an owner poses an immediate danger to human health or significantly increases the risk of a major accident, the owner shall take suitable measures which may include, if deemed necessary, suspending the relevant activity until the danger or risk is adequately controlled.
 - (4) In the case of a major accident, an owner concerned shall take all suitable measures to prevent its escalation and to limit the consequences for human health and the environment and shall put into action without delay the internal emergency response plan described in the accepted safety case.
 - (5) An owner shall take suitable measures to use suitable technical means or procedures in order to promote the reliability of the collection and recording of relevant data in the discharge of its reporting requirements to the Commission and to prevent possible manipulation thereof.
 - (6) An owner shall communicate details of the mechanism established by the Commission for the confidential reporting of safety concerns to its employees and contractors connected with carrying out designated petroleum activities, and shall ensure that reference to confidential reporting is included in relevant training and notices.

- (7) Where requested by the Commission, an owner shall provide the Commission, or any other person acting under the direction of the Commission, with transport to or from the petroleum infrastructure associated with petroleum activities, including the conveyance of their equipment, at any reasonable time, and with accommodation, meals and other subsistence in connection with the visits, for the purpose of facilitating the Commission in carrying out its functions under this Part.
- (8) An owner shall comply with any request by the Commission for such information as it requires to discharge its functions under this Part.
- (9) An owner shall comply with any request by the Commission for a report on the circumstances of any major accident in which they have been involved, either themselves or through subsidiaries, outside of the European Union.”.

Safety case guidelines

8. The following is substituted for section 13L (inserted by the Act of 2010) of the Act of 1999:

- “**13L.** (1) Subject to subsection (2), the Commission shall, from time to time, prepare guidelines (‘safety case guidelines’) relating to the preparation and contents of a safety case applicable to all or any designated petroleum activity or activities.
- (2) For the purpose of developing safety case guidelines, the Commission—
- (a) may consult, as it considers appropriate, with—
 - (i) the National Standards Authority of Ireland,
 - (ii) the Health and Safety Authority,
 - (iii) the Environmental Protection Agency,
 - (iv) the Minister for Transport, Tourism and Sport,
 - (v) the Irish Aviation Authority, and
 - (vi) such other persons as may be prescribed by order by the Minister,
 - and
 - (b) may give interested persons, organisations and other bodies an opportunity to make representations to it concerning the proposed guidelines.
- (3) Safety case guidelines may include provision for one or more of the following:
- (a) the appropriate contents of a safety case;

- (b) the appropriate technical principles and specifications relating to the design, construction, operation, maintenance, modification and decommissioning of petroleum infrastructure;
- (c) the standards and codes of practice applicable to designated petroleum activities including relevant standards and codes of practice, that have been formulated or recommended by the National Standards Authority of Ireland;
- (d) the safety standards to be achieved and maintained in respect of each designated petroleum activity;
- (e) the procedures to be followed by an operator, or where relevant an owner, for the submission of a safety case or a revised safety case for acceptance by the Commission;
- (f) the relevant performance indicators according to which safety performance in respect of each designated petroleum activity will be assessed;
- (g) guidance on the corporate major accident prevention policy to be submitted as part of the safety case or notification;
- (h) guidance on the description of the safety management system or, with respect to designated petroleum activities carried out offshore, the safety and environmental management system, to be included as part of the safety case or notification;
- (i) guidance on the description of the scheme of independent verification to be established by the operator or the owner as the case may be, and to be included in the safety case or notification as appropriate;
- (j) guidance on emergency response arrangements to be described in the safety case or notification;
- (k) guidance on the preparation and maintenance of a complete inventory of emergency response equipment by operators and owners pertinent to operations;
- (l) guidance on the worker representative consultation in the preparation and review of safety cases and notifications;
- (m) the procedures to be followed by an operator for the submission of a notification, or revised notification for acceptance by the Commission;
- (n) guidance on the contents of a design notification to be submitted by an operator before the intended submission of a safety case relating to relevant designated petroleum activities;
- (o) guidance on the contents of a combined operation notification to be submitted by an operator.

- (4) The Commission shall ensure, where appropriate, that the information to be included in safety cases and notifications as specified under safety case guidelines is consistent with the requirements of the Directive and, in particular, Annex I and Annex IV.
- (5) Safety case guidelines shall specify that safety cases or notifications relating to any designated petroleum activity carried out offshore (and all petroleum infrastructure associated with the carrying out of that designated petroleum activity) shall include a safety and environmental management system.
- (6) The Commission may revise any safety case guidelines or may withdraw those guidelines and prepare new guidelines.
- (7) The Commission shall ensure that safety case guidelines are published in the prescribed manner as soon as practicable after the guidelines have been prepared.”.

Safety case and revised safety case

9. The following is substituted for section 13M (inserted by the Act of 2010) of the Act of 1999:

“Safety case

- 13M.** (1)(a) An owner shall, where relevant, and at least 6 months or, such other lesser time as the Commission may specify, before an operator proposes to commence a designated petroleum activity from the non-production installation, submit a safety case to the Commission for acceptance.
- (b) An owner shall submit a safety case with respect to a non-production installation and the review and revision of that safety case.
- (2) (a) An operator that proposes to carry on a designated petroleum activity shall prepare a safety case and shall, at least 6 months or, such other lesser time as the Commission may specify in writing, before it proposes to commence the activity, submit the safety case to the Commission for acceptance.
- (b) An operator shall submit a safety case (except with respect to a non-production installation) and the review and revision of that safety case.
- (3) (a) An operator shall not carry on a designated petroleum activity unless the safety case submitted under subsection (2)(a), and where relevant the associated owner safety case for the non-production installation, has been accepted by the Commission and a safety permit has been issued under section 13P in respect of the designated petroleum activity.

- (b) Notwithstanding section 13E(1), a petroleum undertaking may continue to carry on an established petroleum activity where the petroleum undertaking has submitted a safety case to the Commission within 12 months of the publication in the prescribed manner of the guidelines relating to that activity pursuant to the Act of 2010 until the day which is 14 days after the Commission notifies the petroleum undertaking of—
 - (i) the acceptance of the safety case and issue of a safety permit under section 13P, or
 - (ii) the refusal of a safety permit under section 13Q(1).
- (4) A safety case shall be prepared in accordance with such safety case guidelines as shall be prepared and published by the Commission under section 13L.
- (5) A safety case shall contain such particulars as are specified in the safety case guidelines that relate to the designated petroleum activity or activities in respect of which the safety case is being prepared and shall include sufficient particulars to demonstrate to the Commission that—
 - (a) the operator is complying with his or her obligations under section 13KB or where relevant the owner is complying with his or her obligations under section 13KC,
 - (b) the operator, or where relevant the owner, has the ability to properly assess and effectively control risks which may arise from the carrying on of the designated petroleum activity or activities to a level that is as low as is reasonably practicable,
 - (c) having identified all major accident hazards and the risks presented by those hazards, the relevant owner or operator has taken such measures as are adequate to ensure that its safety management system or the safety and environmental management system with respect to designated petroleum activities carried out offshore, is capable of reducing the risks to a level that is as low as is reasonably practicable,
 - (d) all petroleum incident risks have been evaluated and emergency measures are in place in the event of such petroleum incident arising,
 - (e) adequate arrangements for monitoring, audit and for the making of reports on safety performance and compliance have been established,
 - (f) the emergency response arrangements are—
 - (i) consistent with the major accident hazard risk assessment described in the safety case and the relevant national emergency

- response arrangements which are in place to prevent escalation or limit the consequences of a major accident, and
- (ii) capable of being put into action without delay to respond to any major accident or a situation where there is an immediate risk of a major accident,
 - (g) it has consulted with workers' representatives in the preparation and review of the safety case, and
 - (h) a complete inventory of emergency response equipment pertinent to their operation has been prepared and is maintained.
- (6) A petroleum activity shall cease to be an established petroleum activity where—
- (a) the Commission accepts the safety case and issues a safety permit under section 13P,
 - (b) the Commission refuses to issue a safety permit under section 13Q(1), or
 - (c) the petroleum undertaking fails to submit a safety case within the time period specified in subsection (1)(b).
- (7) In this section 'audit' means systematic assessment of the adequacy of the safety management system, carried out by persons who are sufficiently independent of the system (but who may be employed by the operator or owner) to ensure that such assessment is objective.

Revised safety case - transitional arrangement**13MA.(1)** Where a petroleum undertaking—

- (a) has an accepted safety case and safety permit under section 13P to carry out a designated petroleum activity or activities with respect to production prior to 19 July 2015, or
 - (b) is carrying out established petroleum activities in accordance with section 13M(3)(b),
- an operator appointed by that petroleum undertaking shall submit a revised safety case by the earliest of the following dates—
- (i) the date of the scheduled review of the safety case under section 13N(2)(a),
 - (ii) the date by which the petroleum undertaking is required to submit the revised safety case as stated in a notice in writing issued by the Commission, or
 - (iii) 19 July 2018.
- (2) Notwithstanding any other provision of this Act and subject to subsection (3), a petroleum undertaking who satisfies either the conditions set out in subsection (1)(a) or (b), may continue to carry out

designated petroleum activities in accordance with its existing safety permit and accepted safety case until the assessment by the Commission of the revised safety case, submitted under subsection (1) has been completed.

- (3) A petroleum undertaking referred to in subsection (1) shall review its safety case during the period from the commencement of this section under the *Petroleum (Exploration and Extraction) Safety Act 2015* and the submission of the safety case in accordance with subsection (1)—
- (a) whenever such a review is necessary because of new facts or to take account of new technical knowledge about safety matters,
 - (b) whenever such a review is necessitated arising from—
 - (i) reports related to audits (whether within the meaning of section 13M(7) or otherwise), or
 - (ii) reports on safety performance and compliance,
 - (c) in circumstances where the petroleum undertaking considers it appropriate to do so,
 - (d) where the Commission issues a notice in writing to a petroleum undertaking requiring it to do so, or
 - (e) where a change is made to the safety management system which could significantly affect the ability of the petroleum undertaking to comply with its duty to reduce the risks to a level that is as low as is reasonably practicable.
- (4) Where in consequence of the review under subsection (3) it is necessary to revise a safety case, the petroleum undertaking shall do so as soon as practicable and inform the Commission in writing of the details of such revision. Where the revision of a safety case results in a material alteration of the safety case previously accepted by the Commission, the petroleum undertaking shall immediately inform the Commission and a revised safety case in accordance with subsection (1) shall be submitted to the Commission by the operator appointed by the petroleum undertaking.”.

Review and revision of safety cases

- 10.** (1) The following is substituted for section 13N (inserted by the Act of 2010) of the Act of 1999:

“**13N.**(1) A safety case shall be regarded as a working document by which an operator, or owner, as the case may be, may demonstrate that the safety management system, or the safety and environmental management system with respect to designated petroleum activities carried out offshore, described in the safety case is being properly implemented and continues to be maintained.

- (2) A safety case shall be reviewed—
- (a) at least every 5 years,
 - (b) whenever such a review is necessary because of new facts or to take account of new technical knowledge about safety matters,
 - (c) whenever such a review is necessitated arising from—
 - (i) reports relating to audits (whether within the meaning of section 13M(7) or otherwise),
 - (ii) reports on safety performance and compliance,
 - (d) in circumstances where the operator, or the owner as the case may be, considers it appropriate to do so,
 - (e) where the Commission issues a notice in writing to an operator or owner requiring it to do so, or
 - (f) where a change is made to the safety management system, or the safety and environmental management system with respect to designated petroleum activities carried out offshore, which could significantly affect the ability of the operator or the owner, as the case may be, to comply with his or her duty to reduce the risk of major accident hazards to a level that is as low as is reasonably practicable,

and where in consequence of that review it is necessary to revise the safety case, the operator, or owner as the case may be, shall do so as soon as practicable and inform the Commission of the details of such revision.

- (3) Where the revision of a safety case results in a material alteration of the safety case previously accepted by the Commission under section 13P the operator, or the owner as the case may be, shall submit the proposed revision to the Commission and any proposed revision shall not be made unless it has been accepted by the Commission in accordance with section 13P.
- (4) A revised safety case shall be submitted to the Commission for the purposes of this section in accordance with such procedures as are specified by the Commission in the safety case guidelines.
- (5) Where the Commission has revised the safety case guidelines under section 13L(4), it may specify a date by which the operator or owner must submit a revised safety case under this section for assessment by the Commission.”.

Duty to conform with safety case

11. The following is substituted for section 13O (inserted by the Act of 2010) of the Act of 1999:

- “**13O.**(1) Where an operator has prepared and has had accepted a safety case under section 13P (and where relevant a combined operation notification under section 13OA), the operator shall ensure that as long as he or she carries on the designated petroleum activity or activities to which the safety case (and where relevant the associated combined operations notification) and associated safety permit relates, that the safety case and the safety management system (or where relevant the safety and environmental management system) described in the safety case (and where relevant the associated combined operations notification) and any revision of the safety case under section 13N (and where relevant a revision to the associated combined operation notification under section 13OA) is implemented and followed.
- (2) Where an owner has prepared and has had accepted a safety case under section 13P, the owner shall ensure that as long as the designated petroleum activity or activities to which the safety case and the associated safety permit relates is being carried out, that the safety case and the safety management system (or where relevant the safety and environmental management system) described in the safety case and any revision of the safety case under section 13N is implemented and followed.
- (3) An operator who fails to comply with subsection (1) or an owner who fails to comply with subsection (2) commits an offence and is liable—
- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €3,000,000.”.

Notifications

12. The following is inserted after section 13O (inserted by the Act of 2010) of the Act of 1999 for the following:

- “**13OA.**(1) An operator shall submit a design notification or revised design notification to the Commission in accordance with the procedures and timescale set out in safety case guidelines where the operator intends to carry out a designated petroleum activity or activities related to production under a petroleum authorisation.
- (2) The Commission shall assess the design notification or a revised design notification submitted by an operator.
- (3) The Commission may—
- (a) accept a design notification,
- (b) accept a design notification with observations on matters to be taken into account by the operator when submitting a safety case under section 13M, or

- (c) refuse a design notification,
- having considered whether the information contained in the design notification or revised design notification complies with the safety case guidelines and whether the operator has provided sufficient demonstration that the operator is—
- (i) capable of implementing the safety management system (or where relevant the safety and environmental management system) described in the design notification, and
 - (ii) capable of carrying on the designated petroleum activity or activities concerned in compliance with its duties under section 13KB.
- (4) The Commission, in deciding whether or not to accept a design notification, may, for the purposes of satisfying itself under subsection (2), request in writing such additional information as it may reasonably require from an operator and the operator shall comply with any such request.
- (5) Where there is a revision of a design notification which results in a material change to the design notification previously accepted by the Commission under this section, the operator concerned shall submit the proposed revision of a design notification to the Commission and any proposed revision shall not be made until the Commission has carried out its assessment of the revision of the design notification under this section.
- (6) The revised design notification shall be submitted to the Commission for the purposes of this section in accordance with such procedures as are specified by the Commission in safety case guidelines.
- (7) The Commission shall notify the relevant petroleum undertaking and operator of the acceptance of a design notification.
- (8) The acceptance of a design notification or a revised design notification by the Commission shall not be interpreted as relieving an operator of its duties under section 13KB.
- (9) Where an operator or owner proposes to carry on a combined operation, the operator and owner involved in a combined operation shall jointly prepare the combined operation notification.
- (10) One of the persons referred to in subsection (9) shall submit a combined operation notification or revised combined operation notification to the Commission in accordance with the procedures and timescale set out in safety case guidelines.
- (11) The Commission shall only accept a combined operation notification or a revised combined operation notification where the information contained in the combined operation notification or revised combined

operation notification complies with the safety case guidelines and the Commission is satisfied the operators and owners concerned are—

- (a) capable of implementing the safety management system, or where relevant the safety and environmental management system, described in the combined operation notification, and
 - (b) subject to any conditions of the safety permit, capable of carrying on the combined operation concerned in compliance with their duties under sections 13KB and 13KC.
- (12) The Commission, in deciding whether or not to accept a combined operation notification, may, for the purposes of satisfying itself under subsection (11), request in writing such additional information as it may reasonably require from an operator and the operator shall comply with any such request.
- (13) The Commission shall notify the relevant petroleum undertaking and operator of the acceptance of the combined operation notification.
- (14) The acceptance of a combined operation notification by the Commission shall not be interpreted as relieving an operator of his or her duties under section 13KB or, where relevant, an owner of his or her duties under section 13KC.
- (15) Where there is a revision of a combined operation notification which results in a material change to the combined operation notification previously accepted by the Commission under this section, the operator concerned shall submit the proposed revision of combined operation notification to the Commission and any proposed revision shall not be made until the Commission has carried out its assessment of the revision of the combined operation notification under this section.
- (16) A revised combined operation notification shall be submitted to the Commission for the purposes of this section in accordance with such procedures specified by the Commission in safety case guidelines.”.

Safety permit

- 13.** The following is substituted for section 13P (inserted by the Act of 2010) of the Act of 1999:

“**13P.** (1) The Commission shall only accept a safety case or a revised safety case for the purposes of issuing a safety permit under this section where the information contained in the safety case or the revised safety case complies with the requirements of section 13M(4) and the Commission is satisfied that the operator and, where relevant, the owner—

- (a) is capable of implementing the safety management system, or where relevant the safety and environmental management system, described in its safety case, and
 - (b) subject to any conditions of the safety permit, is capable of carrying on the designated petroleum activity or activities concerned in compliance with its obligations under section 13KB with respect to an operator and section 13KC with respect to an owner.
- (2) The Commission, in deciding whether or not to issue a safety permit, for the purpose of satisfying itself under subsection (1), may request in writing such additional information as it may reasonably require from a petroleum undertaking, operator or owner and the undertaking, operator or owner shall comply with any such request.
- (3) The Commission shall notify—
- (a) an operator in writing of its acceptance or refusal of a safety case under section 13P(1),
 - (b) an owner in writing of its acceptance or refusal of a safety case under section 13P(1), and
 - (c) a petroleum undertaking of its acceptance of a safety case submitted by the operator or, where relevant, the owner by issuing a safety permit to that petroleum undertaking.
- (4) It shall be a condition of a safety permit that the operator, and where relevant the owner, act in accordance with the accepted safety case or safety cases and, where relevant, the combined operations notification accepted by the Commission under section 13OA(11).
- (5) Subject to subsection (4), the Commission may attach such conditions to a safety permit as it considers appropriate including conditions—
- (a) restricting or prohibiting the operation of specified parts of petroleum infrastructure, maintained or intended to be established, in connection with the carrying on of the designated petroleum activity or activities concerned,
 - (b) restricting or prohibiting the carrying on of specified activities carried out on, from or in connection with petroleum infrastructure,
 - (c) specifying requirements to be complied with in respect of all or any of the different phases of the designated petroleum activity or activities concerned,
 - (d) in respect of when a safety permit shall be subject to review by the Commission,
 - (e) relating to audits (whether within the meaning of section 13M(7) or otherwise) and reporting requirements, or

- (f) in respect of safety performance requirements.
- (6) The Commission shall determine the form of a safety permit.
- (7) The Commission shall issue a safety permit under subsection (1) or a request for information under subsection (2) as soon as practicable after it has completed its assessment but no later than 6 months after the date of receipt of the safety case or revised safety case of an operator or owner or receipt of the additional information requested under subsection (2).
- (8) The acceptance of a safety case or revised safety case by the Commission and the issuing of a safety permit shall not be interpreted as relieving a petroleum undertaking of its duties under section 13K, an operator of his or her duties under section 13KB or an owner of his or her duties under section 13KC and does not imply any transfer of responsibility to the Commission.
- (9) A safety permit shall remain in operation for such period as may be specified in writing by the Commission unless it is revoked by the Commission under section 13Q or replaced by a new safety permit.
- (10) The Commission shall, as soon as practicable after the issue of a safety permit to a petroleum undertaking, ensure that a copy of that permit is published in the prescribed manner.”.

Refusal or revocation of safety permit

14. Section 13Q (inserted by the Act of 2010) is amended by substituting for subsections (4) and (5) the following:

- “(4) Where the Commission decides to refuse a safety permit or revoke a safety permit issued by it, the petroleum undertaking concerned may, not later than 21 days of the date of notification of the decision, appeal to the High Court.
- (5) Where an appeal is taken under subsection (4), the decision of the Commission under subsection (3) shall, unless cancelled by the Court, take effect on the day next following the day on which the decision is confirmed on appeal or the appeal is withdrawn, or on such day as is specified by the Court, whichever is later.
- (5A) Where no appeal is made under subsection (4), the decision of the Commission under subsection (3) shall take effect on the day on which the time allowed for an appeal has elapsed.”.

Reportable petroleum incident

15. The following is substituted for section 13S (inserted by the Act of 2010) of the Act of 1999:

- “**13S.** (1) Where a petroleum incident occurs, the operator and the owner concerned shall notify the Commission of the petroleum incident, without delay, after the occurrence of the petroleum incident and such notification shall be—
- (a) in such form,
 - (b) provided in such timeframe, and
 - (c) accompanied by such additional information and particulars, as may be prescribed by the Commission.
- (2) Where an activity carried out by an operator or an owner poses an immediate danger to human health or significantly increases the risk of a petroleum incident and the operator takes suitable measures in line with his or her obligation under section 13KB(5) or the owner takes suitable measures in line with his or her obligation under section 13KC(3), the operator or owner shall notify the Commission accordingly, in such form and accompanied by such additional information and particulars as may be prescribed by the Commission, without delay, and no later than 24 hours after taking those measures.
- (3) On receipt of a notification of a petroleum incident under subsection (1) or a notification of suitable measures taken under subsection (2) the Commission shall consider the notification and where it considers that it is necessary, the Commission may request a further report giving additional details of the incident and the circumstances associated with it and any suitable measures taken, and in that event the Commission shall notify the owner or operator concerned and request that such further report be furnished to it within such period of time specified in the request and is reasonable in the circumstances.
- (4) An operator or owner who fails to comply with this section commits an offence and is liable—
- (a) on summary conviction, to a class A fine,
 - (b) on conviction on indictment, to a fine not exceeding €1,000,000.”.

Actions Commission may take following report of petroleum incident or notification of immediate danger

16. The following is substituted for section 13T (inserted by the Act of 2010) of the Act of 1999:

- “**13T.** (1) The Commission may on its own initiative or following receipt of—
- (a) a notification under section 13S(1) or (2) or a report under section 13S(3), appoint a petroleum safety officer to investigate the petroleum incident or the suitable measures taken, or

- (b) a confidential report under section 13GA(3)(e), appoint a petroleum safety officer to investigate the concerns.
- (2) Where the Commission receives—
- (a) a notification under section 13S(1) of a petroleum incident,
 - (b) a notification under section 13S(2) of suitable measures taken,
 - (c) a report under section 13S(3) in respect of a petroleum incident or suitable measures taken,
 - (d) a confidential report under section 13GA(3)(e) relating to offshore designated petroleum activities,
 - (e) a report by a petroleum safety officer of an investigation under subsection (1),
- the Commission may issue to the petroleum undertaking, operator or owner concerned—
- (i) an improvement notice,
 - (ii) a prohibition notice,
 - (iii) a notice requiring the operator or owner to revise its safety case, or
 - (iv) a notice that the Commission intends to revoke the relevant safety permit.
- (3) Nothing in subsection (2) shall limit the power of the Commission to issue a notice of a kind specified in that subsection in circumstances other than those referred to in this section.”.

Reporting of petroleum incidents to Minister by Commission

17. The following is substituted for section 13U (inserted by the Act of 2010) of the Act of 1999:

- “13U.(1)The Commission shall prepare and send to the Minister a report in respect of each petroleum incident which results in—
- (a) the loss of human life,
 - (b) serious personal injury being suffered by a person,
 - (c) damage to property the ownership of which is held by a person other than the petroleum undertaking operator or owner concerned, or
 - (d) a major accident.
- (2) The Commission may prepare and send to the Minister a report in respect of a petroleum incident other than an incident referred to in subsection (1) where, in the opinion of the Commission, it is

appropriate to do so by reason of the seriousness of the petroleum incident concerned.

- (3) The Commission may, with the consent of the Minister, publish a non-confidential version of the reports issued to the Minister under subsection (1) or (2).”.

Regulations - Part IIA of Act of 1999

18. The following is substituted for section 13V (inserted by the Act of 2010) of the Act of 1999:

“**13V.** The Commission shall, for the purposes of enabling this Part to have full effect, make regulations—

- (a) prescribing all major accidents as a class of event for the purposes of the definition of petroleum incident,
- (b) prescribing a class of event or occurrence for the purposes of the definition of petroleum incident which in the opinion of the Commission may materially increase the risk of an event or occurrence referred to in section 13U(1)(a) to (d) occurring,
- (c) prescribing a class of event or occurrence for the purposes of the definition of petroleum incident to enable the Commission to discharge its reporting obligations to the European Commission, and
- (d) prescribing a form to be used by operators or owners in notifying the Commission of a petroleum incident, the timeframe for such reporting and the classes of information to be included in such a form.”.

Improvement plan and notice

19. The following is substituted for sections 13Y and 13Z (inserted by the Act of 2010) of the Act of 1999:

“Improvement plan

13Y. (1) Where the Commission is of the opinion that a petroleum undertaking, operator or owner, or a person under the control or on behalf of that undertaking, operator or owner—

- (a) is not operating in accordance with the approved safety case, or in accordance with any conditions of the safety permit issued to that petroleum undertaking, operator or owner,
- (b) is not operating in such a manner as to ensure compliance with the duties under sections 13K and 13KA with respect to a petroleum undertaking, or section 13KB with respect to an operator or section 13KC with respect to an owner, or

- (c) is contravening, has contravened, is failing to comply with or has failed to comply with any other requirement of this Part,

the Commission may give a direction in writing to the petroleum undertaking, operator or owner concerned requiring it to submit to the Commission, within the time period stated in the direction, a plan (in this Part referred to as an ‘improvement plan’) specifying the remedial action proposed to be taken by the petroleum undertaking, operator or owner to rectify the matters set down in the direction.

- (2) Where an improvement plan is submitted in accordance with subsection (1) or re-submitted under paragraph (b), the Commission shall, within 30 days, write to the petroleum undertaking, operator or owner—
- (a) stating that the Commission is satisfied with the remedial action proposed to be taken, or
- (b) where the Commission is not satisfied that the remedial action proposed to be taken is adequate, directing that the plan be revised and re-submitted to the Commission within a specified time period.
- (3) The Commission may withdraw a direction under this section at any time before a date specified in the direction or may extend and further extend such date.

Improvement notice

13Z. (1) Where the Commission is of the opinion that—

- (a) a petroleum undertaking, operator or owner has failed to comply with a direction under section 13Y to submit or implement an appropriate improvement plan, or
- (b) a petroleum undertaking, operator or owner or a person under the control of, or on behalf of that undertaking, operator or owner—
- (i) is not operating in accordance with the accepted safety case, or in accordance with any conditions of the safety permit issued to the undertaking,
- (ii) is not operating in such a manner as to ensure compliance with the duties under sections 13K and 13KA with respect to a petroleum undertaking, or section 13KB with respect to an operator or, section 13KC with respect to an owner, or
- (iii) is contravening, has contravened, is failing to comply with or has failed to comply with any other requirement of this Part,

the Commission may serve a written notice (in this Part referred to as an ‘improvement notice’) on that petroleum undertaking, operator or owner, as the case may be.

- (2) An improvement notice shall—

- (a) state that the Commission is of the opinion referred to in subsection (1),
 - (b) state the reasons for that opinion,
 - (c) where applicable, state that the petroleum undertaking, operator or owner has failed to submit or implement an improvement plan,
 - (d) direct the petroleum undertaking, operator or owner to remedy the alleged contraventions or the matters occasioning that notice by a date specified in the notice, which shall not be earlier than the period within which an appeal may be brought under subsection (5),
 - (e) contain details of the consequences, under this section or under section 13Q, of a failure to comply with the notice,
 - (f) include information regarding the making of an appeal under subsection (5), and
 - (g) include any other requirement that the Commission considers appropriate.
- (3) An improvement notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates or otherwise comply with the notice.
- (4) Where the Commission proposes to serve an improvement notice, it shall first notify the petroleum undertaking, operator or owner concerned in writing of its intention to serve the improvement notice and the petroleum undertaking, operator or owner concerned may, within 21 days of such notification, make representations to the Commission, which shall consider them.
- (5) Where the Commission, having considered any representations made to it under subsection (4), serves an improvement notice, the petroleum undertaking, operator or owner aggrieved by such improvement notice may, within the period of 14 days beginning on the day on which the improvement notice is served on it, appeal to the Court against the notice and in determining the appeal the Court may—
- (a) if it is satisfied that in the circumstances of the case it is reasonable to do so, confirm the notice with or without modification, or
 - (b) cancel the notice.
- (6) In considering an appeal against an improvement notice, the Court shall take into account the general duties of petroleum undertakings, operators or owners under section 13K.
- (7) Where an appeal against an improvement notice is taken, the notice shall, unless cancelled by the Court, take effect on the day next

following the day on which the notice is confirmed on appeal or the appeal is withdrawn or on the day specified in the notice as that on which it is to come into effect, whichever is the later.

- (8) Where no appeal is taken against an improvement notice, the notice shall take effect on the expiration of the period during which such an appeal may be taken or on the day specified in the notice as that on which it is to come into effect, whichever is the later.
- (9) The Commission may withdraw an improvement notice at any time before the date specified in it under subsection (2)(d) and the Commission may extend or further extend that date at any time when an appeal against the notice is not pending.
- (10) A person who fails to comply with an improvement notice served on him or her commits an offence and is liable—
 - (a) on summary conviction to a class A fine, or
 - (b) on conviction on indictment to a fine not exceeding €3,000,000.”.

Access to safety case information

- 20.** The following is substituted for section 13AC (inserted by the Act of 2010) of the Act of 1999:

“**13AC.**(1)An operator who has an accepted safety case to which a safety permit relates shall make available a copy of the accepted safety case to any member of the public who requests it.

- (2) Notwithstanding subsection (1), the obligation to make available a copy of an accepted safety case does not extend to releasing any content of an accepted safety case that relates to matters of industrial, commercial or personal confidentiality, public security or defence of the State.
- (3) Where an operator proposes to omit any content of an accepted safety case which relates to the matters referred to in subsection (2), he or she shall obtain the prior written consent of the Commission.
- (4) (a) An operator who makes available a copy of an accepted safety case is entitled to charge the person who requests it a fee in respect of the making available of that copy, provided that the amount charged by the undertaking does not exceed an amount which is reasonable having regard to the cost of making it available.
(b) For the purposes of paragraph (a), the Commission may give an operator such direction as it considers appropriate in relation to what is a reasonable fee.”.

Miscellaneous amendments - Act of 1999**21.** The Act of 1999 is amended—

- (a) in section 13K(2), by deleting paragraph (e),
- (b) in section 13R—
 - (i) in subsection (1), by substituting “an operator or owner”, for “a petroleum undertaking”, and
 - (ii) in subsection (3), by substituting “the operator or owner concerned” for “petroleum undertaking concerned”,
- (c) in section 13W(5)(b), by substituting for subparagraph (i) the following:
 - “(i) the licensed area to which subparagraph (i) or (ii) or both of paragraph (a) of the definition of ‘licensed area’ relates, or”,
- (d) in section 13X—
 - (i) in subsection (2), by inserting “, operator or owner” after “the petroleum undertaking”, and
 - (ii) in subsection (3), by inserting “, an operator or owner” after “a petroleum undertaking”,
- (e) in section 13AA—
 - (i) by substituting for subsection (1) the following:
 - “(1) Where the Commission is of the opinion that an activity being or likely to be, carried on by, under the control of or on behalf of a petroleum undertaking, an operator or an owner involves a substantial risk to safety, the Commission may serve a notice (in this Part referred to as a ‘prohibition notice’) on that petroleum undertaking, operator or owner.”,
 - (ii) in subsection (6)(a), by inserting “or an operator or an owner” after “petroleum undertaking”,
 - (iii) by substituting for subsection (7) the following:
 - “(7) In considering an appeal against a prohibition notice, the Court shall take into account the general duties of petroleum undertakings, operators, owners and others.”,
- and
- (iv) by substituting for subsection (9) the following:
 - “(9) A person who fails to comply with a prohibition notice commits an offence and is liable—
 - (a) on summary conviction to a class A fine, or
 - (b) on conviction on indictment to a fine not exceeding €3,000,000.”,

and

- (f) in section 13AB(1), by substituting—
- (i) “the petroleum undertaking, operator or owner concerned” for “the petroleum undertaking concerned”, and
 - (ii) “a petroleum undertaking, an operator or owner” for “a petroleum undertaking”.

Amendment of Petroleum and Other Minerals Development Act 1960 - definitions, assessment of licence applicant and approval of operator

22. (1) In Chapter I of Part II of the Petroleum and Other Minerals Development Act 1960—

- (a) the following definitions are inserted into section 2(1):

“ ‘major accident’ means, in relation to offshore petroleum activities:

- (a) an event involving an explosion, fire, loss of well control, or release of oil, gas or dangerous substances involving, or with a significant potential to cause, fatalities or serious personal injury;
- (b) an event leading to serious damage of petroleum infrastructure involving, or with a significant potential to cause, fatalities or serious personal injury;
- (c) any other event leading to fatalities or serious injury to multiple persons;
- (d) any major environmental incident resulting from incidents referred to in paragraphs (a), (b) and (c) and which relates to offshore petroleum activities;

‘offshore’ means situated in the territorial seas, the exclusive economic zone (within the meaning of Part 3 of the Sea-Fisheries and Maritime Jurisdiction Act 2006) or a designated area under section 2 of the Continental Shelf Act 1968;

‘offshore petroleum activity’ means any activity that is authorised to be carried on under or in connection with an offshore petroleum authorisation;

‘offshore petroleum authorisation’ means any one or more of the following, where the area to which the licence or lease extends is situated offshore:

- (a) an exploration licence granted under section 8;
- (b) a petroleum prospecting licence granted under section 9;
- (c) a reserved area licence granted under section 19;
- (d) a lease undertaking granted under section 10;
- (e) a petroleum lease granted under section 13;

‘petroleum undertaking’ has the meaning given to it by section 13A of the Electricity Regulation Act 1999;

‘prospective offshore petroleum authorisation holder’ means a person in respect of whom an application has been made to the Minister—

- (a) for the grant of an offshore petroleum authorisation to that person, or
- (b) for consent to a transfer of an offshore petroleum authorisation to that person (whether or not after the transfer the offshore petroleum authorisation will be held jointly with another person, including an existing petroleum authorisation holder),

but where that application has not been determined;”

and

- (b) in section 2(1), the following is substituted for the definition of “the Minister”:

“ ‘Minister’ means Minister for Communications, Energy and Natural Resources;”.

- (2) In Chapter III of Part II of the Petroleum and Other Minerals Development Act 1960 the following is inserted after section 9:

“Assessment of technical and financial capability of applicant for offshore petroleum authorisation

9A. (1) The Minister shall satisfy himself or herself as to the technical and financial capability of the prospective offshore petroleum authorisation holder to carry out the functions and obligations conferred by that offshore petroleum authorisation in determining whether to grant or transfer such an offshore petroleum authorisation.

- (2) When assessing the technical and financial capability of a prospective offshore petroleum authorisation holder under subsection (1) to carry out any offshore petroleum activity pursuant to an offshore petroleum authorisation, the Minister shall consider, *inter alia*:

- (a) the risk, hazards and other relevant information relating to the licensed area concerned including, where appropriate—
 - (i) the cost of degradation of the marine environment under the European Communities (Marine Strategy Framework) Regulations 2011 (S.I. No. 249 of 2011),
 - (ii) environmentally sensitive marine and coastal environments, and
 - (iii) marine protected areas, including special areas of conservation under the European Communities (Environmental Liability) Regulations 2008 (S.I. No. 547 of 2008) (as amended by the European Communities (Environmental Liability) (Amendment) Regulations 2011 (S.I. No. 307 of 2011)) and special protection

areas under the European Communities (Marine Strategy Framework) Regulations 2011 (S.I. No. 249 of 2011);

- (b) the particular stage of the offshore petroleum activity or activities;
 - (c) the ability of the prospective offshore petroleum authorisation holder—
 - (i) to meet the costs of carrying out the offshore petroleum activity or activities in question,
 - (ii) to meet the costs for the immediate launch and uninterrupted continuation of all measures for effective emergency response and subsequent remediation in the event of a major accident, and
 - (iii) to have or to put in place appropriate insurance, indemnity provision or other financial assurance instruments to cover liabilities potentially deriving from the particular petroleum activity or activities in question;
 - (d) available information relating to the safety and environmental performance of the prospective offshore petroleum authorisation holder, including in relation to major accidents, as may be appropriate to the offshore petroleum activity or activities for which the offshore petroleum authorisation is to be granted or transferred;
 - (e) the procedures proposed by the prospective offshore petroleum authorisation holder in the event of a major accident for ensuring prompt and adequate handling of appropriate compensation claims including in respect of appropriate compensation payments for transboundary incidents potentially deriving from the particular petroleum activity or activities in question.
- (3) Prior to the grant of an offshore petroleum authorisation, the Minister shall consult, where relevant, with the Commission for Energy Regulation and the Minister for the Environment, Community and Local Government in relation to considerations made under subsection (2)(a), and any other person considered necessary.
- (4) The Minister shall only grant or transfer an offshore petroleum authorisation to a prospective offshore petroleum authorisation holder where satisfied with the technical and financial capability of the prospective offshore petroleum authorisation holder to carry on the offshore petroleum activity or activities pursuant to the offshore petroleum authorisation and in accordance with the conditions of that offshore petroleum authorisation.
- (5) It shall be a condition of an offshore petroleum authorisation that the procedures proposed by the prospective offshore petroleum authorisation holder under subsection (2)(e) are established and

remain in place for the duration of the offshore petroleum authorisation.

Approval of appointment of operator

- 9B.** (1) Once notified of a proposed appointment of an operator under section 13KA(1) of the Electricity Regulation Act 1999 by a petroleum undertaking, the Minister shall, having consulted with any person he or she considers necessary, approve the appointment of the operator or object to the appointment of the operator proposed.
- (2) Where the Minister objects to the operator proposed by a petroleum undertaking, the Minister shall require the nomination of a suitable alternative by the petroleum undertaking or require the petroleum undertaking to assume the responsibilities of the operator under the licence.
- (3) The appointment of an operator by a petroleum undertaking shall not take effect until approval of the appointment by the Minister has been given in writing.
- (4) If notified by the Commission that an operator referred to in subsection (1) no longer has the capacity to meet its obligations under this Act, the Minister shall notify the petroleum undertaking accordingly in writing and require the petroleum undertaking to assume the responsibilities of the operator under the licence, and propose a replacement operator without delay for the approval of the Minister.”.

Amendment to section 6 of Continental Shelf Act 1968 - protection of installations in designated areas

23. The following is substituted for section 6 of the Continental Shelf Act 1968:

- “6.** (1) The Minister shall, for the purpose of protecting any installation in a designated area, after consultation with the Minister for Transport, Tourism and Sport and the Minister for Agriculture, Food and the Marine, by order, subject to any exceptions provided in the order, prohibit ships from entering within a distance of 500 metres from any part of an installation without the consent of the Minister.
- (2) A prohibition under subsection (1) shall not apply to a ship entering or remaining in that part of the designated area to which the prohibition relates—
- (a) in connection with the laying, inspection, testing, repair, maintenance, alteration, renewal or removal of any submarine cable or pipeline in or near that part,
- (b) to provide services for or to transport persons or goods to or from any installation in that part,

- (c) to inspect any installation or connected infrastructure in that part under the authority of the Minister, another Minister of the Government or another Member State,
 - (d) in connection with saving or attempting to save life or property,
 - (e) owing to stress of weather,
 - (f) when in distress, or
 - (g) where there is consent in writing from the operator or owner of the installation concerned.
- (2) If a ship enters part of a designated area in contravention of an order under this section, its owner and master each commits an offence unless it is shown that the prohibition imposed by the order was not and would not on reasonable inquiry have become known to the master.
- (3) A person who commits an offence under this section is liable—
- (a) on summary conviction, to a class A fine, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000.”.

Short title and commencement

- 24.** (1) This Act may be cited as the Petroleum (Exploration and Extraction) Safety Act 2015.
- (2) The Act comes into operation on such day or days as the Minister for Communications, Energy and Natural Resources may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.