



STATUTORY INSTRUMENTS

S.I. No. 541 of 2012

EUROPEAN UNION (OIL RESERVES) REGULATIONS 2012

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I, PAT RABBITTE, Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive 2009/119/EC of 14 September 2009¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Oil Reserves) Regulations 2012.

2. In these Regulations—

“Act of 2007” means National Oil Reserves Agency Act 2007 (No. 7 of 2007);

“Agency” means National Oil Reserves Agency;

“available and physically accessible” in respect of stocks means that, in a case of particular urgency, the stocks are at the disposal of the Minister and arrangements are in place to release the stocks to the market within time frames and under conditions conducive to alleviating an oil supply disruption;

“Council Directive” means Council Directive 2009/119/EC of 14 September 2009¹;

“EU emergency stocks” means at any time the total volume of oil stocks held in the State on behalf of another Member State, where such stocks have been notified in advance in accordance with the terms of an oil stocks agreement between the State and that Member State;

“Irish emergency stocks” means at any time the total volume of oil stocks held at that time by—

(a) the Agency or another person on its behalf under a holding contract (within the meaning of section 33 of the Act of 2007), and

(b) oil consumers (within the meaning of the Act of 2007), where such stocks are held as calculated in accordance with section 38 of the Act of 2007;

“specific stocks” means oil stocks that meet the criteria set out in Article 9 of the Council Directive and which are held in the State on behalf of another Member State in accordance with an oil stocks agreement.

¹OJ No. L265, 9.10.2009, p.9

“oil company” and “oil consumer” has the meanings assigned to them, respectively, in section 2 of the Act of 2007;

“oil stocks agreement” means a bilateral agreement or a memorandum of understanding or any agreement agreed between the State and one or more Member States, relating to the holding of EU emergency stocks or specific stocks in the State or the holding of Irish emergency stocks in another Member State;

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

3. The Agency shall ensure that stocks maintained at the Minister’s disposal shall be at all times available and physically accessible.

4. The Minister shall keep the register of emergency stocks for the purposes of Article 6 of the Council Directive.

5. The Minister shall keep the register of EU Emergency Stocks for the purposes of compliance with an oil stocks agreement and for the purposes of Article 5(2) of the Council Directive.

6. The Minister shall keep the register of specific stocks for the purposes of compliance with an oil stocks agreement and for the purposes of Article 10 of the Council Directive.

7. Where the Agency undertakes to maintain stocks for economic operators in accordance with Article 7(4) of the Council Directive, the Agency shall comply with the publication requirements of that Article.

8. (1) Where there is reason to implement the emergency procedures under Article 20 of the Council Directive, the Minister shall:

(a) have regard to Article 5(2), and

(b) where it is necessary for the purposes of giving effect to Article 5(2) by notice direct a person not to hinder the transfer, use or release of EU emergency stocks or specific stocks.

(2) Section 67 of the Act of 2007 applies to a notice under this Regulation.

9. (1) Where an oil customer or an oil consumer or the Agency proposes to enter into a contract to hold specific stocks in the State in accordance with an oil stocks agreement, the oil customer or the oil consumer or the Agency shall—

(a) seek the prior approval of the Minister for the holding of the specific stocks,

(b) provide an undertaking to the Minister that where the specific stocks are comingled with other oil stocks, these stocks shall not be moved without the prior written consent of the Minister and of the owner of the specific stocks, and

(c) provide a monthly statement to the Minister to confirm the volume and the location of the specific stocks held by it.

(2) Where the holding of specific stocks has been approved in accordance with subsection (1) of section 62 of the Act of 2007, paragraph (1) and with the terms of an oil stocks agreement, the specific stocks shall be entered in the register of specific stocks for the duration of the contract mentioned in that paragraph.

(3) No action or other proceedings shall lie or be maintainable against a person on specific stocks maintained or transported by the person within the State.

10. Section 2 of the Act of 2007 is amended—

(a) by substituting for the definition of “Council Directive” the following:

“‘Council Directive’ means Council Directive 2009/119/EC of 14 September 2009¹;”,

(b) by inserting after the definition of “designated subsidiary” the following:

“‘EU emergency stocks’, ‘Irish emergency stocks’ and ‘oil stocks agreement’ have the meanings assigned to them, respectively in the European Union (Oil Reserves) Regulations 2012 (S.I. No. 541 of 2012);”,

and

(c) in the definition of “national oil reserves”, by substituting “(excluding EU emergency stocks and specific stocks)” for “(excluding stocks held in the State under a bilateral agreement);”.

11. Section 38 of the Act of 2007 is amended by substituting for subsection (2) the following:

“(2) In calculating for the purposes of this section stocks of petroleum products held throughout the preceding month by an oil consumer, the Minister shall not take into account any volume of petroleum products on behalf of the oil consumer under a contract between the oil consumer and another person, unless—

(a) the other person is a person mentioned in Article 8(1) of the Council Directive,

(b) the contract provides for an agreed volume of petroleum products owned by the oil consumer to be so held by the other person for the purpose of a claim by the oil consumer for exemption from levy under this section,

¹OJ No. L265, 9.10.2009, p.9

- (c) the contract provides for the agreed volume of petroleum products to be available and physically accessible,
- (d) before the contract was entered into, the contract proposals (within the meaning assigned by section 62) were submitted to the Minister, and
- (e) where the contract provides for the agreed volume of petroleum products to be held outside the State, the oil consumer and other person have demonstrated that the petroleum products are held in accordance with Article 5 of the Council Directive, and with the provisions of any oil stocks agreement that the State may enter into from time to time.

(2A) Where an oil consumer proposes to delegate the consumer's stockholding obligation to a central stockholding entity (within the meaning of the Council Directive), the oil consumer shall notify the Minister at least 170 days prior to the start of the period to which the obligation in question relates in accordance with Article 8(4) of the Council Directive.”.

12. The Act of 2007 is amended in sections 33(2) and (3), 45(b), 47(1), 59(1)(b), 62(1) and (4)(a) by substituting “an oil stocks agreement” for “a bilateral agreement”.

13. The Act of 2007 is amended in sections 32(1), 34(1)(a) and 62(1)(a) by inserting “and Irish emergency stocks” after “national oil reserves”.

14. Part 6 of the Act of 2007 applies to the enforcement of these Regulations and, accordingly—

- (a) an authorised officer (within the meaning of section 46 of that Act) is authorised for the purposes of enforcing these Regulations and the Council Directive, and
- (b) an authorised person may exercise the powers of an authorised person under section 47 of the Act of 2007 for the purposes of the Agency obtaining necessary information in the performance of its functions under these Regulations.

15. Section 3 (as amended by the Fuel (Control of Supplies) Act 1982 (No. 18 of 1982)) of the Fuel (Control of Supplies) Act 1971 (No. 3 of 1971) is amended by inserting after subsection (3) the following:

“(3A) An order, an authorisation or a direction made under this Act shall not hinder the transfer, use or release of EU emergency stocks or specific stocks (within the meaning of the European Union (Oil Reserves) Regulations 2012 (S.I. No. 541 of 2012).”.



GIVEN under my Official Seal,
19 December 2012.

PAT RABBITTE,
Minister for Communications, Energy and Natural Resources.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal Interpretation.)

These Regulations provide for the transposition into Irish Law of Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

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nó trí aon dfoltóir leabhar.

To be purchased from the
GOVERNMENT PUBLICATIONS OFFICE,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

ISBN 978-1-4468-1043-9



9 781446 810439

€2.54

Wt. (B29612). 295. 1/13. Clondalkin. Gr 30-15.