



STATUTORY INSTRUMENTS.

S.I. No. 134 of 2013



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(PETROLEUM EXPLORATION) REGULATIONS 2013

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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 Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹, in respect of petroleum exploration, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Environmental Impact Assessment) (Petroleum Exploration) Regulations 2013.

Interpretation

2. (1) In these Regulations—

“Act” means Petroleum and Other Minerals Development Act 1960 (No. 7 of 1960);

“activities” means—

(a) searching for petroleum (within the meaning of section 8(7) of the Act) under an exploration licence, or

(b) doing anything referred to in section 9(5) of the Act under a petroleum prospecting licence,

and includes any deep-drilling;

“Department” means Department of Communications, Energy and Natural Resources;

“Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹;

“environmental impact assessment” means, in relation to an application to the Minister under Regulation 3(1), an assessment, to include an examination, analysis and evaluation, to be carried out by or on behalf of the Minister, in accordance with these Regulations and the Directive, that shall identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect effects of the proposed project on the following factors namely—

(a) human beings, flora and fauna,

¹OJ No. L26, 28.1.2012, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd April, 2013.*

- (b) soil, water, air, climate and the landscape,
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c);

“environmental impact statement” has the meaning assigned to it by Regulation 3;

“exploration licence” means an exploration licence granted under section 8 of the Act;

“licence” means an exploration licence or petroleum prospecting licence, as the case may be;

“local authority” has the meaning assigned to it by the Local Government Act 2001 (No. 37 of 2001);

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

“petroleum prospecting licence” means a petroleum prospecting licence granted under section 9 of the Act;

“specified body” means—

- (a) in the case of offshore prospection or exploration activities—
 - (i) the Minister for Agriculture, Food and the Marine,
 - (ii) the Minister for the Environment, Community and Local Government,
 - (iii) the Minister for Arts, Heritage and the Gaeltacht,
 - (iv) the Minister for Transport, Tourism and Sport,
 - (v) the Health and Safety Authority,
 - (vi) the Sea-Fisheries Protection Authority,
 - (vii) Bord Iascaigh Mhara,
 - (viii) the Marine Institute,
 - (ix) the Environmental Pillar,
 - (x) the Irish Whale and Dolphin Group,
 - (xi) An Taisce,
 - (xii) the Heritage Council, and

(xiii) any local authority in whose functional area or part of activities under a licence would be undertaken,

or

(b) in the case of onshore prospection or exploration activities—

(i) the Minister for Agriculture, Food and the Marine,

(ii) the Minister for the Environment, Community and Local Government,

(iii) the Minister for Arts, Heritage and the Gaeltacht,

(iv) the Minister for Transport, Tourism and Sport,

(v) An Taisce,

(vi) the Heritage Council,

(vii) the Environmental Pillar,

(viii) the Health and Safety Authority,

(ix) the Office of Public Works,

(x) the Health and Safety Executive,

(xi) Teagasc,

(xii) An Comhairle Ealaíon,

(xiii) Geological Survey of Ireland, and

(xiv) any local authority in whose functional area or part of activities under a licence would be undertaken.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Environmental impact statement

3. (1) Where the holder of a licence proposes to undertake activities under the licence, the holder shall apply to the Minister for permission to undertake the activities.

(2) Where an application is made to the Minister under paragraph (1), and the Minister considers that the activities, the subject of the application would be likely to have significant effects on the environment by virtue, inter alia, of their nature, size and location, he or she shall require the applicant to submit an environmental impact statement in respect of the activities the subject of the application.

(3) An environmental impact statement shall contain the information mentioned in Article 25 of the European Communities (Environmental Impact Assessment) Regulations 1989 (S.I. No. 349 of 1989).

(4) Where an environmental impact statement has been submitted in accordance with paragraph (2), the applicant shall, as soon as may be, publish in at least one daily newspaper published in the State a notice—

- (a) stating that the applicant has applied to the Minister for permission to undertake activities under a licence held by the applicant and indicating the location and nature of the proposed activities in respect of the application,
- (b) stating that an environmental impact statement has been prepared in respect of the proposed activities,
- (c) naming a place where a copy of the environmental impact statement may be inspected free of charge or purchased by any interested person,
- (d) specifying the times and the period (being the period referred to in paragraph (e)) during which the environmental impact statement can be so inspected or purchased, and
- (e) stating that any person may during the period of 30 days from the publication, make submissions or observations to the Minister in relation to the effects on the environment of the proposed activities.

(5) Copies of the environmental impact statement shall be available for purchase by interested persons for a fee not exceeding the reasonable cost of making a copy.

(6) Where an environmental impact statement has been submitted in accordance with paragraph (2), the applicant shall, as soon as may be, furnish copies of the statement to the relevant specified bodies.

Environmental impact assessment

4. (1) Where an environmental impact statement has been submitted in accordance with Regulation 3(2), the Minister shall carry out an environmental impact assessment and shall have regard to—

- (a) the statement,
- (b) to any submissions or observations made to him or her, during the period referred to in Regulation 3(4), in relation to the effects on the environment of the proposed activities, and
- (c) to the views of other Member States arising from consultation, if any, under paragraph (3).

(2) The Minister may, where he or she considers it necessary so to do, require an applicant who has submitted an environmental impact statement to furnish to him or her such further information in relation to the effects on the environment of the proposed activities as the Minister may specify.

(3) Where the Minister considers that the proposed activities in respect of which an environmental impact statement has been submitted in accordance with Regulation 3(2) would be likely to have significant effects on the environment in another Member State, or where another Member State likely to be significantly affected so requests, he or she shall consult that Member State in relation to the effects on the environment of the proposed activities.

(4) The Minister shall notify any Member State with which consultation takes place under paragraph (3) of his or her decision on the application concerned.

(5) The Minister shall in carrying out an environmental impact assessment consider the content of the environmental impact statement (and any other material including maps or plans) submitted as part of the application and determine whether same adequately identifies, describes and assesses the direct and indirect effects of the proposed activities. If the environmental impact statement (and other material) is inadequate, then the Minister shall serve a notice requesting further information setting out the manner in which the information is inadequate and requiring the applicant to submit further information to remedy these inadequacies.

(6) In carrying out his or her consideration of an environmental impact assessment, the Minister shall have regard to the following matters:

- (a) the particulars submitted with the application seeking his or her approval to undertake activities, to which the application relates, including the environmental impact statement and any other material including maps and plans,
- (b) any additional material submitted in response to a request for further information,
- (c) any submissions or observations validly made in relation to the effects on the environment of the proposed development including those made by other consent authorities, specified bodies or members of the public, and
- (d) any views of another Member State following consultation.

(7) In carrying out his or her consideration of an environmental impact assessment, the Minister may have regard to, and adopt in whole or in part, any reports prepared by his or her officers or by consultants, experts or other advisors.

Decision

5. (1) Where the Minister having considered an environmental impact assessment is considering to refuse the application, he or she shall by notice to the

applicant inform the applicant of his or her intention and afford the applicant an opportunity to make representations to the Minister within such terms as specified in the notice. Having considered any representations, the Minister shall make his or her decision.

(2) Where the Minister makes a decision on an application for a permission under Regulation 3(1) to grant permission, the Minister may attach such conditions to the permission as the Minister considers necessary to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed project on the environment.

(3) When a decision to grant or refuse an application under Regulation 3(1) has been taken, the Minister shall inform the applicant by notice and the public, by way of publishing the decision on the Department's website and in at least one newspaper published and circulating in the State, of the decision and shall make available the following information to the applicant and the public, that is to say—

- (a) the content of the decision and any conditions attached to it,
- (b) his or her evaluation of the application's direct and indirect effects on environmental factors and the interaction between those factors,
- (c) having examined any submission or observation made to the Minister, the main reasons and considerations—
 - (i) on which the decision is based, and
 - (ii) for the attachment of any conditions,
 - including reasons and considerations arising from or related to submissions or observations made by a member of the public,
- (d) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects,
- (e) the reports referred to in paragraph 4(7),
- (f) information for the public on the procedures available to review the substantive and procedural legality of the decision, and
- (g) any views of another Member State following consultation.

Exemptions

6. (1) The Minister may, by notice, where he or she is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt an application for permission under Regulation 3(1) from the requirement to submit to the Minister an environmental impact statement.

(2) The Minister in granting an exemption under paragraph (1) may, by notice, apply such other requirements in relation to the application as he or she considers necessary or appropriate.

(3) Notice under these Regulations shall be given to the applicant by notice and published on the website of the Department and in at least one newspaper published and circulating in the State.

Service of notices

7. (1) A notice under these Regulations shall be addressed to the applicant concerned by name and may be served on or given to the person—

- (a) by giving a copy to the applicant, his or her employee, servant or agent, or in the case of a partnership, by delivery of a copy to any of the partners,
- (b) by leaving a copy at the address where the applicant ordinarily resides, where he or she carries on business, or, where an address for service of notices has been furnished by the applicant to the Minister, at that address,
- (c) by sending a copy by post in a prepaid registered letter to the address at which the applicant ordinarily resides or carries on business, in the case of a body corporate or unincorporated body at the registered office of the body or, where an address for service has been furnished by the applicant to the Minister, at that address,
- (d) by sending a copy by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the applicant ordinarily resides or carries on business or, if an electronic address or facsimile number for the service of a notice has been furnished by the person to the Minister, that electronic address or facsimile machine, but only if—
 - (i) the recipient's facility for the reception of electronic mail generates a message confirming the successful receipt of the electronic mail, or
 - (ii) the sender's facsimile machine generates a message confirming the successful transmission of the total number of pages of the notice.

(2) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Judicial review

8. (1) A person shall not question a decision made by the Minister under Regulation 5 otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(2) The High Court shall not grant leave for judicial review unless it is satisfied that—

(a) the applicant has a sufficient interest in the matter, or

(b) the applicant is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protections, that has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(3) A sufficient interest for the purposes of paragraph (2)(a) is not limited to an interest in land or other financial interest.

(4) The Court shall, in determining either an application for leave for judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.



GIVEN under my Official Seal,
17 April 2013.

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

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