

S.I. No. 404/2012 — European Union (Environmental Impact Assessment) (Petroleum) Regulations 2012.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 26th October, 2012.*

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, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Environmental Impact Assessment) (Petroleum) Regulations 2012.

2. The following section is inserted after section 13A (inserted by Regulation 19 of the European Communities (Environmental Impact Assessment) Regulations 1999 (S.I. No. 349 of 1989)) of the Petroleum and Other Minerals Development Act 1960 (No. 7 of 1960):

“Environmental impact assessment.

13B(1)(a) In this section—

‘environmental impact assessment’ means an assessment, to include an examination, analysis and evaluation, carried out by the Minister in accordance with this section that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Directive, the direct and indirect effects of a plan submitted to the Minister under the terms of a lease under section 13 seeking his or her approval for working of petroleum on the following (“environmental factors”) namely—

- (i) human beings, flora and fauna,
- (ii) soil, water, air, climate and the landscape,
- (iii) material assets and the cultural heritage, and
- (iv) the interaction between the factors mentioned in subparagraphs (i), (ii) and (iii);

‘Directive’ means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011.

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

(2) The Minister shall, as part of his or her consideration of a plan submitted to him or her under the terms of a lease under section 13 seeking his or her approval for working of petroleum, in accordance with subsection (3), ensure that before a decision is made workings likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an environmental impact assessment.

(3) An environmental impact assessment shall be carried out by the Minister in respect of a plan submitted to him or her under the terms of a lease under section 13 seeking his or her approval for working of petroleum:

(a) of a class of development specified in Parts I and II of the First Schedule to the European Communities (Environmental Impact Assessment) Regulations 1989 (S.I. No. 349 of 1989) which exceeds a quantity, area or other limit specified in that Schedule, or

(b) of a class of development specified in Part II of that Schedule which does not exceed quantity, area or other limit specified in that Part but which the Minister determines would be likely to have significant effects on the environment.

(4) The Minister shall 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 working. 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.

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

(a) the particulars submitted with the plan seeking his or her approval for working of petroleum 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, if any, pursuant to subsections (1) and (5)(b) of section 13A;

(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, statutory consultees or members of the public;

(d) any views of another Member State following consultation under subsection (7) of section 13A.

(6) When the Minister makes a decision on an application for approval for working of petroleum to approve the working, the Minister may attach such conditions to the decision as the Minister considers necessary to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed working.

(7) In carrying out his or her consideration and his or her 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.

(8) When a decision has been taken by the Minister, either to approve the application for approval for the working of petroleum or to refuse the application, the Minister shall inform the applicant and the public 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 subsection (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 under subsection (7) of section 13A.”.



GIVEN under my Official Seal,

19 October 2012.

PAT RABBITTE,

Minister for Communications, Energy and Natural Resources.

1 O.J. No. L 26, 28.1.2012, p. 1