S.I. No. 77/1998 — Regulations Entitled European Communities (Hydrocarbons) (Prospection, Exploration and Production) Regulations, 1998.

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REGULATIONS entitled EUROPEAN COMMUNITIES (HYDROCARBONS) (PROSPECTION, EXPLORATION AND PRODUCTION) REGULATIONS, 1998.

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I, MICHAEL WOODS, Minister for the Marine 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 European Parliament and Council Directive 94/22/EC[(1)] of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons, hereby make the following Regulations:

[(1)]OJ No. L164, 30.6.1994, p.3.

1. These Regulations may be cited as the European Communities (Hydrocarbons) (Prospection, Exploration and Production) Regulations, 1998.

2. (1) In these Regulations—

"the Directive" means European Parliament and Council Directive 94/22/EC of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons;

"Minister" means the Minister for the Marine and Natural Resources;

"Official Journal" means the Official Journal of the European Communities;

"authorisation" means an undertaking under section 7 or 10 of the Petroleum and Other Minerals Development Act, 1960 (No. 7 of 1960), or an exploration licence, a petroleum prospecting licence, a petroleum lease or a reserved area licence, under Part II of that Act;

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

(3) In these Regulations—

(*a*) a reference to a regulation is a reference to a regulation of these Regulations,

(*b*) a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended, and

(*c*) a reference to an article is to an article of the Directive.

3. (1) The Minister may on grounds of national security refuse to grant an authorisation where the applicant for an authorisation is effectively controlled by a State other than a Member State or by nationals of such a State.

(2) The Minister may determine the areas within the State to be made available for the exercise of the activities of prospecting, exploring for and producing hydrocarbons.

(3) The Minister may refuse to grant an authorisation to an applicant on grounds that do not give rise to discrimination between entities.

(4) Where an application for an authorisation is refused by the Minister, the reasons for the refusal shall if the applicant so requests be communicated by the Minister to the applicant.

4. (1) Subject to Regulation 5, the Minister shall—

(*a*) following the receipt by him of an application for an authorisation, or

(*b*) in any other case, prior to the granting of an authorisation,

cause a notice to be published in the Official Journal.

(2) A notice under this Regulation shall comply with the second and third indents of Article 3.2.

(3) In this Regulation, "notice" means a notice inviting, within a period of not less than 90 days from its publication in the Official Journal, the making of an application for an authorisation.

5. (1) Regulation 4 shall not apply to the grant of an authorisation in respect of an area—

(*a*) to which Article 3.3. relates, or

(*b*) where geological or production considerations justify the grant of such authorisation to the holder of an authorisation in respect of an area that is contiguous to the first-mentioned area.

(2) In circumstances to which paragraph (1)(*b*) applies the Minister shall, prior to granting an authorisation in respect of the first-mentioned area referred to therein, by notice in writing, invite each holder of an authorisation referred to in the said paragraph to submit, within a period specified in the notice, an application for an authorisation in respect of the said first-mentioned area.

(3) A notice under this Regulation shall be addressed to the entity concerned by name and may be served on the entity in one of the following ways—

(*a*) by delivering it to the entity,

(*b*) by leaving it at the address at which the entity ordinarily resides or, in a case in which an address for service has been furnished, at that address,

(*c*) by sending it by post in a prepaid registered letter to the address at which the entity ordinarily resides, or in a case in which an address has been furnished, to that address.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts, 1983 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business in the State.

6. The grant of an authorisation to which subparagraph (*a*) or (*b*) of paragraph 5 of Article 3 applies or a decision to which subparagraph (*c*) of the said paragraph 5 applies shall, for purposes of these Regulations, be deemed not to be a grant of an authorisation.

7. (1) The Minister shall, save where the period for which an authorisation was granted has already expired, terminate the authorisation concerned, on the carrying out of the activities in respect of which it was granted.

(2) The Minister may extend the duration of an authorisation where—

(*a*) the period for which the authorisation has been granted is insufficient to enable the carrying out of the activities to which it relates, and

(*b*) the holder of the authorisation has carried out the activities to which the authorisation relates in accordance with the provisions of the authorisation concerned.

8. (1) The Minister shall for the purpose of making a determination on an application for an authorisation, apply the criteria specified in subparagraphs (*a*) and (*b*) of paragraph 1 of Article 5 and, where applicable, subparagraph (*c*) of the said paragraph 1, to the application concerned.

(2) The Minister may in making a determination to which paragraph (1) relates take into account any lack of efficiency or responsibility on the part of an applicant for an authorisation under any other authorisation granted to him.

(3) A determination by the Minister on the composition of an entity to which an authorisation may be granted and the determination by the Minister of the operator of such an entity shall be based on objective and non-discriminatory criteria.

9. (1) The Minister may, for any one or more of the purposes described in Regulation 10 and for no other purpose, impose conditions or requirements concerning the exercise or termination of an activity under an authorisation, or amend, revoke or add to such conditions or requirements.

(2) Subject to paragraph (3), the Minister shall on request from an entity, furnish an entity with a copy of the conditions and requirements concerned.

(3) In circumstances to which Regulation 4(1)(*b*) applies the Minister shall not furnish an entity with a copy of the conditions and requirements concerned prior to the publication in the Official Journal of the notice referred to in the said Regulation 4(1)(*b*).

(4) Where the Minister changes the conditions or requirements applicable to an authorisation he shall cause a notice in writing to be served on each entity that received a copy of the conditions and requirements applicable to such authorisation, specifying the changes concerned.

(5) The conditions and requirements to which this Regulation applies shall, as between the entities concerned, be applied in a non-discriminatory manner.

(6) Where an entity to which an authorisation has been granted fails to comply with a condition or requirement thereunder the Minister may revoke the authorisation concerned.

10. The purposes for which the Minister may impose conditions or requirements under Regulation 9 are as follows:

(*a*) ensuring the proper performance of the activities permitted by the authorisation;

(*b*) any of the purposes specified in paragraph 2 of Article 6.

GIVEN under my Official Seal, this 11th day of March, 1998.

MICHAEL WOODS,

Minister for the Marine and Natural Resources.

EXPLANATORY NOTE.

These Regulations give effect to European Parliament and Council Directive 94/22/EC of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (oil and natural gas).

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