

**PETROLEUM (POLLUTION COMPENSATION)
REGULATIONS**

134/1997.
[134/1998
185/1998].

made under section 29(1)(j)

1. These Regulations may be cited as the Petroleum Citation.
(Pollution Compensation) Regulations.

2. In these Regulations—

Interpretation.

- (a) “Alternative Dispute Resolution” includes the methods of conciliation, negotiation, mediation and arbitration;
- (b) “crude oil” means petroleum in the liquid state;
- (c) “operator” means any person that engages in petroleum operations whether as principal or subsidiary contractor;
- (d) “owner” includes all persons having any estate or interest in land;
- (e) “referee” means the person chosen to conduct the Alternative Dispute Resolution procedure under regulation 7;
- (f) “Valuation of Crop Plant Schedules” means the Schedules of Compensation for Agricultural Crops prepared by the Ministry of Agriculture, Land and Marine Resources that are available for public inspection at the Ministry’s office during office hours;
- (g) “valuator” means a person whose name appears on a list of suitable persons prepared by the Minister and available for public inspection at the Ministry’s office during office hours.

3. For the purposes of these Regulations, land is deemed to be polluted as the result of petroleum operations if it is polluted by —

Meaning of
pollution.

- (a) the escape of oil or salt water or any solid or liquid matter, whether of a nature similar to oil or water or not, from any—
 - (i) crude oil well;

- (ii) boring or excavation for the purpose of winning crude oil;
 - (iii) natural or artificial pond, reservoir, swamp, tank, watercourse or channel; or
 - (iv) pipe used in connection with petroleum operations;
- (b) the bursting, flooding or overflow (not being due to the negligence of the owner of the land polluted) of any pond, reservoir, sump, channel or watercourse which has been polluted as a result of petroleum operations.

Investigation of complaint.

4. (1) Where a complaint in writing is made to the operator by an owner, that land in which he has an estate or interest has been polluted as a result of petroleum operations, the operator shall within twenty-eight days investigate the complaint with the assistance of a valuator retained by him.

(2) The valuator shall be agreed by both the operator and the owner, and in default of an agreement, shall be nominated by the Minister.

(3) The valuator shall investigate the complaint and assess compensation for the damage done by pollution and prepare a report in writing which shall include details of any compensation assessed.

(4) The owner or his representative and the operator or his representative may accompany the valuator in the investigation.

Calculation of compensation.

5. The valuator shall calculate the compensation for damages based on—

- (a) with respect to agricultural items, the current Valuation of Crop Plant Schedules;
- (b) with respect to non-agricultural items, the cost of cleaning the items or land affected, and the replacement value of destroyed items, as determined by him.

6. The fees and expenses of the valuator shall be treated as part of the cost of the investigation and shall be borne by the operator. Valuator's fees.

7. (1) At the conclusion of the process under regulation 4(3) the operator shall forthwith file with the Minister the valuator's report and the operator shall at the same time serve a copy of the report on the owner. Reference to Minister.

(2) Within fourteen days of the filing of the valuator's report the parties shall notify the Minister whether or not the report is accepted.

(3) If the report of the valuator is not accepted by the operator or the owner, the Minister or his representative or agent shall endeavour to assist them in arriving at a settlement.

(4) Where no settlement is arrived at within twenty-eight days of the filing of the valuator's report with the Minister, he shall, for the purpose of resolving the dispute:

- (a) refer the matter to a form of Alternative Dispute Resolution;
- (b) in consultation with the operator and the owner, determine which form of Alternative Dispute Resolution is most appropriate, and the choice of a referee, if required; and
- (c) required the result of the procedure to be reported to him by a time specified in the referral.

8. Pursuant to section 39 of the Act, the Oil and Water Board Ordinance is hereby repealed. Repeal of the Ordinance. Ch. 26 No. 6. [134/1998 185/1998].