An Coimisiún Pleanála

Projects of Common Interest:

Manual of Permit Granting Process Procedure

Article 9 of Regulation (EU) 2022/869

on Guidelines for Trans-European Energy Infrastructure

Appendix II

Disclaimer

In accordance with Article 9.1 of the Regulation, this Manual is not intended to be a legally binding document. The Manual is intended to assist project promoters, the public and relevant authorities. It is intended that the Manual will provide transparency and assist with public participation in the PCI process

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An Coimisiún Pleanála (Strategic Infrastructure Development)

Definition of Strategic Infrastructure Development

The 7th Schedule to the 2000 Act (as amended) lists the classes of infrastructure development which, if considered by the Commission to be strategic infrastructure development, require direct application for permission to the Commission instead of the local planning authority. To qualify as strategic infrastructure development a proposed development must first come within the scope of one or more of the classes and comply with the thresholds contained in the 7th Schedule. Secondly, the the Commission must come to the opinion that the proposed development, would meet one or more of the following criteria:-

- is of strategic economic or social importance to the State or the region in which it would be situate,
- would contribute substantially to the fulfilment of any of the objectives of the National Planning Framework or in any regional spatial and economic strategy in respect of the area or areas in which the development would be situate,
- would have a significant effect on the area of more than one planning authority.

This opinion is formally given by the Commission at the conclusion of the pre-application consultation stage following a request for closure of the consultations from the prospective applicant.

General

It is a mandatory requirement for a prospective applicant for planning permission for development listed in the 7th Schedule to enter into pre-application consultations with the Commission and obtain notice from the Commission stating whether or not the proposed development is regarded as strategic infrastructure development. For the purposes of these consultations, the prospective applicant must supply sufficient information to the Commission enable it to assess the proposed development in the light of the criteria set out for strategic infrastructure development.

The purpose of pre-applications is set out in the Planning and Development Act, 2000, (as amended), and in the Planning and Development Regulations 2001 (as amended). In pre-application the Commission may give advice to the prospective applicant regarding the proposed application and, in particular, regarding

- Whether the proposed development constitutes 'Strategic Infrastructure Development', having regard to the provisions of the legislation.
- The procedures involved in making an application for permission to the Commission and in considering such an application.
- Considerations, relating to proper planning and sustainable development or the effects on the environment, which may in the Commission’s opinion, have a bearing on its decision in relation to the application
- An indication of the bodies/persons which the prospective applicant should consult with prior to lodging an application and completion of an EIAR.
- The Prescribed Bodies (under Art. 213) which should be notified of the application.

Prospective applicants should note that it is not the purpose of pre-application consultations to conclude on the merits of a case. The Commission may however indicate what considerations relating to the proper planning and sustainable development or the environment may have a bearing on its decision.

Request for Consultations

Before making a request for pre-application consultations, a prospective applicant should check to see if the proposed development is of a class listed in the 7th Schedule of the 2000 Act, as amended. If it is not, it cannot be deemed to be strategic infrastructure development and the application should be made to the local planning authority for the area.

An application for pre-application consultations should be made in writing and be addressed to **An Coimisiún Pleanála, 64, Marlborough Street, Dublin 1.**

An application for pre-application consultations should generally include the following information:

- the name and address of the prospective applicant, contact telephone numbers and email address, if available,
- the name and address of the prospective applicant's main agent, if any, contact telephone numbers and email address, if available,
- general description of the nature and scale of the proposed development, including drawings should these be available,
- address of the proposed development and a brief description of the site and surrounding area,
- A site location map(s) and a site map(s) showing the boundaries of the site,
- Where necessary, a statement of the prospective applicant's legal interest to enable it to carry out the proposed development if approved,
- the class of development within the 7th Schedule to which the proposed development belongs,
- name of the planning authority or authorities, if more than one, in whose functional area(s) the site is situated,
- statement as to why or why not the prospective applicant considers the proposed development should be regarded as strategic infrastructure development having regard to the criteria set out in section 37A(2) of the 2000 Act (as amended),

Note: commercially sensitive information should not be submitted during pre-application consultations as all information on file will be available for public inspection at the close of the consultation stage. Prospective applicants should also note that the proposed development should be at a stage where it is mature enough to enter the pre-application consultation phase. Approaches to the Commission where the proposed development is not properly defined or established can create undue delay with the process.

General

Where the Commission has issued notice to a prospective applicant that a proposed development is deemed to be strategic infrastructure development (conclusion of Stage 1), an application for permission in writing for that proposed development may only be made to the Commission and must be accompanied by an Environmental Impact Assessment Report. An application form is available and should be completed

and submitted with the application documents. (Electronic applications are not acceptable at present). If the Commission considers the application or the EIAR is inadequate or incomplete it may refuse to deal with the application or it may require further information.

Notice of Application

Before making an application to the Commission, a prospective applicant must publish a notice in one or more newspapers circulating in the area of the application site indicating the following:-

- the nature and location of the proposed development,
- that permission is being sought from the Commission and that an Environmental Impact Assessment Report (EIAR), and a Natura Impact Statement (NIS) where relevant, have been prepared,
- the times and places and the period (not less than 6 weeks) during which the application and EIAR/NIS may be inspected or purchased (this time period should commence at least 5 working days after the application has been submitted to the Commission),
- that submissions and observations may be made to the Commission relating to the implications for the proper planning and sustainable development of the area and the likely effects on the environment or any European site, if the development is carried out,
- that the Regulations require that any such submission or observation shall state the subject matter of the submission or observation and the reasons, considerations and arguments on which it is based in full. (Article 217 of the Planning and Development Regulations refers),
- that it is at the absolute discretion of the Commission whether to hold an oral hearing on the case. (For further details see Strategic Infrastructure Development information on the Commission's website),
- indicating the types of decision the Commission
- can make in relation to the application,
- where the proposal will require an integrated pollution prevention and control (IPPC) or Waste Licence or the Chemical Act Regulations apply, an indication of that fact,
- the name/address of the stand-alone website, and
- how a person may question the validity of any decision by the Commission and where practical information on the review mechanism may be found.

In addition, site notices, the use of local or national media or the holding of public meetings relating to the proposed application may be required. the Commission will have specified its requirements, if any, in that regard at the pre-application stage.

A sample public notice is available from the Commission.

Making an Application - Documents to be Submitted

In making an application for permission, the applicant is required to submit the following in writing to the Commission:-

- A completed application form,
- Copies of plans and particulars of the proposed development, including the EIAR, and any plans, particulars or other information required by the Commission(the number of copies and their format will be clarified during the pre-application consultation stage),
- Screening opinion in relation to article 6 of the Habitats Directive and Natura Impact Statement in relevant cases. (The number of copies and their format will be clarified during the pre-application consultation stage).
- A copy of the published notice(s) including any site notice (if required),
- A list of the bodies notified of the application and an indication of the date they were notified,
- A list of any other public notices or other public consultations, and an indication of the date or dates of such notice(s) or consultations (including any notice or consultation required by the Commission and indicated to the prospective applicant in pre-application discussions),
- The application fee is payable when the application is being lodged.

Application documents, including the EIAR and the NIS where relevant, must be comprehensive and complete on lodgement of the application. The holding of an oral hearing should not be automatically expected with all cases and should not be regarded as a stage in the process where deficiencies can be corrected. Attention is drawn to the Commission's power under s.37E(2) to refuse to deal with any application where the Commission considers that the application or EIAR is inadequate or incomplete, and to the Commission's absolute discretion as to whether an oral hearing should be held in any particular case. Unsolicited additional information in the form of survey material or reports generally should not be submitted following lodgement of the application and may be returned to the Applicant. Any unsolicited information lodged in exceptional circumstances only should be confined to non-contentious matters such as clarification of particulars already submitted (as per the Development Management Guidelines 2007). This also applies where the applicant is requested the Commission to respond to observations made in advance of an oral hearing.

Commission for Regulation of Utilities:

An Coimisiún um Rialáil Fóntas:

Guidance Notes: Applying for a Licence to Generate Electricity

Information Paper:

Date Published: September 2022

Contents

1. Introduction

These guidance notes are to assist applicants in applying for a Licence to Generate Electricity. They should be read in conjunction with the Commission for Regulation of Utilities (CRU) application form that is applicable to the project.

1.1 Legislative Background

The Electricity Regulation Act, 1999 as amended (the Act) gives the CRU the necessary powers to licence and regulate the generation, distribution, transmission and supply of electricity in Ireland. One of the functions of the CRU under the Act is to grant or refuse Licences to Generate Electricity (Licences) following assessment of an associated application.

All electricity generators must hold a Licence under the Act. It is an offence to generate electricity prior to obtaining a Licence from the CRU. On conviction, a person may be liable to a fine up to €1,904, imprisonment for a term not exceeding 12 months, or both.

Authorisations to construct or reconstruct generating stations (Authorisations) are also issued by the CRU and separate Authorisation Guidance Notes are available at www.cru.ie. Dual and individual application forms are available for both Authorisations and Licences.

1.1.1 Environmental Compliance

The European Union (EU) (Birds and Natural Habitats) Regulations 2011[1] as amended (the Regulations), implement the EU Habitats Directive (92/43/EEC) and EU Birds Directive (2009/147/EC). Regulation 42(1) of the Regulations requires a screening for Appropriate Assessment (AA) of a “project" as defined in those Regulations, where an application for consent is received by a public authority. Where the project is a project of a type also requiring a development consent within the meaning of the Planning and Development Acts 2000 (as amended), the obligations on the CRU under Regulation 42 do not apply and the CRU will not undertake AA screening of that project. This will typically be the case and as such the application requirements for a Licence set out in this document are reflective of this scenario.

However, for untypical projects where planning permission or a development consent is not required, the CRU may be required to undertake AA screening and, if appropriate, an AA of the project. This will be determined on a case by case basis. If you think your project may be ‘untypical’ then please request a pre-submission meeting to discuss your submission requirements with the Licensing Team via licensing@cru.ie.

1.2 Exemption for <1MW Generating Stations

If a proposed generating station has an installed capacity of less than or equal to 1MW then applicants are exempted from the need to apply to the CRU for a Licence. Such generating stations stand licensed pursuant to S.I. No. 460 of 2022[2].

[1] S.I. 477 of 2011
[2] S.I. No. 460/2022 – Electricity Regulation Act 1999 (Section 14 (1A)) Order 2022

1.3 Generating Stations not exceeding 10 MW

If a proposed generating station has a capacity not exceeding 10 MW, applicants should complete the form “Notification of Intention to Construct or Reconstruct, and/or to Generate Electricity, from a Generation Station not exceeding 10 MW”. On receiving an acknowledgement from the CRU that the correctly completed notification has been received, the generation station will be licensed pursuant to SI 460 of 2022. The fees listed in section 3 of this guidance note remain applicable and evidence of payment must be provided at the time of notification.

2. When Should I Apply?

Applicants should only apply when they have all information required by the CRU as set out in this Guidance and the application forms. See Section 6 in relation to the assessment timelines for reapplications.

Where a joint application for and Authorisation and a Licence is not submitted, applicants must hold an Authorisation from the CRU prior to submitting their Licence application.

2.1 Pre-submission Meetings

New applicants or applicants with novel or complex applications are encouraged to avail of a pre- submission meeting with the CRU. At this meeting, the CRU will set out the application and assessment process and address any questions the applicant may have following review of the guidance notes and application forms. To avoid the potential for submission of an invalid application, new applicants are encouraged to contact the CRU via licensing@cru.ie to request a pre-submission meeting.

Additionally, the CRU completeness check template is provided in Appendix I to assist applicants in developing valid applications. The application form also requests that the applicant supplies a brief description of the development and this section of the form can be used to highlight any novel or complex elements.

3. Application Fee

The application fee must be paid at time of submission of the application/notification. Payment will only be accepted by Electronic Funds Transfer (EFT). The CRU bank details are:

IBAN: IE91AIBK93208677400043

BIC: AIBKIE2D

The application fees are banded according to the installed capacity of the proposed generating station. The fees are set out below.

Installed Capacity	€
1MW to < 5MW	35
5MW to <15MW	55
15MW to < 40MW	100
40MW to < 50MW	200
50MW to < 100MW	400
100MW to < 200MW	1,330
200MW to < 500MW	3,320
500MW and greater	3,980

Installed capacity refers to the normal full load MW capacity of the generation unit (or the sum of the normal full load MW capacities of all generation units associated with the application) as stated on the generation unit nameplate(s). For the avoidance of doubt, the installed capacity is to include the MW consumed by generation unit auxiliary plant directly supplied from the generation unit terminals and other site load directly supplied by the generation unit(s) prior to connection with the transmission and/or distribution systems.

4. Submission Format

A 'Completeness Check' listing all documents applicants should enclose with the completed application form can be found in Appendix I. The application form also details these required documents.

The CRU may require additional written confirmation or clarification of any aspect of your application. Where this is requested, the information may be submitted in the form of a letter signed by the applicant, its authorised officer or such other person duly authorised to act on the applicant's behalf.

Please ensure to number and name your application documentation in line with the Completeness Check document e.g. attach planning submissions as '4. Planning Information'. Failure to do so, or submission of additional documents not requested will result in a return of same and ultimately a delay in the assessment of your application

All documentation should be submitted electronically to licensing@cru.ie. No hardcopies are required. Files that are too large to be submitted by email should be provided by file share software.

5. Application Validity

The CRU has developed application forms and guidance documents to assist applicants in developing a valid application. The relevant application forms and guidance documents are available at www.cru.ie.

The CRU completeness check template is provided in Appendix 1 to assist applicants in developing valid applications.

On receipt of an application, the CRU assessment team will carry out a Completeness Check to confirm that the application is valid. Should the CRU receive an invalid application i.e., missing documentation or an incomplete application form, it will inform the applicant that their application is incomplete and will not be processed. A written list of the incomplete sections will be provided to support the applicant's development of a new and valid application.

Applicants should note that updating their application mid assessment will delay the CRU assessment process and may necessitate a full reassessment. It may also invalidate the original application and result in the requirement for a new application. The decision to require a new application or recommence an assessment will be made on a case-by-case basis and is fully at the discretion of the CRU.

6. How Long Will It Take to Consider my Application?

The CRU aims to meet the following application assessment timelines for Licences greater than 10 MW and under 40 MW:

Assessment steps	Timeline
Acknowledge receipt of application	Within 1 week of receiving application
Completeness Check	Within 2 weeks of receiving application
Assessment	Up to 6 weeks
CRU final decision-making process	3 weeks following completion of assessment

The CRU aims to meet the following application assessment timelines for Licences of 40MW and over and dual applications:

Assessment steps	Timeline
Acknowledge receipt of application	Within 1 week of receiving application
Completeness Check	Within 2 weeks of receiving application
Assessment	Up to 10 weeks
CRU final decision-making process	3 weeks following completion of assessment

The assessment timeline is dependent on the applicant's response times to Additional Information requests. Please note that requests for an update on the application assessment progress will be responded to only by reference to the above assessment timelines.

In the case where an applicant has been recently issued with Licence to Generate but subsequently wishes to make changes, please note that in most cases this will require a full reapplication. The associated assessment timeline for such reapplications is at least 6 months. To avoid this situation, applicants are advised to wait until all required information is finalised before making any submissions to the CRU. This will support the timely assessment of applications for all applicants.

7. CRU Assessment and Applicant Updates

Once the application has passed the Completeness Check, the applicant will be notified that the assessment has formally commenced. A CRU application reference number will be assigned for assessment and this should be used in all correspondence with the CRU.

The assessment will cover the following disciplines:

(a) Administrative;

(b) Technical;

(c) Environmental; and

(d) Financial.

To keep applicants aware of assessment progress, fortnightly Assessment Progress Reports will be issued by the CRU for the duration of the assessment. An Assessment Progress Report template is provided in Appendix II.

Should an applicant require information that is not contained in the Assessment Progress Report, they may submit a request for information to the CRU by email via licensing@cru.ie. This will be responded to in the next Assessment Progress Report.

During the assessment, the CRU may require additional information from the applicant to support their application, or to clarify information already submitted. These requests will be issued within the Assessment Progress Report.

Where matters arise that have the potential to result in a refusal of an application, the applicant will be informed at the earliest opportunity to afford them the time to address the matter, where possible and appropriate, through the submission of additional information.

8. CRU Decision Making Process

If the CRU determines a Licence should be granted, the applicant will be issued with a soft and hard copy of the signed Licence.

If the CRU decides to refuse a Licence application, the applicant will be notified in writing of the reasons for the refusal and will be informed of the appeals process as per Part IV, sections 29 to 32 of the Act. Please note that the appeals process is external to the CRU procedure.

In granting a Licence, the CRU is not endorsing the plans of a generating station and it cannot be relied upon as an indication of the likely commercial success or otherwise of its holder.

9. Inactive Applications

Where the CRU has not received a response to a request for additional information or has had no material contact from the applicant for a period of 2 months, the CRU will notify the applicant that the issuance of the Assessment Progress Reports will be put on hold until the applicant has provided an appropriate response or update.

Where the CRU has not received a response to a request for additional information or has had no material contact from the applicant for a period of 4 months, the CRU will write to inform the applicant that their application is deemed to be expired. If the applicant subsequently wishes to reapply, they must submit a new application form and associated documentation.

10. Terms and Conditions of a Generation Licence

A Licence is valid for a minimum of 30 years, subject to the Licence holder complying with the terms and conditions of the Licence. This 30-year period includes a 15-year initial term and the potential for the CRU to issue a 15-year notice of termination of the Licence.

The CRU may revoke a Licence if the holder fails to comply with the terms and conditions. The revocation terms of the Licence are detailed in Schedule 2 of the Licence. Details of other terms and conditions of a generation Licence can be found in the Licence.

11. Confidentiality of Information Submitted

Information provided in an application form and supporting documents may be subject to section 13 (Prohibition on unauthorised disclosure of information) of the Act. However, the information we hold is also subject to the Freedom of Information Act 2014 and legislation on the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (AIE Regulations). Details of the information we will publish can be seen on the CRU website. Applicants should ensure that any information that they consider to be commercially sensitive or confidential is clearly labelled accordingly.

12. Further Information on the Irish Electricity Market

There are a number of websites that can provide applicants with information about developments in the Irish electricity market including:

- CRU: Regulatory Information: www.cru.ie
- SEMO: Market Information: www.sem-o.com
- EirGrid: Connection Matters www.eirgrid.com
- Gas Networks Ireland: Connection Matters www.gasnetworks.ie
- SEAI: Sustainable Energy: www.seai.ie

- DECC: RESS – Renewable Energy Support Scheme: https://www.gov.ie/en/organisation/department-of-the-environment-climate-and-communications/

Note

All applicants are advised that in order to trade in the market, in addition to holding the necessary Licences from the CRU, accession to the Trading and Settlement Code is required. Applications for market accession are to be made to the Single Electricity Market Operator (SEM-O) once the relevant Licences from the CRU have been issued. To facilitate timely accession to the market, applications should be made as early as possible. Please contact the SEM-O Market Registration team at balancingmarketregistration@sem-o.com or by telephone at 1800 778111 for information on this process.

Appendix I: Application Checklists

GENERATION LICENCE <40MW

CRU COMPLETENESS CHECK

Submission of Supporting Documentation

Please ensure to number and name your application documentation in line with the below e.g. attach planning submissions as '4. Planning Information'. Failure to do so, or submission of additional documents not requested will result in a return of same and ultimately a delay in the assessment of your application.

All applications must include the following information:

1. Application Form

☐ Signed and completed application form.

2. Application Fee

☐ Proof of payment of application fee.

3. Financial Information

Where the information requested below has already been provided to the CRU as part of your application for an Authorisation to Construct a Generating Station, it does not require a resubmission here. Please reference the prior submission for cross reference within this application assessment.

☐ Copy of signed and dated letter of offer for support scheme for the proposed generating station.

For non RESS offer holders:

☐ Evidence of finance. Where internally funded, proof of available funds from balance sheets is acceptable. For third party finance, a letter of commitment from a financial institution is acceptable, or where shareholders are providing finance the supporting contract documents.

4. Planning Information

☐ Written confirmation that the planning permission information provided for the associated Authorisation to Construct a Generation Station remains valid.

5. Connection Agreement

☐ Written confirmation that the connection agreement information provided for the associated Authorisation to Construct a Generation Station remains valid.

6. Technical Information

☐ Company profile showing the qualifications and experience of the person or company who will operate the proposed generating station. The applicant must ensure that the name of the Operator on the application form corresponds with that on the company profile submitted.

The submission of additional information may be requested at any stage in the assessment process.

Appendix I: Application Checklists

GENERATION LICENCE >40MW

CRU COMPLETENESS CHECK

Submission of Supporting Documentation

Please ensure to number and name your application documentation in line with the below e.g. attach planning submissions as '4. Planning Information'. Failure to do so, or submission of additional documents not requested will result in a return of same and ultimately a delay in the assessment of your application.

All applications must include the following information:

1. Application Form

☐ Signed and completed application form.

2. Application Fee

☐ Proof of payment of application fee.

3. Financial Information

☐ Copy of signed and dated letter of offer for support scheme for the proposed generating station.

For non RESS offer holders:

Where the information requested below has already been provided to the CRU as part of your application for an Authorisation to Construct a Generating Station, it does not require a resubmission here. Please reference the prior submission for cross reference within this application assessment.

☐ Evidence of finance. Where internally funded, proof of available funds from balance sheets is acceptable. For third party finance, a letter of commitment from a financial institution is acceptable, or where shareholders are providing finance the supporting contract documents.

☐ Statements of the accounts for the last two years kept by the applicant in respect of relevant undertakings carried on by the applicant, showing the financial state of affairs of that undertaking and its profit or loss, together with copies of the latest audited accounts.

- ☐ If more than three months have elapsed since the end of the accounting year covered by the accounts submitted, confirmation from the applicant stating no material adverse change has occurred.
- ☐ Where the applicant is a special purpose vehicle, a statement of relevant parent company accounts and guarantees.
- ☐ An outline statement of the proposals for the business of the applicant to which the application relates, for the next five years, including;
    - ☐ Annual forecasts of costs, sales and revenues and project financing, stating the assumptions underlying the figures provided.
    - ☐ Details of any expected subsequent substantial capital outflows, including major decommissioning costs
    - ☐ Estimates of net annual cash flows for subsequent periods sufficient to demonstrate the financial security and feasibility of the project(s) to which the application relates

4. Planning Information
    - ☐ Written confirmation that the planning permission information provided for the associated Authorisation to Construct a Generation Station remains valid.

5. Connection Agreement
    - ☐ Written confirmation that the connection agreement information provided for the associated Authorisation to Construct a Generation Station remains valid.

6. Technical Information
    - ☐ Company profile showing the qualifications and experience of the person or company who will operate the proposed generating station. The applicant must ensure that the name of the Operator on the application form corresponds with that on the company profile submitted.

The submission of additional information may be requested at any stage in the assessment process.

Appendix II: ASSESSMENT PROGRESS REPORT

ASSESSMENT PROGRESS REPORT [DATE]

CRU APPLICATION REFERENCE:

GENERATING STATION NAME:

DATE RECEIVED:

ASSESSMENT AREA PROGRESS REPORTS

Assessment Area	Progress Update	Additional Information request
Administrative	e.g. Complete/ In process/ On hold pending response to additional information request	
Technical	e.g. On hold	Awaiting response to additional information request of [DATE]
Environmental	e.g. Complete	
Financial	e.g. In process	

Query type	Date received	Response
e.g. voicemail query, email query	[date]	The CRU will provide responses to all written or voicemail queries received via the fortnightly progress report

Applicant responses to Additional Information requests must be sent to licensing@cru.ie. Applicants must insert the CRU application reference number into the subject line on all email correspondence.

- A delay in responding to an Additional Information request may result in a delay to the overall assessment timeline.
- Where the CRU has not received a response to a request for additional information or has had no contact from the applicant for a period of 3 months the issuance of the Assessment Progress Reports will be put on hold until an appropriate response is provided.
- Where the CRU has not received a response to a request for additional information or has had no contact from the applicant for a period of 6 months, the application is deemed to be expired.

A Guide to the Chemicals Act

(Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015)

The Guide gives a high level non–exhaustive overview of the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015.

The Guide is not a legal interpretation of the Regulations

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- **Part 9 – Charges for services**
    - Regulation 27: Charges for Services

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    - Regulation 28: Regulations subject to penal provisions
    - Regulation 29: Offences, prosecution and penalties

Schedules to the Regulations

- **Schedule 1**: Application of the Regulations
- **Schedule 2**: Information on the safety management system and the organisation of the establishment with a view to the prevention of major accidents referred to in Regulation 10 and Regulation 11
- **Schedule 3**: Minimum data and information to be considered in the safety report referred to in Regulation 11
- **Schedule 4**: Data and information to be included in the emergency plans referred to in Regulation 13
- **Schedule 5**: Items of information to the public as provided for in Regulation 25
- **Schedule 6**: Criteria for the notification of a major accident to the European Commission as provided for in Regulation 19(2)
- **Schedule 7:** Criteria for the notifiable incident referred to in Regulation 20

Background

Major industrial accidents involving dangerous substances pose a significant threat to humans and the environment; such accidents can give rise to serious injury to human health or serious damage to the environment, both on and off the site of the accident. In Europe, a catastrophic accident in the Italian town of Seveso in 1976 prompted the adoption of legislation on the prevention and control of such accidents.

The so-called Seveso Directive (Directive 82/501/EEC) was later amended in view of the lessons learned from later accidents resulting in the Seveso II Directive (Directive 96/82/EC).

In 2012, the Seveso III (Directive 2012/18/EU) was adopted taking into account, amongst other factors, the changes in EU legislation on the classification of chemicals and the increased rights for the public to access information and justice.

Introduction

The Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (the “COMAH Regulations”), implement the Seveso III Directive (2012/18/EU). The purpose of the COMAH Regulations is to lay down rules for the prevention of major accidents involving dangerous substances, and to seek to limit as far as possible the consequences for human health and the environment of such accidents, with the overall objective of providing a high level of protection in a consistent and effective manner.

The intention is to achieve this through tiered controls on the operators of the establishments subject to the Regulations: the larger the quantities of dangerous substances present at an establishment, the more onerous the duties on the operator.

The European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 and the European Union (Control of Major Accident Hazards Involving Dangerous Substances) (Amendment) Regulations 2013, which implemented the Seveso II Directive (96/82/EC), have been revoked by S.I. No. 208 of 2015 and replaced by S.I. No. 209 of 2015.

Application

The COMAH Regulations apply to any establishment that presents a major accident hazard because of the presence of dangerous substances in quantities that exceed specified thresholds. The dangerous substances and threshold quantities are specified in Schedule 1 to the Regulations.

Under the COMAH Regulations, dangerous substances are classified using the European Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures (the “CLP Regulation”). The CLP Regulation adopts the United Nations’

Globall.y Harmonised System on the classification and labelling of chemicals (UN GHS) across all European Union countries, including Ireland. GHS provides a basis

for communicating information on hazards in a uniform way, overcoming differing classification and labelling information requirements for the same chemicals around the world.

The CLP Regulation is amended from time to time in line with technical and scientific development. These amendments are known as ‘Adaptations to Technical Progress,’ or ATPs, and are usually published at least annually. Therefore any reference to CLP in the COMAH Regulations will always include the latest adaptation to technical progress.

Guide to the Regulations

Part 1 - Preliminary and General

Regulation 1: Citation

The Regulations may be cited as the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015, S.I. No. 209 of 2015.

Regulation 2: Interpretation

This Regulation interprets and defines terms used in the COMAH Regulations. Most of the definitions are directly transposed from the Seveso III Directive, some of which are additional to those that were included in the Seveso II Directive.

Some definitions from the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 have also been included and there have been a number of completely new additions.

A number of important new definitions have been added. They include:

- Lower tier establishment
- Upper tier establishment
- Existing establishment
- Other establishment
- The public
- Consultation distance
- Inspection
- The public

You should also note that any reference in the Regulations to the submission of a document “in writing” includes writing which is communicated or kept in electronic form and can be printed.

Regulation 3: Application

The Regulations lay down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to providing a high level of protection in a consistent and effective manner.

The COMAH Regulations do not apply to:

A. any property occupied by the Defence Forces and any land or premises referred to in section 268(1) of the Defence Act 1954 (No. 18 of 1954);
B. hazards created by ionising radiation originating from substances;
C. the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air outside establishments defined in Regulation 2(1), including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;

D. the transport of dangerous substances in pipelines, including pumping stations, outside establishments defined in Regulation 2(1);
E. the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes;
F. the offshore exploration and exploitation of minerals, including hydrocarbons;
G. the storage of gas at underground offshore sites including both dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons, are carried out;
H. waste land-fill sites, including underground waste storage.

Other changes to note are that:

I. the term “directly related” is new to paragraph (c) above,
II. Regulation 3(3)(g) is an entirely new exemption - point (g) above,
III. Regulation 3(3)(h) has changed from the Seveso II Directive requirements - point (h) above,
IV. there are additional clarifications added to the exemptions included in Regulation 3(3)(e) and (h) in Regulation 3(4).

The regulations do not apply to the storage of gas at underground offshore sites as defined in (g) above and do not apply to underground waste storage as set out in (h) above.

However, the Regulations do apply to onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines and chemical and thermal processing operations and storage (which involves dangerous substances) related to those operations (Regulation 3(4)).

Regulation 4: Establishment of the competent authorities

This Regulation covers the designation of competent authorities by the appropriate Ministers.

The Health and Safety Authority is identified here as the Central Competent Authority (the term “CCA” is extensively used in this guide for Central Competent Authority) and its coordinating role is set out in paragraph (1)(a).

The procedure for the designation of the local competent authorities (the term “LCAs” is extensively used in this guide for local competent authority), responsible for the external emergency plan aspects, is also specified.

Designations that were in place under the 2006 Regulations will continue to have effect under the new Regulations.

Regulation 5: Commencement

The commencement date for the Regulations is 1st June 2015.

Regulation 6: Amendments

Amendments to the Chemicals Act consequent to the implementation of these Regulations are set out here, including the designation of the CCA as a national authority under the Chemicals Act, for the purposes of the Seveso III Directive.

In addition, the definition of a chemical under Section 2 of the Act has been updated to include a reference to the Seveso III Directive.

Part 2 – General Duties

Regulation 7: General duties of operators

Regulation 7 sets out the duties imposed on all operators: it applies to the operators of all establishments and there is no differentiation between the operators of upper-tier and lower-tier establishments.

Under this Regulation an operator[3] is obliged to take all necessary measures to prevent major accidents and to limit their consequences for both human health and the environment and to comply with the Regulations.

An operator is required to provide the relevant competent authority with all the assistance necessary to enable that authority to carry out any function under the Regulations, including inspections and investigations carried out by the CCA. The operator must also assist the competent authority to fully assess the likelihood of a major accident and determine the scope of any increase in probability and in the provision of information for the preparation of the external emergency plan.

An operator must provide appropriate evidence (which includes documentation) at the request of the CCA, to demonstrate that:

- the major accident hazards for the establishment have been identified, and
- all necessary measures have been taken to prevent major accidents and to limit theirconsequences for human health[4] and the environment.

An operator must be able to prove that all necessary measures have been taken to comply with their obligations under the Regulations. Paragraph (2) of this Regulation goes on to list more specific examples of what “all necessary measures” includes.

Regulation 8: Notification

All operators are required to submit a notification to the Central Competent Authority. The notification must contain the information specified in paragraph (1) of this Regulation:

A. the name and, where different, the trade name of the operator and the full address of the establishment concerned;
B. the registered place of business of the operator, with the full address;
C. the name and position of the person in charge of the establishment, if different from subparagraph (a);
D. information sufficient to identify each of the dangerous substances and category of substances involved or likely to be present;
E. the quantity and physical form of the dangerous substance or substances concerned;

[3] Regulation 2(1) contains the definition of ‘operator’
[4] The COMAH Regulations now refer to “human health and the environment” throughout rather than “people and the environment”.

F. the activity or proposed activity of the installation or storage facility;
G. the immediate environment of the establishment, and factors likely to cause a major accident or to aggravate the consequences thereof including, where available, details of neighbouring establishments, of sites that fall outside the scope of these Regulations, areas and developments which could be the source of or increase the risk or consequences of a major accident and of domino effects within the meaning of Regulation 9(1).

The time limits for sending the notification to the Central Competent Authority are set out in this table:

Establishment Type	**Notification Submission Timeline**
New	No later than 3 months prior to start of construction or operation or the modification (Regulation 8(2)(a))
Other	1 year from when the COMAH Regulations apply to the establishment (Regulation 8(2)(b))
Existing	By June 01, 2016 (Regulation 8(2)(b))
Update	Every 5 years and prior to any modification (Regulation 8(2)(c))
Transitional Arrangementsfor Existing Establishments	If the information in the existing notification meets the requirements of these Regulations[5], there is no requirement tosubmit a new notification until the routine 5-year notification update is due (Regulation 8(3))

An operator will also be required to notify the Central Competent Authority in writing, before any of the following:

- any significant increase or decrease in the quantity or significant change in the nature or physical form of the dangerous substances present, from that provided in the notification referred to above, or a significant change in the processes using those dangerous substances;
- modification of an establishment or an installation which could have significant consequences in terms of major accident hazards;
- the permanent closure of the establishment or its decommissioning;
- changes to the name and/or trade name of the operator and the full address of the establishment or the registered place of business, or of the name or position of the person in charge.

The Health and Safety Authority will put a downloadable electronic notification form to be on its website. The CCA will accept only notifications made using this form.

The form will also be used to collect the information:

- to be provided to the public (as required by Regulation 25) and
- for the development of technical land-use planning advice (as required by Regulation 24).

[5] The CCA view is that in most situations this is unlikely to be the case.

Regulation 9: Domino effects

A “domino group” is a group of establishments where the risk or consequences of a major accident may be increased because of the geographical position and the proximity of such establishments and their inventories of dangerous substances to each other. These effects are referred to as “domino effects”.

The Regulation applies to both upper and lower-tier establishments and a domino group could consist of a mixture of upper and lower-tier sites or of all upper or all lower-tier sites.

Domino groups are identified by the CCA from either the information contained in the notification and safety report or through information obtained from inspection.

When the operator of an establishment is informed by the CCA that the establishment has been identified as part of a domino group, the operator must cooperate with, and provide information to, the other operator(s) within the domino group.

This exchange of information will enable the domino group operators to assess the nature and extent of the overall hazard of a major accident arising from the group and they can then take this into account in their MAPPs, safety reports, emergency plans and so on.

Operators of upper-tier establishments within a domino group are required to co-operate with each other in informing the public (as required under Regulation 25) and the local competent authorities for the preparation of external emergency plans (under Regulation16).

Establishments of all tiers should cooperate in informing other neighbouring sites that fall outside the scope of the Regulations.

Part 3 – Major Accident Prevention Policy and Safety Report

Regulation 10: Major Accident Prevention Policy

All operators (it applies to both upper and lower-tier establishments) are required to prepare a major accident prevention policy document (the term “MAPP” is widely used in this guide for major accident prevention policy) and submit it to the CCA. Upper-tier establishments include their MAPP in the safety report.

The MAPP must be reviewed, and when necessary updated, at least every 5 years and the update submitted to the CCA without undue delay.

The policy must:

- be designed to guarantee a high level of protection of human health and the environment;
- include the operator’s overall aims and principles of action and a commitment to ensure a high level of protection of human health and the environment;
- include the role and responsibility of management in ensuring its proper implementation;
- include a commitment towards continuously improving the control of major accident hazards;
- take account of the principles specified in Schedule 2 to the Regulations

The operator must properly implement the policy by appropriate means, structures and a safety management system (or by other appropriate means, structures and management systems in the case of a lower tier-establishment), in accordance with the second Schedule to the Regulations. These should be proportionate to the major accident hazards and the complexity of the organisation or the activities of the establishment.

The ‘monitoring performance’ section of Schedule 2 has been strengthened and now includes a definite requirement for performance indicators.

The time limits in relation to the preparation of a MAPP and its submission to the CCA are set out in the table below:

Establishment Type	MAPP Submission Timeline
New	No later than 1 month prior to when the COMAH Regulations apply (Regulation 10(6)(a))
Other	1 year from when the COMAH Regulations apply (Regulation 10(6)(b))
Existing	Before 1st June 2016 (Regulation 10(4))
Review and Update	Prior to any modification and every 5 years (Regulation 10(2))
Transitional Arrangements for Existing Establishments	If the MAPP prepared under the 2006 Regulations complies fully with the requirements of the COMAH Regulations 2015, it can be submitted before 1st June 2016 (Regulation 10(5))

Regulation 11: Safety Report

This Regulation applies only to the operators of upper-tier establishments.
The requirements of the Regulations in relation to safety reports are essentially unchanged, but there are important new timelines to be observed, which are aimed at ensuring that the assessment of the safety report is completed within a reasonable period of time. (You should also refer to Regulation 21, which addresses the functions of the CCA, in this regard).

The operator is required to prepare and submit a safety report, in writing, to the Central Competent Authority, for the purposes that are set out in paragraph (1) of this Regulation.

One hard copy of the safety report is required along with a complete and easily searchable electronic version.

The safety report is required to contain at least the data and information that is specified in Schedule 3 to the Regulations, as well as the name(s) of the relevant organisations involved in the drawing up of the report.

The time limits for sending the safety report to the CCA are set out in this table:

Establishment Type	**MAPP Submission Timeline**
New	No later than 4 months prior to the start of construction, operation, or the modification (Regulation 11(3)(a)).
Other	2 years from when the date from which the COMAH Regulations apply (Regulation 11(3)).
Existing Establishments	Operator should submit an update by 1st June 2016 (ti be considered as an update rather than a 5-year review and the original 5-year review date given under the 2006 Regulations applies) (Regulation 11(3)(b)).
Review and Update	Every 5 years or following a major accident or at any other time where necessary (Regulation 11(7) and (8))
Transitional Arrangements for Existing Establishments	If the safety report submitted under the 2006 Regulations complies with the requirements of the 2015 COMAH Regulations then an update does not have to be sent to the CCA and the original 5 year review date (given under the 2006 Regulations) applies (Regulation 11(4)).

The operator of a new establishment cannot begin construction or operation or implement modifications that would lead to a change in the inventory of dangerous substances that would cause it to become an upper-tier establishment, until the Central Competent Authority, following its examination of the safety report, has given its conclusions and permission.

The Regulations require the CCA to communicate its conclusions from the examination of the safety report to the operator, or to seek further information, within four months of the safety report submission date[6]. At this time the operator may be

[6] These timelines are in Regulation 21

requested to provide the Central Competent Authority with any further information it requires to complete the assessment of the safety report (Regulation 21 (4)).

When it does so, the operator has one month from the date of the request to supply this information, or the CCA may specify a longer period in writing where it considers this is justified (Regulation 11(5)).

Following the receipt of the additional information, the CCA must complete the assessment within a reasonable period of time but in any case within a further two months (see Regulation 21(5)).

The Environmental Protection Agency (the "EPA") has a strengthened involvement in the safety report assessment process and may be consulted by the CCA on the risks of a major accident to the environment. The EPA will, within two months of receipt of such a request, advise the CCA on the relevant major accidents to the environment and on the best practicable means for their prevention and mitigation (Regulation 21(10)).

Regulation 12: Modification of an installation, establishment or storage facility

This Regulation implements Article 11 of the Directive and as such it is linked to the land-use planning regulation (Regulation 24) and is also linked to planning and development legislation that implements the land-use planning and public participation aspects of the Directive.

It is worth noting here that there has been a change in the modifications which must now be notified to the CCA in advance, such as a lower-tier establishment becoming an upper-tier establishment (or the other way round), or a change in the physical form of the dangerous substance.

The operator is required to review, and where necessary update:

- the notification,
- MAPP and safety management system, and
- the safety report (for an upper-tier establishment)

in advance of the listed modifications.

The operator is required to do this in a sufficient time that will allow the CCA to carry out its functions under Regulation 24, which in this context are to decide if additional technical measures are required before the modification can proceed or whether it should be referred to the planning authority for a decision (see also Regulation 24).

Part 4 – Emergency Plans for Upper-tier Establishments

Regulation 13: Objectives of emergency plans

The objectives of emergency plans, which relate to upper-tier establishments only, are addressed in this Regulation.

Emergency plans created under these Regulations must contain the information that is specified in Schedule 4 to the Regulations, which has separate sections that address both internal emergency plans (an operator duty) and external emergency plans (a local competent authority function).

Regulation 14: Implementation of emergency plans

An emergency plan created under the Regulations must be put into effect by the operator and, if necessary, by the relevant local competent authority without delay when a major accident occurs or if an uncontrolled event occurs which could reasonably be expected to lead to a major accident.

Regulation 15: Internal emergency plans

The operator of an upper-tier establishment is required to prepare an internal emergency plan (“IEP”).

It must be prepared in consultation with the relevant people working inside the establishment as well as the relevant local competent authorities, which will usually be the local authority fire service, the Health Service Executive and An Garda Síochána and such other persons as appear to the operator to be appropriate.

The plan should address the measures to be taken inside the establishment if uncontrolled events occur that have the potential to lead to a major accident.

The timelines for the preparation of an Internal Emergency Plan are given in this table:

Establishment Type	Internal Emergency Plan Preparation Timeline
New	No later than 1 month prior to start of construction or operation or the modifications leading to a change in the inventory of dangerous substances(Regulation 15(3)(b)).
Other	1 year[7] from the date from which theCOMAH Regulations apply (Regulation 15(3)(c)).
Existing	By 1st June 2016 (Regulation 15(3)(a)).
Review and Update	Every 3 years or more frequently ascircumstances may require it Regulation 15(4)).
Transitional Arrangements for Existing Establishments	If the IEP under the 2006 Regulations complies with the requirements of the COMAH Regulations 2015, the original 3 year review date applies (Regulation 15(3)(a)).

The timelines for testing the IEP are:

Establishment Type	Test of the Internal Emergency Plan Timeline
All	At least every 3 years
Transitional Arrangements for Existing Establishments	3 years from the date of the last test under the 2006 Regulations (Regulation 15(5)).

Regulation 16: External emergency plans

The Central Competent Authority will notify the relevant local competent authority of an upper-tier establishment in its functional area (or that could affect its functional area). The LCA is then required to prepare an external emergency plan (the term "EEP" is extensively used in this guide for external emergency plan) for that upper-tier establishment.

The local competent authorities (LCAs) can prepare EEPs separately for each LCA or they can collectively prepare the plan.

The operator of the upper-tier establishment is required to supply the necessary information to the local competent authority to enable it to prepare the EEP.

The CCA may decide (under Regulation 21(9)(a)), after the examination of the safety report, that an EEP is not necessary, in which case it will notify the LCA of this in writing

[7] The timeline is different to that set out in the Directive: this is to remain closer to the timelines set out in the 2006 COMAH Regulations

and give reasons for the decision. This exemption can also be withdrawn by the CCA (Regulation 21(9)(b)).

The timelines for the operator to provide information to the local competent authority are set out in this table:

Establishment Type	**Provision of External Emergency PlanInformation Timeline**
New	**No later than** 1 month prior to start of operation, or modification (Regulation16(2)(a)).
Other	6 months from the date from which theCOMAH Regulations apply (Regulation 16(2)(c)).
Existing	By 1st June 2016 (Regulation 16(2)(b)).
Transitional Arrangements for Existing Establishments	Do not have to supply information under thisRegulation if the plan drawn up under the 2006 Regulations and the related information remains unchanged andcomplies with this Regulation and Regulation 13 (Regulation 16(2)(b)).

The relevant local competent authorities must prepare the EEP for new and other establishments within six months of the date for the receipt of the necessary information from the operator, but in any case, no later than one year following the date they were notified of the requirement by the Central Competent Authority.

Local competent authorities must also provide, at the request of an operator of an upper-tier establishment, any relevant information on the EEP that may be necessary for the operator to draw up the internal emergency plan. It is important that the IEP and EEP are consistent and where necessary that each takes account of the other.

The LCAs must consult with the specified stakeholders and take account of any observations received when creating, substantially modifying or revising the EEP.

The public must also be given an early opportunity to submit observations on the draft plan.

LCAs can appoint authorised officers to enter an establishment within its area at all reasonable times and to require the operator to provide the necessary information for the EEP to be prepared or amended.

Following a major accident, LCAs will have to inform the ‘persons likely to be affected’ (see Regulation 25(4)) of the accident and, where necessary, of the measures that have been taken to mitigate its consequences.

Regulation 17: Review, testing and reporting of external emergency plans

External emergency plans have to be reviewed and, where necessary, updated as often as the circumstances require, but in any event at intervals not exceeding 3 years.

The LCAs, when they are reviewing an EEP, must take into account changes that have occurred in the establishment to which the plan relates or changes within the LCAs, new technical knowledge and knowledge concerning the response to major accidents.

External emergency plans must be tested at a maximum interval of three years.

If a local competent authority is of the view that the cooperation of one or more other local competent authorities is required to adequately test the plan, it can request this cooperation in writing. Where an LCA receives such a request, it must cooperate (Regulation 17(4)).

Where an EEP has been tested under the 2006 Regulations, the maximum test interval of 3 years will apply from the date of that last test (Regulation 17(2)).

LCAs must submit a report to the CCA on their activities under Regulations 16 and 17 within 2 months of the end of each calendar year. The CCA will provide guidelines to the LCAs on the information to be covered by the report (Regulation 17(5)).

Part 5 – Reporting of Major Accidents

Regulation 18: Information to be supplied by the operator and actions to be taken following a major accident

Following a major accident an operator must, as soon as is practicable, inform the CCA of the accident which has occurred. The operator must also provide the CCA with specific information on the circumstances of the accident and the dangerous substances that were involved. In addition, the operator has to provide information on the emergency measures that have been taken, as well as data to assist the CCA in the assessment of the effects on human health, the environment and property.

The operator must also advise the CCA of the steps it plans to take to mitigate the medium and long-term effects of the major accident and to prevent a recurrence. If further investigation by the operator reveals additional facts which alter the information already provided or the conclusions initially drawn, the operator must provide the updated information to the CCA.

The scene of a major accident should only be disturbed to mitigate the effects of the major accident or otherwise only with the consent of an inspector of the CCA.

Regulation 19: Action to be taken by the Central Competent Authority following a major accident

Following a major accident the Central Competent Authority must ensure that any urgent, medium and long-term measures which are necessary are taken.

It must collect by inspection, investigation or other appropriate means, the information necessary for a full analysis of all aspects of the accident and take appropriate action to ensure the operator puts in place the necessary remedial measures.

The CCA must also make recommendations on future preventative measures.

Where the major accident meets the criteria set out in Schedule 6 to the Regulations, the CCA must provide the European Commission with a report, within a year, with the specified information on the accident.

Regulation 20: Notifiable incident

Operators are required to inform the CCA of certain incidents and ‘near-misses’ as set out in this Regulation and in Schedule 7 to the Regulations.

It should be noted that operators may, as employers, have a duty to report incidents to the Health & Safety Authority under other national legislation.

Part 6 – Enforcement and Regulation

Regulation 21: Functions of the Central Competent Authority

The functions of the CCA are described in this Regulation. A number of these functions have already been referred to when describing the impact of Regulations 1 to 20 and some more will be highlighted when addressing other Regulations further on in this guide.

A number of the functions relate to the requirement to make reports to the European Commission (Regulation 21(1)). One function covers the making of a submission to the Commission based on information received from an operator, where it supports the case that a particular dangerous substance does not present a major accident hazard. If successful, the Directive may be found, in whole or in part, not to apply to the substance.

The CCA must determine whether operators belong to a domino group and then notify each operator within the group of this ((Regulation 21(2)).

As already alluded to under Regulation 11, the CCA must communicate its conclusions on the safety report within a four-month timeframe.

The CCA may prohibit, and in certain specific circumstances it must prohibit, certain actions by an operator. It may prohibit for a failure to submit a notification or other information required by the Regulations, within the specified period. It must prohibit the use or bringing into use of any establishment, or any part of it, where the measures taken by the operator are seriously deficient or where there has been a serious failure to take the necessary actions identified in an inspection report.

The CCA must notify the relevant LCA of its conclusions in relation to a safety report (Regulation 21(8)).

The CCA may decide an external emergency plan is not required and will communicate this to the relevant LCAs in writing (Regulation 21(9)).

It must consult with the EPA on the information in a safety report concerning risks of a major accident to the environment (Regulation 21(10)).

It must accept information submitted by operators under other EU legislation, provided it complies with the requirements of the Regulations (Regulation 21(11)).

Regulation 22: Inspections and Investigations

The CCA must, under its powers under Part 4 of the Chemicals Act, implement a national system of inspections covering all establishments.

Inspections have to be appropriate to the establishment being inspected and they must be sufficient for a planned and systematic examination of the systems in place at the establishment, so as to ensure that the operator can demonstrate that the appropriate measures have been taken for the prevention of major accidents and the limitation of their consequences.

Inspections must also be used to verify safety report (or other report) information and to confirm that the public information (under Regulation 25) has been supplied.

The CCA must prepare an inspection plan that contains a list of all the establishments and includes inspection procedures and programmes and frequencies for inspections.

The maximum interval between inspections is set at one year for an upper-tier establishment and three years for a lower-tier establishment.

However, the CCA can vary this where the inspection is based on a systematic appraisal of the major accident hazards – in which case the interval between inspections will relate to the major accident impacts of the establishment and the previous compliance record of the operator.

The findings of an inspection must be communicated to the operator within four months of the inspection and the operator must comply with them in a reasonable period of time (Regulation 22(7)). Where significant non-compliance is found, an additional inspection must be conducted within six months (Regulation 22(8)).

Non-routine inspections must be carried out on foot of serious complaints and near misses (Regulation 22(6)).

Inspections must, where possible, be coordinated with inspections under other European Union legislation and combined, where appropriate (Regulation 22(9)).

Regulation 23: Inspectors

This Regulation covers the appointment of inspectors for the purposes of the Regulations. Such appointments are made pursuant to Section 11 of the Chemicals Act and in particular Parts 4 to 6.

The CCA may appoint consultants, advisers or others as inspectors under Section 11 of the Act.

Part 7 – Land Use Planning

Regulation 24: Technical advice on land-use planning

The CCA will advise the relevant planning authority of a consultation distance for an establishment, following the receipt of a notification from the operator. It will periodically review and update the consultation distance as necessary.

The CCA has to be consulted for technical advice as appropriate by planning authorities, on the types of development listed in paragraph (2) of this Regulation.

The CCA will provide technical advice to a planning authority in response to a request under this Regulation and the timelines for doing so are set out in paragraphs (9) and (10).

Where proposed modifications at an establishment do not constitute development as defined in Section 3 of the Planning & Development Act and there is no increase in offsite risk (including through use of additional technical measures by the operator), then only the permission of the CCA[8] will be required. Operators may not proceed with the modification until this permission has been received.

A decision by the Central Competent Authority to deal with a proposed modification under paragraph (4) of this Regulation and not to refer it to a planning authority under paragraph (5) is not a conclusive determination that planning permission is not required for the proposed modification; such a determination is a matter for the relevant planning authority or An Coimisiún Pleanála on review under Section 5 of the Planning and Development Act 2000. Operators must consider these Regulations and any requirements related to planning in the Planning and Development Act 2000 to ensure they comply with all the relevant provisions.

If in the opinion of the CCA, a proposed modification is considered to be a significant change, the CCA will refer it to the planning authority for a determination on whether the proposed modification is or is not development or is exempted development.

Where the planning authority issues a declaration indicating that the proposed modification is not development or is exempted development then the proposal will be referred back to the CCA for it to address under paragraph (4), in accordance with the land-use planning principles set out in the Directive.

The CCA must inform the operator whenever it has referred a proposed modification to a planning authority. In such cases, the operator must not carry out the modification until a declaration has been received from the planning authority or planning permission has been obtained in respect of the proposed modification.

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[8] A decision by the Central Competent Authority to deal with a proposed modification under paragraph (4) of this Regulation and not to refer it to a planning authority under paragraph (5) is not a conclusive determination that planning permission is not required for the proposed modification; such a determination is a matter for the relevant planning authority or An Coimisiún Pleanála on review under Section 5 of the Planning and Development Act 2000. Operators must consider these Regulations and any requirements related to planning in the Planning and Development Act 2000 to ensure they comply with all the relevant provisions.

Operators are required to provide sufficient information to the CCA, as part of a notification (Regulation 8) and when planning a modification (Regulation 12) or following a request at any time from the CCA, on the risks arising from an establishment, to enable the CCA to fulfil its functions under this Regulation, and in particular to ensure that technical advice on those risks is available for land-use planning purposes.

Part 8 – Information and Confidentiality

Regulation 25: Provision of information to the public

The CCA must make certain information relating to each establishment permanently available to the public. The nature of this information is set out in Schedule 5 to the Regulations: Part 1 relates to all establishments, while Part 2 is specifically for upper-tier establishments.

The CCA must ensure the information to be provided is made available electronically within a reasonable period of time from when the establishment becomes subject to these Regulations.

Note that the safety report and inventory of dangerous substances (upper-tier establishments only) can be made available to the public only on request, but subject to the provisions of Regulation 26

All operators are required to provide relevant information to the CCA for this purpose (Regulation 25(1)). The operator is also required to provide the CCA with any updates to the information, without being requested, and to comply with any request from the CCA in connection with the preparation of the information (Regulation 25(10)).

The CCA will specify in writing the format for the information and the means by which it is to be provided to the CCA (Regulation 25(11)).

Operators of upper-tier establishments are also specifically required to ensure that ‘all persons likely to be affected’ by a major accident originating at the establishment receive clear and intelligible information on safety measures and what they should do in the event of a major accident. This information must be supplied to all buildings and areas of public use, including schools and hospitals and, in the case of domino groups, to all neighbouring establishments (Regulation 25(4)).

The operator will be notified by the CCA of the area within which the information is to be supplied (Regulation 25(8)).

The information should be kept under regular review and updated as necessary. It must be supplied at least every 5 years. For new or other establishments, it is to be supplied within six months of when the Regulations apply.

Where the information to persons likely to be affected by a major accident originating at the establishment has been supplied under the 2006 Regulations and it meets the requirements of these Regulations, then the existing 5-year review and update timeframe remains in place (Regulation 25(7)).

The operator must consult with the LCAs on the suitability of this information to ensure it is consistent with the advice to be given and actions to be taken under the EEP (Regulation 25(9)).

Regulation 26: Access to information and confidentiality

Information received by the CCA for the purpose of the Regulations comes within the scope of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), as amended by the European Communities (Access to Information on the Environment) (Amendment) Regulations 2011 (S.I. No. 662 of 2011) and it will be made available to any natural or legal person who requests it, in accordance with the provisions of those Regulations (Regulation 26(1)).

However, disclosure of that information may be refused or restricted by the competent authority where the conditions laid down in the Access to Information on the Environment Regulations apply (Regulation 26(2)).

The operator of an upper-tier establishment may request that specific information in a safety report or inventory of dangerous substances should not be disclosed for these reasons and the competent authority, taking account of the operator's submission or based on its own assessment, can decide that the restricting conditions in the Access to Information on the Environment Regulations do apply, and an amended form of the safety report or inventory of dangerous substances can then be made available by the operator to the competent authority, for supply in response to public requests for information under paragraph (1) of the Regulation (Regulations 26(3)-(5)).

Information supplied to other competent authorities or public bodies for the purpose of the Regulations must be treated as confidential by those who receive it. Requests for this information under the Access to Information on the Environment Regulations will have to be made to the originating competent authority (Regulation 26(6)-(7) and Regulation 26(10)).

A safety report under assessment will be treated as confidential until the CCA has communicated its conclusions to the operator (Regulation 26(8)).

Technical LUP advice provided to planning authorities under Regulation 24 will be treated as public information (Regulation 26(9)).

Part 9 – Charges for services

Regulation 27: Charges for Services

This regulation deals with the charging of fees by the Central Competent Authority and the local competent authorities.

Paragraph (1) sets out what the CCA may charge for and this includes the assessment of safety reports, MAPPs and notifications. Inspections, investigations and special reports, attendance at external emergency plans, providing the permanent electronic information to the public and technical LUP advice under Regulation 24 are also included.

The current scale of fees will continue until the Minister approves a new scale.

Paragraph (2) addresses the activities that may be subject to charges by the local competent authorities and the approval mechanism for their introduction by the appropriate Minister.

Part 10 - Offences

Regulation 28: Regulations subject to penal provisions

This Regulation lists the Regulations subject to penal provision.

Regulation 29: Offences, prosecution and penalties

The Regulation states that a failure to comply with any of the Regulations identified within Regulation 28 will be an offence and will be prosecuted under the Chemicals Act and that on conviction, the court, in deciding on penalties, will take account of the Directive's requirement that they be effective, proportionate and dissuasive.

Following conviction, the CCA will be entitled to seek costs and expenses for the investigation, detection and prosecution of the offence under Section 30(3) of the Chemicals Act.

Schedules to the Regulations

Schedule 1: Application of the Regulations

This Schedule transposes Annex I of the Directive. The arrangement of parts has been changed from Seveso II and the categories of dangerous substance now constitute Part 1, which of course now also reflects the new CLP generic classifications.

There are now 21 categories in this part, under the groups of:

- Health Hazards,
- Physical Hazards,
- Environmental Hazards, and
- Other Hazards.

Part 2 now contains the named dangerous substances: most of the named substances and mixtures, and their respective thresholds, are identical to those contained in Part 1 of Annex I of Directive 96/82/EC. Part 2 does have a number of new additions, and there are now 48 named substances.

The addition rules and other notes that assist with determining qualification are included in this Schedule.

The starting point for applying Schedule 1 is the classification of the dangerous substance. If there is a 'harmonised classification' under CLP then operators must use it. Dangerous substances which are not listed as having a harmonised classification must be classified by the operator in accordance with the self-classification rules in the CLP Regulation. For these Regulations, 'dangerous substance' includes intermediates and wastes with the relevant hazard characteristics.

The CCA will put a spreadsheet calculator on its website to assist operators in applying the addition rules.

Schedule 2: Information on the safety management system and the organisation of the establishment with a view to the prevention of major accidents referred to in Regulation 10 and Regulation 11

This Schedule transposes Annex III of the Directive and sets out the elements to be taken account of for the implementation of the safety management system.

The safety management system applies to both lower-tier and upper-tier establishments.

It must be proportionate to the hazards, industrial activities and complexity of the organisation in the establishment and be based on assessment of the risks.

Schedule 2 includes some important new elements:

- measures to raise awareness of the need for continuous improvement,
- involvement of employees/subcontractors only if important from the point of view of safety,

- inclusion of subcontracted activities when identifying/evaluating major hazards,
- the need to take into account information on best practices,
- risks associated with ageing equipment,
- strategy and methodology for monitoring and control,
- provision of follow-up actions and countermeasures,
- an obligation for monitoring procedures to cover the system for reporting major accidents or near misses,
- the necessity for these monitoring procedures to include performance indicators and
- the obligation to consider and include necessary changes indicated by the audit and review.

Schedule 3: Minimum data and information to be considered in the safety report referred to in Regulation 11

This Schedule transposes Annex II of the Directive and details the minimum information that operators must provide in a safety report.

All the information set out in the schedule has to be provided.

New or expanded elements to be included in the safety report include:

Paragraph 2(c): information related to the identification of domino effects.

Paragraph 3(b): information related to the description of processes and the need to take into account available information on best practices when doing so.

Paragraph 4: includes two important new elements of information to be included in the safety report, related to the obligation to further describe the causes that may trigger accident scenarios and the need to also include a review of past accidents and incidents.

Paragraph 5: includes examples of the types of equipment that should be included in the description in 5(a) and adds an important element to be included in the safety report, related to the technical and non-technical measures taken to reduce the impact of a major accident.

Schedule 4: Data and information to be included in the emergency plans referred to in Regulation 13

Emergency Plans prepared under Regulation 13 must contain the information specified in this Schedule.

Part 1 of the Schedule addresses Internal Emergency Plans, which is an operator duty. It remains largely unchanged from the previous Regulations with the exception of the addition of “where necessary” in (f) relating to arrangements for staff training.

Part 2 covers External Emergency Plans, the implementation of which is a function of the local competent authority.

The main changes to this Schedule include:

- the arrangements for off-site mitigatory action should include responses to major-accident scenarios, and consider domino effects including those having an environmental impact and

- the plans should also provide for informing neighbouring establishments or sites identified for possible domino effects

Schedule 5: Items of information to the public as provided for in Regulation 25

There have been a number of changes to this Schedule, which addresses information which must be provided to the public.

The CCA must make specified information relating to each establishment permanently available to the public. Therefore all operators are required to provide the CCA with the information listed in Part 1 of the Schedule.

Part 1 applies to all establishments; this is an essential element of the new Directive.

An operator is required to provide a description, in simple terms, of the hazardous properties relating to the relevant dangerous substances on the establishment which could give rise to a major accident.

The operator is also required to provide information relating to the appropriate behaviour to take in the event of a major accident and an indication of where the information may be available electronically.

The date of the last site inspection and information on where more detail on inspection related activity can be found must also be set out.

Part 2 of the Schedule sets out the additional information operators of upper-tier establishment must provide.

This now requires the operator to provide general information relating to the nature of the major accident hazards including the potential effects on human health and summary details of the main types of major accident scenarios and the control measures to address them.

Relevant information from the EEP is now also required to be provided to the public.

Where there is a possibility of a major accident with trans-boundary effects, this must be indicated.

Schedule 6: Criteria for the notification of a major accident to the European Commission as provided for in Regulation 19(2)

This Schedule transposes Annex VI of the Directive.

It sets out the criteria for a notifiable major accident and is the same as the Schedule contained in the 2006 Regulations.

Schedule 7: Criteria for the notifiable incident referred to in Regulation 20

Operators are required to inform the CCA of certain incidents and ‘near-misses’ as set out in this Schedule.

There are changes to this Schedule, compared to the 2006 Regulations, in that the first paragraph now specifically relates to an explosion or fire involving a dangerous substance that may result in suspension of normal work in the establishment for more than 24 hours.

In relation to the uncontrolled or accidental release or the escape of any dangerous substance in an establishment, the operator is required to notify the CCA if the release had the potential to cause serious injury consequences to human health, serious damage to the environment or damage to property, of the type described in the sixth Schedule.

This should capture ‘near-misses’ and ensure that they are notified to the Central Competent Authority.

Environmental Protection Agency

Industrial Emissions Licensing Process Explained

When applying to the Environmental Protection Agency (EPA) for an Industrial Emissions licence or the review of a licence, you must satisfy a number of legislative requirements. These are largely set out in:

- The EPA (Industrial Emissions) (Licensing) Regulations, 2013 (S.I. No. 137 of 2013)
- European Union (Industrial Emissions) Regulations 2013 (S.I. 138 of 2013)
- The EPA Act 1992 as amended

The application process involves a number of stages:

Stage 1: Pre-application

Before making an application you must:

- Publish a notice in a newspaper circulating in the area,
- Erect a notice on the site indicating that you propose to apply for a licence
- Notify the planning authority

The content of the notices is set out in the EPA (Industrial Emissions) (Licensing) Regulations, 2013 (S.I. No. 137 of 2013)

Stage 2: Making an application

This stage includes EPA assessment of the application and submissions on the application. In making an application, make sure that:

- You use the specified application form
- You answer all questions (incomplete applications may be returned)
- You pay special attention to the relevant BAT Guidance Note(s), if available at that time from the EPA
- You attach all necessary supporting documentation including the relevant fee.

We have eight weeks to assess your application before making a "proposed determination".

The eight-week period only starts when the necessary request(s) have been complied with. This period may be extended in certain circumstances, including by agreement with the applicant/licensee.

Before making a proposed determination we must take into account any written submissions received.

Stage 3: EPA proposed determination

We are required to indicate how we propose to determine an application, and will:

- Publish a newspaper notice indicating how we propose to determine the application
- Forward the proposed determination to all those who made a submission
- Make the proposed determination available for public inspection on this website
- Notify public bodies specified in the above mentioned regulations

Stage 4: Any objections on the proposed determination (including submissions on objections)

Any person or body (including the applicant for a licence or a licensee) can make an objection within 28 days of the proposed determination being issued.

The applicant and those submitting a valid objection will be issued with a copy of all valid objections.

Submissions in relation to an objection can be made within one month of copies of the objection being circulated.

We cannot consider submissions on objections received after this one-month period, and cannot consider further submissions or elaborations.

We do, however, have the discretion, in the interests of justice and where in particular circumstances we consider appropriate, to request a party to an objection to make a submission in relation to any matter arising in the course of the objection.

Where appropriate, we may request a party to an objection to submit further information within a specified period.

Where no valid objection is made within the prescribed period, we will issue our decision as per the Proposed Determination.

Stage 5: Oral hearing

A person making a valid objection may request an oral hearing.

Stage 6: Our Final determination

In arriving at our decision, we will consider the application and all objections, submissions received and, where an oral hearing has been held, the report and recommendation of the person/s who conducted the hearing.

When a final determination (decision) has been made, we will notify:

- The applicant/licensee
- Anyone who made a written submission in relation to the application
- Anyone who made a valid objection
- Public bodies specified in the regulations

The decision will be made available for inspection on this website and published in a newspaper circulating in the area. Waivers and refunds for applications and objections of the fees may be allowed in certain limited circumstances.

Once a Decision has issued, a person can apply to the High Court and seek a judicial review of the validity of the Decision.

Stage 7: Review of an existing licence

All requests from Licensees to carry out alterations or reconstruction works that effect emissions on site should be considered in the first instance by the Office of Environmental Enforcement. If the Office of Environmental Enforcement is of the view that the works or measures cannot be accommodated within the terms of the existing Licence, the Licensee is notified accordingly by the Office of Environmental Enforcement.

If a review of an existing licence is necessary, the Licensee must submit their review application to the Environmental Licensing Programme of the Office of Climate, Licensing & Resource Use, in accordance with EPA (Industrial Emissions) (Licensing) Regulations 2013. The review application must be made on the appropriate IED licence application form and must also state the grounds on which it is made and be accompanied by the required review fee.

The review process follows the same procedures as those for an application for an Industrial Emissions Licence.

The Agency can also initiate a review of a Licence in certain circumstances as outlined in Section 87(1)(b) of the EPA Act 1992 as amended.

Stage 8: Amendment of an existing licence

The Agency may amend a licence or revised licence for the purposes of:-

1. Correcting any clerical error therein,
2. Facilitating the doing of any thing pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition, or
3. Otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of Section 83(5) ceasing to be satisfied.

View EPA guidance for licensees on requests for alterations.

The licensing process explained: IPC Licence

When applying to the Environmental Protection Agency (EPA) for an IPC licence, you must satisfy a number of legislative requirements. These are largely set out in:

The EPA (Integrated Pollution Control) (Licensing) Regulations, 2013 (S.I. No. 283 of 2013)

The application process involves a number of stages:

Stage 1: Pre-application

Before making an application you must:

- Publish a notice in a newspaper circulating in the area,
- Erect a notice on the site indicating that you propose to apply for a licence
- Notify the planning authority

The content of the notices is set out in the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations, 2013 (S.I. No. 283 of 2013).

Stage 2: Making an application

This stage includes EPA assessment of the application and submissions on the application. In making an application, make sure that:

- You use the specified application form (Guidance Notes are available - see below)
- You answer all questions (incomplete applications will be returned)
- You pay special attention to the relevant BAT Guidance Note(s), if available at that time from the EPA
- You attach all necessary supporting documentation including the relevant fee.

We have eight weeks to assess your application before making a "proposed determination".

The eight-week period only starts when the necessary request(s) have been complied with. This period may be extended in certain circumstances, including by agreement with the applicant/licensee.

Before making a proposed determination we must take into account any written submissions received.

Stage 3: EPA proposed determination

We are required to indicate how we propose to determine an application, and will:

- Publish a newspaper notice indicating how we propose to determine the application
- Forward the proposed determination to all those who made a submission
- Make the proposed determination available for public inspection on this website

- Notify public bodies specifed in the above mentioned regulations

Stage 4: Any objections on the proposed determination (including submissions on objections)

Any person or body (including the applicant for a licence or a licensee) can make an objection within 28 days of the proposed determination being issued.

The applicant and those submitting a valid objection will be issued with a copy of all valid objections. Submissions in relation to an objection can be made within one month of copies of the objection being circulated.

We cannot consider submissions on objections received after this one-month period, and cannot consider further submissions or elaborations.

We do, however, have the discretion, in the interests of justice and where in particular circumstances we consider appropriate, to request a party to an objection to make a submission in relation to any matter arising in the course of the objection.

Where appropriate, we may request a party to an objection to submit further information within a specified period.

Where no valid objection is made within the prescribed period, we will issue our decision as per the Proposed Determination.

Stage 5: Oral hearing

A person making a valid objection may request an oral hearing.

Stage 6: Our Final determination

In arriving at our decision, we will consider the application and all objections, submissions received and, where an oral hearing has been held, the report and recommendation of the person/s who conducted the hearing.

When a final determination (decision) has been made, we will notify:

- The applicant/licensee
- Anyone who made a written submission in relation to the application
- Anyone who made a valid objection
- Public bodies specifed in the regulations

The decision will be made available for inspection on this website and published in a newspaper circulating in the area. Waivers and refunds for applications and objections of the fees may be allowed in certain limited circumstances.

Once a Decision has issued, a person can apply to the High Court and seek a judicial review of the validity of the Decision. Please see Stage 7 below.

Stage 7: Review of an existing licence

All requests from Licensees to carry out alterations or reconstruction works that effect emissions on site should be considered in the first instance by the Office of Environmental Enforcement. If the Office of Environmental Enforcement is of the view that the works or measures cannot be accommodated within the terms of the existing Licence, the Licensee is notifed accordingly by the Office of Environmental Enforcement.

If the Office of Environmental Enforcement decides that a review of the existing licence is necessary, they will inform the licensee of that fact and instruct them to apply to the Environmental Licensing Programme, in the Office of Climate, Licensing and Resource Use, for a review of their licence which is the same process as a applying for a new licence as set out above. The review application must state the grounds on which it is made.

The Agency can also initiate a review of a Licence in certain circumstances as outlined in Section 87(1)(b) of the EPA Act 1992 as amended.

Stage 8: Amendment of an existing licence

The Agency may amend a licence or revised licence for the purposes of:-

1. Correcting any clerical error therein,
2. Facilitating the doing of any thing pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition, or
3. Otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of Section 83(5) ceasing to be satisfied.

View EPA guidance for licensees on requests for alterations.

The licensing and permitting process explained: Waste

If you require a waste licence, you must satisfy legislative requirements that are largely set out in the Waste Management (Licensing) Regulations, 2004 to 2011.

You must make your application on the specified application form, and guidance notes are available to assist you. Pay special attention to the relevant BAT Guidance Note(s), if available at that time from the Environmental Protection Agency (EPA), when completing the form.

The application process involves a number of stages, as outlined below.

Stage 1: Pre-application

Before making an application you must:

- Publish a notice in a newspaper circulating in the area,
- Erect a notice on the site indicating that you propose to apply for a licence
- Notify the planning authority

The content of the notices is set out in the Waste (Licensing) Regulations, 2004 to 2011

Stage 2: Making an application

This stage includes EPA assessment of the the application and submissions on the application. In making an application, make sure that:

- You answer all questions (incomplete applications may be returned)
- You attach all necessary supporting documentation (including fee)

If your application does not comply with the regulations we may request additional information to acheive compliance. Where such a request is not fully complied with, we may:

- Repeat the request
- Decide to proceed with the determination
- Consider the application abandoned

Once we have acknowledged the application as complete, we cannot issue the proposed decision until a month has passed, to allow for further submissions. Before making a proposed determination we must take into account any written submissions we receive.

Stage 3: EPA proposed decision

We are required to indicate how we propose to determine an application, and will:

- Forward the proposed decision to all those who made a submission
- Make the proposed decision available on this website
- Notify public bodies specifed in the above mentioned regulations

Stage 4: Any objections (including submissions on objections)

Anyone, including the applicant for a licence or a licensee, can make an objection within 28 days of the proposed decision being issued.

The applicant and those submitting a valid objection will be issued with a copy of all valid objections. Submissions in relation to an objection can be made within one month of copies of the objection being circulated.

We cannot consider submissions on objections received after this one-month period, and cannot consider further submissions or elaborations.

We do, however, have the discretion, in the interests of justice and in particular circumstances we consider appropriate, to request a party to an objection to make a submission in relation to any matter arising in the course of the objection.

Where appropriate, we may request a party to an objection to submit further information within a specified period.

Where no valid objection is made within the prescribed period, we will issue our decision as per the proposed determination.

Stage 5: Oral hearing

A person making a valid objection may request an oral hearing. This involves a fee.

Stage 6: Our final determination/decision

In arriving at our decision, we will consider the application and all objections, submissions received and, where an oral hearing has been held, the report and recommendation of the person/s who conducted the hearing.

When we make a final decision, we notify:

- The applicant/licensee
- Anyone who made a written submission or a valid objection
- Public bodies specifed in the regulations

The decision will be made available for inspection on this website. Waivers and refunds for applications and objections of the fees may be allowed in certain limited circumstances.

Once a decision has issued, any person can apply to the High Court within two months of a decision to refuse or grant the licence, and seek a judicial review of the validity of the decision. Please see Stage 7 below.

Stage 7: Review of an existing licence

Where a Licensee is of the opinion that their existing Waste Licence requires a review, they should contact the Office of Environmental Enforcement in writing outlining the reasons why they think their Licence needs to be reviewed. The Office of Environmental Enforcement in consultation with the Environmental Licensing Programme of the Office

of Climate, Licensing and Resource Use will consider the grounds for review and make a decision on whether or not a review is required. This decision will be notified to the Licensee.

Once it is established that a review is required, the Licensee proceeds to apply for a review of their Licence in accordance with the Waste Management (Licensing) Regulations 2004 to 2011. The procedure for lodging an application for a review of a licence is similar to that of applying for a Licence.

The Agency can also initiate a review of a Licence in certain circumstances as outlined in Section 42(1)(b) of the Waste Management Act 1996 as amended.

Stage 8: Amendment of an existing licence

The Agency may amend a waste licence for the purposes of-

1. correcting any clerical error therein,
2. facilitating the doing of any thing pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition,
3. facilitating compliance by the holder of a licence with technical requirements that may be extablished, or amended, arising from the introduction of new Community acts or amendments to existing Community acts, or
4. otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of Section 40(4) ceasing to be satisfied.

View EPA guidance for licensees on requests for alterations.

Dumping at sea

Permitting dumping at sea in Ireland

Dumping at sea from vessels, aircraft or offshore installation of a substance or material without a permit is prohibited by the Dumping at Sea Act 1996 as amended. The purpose of a Dumping at Sea permit is to regulate the dumping of material at sea.

Certain functions relating to dumping at sea were transferred from the Minister for Agriculture, Fisheries and Food to the Environmental Protection Agency (EPA) by the Foreshore and Dumping at Sea (Amendment) Act 2009. This Act empowers the EPA to decide on an application for a permit to dispose of material at sea and the subsequent issue of Dumping at Sea permit.

Dumping at sea permitting process

The Dumping at Sea (DAS) permitting process consists of number of stages that involve consultation with the applicant and statutory consultees and this process also allows for public participation, by way of a written submission. The validity of an EPA decision on an application may be challenged by way of judicial review.
Any person can make a submission on any Dumping at Sea permit application received by the EPA.

Applying for a dumping at sea permit

Any person who wishes to dispose of material at sea is required to apply for a Dumping at Sea permit.

All applicants are advised to familiarise themselves with relevant guidance documentation before submitting a completed application for permit and a Material Analysis Reporting Form.

All permit application documents, correspondence, submissions and the Dumping at Sea Register, which gives particulars of all permits granted, are available at Search for a DAS Permit.

Department of Housing, Local Government and Heritage

Applying for Marine Area Consent or Licence in the Maritime Area – Effective from 17th July 2023.

From 17th July 2023, foreshore applications will no longer be accepted by Department of Housing Local Government and Heritage. All new applications for consents in the maritime area must be submitted to the Maritime Area Regulatory Authority. Application forms and guidance are available on the website of the Maritime Area Regulatory Authority.

Maritime Planning Applications

National Context for ORE (Offshore Renewable Energy)

The national context for ORE development is a target of 5GW of offshore wind energy to be in place and operational by 2030 with 30GW of offshore floating wind energy post 2030. The 5GW target is set out in the Programme for Government and the 5GW and 30GW targets are referenced in the Climate Action Plan.

Phasing of ORE Projects in the Process

The Maritime Area Planning Act as transposed into the Planning and Development Act 2000 as amended provides a mechanism for legacy ORE projects that has entered the foreshore process to transition to the new consenting regime and this was set out in a Transitional Protocol to which the existing projects signed up. Under the transitional protocol the existing projects in the foreshore system would receive priority treatment in progression through the MAP process and there would be a total of 6 no. Phase 1 ORE projects, the majority off the east coast, who would seek to make applications to the Commission.

Prior to applying for planning permission, all projects in the marine area will be required to obtain a maritime area consent (MAC) which is effectively a financial and high level assessment of the project and replaces the foreshore lease element of the existing legislation. The assessment and issuing of MACs will be overseen by a new agency, the Maritime Area Regulatory Authority (MARA).

The applicant is also required to enter into pre-application consultations with An Coimisiún Pleanála (as required under section 287 of the Planning and Development Act 2000 prior to making an application for permission under section 291 of the Act.