

Petroleum Exploration and Extraction (Safety) Bill, 2007

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HEAD 1

Short Title and Commencement

Provide that

- (i) This Bill may be cited as the Petroleum Exploration and Extraction (Safety) Bill, 2007
- (ii) This Bill, when enacted, comes into operation on such day or days as the Minister for Communications, Energy and Natural Resources may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Explanatory Note

This Head contains standard provisions which (i) indicate the short title of the Bill, or what it is to be commonly called, and (ii) provides for its commencement, or coming into force, either in whole or in part, when an order to this effect is made by the Minister for Communications, Energy and Natural Resources.

HEAD 2 Interpretation

Provide that the definition of petroleum and exploration and extraction infrastructure include the following:

- (i) strategic gas infrastructure development ' means any proposed development comprising or for the purposes of a strategic downstream gas pipeline or a strategic upstream gas pipeline, and associated terminals, buildings and installations, whether above or below ground, including any associated discharge pipe;

- (ii) ' strategic upstream gas pipeline ' means so much of any gas pipeline proposed to be operated or constructed—
 - (a) as part of a gas production project, or
 - (b) for the purpose of conveying unprocessed natural gas from one or more than one such project to a processing plant or terminal or final coastal landing terminal,as will be situate in the functional area or areas of a planning authority or planning authorities;”

(iii) An oil pipeline and any associated terminals, buildings and installations, where the length of the pipeline (whether as originally provided or as extended) would exceed 20 kilometres.

(iv) A definition of the Minister as the Minister for Communications, Energy and Natural Resources, and of other legal personalities, such as the Commission for Energy Regulation (CER) and the Health and Safety Authority (HSA), as required.

(v) Provide for a definition of undertaking to include natural gas undertakings as defined in the EU Directive 98/30 and Petroleum undertakings.

Explanatory Note

The purpose of this Head is

- (i) comprehensively to define petroleum exploration and extraction so that the new safety regime being introduced by these Heads will ensure the safety

of the design and construction of petroleum exploration and extraction infrastructure and ongoing operational safety of such infrastructure. All petroleum exploration and extraction infrastructure and associated processes is to be included, from subsurface facilities right up to the processing terminal, whether onshore or offshore. Petroleum includes both oil and gas.

- (ii) to provide the correct legal definitions of the legal personalities, such as the Minister, the Minister for Transport, The NSAI and the HSA, cited in the Bill.
- (iii) The legal meaning of an “undertakeing” for the purposes of this Bill.

HEAD 3 Regulation of Safety by Commission for Safety Regulation (CER)

1— Section 9 of the Act of 1999 is amended –

(a) in subsection (1) by the insertion of the following paragraph after paragraph (*ec*):

“(*ed*) to regulate the activities of petroleum exploration and extraction undertakings, with respect to public safety.”,

“(*ee*) to consult with the National Standards Authority of Ireland regarding standards and specifications relating to petroleum exploration and extraction infrastructure.”

(b) by the insertion, after subsection (1H), of the following subsection:

“(1J) (*a*) In carrying out its functions under subsection (1)(*ed*) the Commission shall, having consulted with the Minister, the Minister for Transport and the Health and Safety Authority, establish and implement a petroleum exploration and extraction safety framework, and report annually to the Minister on the functioning of such framework.

(*b*) The framework established under paragraph (*a*) shall include —

- (i) procedures for the submission by the relevant undertaking of a safety case to the Commission for approval
- (ii) a system for the inspection, auditing and verification of all petroleum exploration and extraction equipment, structures and processes, to an extent and frequency specified in the framework,
- (iii) a system for the issue of a permit to the undertaking upon approval of the safety case which only allows the undertaking to carry out activities in accordance with the approval safety case and other activities in the safety permit
- (iv) a system for the revocation of a safety permit by the Commission if it deems necessary
- (v) procedures for the investigation of any incidents involving petroleum exploration and extraction equipment, structures or processes which in the opinion of the Commission warrant such investigation,
- (vi) procedures relating to the making of a report to the Minister in respect of an investigation under subparagraph (v)
- (vii) any other matter considered necessary by the Commission.

(c) The Commission may review or amend the framework referred to in paragraph (a) as often as it considers necessary.

Explanatory note

This Head has been modelled on section 9 of the Electricity Regulation Act 1999, with particular reference to the amendments made thereto by section 12 of the Energy (Miscellaneous Provisions) Act 2006, which deals with the comparable role of the Commission in relation to the safety framework for natural gas.

Paragraph (a) amends section 9 of the 1999 Act so as to include the regulation of safety of petroleum exploration and extraction among the statutory functions of the Commission. This is in order to ensure the safety of the design and construction of petroleum and extraction infrastructure and ongoing operational safety, maintenance, refurbishment and eventual de-commissioning of such infrastructure.

Paragraph (b) concerns the petroleum exploration and extraction safety framework itself. It sets out the high level elements of the regulatory approach which the Commission must implement in discharging its new responsibility. It captures many of the elements also dealt with in further Heads of this Bill including:

Additional provisions have been made for the regulation of “ the activities” of petroleum exploration and extraction. Provision is now also made for the investigation of complaints.

The Minister for Transport has been included as a consultee under subsection (1J)(a), as requested by his Department in its observations on the Draft Memorandum, due to the potential overlap with maritime and aviation safety legislation.

It is intended that the remit of the Gas Technical Standards Committee (GTSC) as operated by the National Standards Authority of Ireland (NSAI) will be extended to take account of upstream infrastructure and accordingly the NSAI will now become a statutory consultee under this Bill.

HEAD 4 Safety Management System and Safety Case

(1) For the purpose of complying with its duty under Head 9, and complying with the petroleum exploration and extraction safety framework under Head 3, an undertaking shall implement a safety management system and shall prepare a document (“safety case”) describing the components of such safety management system.

(2) A safety case shall achieve the following two objectives—

(a) it shall demonstrate that the undertaking has the ability to properly assess and effectively control risks to the safety of persons and infrastructure, in compliance with its general duty under Head 9 and the petroleum exploration and extraction safety framework under Head 3, and

(b) it shall provide a working document by which the undertaking and the Commission can ensure that the safety systems described in the safety case are being properly implemented and continue to be maintained.

(3) To achieve the objectives referred to in subsection (2), a safety case shall contain at least the following components—

(a) a general description of the operations, or proposed operations, of the undertaking,

- (b) a statement of the safety objectives and safety policy of the undertaking,
- (c) an identification of the hazards arising from the operations of the undertaking, an assessment of the risks and details of the measures in place or proposed to mitigate such risks,
- (d) the management and organisational arrangements necessary for the implementation and management of petroleum and exploration and extraction safety, and
- (e) arrangements for monitoring, audit, and consequent review and revision of the safety case.

(4) The Commission shall prepare and, after consultation with the Minister, the Minister for Transport, the HSA and the NSAI undertakings and such other persons as in the opinion of the Commission may be relevant, publish guidelines, from time to time, on the appropriate contents of a safety case and on appropriate technical principles and specifications, and an undertaking shall, for the purposes of *Head 3*, in preparing a safety case or a revision to a safety case, and for the purposes of complying with *Head 6* have regard to such guidelines.

(5) A safety case shall be submitted to the Commission in accordance with *Head 5* for acceptance by the Commission in accordance with *Head 6*.

(6) An undertaking shall consult with its staff and staff representatives in the preparation of a safety case.

(7) A safety case shall contain the title and office address of one person in a senior management position within the undertaking who is responsible for ensuring, and has sufficient authority to ensure, that the undertaking implements the provisions of its safety case.

Explanatory Note

This Head has been modelled on section 39 of the Railway Safety Act 2005,

It provides for the undertaking to develop a safety case for submission and approval to the Commission under Head 7 which demonstrates how the undertaking is managing its safety risks in accordance with its general duty of the Act under Head 9 and the safety framework established under Head 3.

Under the Safety Framework, petroleum exploration undertakings and petroleum extraction undertakings will be required to submit a Safety Case. The Safety Case will cover the undertakings approach to the design, construction, operation, maintenance, refurbishment and eventual de-commissioning of all petroleum exploration and extraction infrastructure and associated processes as appropriate. As such it is a living document which will evolve over time.

The Commission will review the Safety Case, and if appropriate, approve the Safety Case. Subsequently a Safety Permit will be issued to the Undertaking by the Commission which will stipulate that the undertaking must operate in accordance with the approved Safety Case.

Any proposed modifications to the approach to the design, construction, operation, maintenance and eventual de-commissioning of petroleum exploration and extraction infrastructure by the undertaking will require a revised Safety Case to be submitted to the Commission for its approval prior to being brought into effect.

The Head also provides for the Commission to publish safety case guidelines, following consultation with appropriate parties, in order to provide further direction to the undertaking on what the safety case must contain along with the specific requirements of this Head.

HEAD 5 – Submission and Assessment of Safety Case

5—(1) A safety case prepared by an undertaking which operates petroleum exploration or extraction infrastructure immediately before the commencement of this section shall be submitted to the Commission by the undertaking not later than 6 months after the commencement of this section.

Post the commencement of this section, it shall be requirement of a developer/undertaking to submit a Safety Case to the Commission.

(2) An undertaking shall, before it submits a safety case to the Commission, engage a suitably qualified person to independently assess the safety management system described in such safety case and the report of such person shall be submitted to the Commission at the same time as the safety case.

(3) Where an undertaking has altered its safety management system on the basis of the report of a person engaged in accordance with *subsection (2)*, the safety case shall be amended as appropriate and a statement of the actions taken by the undertaking in response to the report, together with the report of the assessment and the safety case as amended, shall be submitted to the Commission.

(4) An undertaking shall not construct or operate exploration or extraction infrastructure unless it has received a safety permit as provided for under Head 6 from the Commission upon approval of the relevant safety case. An undertaking shall not act in contravention of the

conditions of a safety permit.

(5) An undertaking which does not comply with this section is guilty of an offence and is liable—

(a) on summary conviction, to a fine not exceeding €3,000, or

(b) on conviction on indictment, to a fine not exceeding €500,000.

Explanatory note

Under the Safety Framework and Head 4, petroleum exploration undertakings and petroleum extraction undertakings will be required to submit a Safety Case. The Safety Case will cover the undertakings approach to the design, construction, operation, maintenance, refurbishment and eventual de-commissioning of all petroleum exploration and extraction infrastructure and associated processes as appropriate. As such it is a living document which will evolve over time.

This Head sets out the process by which a Safety Case shall be submitted by an undertaking. Upon approval of the safety case by the Commission, a safety permit shall be issued. There is a requirement for the undertaking to act in accordance with the safety permit

HEAD 6 – Approval of Safety Case by the Commission

6—(1) (a) The Commission shall notify an undertaking of its approval of a safety case by issuing a permit (“safety permit”) to that undertaking.

(b) A safety permit may contain such conditions as may be deemed appropriate by the Commission, including conditions restricting or prohibiting the operation of specified parts of the infrastructure or a class or classes of infrastructure where, in the opinion of the Commission, not to do so would be in breach of the duty of the Commission under *subsection (2)*.

(c) The form of safety permits shall be decided by the Commission.

(2) The Commission shall only approve a safety case, or a revised safety case under *Head 7*, and issue a safety permit under *subsection (1)* where the information contained in the safety case or the revised safety case is sufficient to satisfy the Commission that the undertaking is capable, subject to any conditions contained in the safety permit of carrying out its operations in compliance with the duty imposed on it under *Head 8*, the Safety Framework under *Head 3* and the Safety Case Guidelines under *Head 4*

(3) Where the Commission is not satisfied in accordance with *subsection (2)* with a safety case or a revised safety case, the Commission shall, by notice in writing, require the undertaking concerned to—

(a) reconsider the information contained in the safety case or revised safety case and, if appropriate, re-examine and amend the safety management system described therein, and

(b) have any changes made by it to the safety case or revised safety case examined by a person engaged in accordance with *Head 5(2)* and to have a report of the examination

prepared by such person.

(4) An undertaking in receipt of a notice under *subsection (3)* or in receipt of a safety permit containing conditions in accordance with *subsection (1)(b)* may re-submit the safety case or revised safety case where, in the opinion of the undertaking—

(a) in the case of the notice, the issues raised by the Commission in the notice have been addressed, or

(b) in the case of a safety permit containing conditions, the safety case or revised safety case has been amended to the extent that the conditions are no longer warranted.

(5) The Commission, in deciding whether or not to issue a safety permit, for the purpose of satisfying itself under *subsection (2)*, may request any additional information or clarifications from a undertaking and the undertaking shall comply with such a request.

(6) The re-submission of a safety case in accordance with *subsection (4)* shall be accompanied by a report prepared under *subsection (3)(b)*.

(7) The Commission shall issue a permit under *subsection (1)* or a notice under *subsection (3)* as soon as practicable after it has completed its assessment if appropriate

(8) The approval of a safety case or a revised safety case by the Commission and the issuing of a safety permit shall not be interpreted as relieving an undertaking of its duty under *Head 9*

(9) The Commission may—

(a) refuse to issue a safety permit where the Commission is not satisfied in accordance with *subsection (2)*, or

(b) revoke a safety permit issued under *subsection (1)* if the undertaking which is the holder of the permit fails to comply with its safety case, or the conditions of the permit, or the safety framework or the Commission considers that the undertaking

cannot comply with its duty under *Head 9*

(10) A safety permit shall remain in force until it is revoked by the Commission under *subsection (10)* or replaced by a new permit.

Explanatory note

Under the Safety Framework and Head 4, petroleum exploration undertakings and petroleum extraction undertakings will be required to submit a Safety Case. The Safety Case will cover the undertakings approach to the design, construction, operation, maintenance, refurbishment and eventual de-commissioning of all petroleum exploration and extraction infrastructure and associated processes as appropriate. As such it is a living document which will evolve over time.

This Head sets out the process and the criteria by which the Commission will assess and if appropriate subsequently approve a Safety Case submitted by an undertaking under Head 5. In the event that the Commission does not approve the safety case and Fissue a permit, there are certain administrative procedures which the Commission must follow in line with good governance.

HEAD 7 – Revision of Safety Case

7.—(1) An undertaking shall re-submit its safety case (“revised safety case”) in circumstances where—

(a) the proposed alteration to the design, construction, operational safety, maintenance, refurbishment and de-commissioning procedures is a material change to the safety case previously approved by the Commission ,

(2) Where a revised safety case is proposed under *paragraph (a)*, the relevant undertaking shall submit the proposed revision to the Commission, together with a report prepared by a person engaged in accordance with *Head 5 (2)* and the revision shall not be made unless it has been accepted by the Commission in accordance with *Head 6*.

(3) An undertaking which does not comply with a requirement of this section is guilty of an offence and is liable—

(a) on summary conviction, to a fine not exceeding €3,000, or

(b) on conviction on indictment, to a fine not exceeding €500,000.

Explanatory note

The safety case is a living document and as such will change overtime. However given that it is an integral part of the successful operation of the Framework, it is essential that any proposed material changes to the safety case are notified to the Commission for its approval.

HEAD 8 – Powers of Direction

18(1) The Commission may issue an “Improvement Notice” *in relation to a particular activity or system of work* with which the undertaking must comply within a specified time.

(2) The Commission may issue a “Prohibition Notice” *in relation to a particular activity or system of work* with which the undertaking must comply with immediately.

(3) The Commission may issue a “Cessation Direction” *for the undertaking’s entire operation* with which the undertaking must comply immediately.

Explanatory Note

1. Improvement Notices are generally issued where an Inspector/Officer is of the opinion that an Operator is acting in contravention of a statutory provision or is not operating in compliance with the undertaking’s Safety Case. The Improvement Notice can require that, by a given date, remedial measures are implemented that ensure that activities or systems of work are carried out in such a way that there is no breach of statutory provision or Safety Case requirements. The Improvement Notice will:
 - state that the Inspector/Officer is of the above opinion
 - specify the statutory provision or Safety Case requirement that is being breached giving particulars of the reasons why he/she is of that opinion;
 - require the Operator to remedy the contravention or the matters giving rise to the contravention; and
 - specify the period for compliance

2. Prohibition Notices are generally issued where an Inspector/Officer is of the opinion that an activity or system of work involves a risk of serious personal injury. The Prohibition Notice will:
 - state that the Inspector/Officer is of the above opinion;
 - specify the matters which, in his/her opinion will give rise to the risk; and
 - direct that the activity or system of work should not be carried on unless the contravention has been remedied.

Cessation Direction– *these would generally be issued to the Operator of a facility would involve the cessation of the undertaking’s entire operation*

HEAD 9 - General duty of Petroleum and Extraction Undertakings

9. It shall be the general duty of a undertaking to ensure, in so far as is reasonably practicable, the safety of persons and property in the design and construction of its infrastructure and ongoing operation, maintenance, refurbishment and eventual decommissioning of its infrastructure.

Explanatory note

Head 10 places a general responsibility on the developer to operate all of its infrastructure in a manner which ensures as far as possible the safety of people and property.

HEAD 10 Regulations to designate a class or classes of exploration or extraction infrastructure.

Insert new 9K (1) The Commission, having consulted with such persons as it considers appropriate, and with the consent of the Minister, may by regulations designate a class or classes of works to be petroleum exploration or extraction works.

(2) In this section ‘works’ means work which is related to the construction and operation of petroleum exploration or extraction infrastructure.

Explanatory Note

This provision has again been modelled on the provisions of Section 9G as inserted by Section 13 of the Energy (Misc. Prov.) Act, 2006. It is intended to allow the CER to make regulations to designate classes of petroleum exploration and extraction works to be designated works. The purpose of this provision is, given the diversity of infrastructure covered, to allow the Commission to make particular regulation with regard to a specific class or classes of exploration or extraction infrastructure.

This provision is also intended to serve as a future proofing exercise to ensure that there is a mechanism to include additional infrastructure in the future should this be necessary

HEAD 11 – Regulations relating to exploration and extraction safety activities

Insert new 9 L (1) The Commission may, in performance of its functions under paragraph (ed) of section 9(1) make regulations relating to petroleum exploration and extraction safety.

(2) without prejudice to the generality of subsection (1) regulations made under this section may provide for

- (a) specifications or requirements regarding the installation or maintenance of petroleum exploration and extraction infrastructure
- (b) the conditions to be fulfilled before the pipeline is operated (Technical definition)

(3) where the Commission proposes to make regulations under this section, the Commission shall, before doing so, consult with the Minister, the Minister for the Environment, Heritage and Local Government and such other Minister of the Government (if any) as, in the opinion of the Commission appears appropriate.

(4) a person who fails to comply with regulations made under this section is guilty of an offence under this section.

(5) A person guilty of an offence under this section is liable -

- (a) on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 6 months or to both, or
- (b) on conviction on indictment to a fine not exceeding €15,000 or a term of imprisonment not exceeding 3 years, or to both.

Explanatory Note

This Head is again modelled on the provisions of section 13 of the E(MP) Act, 2006 and specifically on the provisions of Section 9H. This Head is to allow the CER to make regulation relating to its safety functions and particularly to prescribe for the specifications to which developers of upstream infrastructure are to adhere and the conditions to be met before such infrastructure can be operated.

This Head also makes provision for penalties for breach or non-compliance with requirements.

HEAD 12 – Petroleum Emergency Officers

Section 9L as inserted by Section 13 of the Energy (Miscellaneous Provision) Act, 2006 is amended to include petroleum emergency officers appointed by the Petroleum Undertaking as follows

(1) The Commission shall provide that the petroleum undertaking shall propose what level of deployment of Petroleum Emergency Officer is necessary as part of the safety case in relation to petroleum exploration and extraction infrastructure and shall, where necessary appoint a person to be an upstream petroleum emergency officer for the purposes of this section.

(2) a petroleum emergency officer may, subject to the provisions of this section, enter and inspect any land, or exploration or extraction infrastructure (with force if he or she considers it necessary in the circumstances) without giving notice or obtaining the consent of any person, and there take such measures as the officer considers appropriate for the protection of any person or any property from any danger arising from exploration petroleum or extraction infrastructure.

(3) a person appointed under subsection (1) shall be furnished with a certificate of his or her appointment by the system operator making the appointment, and when exercising a power conferred by this section shall, if requested by any person hereby affected, produce such certificate to such person.

(4) A petroleum emergency officer may not exercise the powers conferred by this section unless he or she is of the opinion that there is or may be a danger to any person or property arising from –

(a) a defect or possible defect in exploration or extraction infrastructure.

(5) Without prejudice to the generality of subsection (2), in exercising his or her powers under this section an upstream petroleum emergency officer may_

- (a) instruct any person to evacuate any place or exploration or extraction infrastructure until such time as the upstream emergency petroleum officer deems it safe to return,
- (b) instruct any person to perform or refrain from performing any act, if in the opinion of the officer, the performance or non-performance of such act is necessary in order to reduce or prevent any danger arising from petroleum exploration or extraction infrastructure,
- (c) search for any defect in any petroleum exploration or extraction infrastructure,
- (d) interrupt or disconnect the supply of petroleum without notice,
- (e) liaise with the petroleum safety officer appointed by the Commission on matters of safety monitoring and reporting.

Explanatory Note

As provided for in the in section 9I as inserted by section 13 of the E(MP) Act, 2006, this Head makes provision for petroleum undertakings to appoint a Petroleum

Emergency Officer with powers to enter land (with force if necessary) and to take emergency measures, where there is a danger to a person or to property arising from petroleum exploration or extraction infrastructure. The intention of this section is to allow petroleum undertakings to appoint an emergency safety officer with inspection and monitoring powers that will allow him/her to shut down infrastructure with immediate effect without the need for any other consultation if such action is deemed necessary.

As a requirement of the Commission, the petroleum undertakings, will, as part of their safety case identify where such emergency officers should be appointed and where it is deemed appropriate by the Commission, such officers shall be appointed by the undertaking.

HEAD 13 – Protection against Dismissal or Penalisation

13.—(1) In this section “penalisation” includes any act or omission by a petroleum undertaking or a person acting on behalf of an undertaking that affects, to his or her detriment, a person designated under Head 12 with respect to any term or condition of his or her appointment.

(2) Without prejudice to the generality of *subsection (1)*, penalisation includes—

(a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2001), or the threat of suspension, lay-off or dismissal,

(b) demotion or loss of opportunity for promotion,

(c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,

(d) imposition of any discipline, reprimand or other penalty (including a financial penalty), and

(e) coercion or intimidation.

(3) An undertaking shall not penalise or threaten penalisation against a person designated

under Head 12 for—

- (a) acting in compliance with the relevant statutory provisions,
- (b) performing any duty or exercising any right under the relevant statutory provisions,
- (c) giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions,
- (d) being a safety representative or a person designated under *Head 12* to perform functions under this Act, or
- (e) subject to *subsection (6)*, in circumstances of danger which the person designated under Head 12 reasonably believed to be serious and imminent and which he or she could not reasonably have been expected to avert, leaving (or proposing to leave) or, while the danger persisted, refusing to return to his or her place of work or any dangerous part of his or her place of work, or taking (or proposing to take) appropriate steps to protect himself or herself or other

persons from the danger.

(4) The dismissal of a person designated under Head 12 shall be deemed, for the purposes of the Unfair Dismissals Acts 1977 to 2001, to be an unfair dismissal if it results wholly or mainly from penalisation as referred to in *subsection (2)(a)*.

(5) If penalisation of a person designated under Head 12, in contravention of *subsection (3)*, constitutes a dismissal of the person so designated within the meaning of the Unfair Dismissals Acts 1977 to 2001, relief may not be granted to the person designated under Head 12 in respect of that penalisation both under this Part and under those Acts.

(6) For the purposes of *subsection (3)(f)*, in determining whether the steps which a person designated under Head 12 took (or proposed to take) were appropriate, account shall be taken of all the circumstances and the means and advice available to him or her at the relevant time.

(7) Where the reason (or, if more than one, the principal reason) for the dismissal of a person appointed under Head 12 is that specified in *subsection (3)(f)*, the person so designated shall not be regarded as unfairly dismissed if the undertaking shows that it was (or would have been) so negligent for the person so designated to take the steps which he or she took (or proposed to take) that a

reasonable undertaking might have dismissed him or her for taking (or proposing to take) them.

Explanatory note

This provision is modelled on section 27 of the Health and Safety Act, 2005. It makes provision to protect against any conflict of interest between the petroleum undertaking and the petroleum emergency officer.

HEAD 14 - Petroleum Safety Officers

Section 9J as inserted by section 13 of the Energy (Miscellaneous Provisions) Act, 2006 is amended to allow the Commission to appoint Petroleum Safety Officers for the purposes of paragraph (ed) as follows

- (1) The Commission may appoint a person to be a petroleum safety officer for the purposes of –
 - (a) this section
 - (b) (b) paragraphs (ed) and of section 9(1), and
 - (c) 1K of section 9
- (2) A petroleum safety officer may, subject to the provisions of this section-
 - (a) enter land or petroleum exploration or extraction infrastructure (with force if necessary) without giving notice or obtaining the consent of any person, and there inspect any petroleum exploration or extraction infrastructure and take such measures as the petroleum officer considers appropriate for the protection of any person or any property from any danger arising from petroleum exploration or extraction infrastructure
 - (b) enter on to any land or petroleum exploration or extraction infrastructure at any reasonable time and there-
 - (i) make such inspections and carry out such tests as he or she thinks fit in relation to any activities in or on such land or infrastructure ,
 - (ii) take any measurement or photograph or make any electrical or electronic recording which he or she considers necessary for the purposes of any examination or inquiry,
 - (iii) require any relevant person in authority to produce for him or her such documents, records or materials as are in that person's possession or control relating to the matter under inquiry and to give him or her such information as he or she may reasonably require in regard to such documents, record or material
 - (iv) inspect and copy or extract information from documents, records or materials produced to him or her under subparagraph (iii) or which he or she finds during the course of entry to land/infrastructure.
- (3) a person appointed under subsection (1) shall be furnished with a certificate of his or her appointment by the Commission, and when exercising a power conferred by this section shall, if requested, produce such certificate to such person.
- (4) Without prejudice to the generality of subsection (2), in exercising his or her powers under this section a petroleum safety officer may_
 - (f) instruct any person to evacuate any place or exploration or extraction infrastructure until such time as the upstream emergency petroleum officer deems it safe to return.
 - (g) instruct any person to perform or refrain from performing any act, if in the opinion of the officer, the performance or non-performance of such act is

necessary in order to reduce or prevent any danger arising from upstream gas or petroleum exploration or extraction infrastructure.

- (h) search for any escaped upstream gas, or any leak or defect in any exploration or petroleum extraction infrastructure.
- (i) interrupt or disconnect the supply of upstream gas without notice.
- (j) liaise with the petroleum safety officer appointed by the system operator on matters of safety monitoring and reporting.

(5) A person who-

- (a) obstructs or impedes a petroleum safety officer in the exercise of powers conferred by this section
- (b) fails or refuses to comply with an instruction given by a petroleum safety officer under this section
- (c) knowingly gives to a petroleum officer information which is false or misleading in a material respect, or
- (d) turns on or reconnects the supply of upstream gas which has been disconnected by the Petroleum safety officer, without the consent of the petroleum safety officer ,

is guilty of an offence.

(6) a person guilty of an offence under this section is liable –

- (a) on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 6 months or both, or
- (b) on conviction on indictment to a fine not exceeding €15,000, or a term of imprisonment not exceeding 3 year, or to both.

Explanatory Note

This Head is modelled on section 9J as inserted by section 13 of the E(MP)Act, 2006. It provides that the CER may appoint a Petroleum Safety Officer for the purposes of carrying out work inspections and sets out the suite of powers attaching to such appointment. This Head also creates an offence for non-compliance with specified provisions.

Head 15 - Conditions of Ministerial Consents to construct Petroleum Exploration and Extraction Infrastructure

It shall be a condition of all consents to construct petroleum exploration and extraction infrastructure granted by the Minister relating to petroleum exploration and extraction infrastructure under the Petroleum and Other Minerals Development Act, 1960, the Continental Shelf Act, 1968 and the Gas Act, 1976 as amended that an undertaking has established compliance with safety requirements set out in section 9 of the Electricity Regulation Act 1999.

Explanatory Note

Head 15 makes demonstrable compliance with safety requirements via a safety permit a condition of any statutory consent to construct petroleum exploration and extraction infrastructure.

HEAD 16 Recoupment of Costs by CER

Provide that

- (i) For the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions under this Act, the Commission may make an order (in this Act referred to as a “levy order”) imposing a levy to be paid each year on such classes of petroleum exploration and extraction undertakings as may be specified by the Commission in the order.

- (ii) Every order made by CER under this Head must be laid by CER before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Explanatory Note

This Head provides that CER may make an order to enable it impose a levy to recoup the costs incurred by it in carrying out its safety functions under this Bill from exploration and extraction undertakings. This will include the recovery of initial start-up costs met by the Exchequer. The Head also provides for the laying of any such order before the Oireachtas, which is a standard provision.