

**Memorandum of Understanding
between the
Commission for Energy Regulation
and the
Irish Aviation Authority**

August 2016

1. Objective and Scope of the Memorandum of Understanding

The objective of this Memorandum of Understanding (“MoU”) between the Commission for Energy Regulation (the “CER”) and the Irish Aviation Authority (the “IAA”) is to facilitate co-operation and mutual assistance between the CER and the IAA in the discharge of their respective statutory responsibilities in order to:

- enhance the actions of both;
- avoid unnecessary duplication of effort by both; and
- avoid the imposition of unnecessary regulatory burden.

The purpose of this MoU is to clearly identify the roles and responsibilities of the CER and the IAA (the ‘Bodies’) as they may relate to each other and to set out the areas where both will co-operate and co-ordinate their activities. Both the CER and the IAA are committed to a policy of ongoing co-operation and interaction with respect to the discharge of their respective statutory responsibilities. Notwithstanding this commitment to co-operate generally, the specific focus of this MoU relates to co-operation and co-ordination of the regulation of petroleum undertakings, operators and owners with respect to aviation safety obligations.

2. Statutory Responsibilities of IAA and CER relevant to the scope of the MoU

a) IAA

The IAA is a commercial state-sponsored company which was established under the *Irish Aviation Authority Act, 1993* to provide air navigation services in Irish-controlled airspace, and to **regulate safety standards** within the Irish civil aviation industry. The specific functions of the IAA which are relevant to the scope of this MoU are:

- Issue of Certificates of Airworthiness and oversight of this area ;
- Licensing personnel and approval of organisations involved in aircraft maintenance;
- Licensing pilots, and aerodromes; and
- Approving and monitoring air carrier operating standards.

Further detail on the IAA is available at <http://www.iaa.ie>

b) CER

The CER was established in 1999 and its role and functions have been expanded over time by legislation including the *Electricity Regulation Act 1999* (the Act), *Gas Act 1976*, *Gas (Interim) Regulation Act 2002*, *Energy (Miscellaneous Provisions) Act 2006 & 2012* and *Petroleum (Exploration and Extraction) Act 2010* (Act of 2010) and *Petroleum (Exploration and Extraction)*

Act 2015 (Act of 2015) (as are amended from time to time) and related secondary legislation. The CER has various safety and economic functions including the regulation of electricity and gas undertakings and ensuring the competitive, sustainable and reliable supply of electricity and natural gas at reasonable cost to Irish energy customers. The CER is also responsible for the safety regulation of upstream petroleum activities by petroleum undertakings, operators and owners, and the safety regulation of gas supply, transmission, distribution, storage and use of gas, and the registration of electrical contractors and gas installers.

The specific functions of the CER which are relevant to the scope of this MoU are to:

- to regulate designated petroleum activities with respect to safety;
- to investigate and report to the Minister of Communications, Climate Action and Environment on petroleum incidents;
- to monitor and enforce compliance by petroleum undertakings, operators and owners with their obligations;
- to issue safety permits;
- to provide safety information to the public when appropriate;
- to assess, and where relevant accept or reject, safety cases and notifications submitted by operators and owners;
- to carry out its objectives as competent authority, including:
 - to cooperate with other competent authorities and contact points in other Member States;
 - to jointly adopt measures with the competent authority of relevant Member States to prevent significant impact on the environment from potential major accident hazards;
 - the establishment of mechanisms for the confidential reporting of safety and environmental concerns relating to a designated petroleum activity and the investigation of such reports;
 - reporting to the European Commission on any investigation of petroleum incidents which resulted in an offshore major accident¹; and
 - requesting a report from a petroleum undertaking, operator or owner on the circumstances of any major accident in which they or their subsidiaries have been involved outside the European Union.

The principal objective of the CER in carrying out its functions is to protect the public by fostering and encouraging safety as respects the carrying on of designated petroleum activities, with the duty to perform its functions in the public interest and to do all things necessary and reasonable to

¹ Section 13A of the Act (as amended by the Act of 2015) defines major accident in relation to petroleum infrastructure or petroleum activities as ‘(a) an event involving an explosion, fire, loss of well control, or release of oil, gas or dangerous substances involving, or with a significant potential to cause, fatalities or serious personal injury, (b) an event leading to serious damage of petroleum infrastructure involving, or with a significant potential to cause, fatalities or serious personal injury, (c) any other event leading to fatalities or serious injury to multiple persons, or (d) any major environmental incident resulting from incidents referred to in paragraphs (a), (b) and (c) and which relates to petroleum activities carried out offshore’.

further its objectives and exercise its powers. How the CER discharges this petroleum safety regulatory role is set out in the regulatory document, the Petroleum Safety Framework.

Specific to its role as competent authority under Directive 2013/30/EU on the Safety of Offshore Oil and Gas Operations, the CER's principal objective is the effective safety regulatory oversight of operator and owner compliance with the Act in reducing the risk and potential consequences (including major environmental incidents) of major accidents offshore to a level that is as low as is reasonably practicable.

The other functions of the CER are set out at www.cer.ie

3. Areas of Interface

The respective statutory responsibilities of the IAA and the CER interface with respect to those petroleum exploration and extraction activities and infrastructure which are offshore where access to such facilities is by helicopter. The CER is responsible for the safety regulation of designated petroleum activities undertaken by petroleum undertakings, operators and owners generally. The IAA has a role in regulating the safety of air operations for personnel and cargo transfer. There is a requirement to authorise the landing facilities such as helidecks and associated navigational equipment on fixed and floating units. This is carried out by a third party for acceptance by the IAA.

4. Areas for Co-operation and Co-ordination

In acknowledging each other's respective statutory responsibilities, functions and duties, both the CER and the IAA will endeavour to liaise closely particularly in relation to the areas set out below:

a) Safety Case Assessment

The CER will formally consult with the IAA as part of the assessment of safety cases, safety case revisions and the approval of safety case thorough reviews with respect to provisions relating to helideck and navigation equipment and their use by operators and owners operating in an offshore environment which have an helideck as part of its infrastructure. IAA observations, and any notifications are particularly relevant to the CER function to monitor and enforce compliance of operators and owners with their obligations under the Act².

b) Audit and Inspections

Where appropriate, the CER will inform the IAA at the earliest opportunity of upcoming audits and inspections of operators and owners operating offshore. Where relevant, the IAA will inform the CER of its audits and inspection of such helidecks and/or aviation activities being carried out by or on behalf of operators or owners. Opportunities for the co-ordination of audit and inspection will be identified and where possible agreed.

Insofar as is possible, and only where it is relevant, the CER and IAA will share information relating to the outcome of audits/inspections carried out. This is particularly relevant to the

² As set out in sections 13KB and 13KC in the Act (as amended by the 2015 Act).

CER function to monitor and enforce compliance of petroleum undertakings, operators and owners with their duties and obligations³ under the Act.

c) *Communication with respect to Operators and Owners*

Where the IAA becomes aware of an operator or owner or a party operating on their behalf, is operating aircraft related to a designated petroleum activity in an unsafe manner, it will inform the CER. Where through the course of its compliance assurance activities, the CER becomes aware of a matter which it believes is relevant to the functions relating of the IAA, it will inform the IAA.

d) *Incident Investigation*

Operators and owners are required to notify to the CER of petroleum incidents, which in turn will in most cases be investigated by the CER. One of the functions of the IAA is to investigate and review accidents and incidents in its capacity as the responsible safety regulator and ensure the resolution of safety concerns

In circumstances where a petroleum incident overlaps with an aviation occurrence, and the IAA decides it will conduct an investigation or review of such an incident, both Bodies will liaise in order to:

- Establish lines of communication during each Bodies' respective investigative process;
- Share information where possible between investigative authorities to aid the investigative process; and
- Co-ordinate the incident investigation process where possible.

The Air Accident Investigation Unit (AAIU) is part of the Department of Transport, Tourism & Sport, and is responsible for the investigation of aircraft accidents, serious incidents, and incidents (Occurrences) that occur within Ireland.

In the case of accidents and incidents involving aircraft and operators or owners the AAIU has a statutory responsibility to conduct an investigation; both Bodies will assist the AAIU as required.

e) *Sharing of Information*

Insofar as is possible, and only where it is relevant to petroleum undertakings, operators or owners operating in an offshore environment which have a helideck as part of its infrastructure, the CER and IAA will share information relating to their respective responsibilities.

In order to facilitate the purposes of this MoU the Bodies will provide each other with as full and open access as is possible to all information necessary or expedient. These exchanges may be subject to restrictions or requirements such as those relating to confidentiality, data protection or freedom of information requirements. The CER and IAA accept that it is for the

³ The general duties and obligations on petroleum undertakings are set out in section 13K and 13KA of the Act respectively.

body providing the information to state what, if any, restriction there is to be on its usage and that each body will treat the information it receives in accordance with any such restriction.

Under the Freedom of Information Acts 1997-2003 ("FOI Acts") the CER is listed as a 'Public Body' for the purposes of the FOI Acts. Where a request to the CER covers information received from or concerning the IAA, the IAA and the CER agree that there will be communication and cooperation in accordance with the FOI Acts.

Where a request for information to one Body does not come within the FOI Acts but concerns information held by one of the Bodies that covers information received from or concerning the other Body, the Bodies will cooperate on matters of disclosure of that information on a case by case basis recognising that there are restrictions on the CER regarding the disclosure of confidential information in the Electricity Regulation Act 1999 and restrictions on the IAA as set out in the Irish Aviation Authority Act 1993, the European Communities (Occurrence Reporting In Civil Aviation) Regulations 2007 (SI 285 of 2007), Regulation (EC) No 216 of 2008, as amended, and it's associated Implementing Regulations.

f) General Consultation/Liaison Arrangements

The CER and the IAA will consult with each other when either is engaged in producing guidelines or procedural documentation which is relevant to petroleum undertakings, operators or owners operating in an offshore environment which have a helideck as part of their infrastructure. In developing such guidelines or procedural documentation efforts will be made through consultation to align the work of both to the greatest extent possible.

Where consultation or interaction is required or mutually beneficial in the circumstances, responses will be submitted where possible within the scheduled timescale in order to allow for the orderly progression of the project in question.


Nominated points of contact will be identified in both Bodies, who will be responsible for managing communications in each of the above identified areas for co-operation and communication.

5. Review of Memorandum of Understanding

It is envisaged that the CER and IAA representatives will meet on an annual basis to review this MoU and monitor its relevance, effectiveness, operation, and in particular, the co-operative measures and consultation established in the areas of shared or overlapping responsibility.

This MoU is effective from the date of signing by the CER and the IAA. This MoU is not legally binding on the Bodies but rather is an expression of individual and collective commitment to work together in order to realise the shared objectives expressed herein.


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31/8/16


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