

**Memorandum of Understanding
between the
Commission for Regulation of Utilities
and the
GeoScience Regulation Office (GSRO) of the Department for the
Environment, Climate and Communications**

February 2021

1. Objective and Scope of the Memorandum of Understanding

The objective of this Memorandum of Understanding (“MoU”) between the Commission for Regulation of Utilities (“CRU”) and the GeoScience Regulation Office (“GSRO”) of the Department for the Environment, Climate and Communications (“the Department”) and is to provide the overarching framework to facilitate cooperation and mutual assistance between the CRU and GSRO 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.

Both the CRU and GSRO are committed to a policy of ongoing cooperation and interaction with respect to the discharge of their respective statutory responsibilities. Notwithstanding this commitment to cooperate generally, the specific focus of this MoU relates to cooperation and coordination in the regulation of petroleum authorisations in Irish offshore areas.

This MoU also refers to interactions between the CRU and the Minister for the Environment, Climate and Communications (the “Minister”) under the Electricity Regulation Act 1999 (as amended by the Petroleum (Exploration and Extraction) Safety Act 2010, and the Petroleum (Exploration and Extraction) Safety Act 2015) (the “Act”).

2. Statutory Responsibilities of GSRO and the CRU relevant to the scope of this MoU

All petroleum (oil and gas) in Ireland is vested in the Minister for the Environment, Climate and Communications under the Petroleum and Other Minerals Development Act, 1960, as amended. The Department develops and maintains a robust regulatory framework to underpin petroleum exploration and production activities. The key policy aim is to:

- Ensure that the Irish regulatory framework is robust, sustainable and transparent, is in line with EU obligations, international best practice and promotes certainty, and sustainability, while delivering for citizens.

This work involves the development of legislation, transposition of relevant EU Directives into domestic law, and the effective management and regulation of authorisations and petroleum

leases. In addition, the Department engages at national, EU and international levels to ensure that regulatory practices are in keeping with international best practice.

The Programme for Government - Our Shared Future (2020) - contains a commitment to end the issuing of new licences for the exploration and extraction of gas on the same basis as the decision taken in 2019 by the previous Government in relation to oil exploration and extraction. That position was set out in a Policy Statement, which was published on 17 December 2019. The statement makes clear that all authorisations in place before 23 September 2019 continue to progress through the standard lifecycle stages. All applications for activities under any existing lease or licences are considered in this policy context.

Since exploration began in the Irish offshore, four commercial gas discoveries (Kinsale Head, Ballycotton, Seven Heads and Corrib) have been made. There have been no commercial discoveries of oil to date, though there have been discoveries of oil.

a) GSRO

The work of GSRO relevant to engagement with the CRU includes the following:

Licensing

- GSRO manages applications relating to the award and progression of licences through the standard lifecycle. This evaluation involves assessment of the work programme proposed by the applicant; the technical competence and offshore experience of the applicant; the financial resources available to the applicant; the applicant's policy to health and the environment; and previous performance by the applicant under any authorisations to which the applicant has been a party.
- A six-monthly report is laid before the Houses of the Oireachtas detailing current authorisations and fees collected by the Minister during the reporting period.

Regulation and Monitoring of Activities

- GSRO manages applications from licence holders to carry out "activities" under petroleum authorisations ensuring robust transparent processes are followed in relation to assessment against relevant environmental regulations. These include Directive 2011/92/EU, as amended by Directive 2014/52/EU (Environmental Impact Assessment Directive) and Directive 92/43/EEC (Habitats Directive). These activities can include site surveys, seismic surveys, geophysical surveys and the drilling of wells. The activities may be undertaken by holders of exploration licenses and production leases.

Management of Petroleum Leases

- GSRO manages the active production leases under its remit. This includes ensuring lease reporting requirements are met; monitoring of compliance with conditions; and ongoing assessment of environmental plans, where applicable.

Decommissioning

- GSRO is the competent authority for the decommissioning of depleted petroleum fields in Ireland. The decommissioning of these facilities is subject to the receipt of all necessary

regulatory and environmental approvals from the Minister. Operators are required to submit a detailed decommissioning plan to GSRO, detailing how they will safely decommission the facilities with minimal impact on the environment. This plan is assessed and approved in line with international best practice.

- As part of the regulatory process for decommissioning, GSRO liaises with relevant regulators such as the CRU, the Irish Coastguard (“IRCG”) and the Health and Safety Authority (“HSA”).

b) CRU

The CRU (formerly CER) was established as an independent regulator under the *Electricity Regulation Act 1999* and its role and functions have been expanded over time by legislation including the *Gas Act 1976*, *Gas (Interim) Regulation Act 2002*, *Energy (Miscellaneous Provisions) Act 2006*, *Energy (Miscellaneous Provisions) Act 2012*, *Petroleum (Exploration and Extraction) Act 2010* and *Petroleum (Exploration and Extraction) Safety Act 2015*, along with related secondary legislation. The CRU has various 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 CRU has various safety functions including the regulation of upstream petroleum activities by petroleum undertakings, operators and owners, the regulation of gas supply, transmission and distribution, and the registration of electrical contractors and gas installers.

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

- Regulate designated petroleum activities with respect to safety;
- Monitor and enforce compliance by petroleum undertakings, operators and owners with their obligations;
- Investigate and report to the Minister on petroleum incidents;
- Issue safety permits;
- Provide safety information to the public when appropriate;
- Assess, and where relevant accept or reject, safety cases and notifications submitted by operators and owners;
- Carry out the objectives of the competent authority including to:
 - Regularly exchange knowledge, information and experience with other competent authorities including through the European Union Offshore Oil and Gas Authorities Group;
 - Prepare and submit an annual report to the European Commission;
 - Cooperate with other competent authorities and contact points in other Member States;
 - Adopt measures with the competent authority of relevant Member States to prevent significant impact on the environment from potential major accident hazards;
 - Establish mechanisms for the confidential reporting of safety and environmental concerns relating to a designated petroleum activity and the investigation of such reports;
 - Report to the European Commission on any investigation of petroleum incidents which resulted in an offshore major accident;

- Request 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; and
- Act in accordance with the Act, as amended per Annex III of Directive 2013/30/EU on the safety of offshore oil and gas operations.

The principal objective of the CRU in carrying out its functions is to protect the public by fostering and encouraging safety as respects the carrying out designated petroleum activities, with the duty to perform its functions in the public interest and to do all things necessary and reasonable to further its objectives and exercise its powers. How the CRU discharges this petroleum safety regulatory role is set out in the Petroleum Safety Framework ("Framework").

Specific to its role as competent authority, the CRU'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 CRU are set out at www.CRU.ie/professional/safety/petroleum-safety-framework-2/

3. Areas of Interface

The respective statutory responsibilities of GSRO and the CRU interface with respect to certain specific aspects of petroleum authorisations that may occur at different stages within the authorisation lifecycle.

These include but are not limited to the following:

- Consideration of a company's past performance in decisions to award a licence;
- Activity applications that involve well work, including the drilling of wells and the plugging and abandonment of wells; and
- Decommissioning of offshore production facilities.

4. Areas for Cooperation and Coordination

In acknowledging each other's respective statutory responsibilities, functions and duties, both the CRU and GSRO (hereafter collectively referred to as "the Bodies") will endeavour to liaise closely, particularly in relation to the areas set out below:

a) Assessment of Petroleum Authorisations

GSRO may consult with the CRU as part of their assessment of a petroleum authorisation application with regard to:

- The available information relating to the safety performance of the applicant, including in relation to major accidents;
- The appointment of the operator by the licensee.

b) Communication with respect to Petroleum Authorisations

Where through the course of its regulatory activities, either Body becomes aware of a matter which it believes is relevant to the functions of the other, it will duly inform that Body. In particular, where the CRU determines that an operator no longer has the

capacity to meet its requirements under the Act, they will inform GSRO of this determination and of CRU's next steps.

Both CRU and GSRO have responsibility for the review of the annual pipeline report (Conditions 4 & 5) required as part of the conditions of the Consent to Operate the Corrib Gas Pipeline of 29 December 2015. An agreement has been put in place that the CRU assumes lead responsibility on reviewing of this report. GSRO will liaise with CRU to provide feedback from the Department's perspective.

c) Activity Applications involving Well Work

Where either Body is informed of the intention of any authorisation holder to apply for or undertake well work, both Bodies will endeavour to share this information for the purposes of enabling appropriate planning for the regulation of such works.

d) Safety Case Assessment

The Act requires petroleum undertakings that intend to carry out a designated petroleum activity to submit a safety permit application to the CRU with respect to that designated petroleum activity. Under the Framework, there are three types of safety permit, each corresponding to a class of designated petroleum activity. These are:

- A Well Work Safety Permit;
- A Production Safety Permit; and
- A Decommissioning Safety Permit.

In order for a safety permit to be issued, the associated safety case(s) and notifications (a combined operations notification or a design notification) have to be assessed and accepted by the CRU. These are submitted by operators and owners. The safety permits and associated safety cases are set out in the accompanying table.

| Designated Petroleum Activity | Safety Permit (Petroleum Undertaking) | Safety Case or Notification (Operator) | Safety Case (Owner) |
|---|---|--|----------------------------|
| Well Work | Well Work | Well Work Safety Case Production Safety Case Decommissioning Safety Case | Non-production Safety Case |
| Production | Production | Design Notification and Production Safety Case | n/a |
| Combined operation | Production | Combined Operations Notification | Non-production Safety Case |
| Relocation of a Production Installation | Covered by a material change to a Production Safety Case and associated Safety Permit | | n/a |
| Decommissioning | Decommissioning | Design Notification and Decommissioning Safety Case | n/a |

During its Safety Case Assessment, the CRU will request written confirmation from GSRO that a screening for appropriate assessment (or a full appropriate assessment, where relevant) has been carried out or will be carried out in respect of the underlying project to which the said designated petroleum activity relates, as per S.I. 499 of 2013 'European Communities (Birds And Natural Habitats) (Amendment) Regulations 2013'.

e) Decommissioning of Facilities

CRU and GSRO will engage and share information in relation to decommissioning of petroleum infrastructure in order to:

- Plan for the management of relevant applications and consents;
- Ensure the alignment of related activities and coordination of timelines; and
- Ensure a comprehensive regulatory approach is adopted to all aspects of works and there are no regulatory gaps in the end-to-end process adopted

f) Well Abandonment

During the course of well work activities and upon request from CRU, GSRO will share geological data and information from a well with CRU in order to assist CRU in their review of the well abandonment programme for that well.

If the well work associated with the permanent abandonment of a suspended well do not require a Safety Permit from the CRU, GSRO may consult with CRU on the compliance of the downhole barrier status with the relevant standard(s).

g) Incident Investigation

Owners and operators are required to notify the CRU of petroleum incidents, which in turn will be reviewed and where necessary investigated by the CRU. Where the CRU determines that an incident may be of interest to GSRO, it will notify GSRO of this and of any subsequent investigations. The CRU may, with the consent of the Minister, publish a non-confidential version of these reports.

h) European and International Groups

The CRU and GSRO share attendance at the European Offshore Authorities Group (EUOAG) regular meetings, the regulators group which was formally established under the Offshore Safety Directive 2013/30/EU. Where consultation or interaction is required in preparation for and following an EUOAG meeting, both parties will aim to liaise in the development of their inputs.

Both CRU and GSRO are members of other European and international groups such as;

- International Offshore Petroleum Environment Regulators (IOPER)
- OSPAR Convention (Convention for the Protection of the Marine Environment of the North-East Atlantic)
- International Regulators Forum (IRF)
- North Sea Offshore Authorities Forum (NSOAF)

The CRU and GSRO will exchange knowledge, information and experience from these fora that may be relevant to their statutory functions.

i) Sharing of Data

Insofar as is possible, and only where it is relevant, the CRU and GSRO will share information relating to their respective responsibilities.

This information may include, but is not limited to geological, engineering or any other data and information of relevance to designated petroleum activities offshore Ireland.

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 (FOI) requirements. The Bodies accept that it is for the 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.

j) *FOI and AIE*

For the purposes of the Freedom of Information Act 2014 (“FOI Act”) and the European Communities (Access to Information on the Environment) (Amendment) Regulations 2007 to 2018 (“AIE Regulations”), where information is held by one of the Bodies that falls under a request received by the other Body or, where a request to one Body covers information received from or concerning the other Body, the GSRO and the CRU agree that there will be communication and cooperation in accordance with the FOI Act or AIE Regulations.

Where a request for information to one Body does not come within the FOI Act or AIE Regulations 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 CRU regarding the disclosure of confidential information in the Electricity Regulation Act 1999.

k) *General Consultation/Liaison Arrangements*

The CRU and GSRO will consult with each other when either is engaged in producing guidelines, procedural documentation or legislative documentation which is relevant to the implementation of their respective statutory functions relevant to this agreement. 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 cooperation and communication.

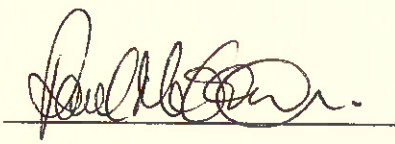
Where requested, and if within the general scope of the relevant body’s regulatory functions and in accordance with legal requirements on the disclosure and sharing of information held by that body, that body will provide assistance to the other body on relevant technical matters.

In addition, both organisations will engage in the operation of the Offshore Regulators Liaison Group, alternately hosting, scheduling, drafting agendas and documenting actions to be followed up.

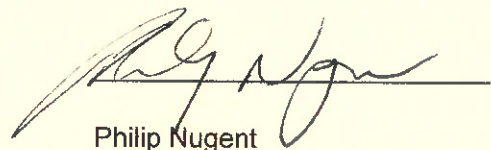
5. Periodical Meeting and Review of Memorandum of Understanding

CRU and GSRO representatives will meet periodically (at least once every three years) to review this MoU and monitor its relevance, effectiveness, operation, and in particular, the cooperative measures and consultation established in the areas of shared or overlapping responsibility.

This MoU is effective from the date of signing by the CRU and GSRO. 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.



Paul McGowan
Commissioner
Commission for Regulation of Utilities



Philip Nugent
Assistant Secretary
Circular Economy, Waste Policy and
Natural Resources
Department of the Environment,
Climate and Communications

Date: 19 March 2021

Date:

Appendix 1 Relevant Legislation

Petroleum and Other Minerals Act, 1960 as amended

Continental Shelf Act, 1968, as amended

Gas Act, 1976, as amended

Electricity Regulation Act 1999, as amended

Petroleum (Exploration and Extraction) Safety Act 2010

Petroleum Safety (Designation of Certain Classes of Petroleum Activity) Regulation 2013, S.I. No. 89 of 2013

Petroleum (Exploration and Extraction) Safety Act 2015

EU Directive 2011/92/EU, as amended by Directive 2014/52/EU (Environmental Impact Assessment Directive) and Directive 92/43/EEC (Habitats Directive).

Petroleum Safety (Petroleum Incident) Regulation 2016, S.I. No. 166 of 2016