



MINLEX - Ireland Country Report

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1. IRELAND

1.1. Summary of findings

Ireland's NEEI sector is well developed: the country ranks 11th in the world for zinc concentrate production, and is a significant producer of lead concentrate, silver and alumina. Ireland is a major exporter of zinc and lead concentrates and has significant deposits of gypsum, limestone, and smaller quantities of copper, silver, gold, barite, and dolomite. Minerals are either state-owned or privately owned, but any mineral deposit may also have a combination of both ownerships. Approximately 60 % of minerals are state-owned. Private mineral ownership arises mainly when the lands in question have not been dealt with by the Land Commission since 1903. The main Irish Mining Law, the Minerals Development Acts (different Acts published from 1940 until 1999), names "scheduled minerals" to a group consisting of mainly metals and industrial minerals such as gold, silver, copper, lead, tin, sulphur, mercury, barites, chalk, clay, feldspar, gypsum, etc. These "scheduled minerals" belong to the state. "Non-scheduled" minerals such as stone, clay, gravel and sand belong to the landowner.

The Minerals Development Acts 1940 to 2006¹ govern onshore and offshore mineral exploration and development in Ireland. Other laws of importance are the Environmental Protection Agency (EPA) Act of 1992 which constituted the Irish EPA, the IPPC Regulations 2012 (S.I. No 282 of 2012) ensuring an EIA procedure is carried out where required under Directive No. 2011/92/EU (and amendments) in relation to relevant decisions of the EPA to grant an IPC licence, the European Communities (Birds and Natural Habitats) Regulations 2011 (and amendments), the Air Quality Standards Regulations 2011 and the Planning and Development Act 2000, the main Act covering developments of any type. NEEI exploration and extraction permitting is governed by the Minister for Communications, Energy and Natural Resources, which acts through the Exploration and Mining Division (EMD) of the Department of Communications, Energy and Natural Resources (DCENR).

For onshore and offshore exploration, the EMD acts as a "one-stop shop" for exploration permits (called "prospecting licences", PLs) ***as the sole public entity involved in the grant, monitoring and regulation of such licences.*** Even though permission can be required for certain activities from co-authorities (e.g. the Minister for Art, Heritage, and the Gaeltacht to access to National Nature Reserves), such permissions, except from the Irish Aviation Authority, are channelled through EMD, who will obtain the permission from the relevant co-authority. ***There is little or no overlap in the functions of all the public entities involved in granting permission to explore and EMD acts as a "one-stop shop"*** which facilitates the efficient performance of exploration. For exploration, no EIA procedure is required. The average time for the issue of a PL is four months (as long as no appeals are filed). However, it may take longer and it almost entirely depends on the time it takes for the applicant to respond to requests for additional information. ***Only holders of current licences are considered for Mining Facilities to develop such minerals within the licence area,*** whether the minerals are state-owned or privately owned. Permits are not required for exploring for normal construction aggregates, i.e. natural sand and gravel or crushed rock.

For onshore mineral developments, the EMD, the Irish Environmental Protection Agency (EPA) and the local authorities (County Councils) are the three agencies whose permission is needed before any development can start. The main authorisation, granted by the Minister, is called "State Mining Facility" (SMF) or "State Mining Lease/Licence" and is subject to the Minerals Development Acts. Such authorisation

¹ Includes the Energy (Miscellaneous Provisions) Act 2006

is normally granted when permits have been obtained from two other agencies. These permits are Planning Permission from the Local Authority and an Integrated Pollution Control (IPC) licence from the EPA; an IPC Licence is required for any development involving "scheduled minerals". Any development, whether related to minerals or not, requires Planning Permission under the Planning and Development Act 2000. In each and every application for planning consent the Local Authority and An Bord Pleanála (the sole appeal instance) must consult with a number of public entities as listed in the Planning and Development Regulations (2110 – 2015) for particular types of development. These are known as Prescribed Bodies or Authorities. The Minister may issue a State Mining Lease for minerals in State Ownership or a State Mining Licence for minerals not in State Ownership to work the minerals. **Close contact is maintained between the three agencies responsible for issuing licences. Interagency cooperation is important in order to ensure that the licensing process is as efficient as possible, industry-friendly, whilst at the same time allowing for the concerns of local communities to be raised and to ensure that high environmental standards are maintained and environmental legislation is complied with.** To this end, DCENR works closely with the EPA and the relevant Local Authority and in the interest of transparency, all prospective PLs and SMFs are advertised to allow submission of objections or comment prior to any award. Planning permissions are awarded on average in 10.5 months, a State Mining Lease is normally granted between six to ten months, and an IPC licence seven months; if appeals take place it takes longer. **For large deposits, the time taken from application to the issuing of all three permits ranges from between two to four years.**

For offshore potential extraction mining permits (none have been issued yet), the authority would be the EMD and the EPA, and no local authority would be included. As a result of a functional permitting system, the permitting success rates for the period 2013-2015 are also very high (98 % and 100 % for exploration and extraction permits respectively). **No important court cases are known in Ireland**, which indicates that the judicial path is not frequently employed to resolve disputes.

1.2. General introduction

Ireland is a country on an island off the north-western fringe of Europe. Ireland's territory extends into the Atlantic Ocean with its marine territory almost ten times (Sea area: 880,000km²) the size of its 70,273km² land area. Ireland is a modern knowledge-based economy focusing on services, the agricultural and food, and high-tech industries such as pharma-chem, medical devices' and Information and Communications Technologies (ICT). The Irish economy is heavily dependent on exports from the food and high tech sectors and foreign direct investment, especially for the latter. The construction sector in Ireland has been severely affected by the recession and the 2008-2013 Irish banking crisis. However, the sector returned to growth in 2014.

The Irish Government's mineral policy is:

To support the development of Ireland's mineral resources in an environmentally and socially responsible way, recognising the economic contribution that mineral extraction can make, through the provision of well-paid secure jobs in rural areas that often have relatively limited employment opportunities.

Ireland ranks 11th in the world for zinc concentrate production, and is a significant producer of lead concentrate, silver and alumina. Ireland is a major exporter of zinc and lead concentrates to the EU. In addition, the country has significant deposits of gypsum, limestone, and smaller quantities of copper, silver, gold, barite, and dolomite.

World importance	European importance	National importance
Zinc	Alumina	Cement
	Lead	Gypsum
	Silver	Crushed rock
		Sand and gravel

Mineral ownership

Minerals are either State owned or privately owned, but any mineral deposit may also have a combination of both ownerships. Approximately 60% of minerals are in State ownership. Private mineral ownership arises mainly when the lands in question have not been dealt with by the Land Commission since 1903. The main Irish Mining Law, the Minerals Development Act, names "scheduled minerals" to a group consisting of mainly metals and industrial minerals such as gold, silver, copper, lead, tin, sulphur, molybdenite, mercury, barites, chalk, clay, feldspar, gypsum, rock salt, etc. These "scheduled minerals" belong to the state. Non-scheduled bulk minerals such as stone, clay, gravel and sand are not vested in the State and belong to the landowner (are privately owned).

1.3. Legislation governing mineral exploration and extraction

The primary legislation applying to mineral extraction are the Mineral Development Acts from 1940 to 2006. All mining of “scheduled minerals” requires either a Lease under the Minerals Development Act 1940 for minerals in State ownership, or a License under the Minerals Development Act of 1979 for privately owned minerals, both are issued by the Minister for Communications, Energy and Natural Resources. Another important law for the permitting is the Planning and Development Act 2000 which regulates planning permissions from local authorities. The legislation applies to the exploration and/or development of minerals both onshore and offshore.

Table 1: Ireland. Legislation relevant to exploration and extraction permitting.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	IE-L1	Minerals Development Act, 1940	http://www.irishstatutebook.ie/eli/1940/act/31/enacted/en/print	Y	N	Y	Y	Y	N	N	Y	Primary legislation. Exploration and Mining is handled centrally in Ireland. This is the principal Act and deals with definition of minerals, mineral ownership, prospecting licences, State Mining Leases, arbitration, etc.
	IE-L2	Petroleum and other Minerals Development Act, 1960	http://www.irishstatutebook.ie/eli/1960/act/7/enacted/en/html	N	N	N	Y	N	N	N	Y	Primary legislation. This Act ceased the application of 1940 Act to Petroleum, and also made a number of other amendments to that Act.
	IE-L3	Minerals Development Act, 1979	http://www.irishstatutebook.ie/eli/1979/act/1/enacted/en/html	Y	N	N	Y	N	N	N	Y	Primary legislation. Vests in the Minister the exclusive right to work privately owned minerals and provides for permitting of the working of those minerals by third

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
			9/act/12/enacted/en/html									parties, subject to payment of compensation.
	IE-4	Minerals Development Act, 1995	http://www.irishstatutebook.ie/eli/1995/act/15/enacted/en/html	Y	N	Y	Y	N	N	N	Y	Primary legislation. Deals with renewals of Prospecting Licences and application fees for State Mining Facilities.
	IE-L5	Minerals Development Act, 1999	http://www.irishstatutebook.ie/eli/1999/act/21/enacted/en/html	Y	N	N	Y	N	N	N	Y	Primary legislation. Clarifies State ownership of certain minerals and addresses the transfer of the right to compensation under the 1979 Act.
	IE-L6	Energy (Miscellaneous Provisions) Act 2006	http://www.irishstatutebook.ie/eli/2006/act/40/enacted/en/html	N	N	N	N	Y	N	N	Y	Primary legislation. Part 9 of this Act contains provisions relating to the treatment by the rehabilitation of lands affected by mines and former mines, and for the compulsory acquisition of lands for the purposes of such rehabilitation.
	IE-L7	Minerals Development Regulations, 1979	http://www.mineralsireland.ie/NR/rdonlyres/96960	N	N	Y	Y	N	N	N	Y	Secondary legislation. Deals with the application procedures and fees

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
			767-FA7E-4FD7-813C-F2D70206619F/0/Minerals_Development_Regulations_1979.pdf									for Licences, Leases and compensations under the Acts.
IE-L8		Minerals Development (Amendment) Regulations, 1994	http://www.irishstatutebook.ie/eli/1994/si/319/made/en/print	N	N	Y	N	N	N	N	Y	Secondary legislation. Deals with changes to fees.
IE-L9		Minerals Development (Application Fees for certain state mining facilities) Regulations, 1996	http://www.irishstatutebook.ie/eli/1996/si/259/made/en/print	N	N	N	Y	N	N	N	Y	Secondary legislation. Deals with fees for certain State mining facilities.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
environment	IE-L10	Environmental Protection Agency Act, 1992	http://www.irishstatutebook.ie/eli/1992/act/7/enacted/en/html	Y	INYA	N	Y	Y	N	N	Y	An Act to make further and better provision for the protection of the environment and the control of pollution, to establish an Environmental Protection Agency, for these and other purposes to increase certain existing monetary penalties and to provide for other matters connected with the matters aforesaid. Included are procedures concerning the IPC licensing process.
	IE-L11	European Union (EIA) (Integrated Pollution Prevention and Control) Regulations 2012 (S.I. No 282 of 2012)	http://www.irishstatutebook.ie/eli/2012/si/282/made/en/pdf	Y		N	Y	Y	N	N	Y	The purpose of these Regulations is to give further effect in Irish law to Article 3 and Articles 2 to 4 of Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment insofar as it applies to certain licensable activities that require both a land-use consent and an integrated pollution prevention and control licence. These Regulations amend the Environmental Protection Agency Act 1992 (No. 7 of 1992) and the Planning and Development Act 2000

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
												(No. 30 of 2000) so as to ensure that an environmental impact assessment is carried out, where required under Directive No. 2011/92/EU, in relation to relevant decisions of the Environmental Protection Agency to grant an integrated pollution prevention and control licence.
	IE-L12	Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 S.I. 283 of 2013	http://www.irishstatutebook.ie/eli/2013/si/283/made/en/print	Y		N	Y	Y	N	N	Y	These Regulations provide for various procedural matters in relation to the integrated licensing by the Environmental Protection Agency of Integrated Pollution Control activities specified in the First Schedule to the Environmental Protection Agency Act 1992. The Regulations provide for applications for licences, reviews of licences or revised licences, consideration by the Agency of objections, including the holding of oral hearings, public participation procedures associated with the integrated pollution control licensing system administered by the Agency and the contents of the register of integrated pollution control licences.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	IE-L13	European Communities (Birds and Natural Habitats) Regulations 2011.	http://www.irishstatutebook.ie/eli/2011/si/477/made/en/print	N	N	Y	Y	Y	N	N	Y	Covers the protection of wildlife, habitats and birds giving effect to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
	IE-L14	European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015.	http://www.irishstatutebook.ie/eli/2015/si/355/made/en/print	N	N	Y	Y	Y	N	N	Y	Amends the European Communities (Birds and Natural Habitats) Regulations 2011 to update the definitions of the Birds Directive IE(2009/147/EC) and the Habitats Directive (92/43/EEC) to reflect the accession of the Republic of Croatia to the European Union.
	IE-L15	Waste Management (Management of Waste from the Extractive Industries) Regulations 2009	http://www.irishstatutebook.ie/eli/2009/si/566/made/en/print	N	N	Y	Y	Y	N	N	Y	These Regulations provide for measures and procedures to prevent or reduce as far as possible any adverse effects on the environment, in particular water, air, soil, fauna and flora and landscape, and any resultant risks to human health, brought about as a result of the management of waste from the extractive industries and transpose Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from the

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
												extractive industries into Irish legislation.
	IE-L16	Air Pollution Act, 1987	http://www.irishstatutebook.ie/eli/1987/act/6/enacted/en/html	Y	N	N	Y	Y	Y	N	N	Specifies standard for air quality
	IE-L17	Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) (Amendment) Regulations 2004	http://www.irishstatutebook.ie/eli/2004/si/202/made/en/print	Y	N	N	Y	Y	Y	N	N	These regulations give effect to Council Directive 98/70/EC (1) relating to the quality of petrol and diesel fuels and Council Directive 2003/17/EEC (2) amending Directive 98/70/EC.
	IE-L18	Air Quality Standards Regulations 2011	http://www.irishstatutebook.ie/eli/2011/si/180/made/en/print	Y	N	N	Y	Y	Y	N	N	These regulations give effect to Council Directive 2008/50/EC1 of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	IE-L19	European Communities Environmental Objectives (Surface Waters) Regulations 2009	http://www.irishstatutebook.ie/eli/2009/si/272/made/en/print	Y	N	N	Y	Y	Y	N	N	These regulations give further effect to Directive 2006/11/EC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community, Directive 2000/60/EC establishing a framework for Community action in the field of water policy, and Directive 2008/105/EC on environmental quality standards in the field of water policy.
	IE-L20	European Communities Environmental Objectives (Groundwater) Regulations 2010	http://www.irishstatutebook.ie/eli/2010/si/9/made/en/print	Y	N	N	Y	Y	Y	N	N	These regulations give further effect to Directive 2000/60/EC establishing a framework for Community action in the field of water policy and giving effect to Directive 2006/118/EC on the protection of groundwater against pollution and deterioration.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
nature conservation, forestry	IE-L21	See remarks										Nature conservation and biodiversity are covered by the implementation of the Birds and Habitats Directives. These are addressed in the above section on Environment. There is no forestry legislation relevant to the exploration for or working of minerals.
water management	IE-L22	See remarks										Water management is covered by legislation listed in the above section on Environment.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
land use planning, spatial development, soil management	IE-L23	Planning and Development Act, 2000	http://www.irishstatutebook.ie/eli/2000/act/30/enacted/en/html	Y	Y	N	Y	Y	Y	N	N	This is the main Act covering development, of any type.
transportation, construction, catastrophe protection, police, military	IE-L24	See remarks										There is no specific legislation on transportation, construction, catastrophe protection, military or police relevant to mining. All matters relating to transportation, construction, catastrophe protection are dealt with by the planning legislation cited above.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
culture heritage	IE-L25	See remarks										There is no specific legislation on culture or heritage relevant to mining. All matters relating to culture and heritage are dealt with by the planning legislation cited above.
public administration, court procedures	IE-L26	See remarks										No information provided

1.4. Authorities governing mineral exploration and extraction

In Ireland, the main responsible authority differs for exploration and extraction phases. **For exploration**, the only authority is the Minister for Communications, Energy and Natural Resources, which acts through the Exploration and Mining Division (EMD) of the Department of Communications, Energy and Natural Resources. EMD is responsible for both onshore and offshore mineral licences. There is no appeals procedure. Local Authorities and An Bord Pleanála (the sole appeal instance) have no role in the issue of Prospecting Licences.

For the **extraction phase**, there are three authorities involved, each granting a different permit (the three permits are required for any mining project to develop). First, the mining licence or lease, a licence granted by the Minister for Communications, Energy and Natural Resources. The EMD is the body which carries out the regulatory functions of the Minister. To obtain a mining lease, the applicant must submit a detailed operations plan which has to address a range of issues (method of working, transport, landscape, restoration, etc.). Similar information must be submitted to the County Council to obtain the planning permission. Second, the "Environmental permission": this permission is handled by the Irish Environmental Protection Agency (EPA) (both the initial application and any appeals). The EPA prepares and implements its own environmental monitoring programmes. It is important as it is responsible for awarding the Integrated Pollution Control (IPC) licence and also handles the industrial emissions.

Third, the planning permission: this is where the Local Authorities (County Councils) come in and An Bord Pleanála is the appeals body. County Councils are responsible for any mineral development within their jurisdiction and have extensive powers to enforce the terms of planning permissions, and to take action against any unauthorised developments. Planning permission is required for any development. This is essentially the construction of buildings and structures and other planning issues such as transport matters. Individual Local Authorities are responsible in the first instance for planning applications. Appeals are handled only by An Bord Pleanála. For the award of this triple-step mining permit, the EMD and the EPA, both national agencies, make the process more centralised than decentralised, i.e. a pure centralization is not the case in Ireland.

For offshore potential extraction mining permits (there have not been any ever issued), the authority would be the EMD and the EPA, no local authority would be included in the process. For the post-closure phase, such operations are included in the applications to develop a mineral deposit. All three activities listed under mining also apply but at the actual initial applications. An investor will not be permitted to develop a mine without an approved mine closure plan (which includes aftercare and management of the site). The High Court is the only Court listed in the Legislation. As with any case brought to the High Court appeals can be taken to the Supreme Court and indeed to the European Courts but these are not covered in legislation related to mining, planning or the environment. The Supreme Court of the UK has no jurisdiction over the courts in Ireland.

Table 2: Ireland. Relevant authorities in exploration and extraction permitting.

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
First instance permitting (local, regional, central, national)	IE-E1	Minister for Communications, Energy and Natural Resources	www.dcenr.gov.ie	Issues permits to explore for and work minerals	Y	Y	Y	Minerals Development Acts 1940 to 2006	All issuing of minerals related permits is handled nationally.
	IE-E2	Carlow County Council, County Offices, Athy Road, Carlow, Co. Carlow, R93 WP86	www.carlow.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y	The framework is set out in the Planning and Development Acts 2000-2006 and the detail is prescribed in the Planning and Development Regulations 2001-2007.	None
	IE-E3	Cavan County Council, Courthouse, Farnham Street, Cavan, Co. Cavan, H12 R6V2	www.cavancoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E4	Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2	www.clarecoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E5	Cork City Council, City Hall, Anglesea Street, Cork, T12 T997	www.corkcity.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E6	Cork County Council, County Hall, Carrigrohane Road, Cork, T12 R2NC	www.corkcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E7	Donegal County Council, County House, The Diamond, Lifford, Co. Donegal, F93 FK22	www.donegalcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E8	Dublin City Council, Civic Offices, Wood Quay, Dublin 8, D08 RF3F	www.dublincity.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E9	Dun Laoghaire-Rathdown County Council, County Hall, Crofton Road, Dun Laoghaire, Co. Dublin, A96 K6C9	www.dlrcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E10	Fingal County Council, Main Street, Swords, Co. Dublin, K67 X8YC	www.fingal.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
	IE-E11	Galway City Council, City Hall, College Road, Galway, H91 X4K8	www.galwaycity.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
	IE-E12	Galway County Council, County Hall, Prospect Hill, Galway, Co. Galway, H91 H6KX	www.galway.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None

Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
				exploration	extraction	post extraction		
IE-E13	Kerry County Council, County Buildings, Rathass, Tralee, Co. Kerry, V92 H7VT	www.kerrycoco.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
IE-E14	Kildare County Council, Áras Chill Dara, Devoy Park, Naas, Co. Kildare, W91 X77F	www.kildarecountyco.uncil.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
IE-E15	Kilkenny County Council, County Hall, John Street, Kilkenny, Co. Kilkenny, R95 A39T	www.kilkennycoco.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
IE-E16	Laois County Council, County Hall, James Fintan Lalor Avenue, Portlaoise, Co. Laois, R32 EHP9	www.laois.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E17	Leitrim County Council, Aras an Chontae, Saint George's Terrace, Carrick-on-Shannon, Co. Leitrim, N41 PF67	www.leitrimcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E18	Limerick City and County Council, City Hall, Merchants Quay, Limerick, Co. Limerick, V94 EH90	www.limerick.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E19	Longford County Council, Aras an Chontae, Great Water Street, Longford, Co. Longford, N39 NH56	www.longfordcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E20	Louth County Council, County Hall, Millenium Square, Dundalk, Co. Louth, A91 KFW6	www.louthcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
				exploration	extraction	post extraction		
IE-E21	Mayo County Council, Aras an Chontae, The Mall, Castlebar, Co. Mayo, F23 WF90	www.mayococo.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
IE-E22	Meath County Council, County Hall, Railway Street, Navan, Co. Meath, C15 AW81	www.meath.ie	Issues planning permissions for any development within its jurisdiction	N	Y	Y		None
IE-E23	Monaghan County Council, Council Offices, The Glen, Monaghan, Co. Monaghan, H18 YT50	www.monaghan.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
IE-E24	Offaly County Council, Aras an Chontae, Charleville Road, Tullamore, Co. Offaly, R35 F893	www.offaly.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E25	Roscommon County Council, Courthouse, Abbey Street, Roscommon, Co. Roscommon, F42 YH48	www.roscommoncoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E26	Sligo County Council, County Hall, Riverside, Sligo, Co. Sligo, F91 Y763	www.sligococo.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E27	South Dublin County Council, County Hall, Tallaght, Dublin 24, D24 YNN5	www.sdcc.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E28	Tipperary County Council, Tipperary Civic Offices, Limerick Road, Nenagh, Co. Tipperary, E45 A099	www.tipperarycoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E29	Waterford City and County Council, City Hall, The Mall, Waterford, Co. Waterford, X91 PK15	www.waterfordcouncil.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E30	Westmeath County Council, County Buildings, Mount Street, Mullingar, Co. Westmeath, N91 FH4N	www.westmeathcoco.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E31	Wexford County Council, Newtown Road, Carricklawn, Wexford, Co. Wexford, Y35 WY93	www.wexford.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
	IE-E32	Wicklow County Council , County Buildings, Whitegates, Wicklow, Co. Wicklow, A67 FW96	www.wicklow.ie	Issues planning permission for any development within its jurisdiction	N	Y	Y		None
	IE-E33	Minister for Justice and Equality	www.justice.ie	Issues licence for the storage and/or use of explosives	Y	Y	Y	Explosives Act, 1875 (as amended by the Criminal Justice Act 2006); Explosive Substances Act, 1883; Explosives Act, 1923; Dangerous Substances Act, 1972; Criminal Justice Act 2006 (No 26 of 2006). See the link for a comprehensive overview of relevant legislation. http://www.justice.ie/en/JELR/GD%202010-6%20Public%20%20Guidance%20Notes%20-%20Explosives%20Legislation%20-%20Rev%2014%20July%202014.pdf/Files/GD%202010-6%20Public%20%20Guidance%20Notes%20-%20Explosives%20Legislation%20-%20Rev%2014%20July%202014.pdf	All issuing of licences for the storage/use of explosives is handled nationally.

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
Second instance permitting (regional, central, national)	IE-E34	An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01 V902	www.pleanala.ie	Deals with any appeals to a Local Authorities determinations on planning applications (decisions and conditions).				The framework is set out in the Planning and Development Acts 2000-2006 and the detail is prescribed in the Planning and Development Regulations 2001-2007.	
Court jurisdiction	IE-E35	The High Court		Carries out judicial reviews on matters of law and not the determination made by either the Local Authority or An Bord Pleanala. Requests to the High Court may only be made by an applicant seeking planning permission, a statutory body (as listed in the Planning and Development				Planning and Development Act 2000.	

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
				Act, 2000) or a person who has made a submission to the Local Authority or An Bord Pleanala on the planning application.					

1.5. Licensing procedures for exploration

Summary of all the different permitting procedures for exploration

Exploration in Ireland is carried out by the private sector under licence granted by the **Minister for Communications, Energy and Natural Resources** (a Prospecting Licence or PL is granted). The licence is the same for onshore or offshore exploration. The **Exploration and Mining Division** (EMD) of the Department of Communications, Energy and Natural Resources is the body which carries out the regulatory functions of the Minister.

Differences for the different types of mineral deposits

There are no permitting differences for scheduled minerals (see below for the definition of scheduled minerals).

Description of the permitting procedures (public tenders, expression of interest or both)

The Acts (primary legislation) covering exploration are:

- Minerals Development Act, 1940; and
- Minerals Development Act, 1995.

The scope of the Acts with respect to minerals is given in the Act. Section 3 of the Act defines minerals and refers to a list of minerals in the Schedule to the Act. Section 3 states:

"the word " minerals " means all substances (other than the agricultural surface of the ground and other than turf or peat) in, on, or under land, whether obtainable by underground or by surface working, and includes all mines, whether they are or are not already opened or in work, and also includes the cubic space occupied or formerly occupied by minerals, and, for greater certainty but without prejudice to the generality of the foregoing, the said word includes all scheduled minerals".

Therefore, the list is not an inclusive list and minerals not listed in the Schedule are comprehended by the Acts. Scheduled minerals comprise: mainly metals and industrial minerals such as gold, silver, copper, lead, tin, sulphur, molybdenite, mercury, barites, chalk, clay, feldspar, gypsum, rock salt, etc. Non-scheduled bulk minerals comprise stone, clay, gravel and sand.

Table 3: Ireland. The Schedule to the Minerals Development Act 1940.

Alum Shales	Fireclay	Nickel, Ores of
Anhydrite	Flint and Chert	Oil Shale
Antimony, Ores of	Fluorspar	Platinum, Ores of
Apatite	Ganister	Potash Mineral Salts
Arsenic, Ores of	Gem minerals	Quartz Rock
Asbestos minerals	Gold, Ores of	Radioactive Minerals
Ball Clay	Graphite	Refractory Clays
Barytes	Gypsum	Rock Phosphates

Bauxite	Iron, Ores of	Rock Salt
Beryl	Kaolin	Roofing Slate
Bismuth, Ores of	Laterite	Serpentine Marble
Bitumens	Lead, Ores of	Silica Sand
Calcite	Lignite	Silver, Ores of
Chalk	Lithomarge	Strontium, Ores of
China Clay	Magnesium, Ores of	Sulphur, Ores of
Chromite	Magnesite	Talc and Steatite or Soapstone
Coal	Manganese, Ores of	Tin, Ores of
Cobalt, Ores of	Marble	Titanium, Ores of
Copper, Ores of	Mercury, Ores of	Tripoli
Corundum	Mica	Tungsten, Ores of
Cryolite	Mineral Oils	Witherite
Diatomaceous Earth	Mineral Pigments	Zinc, Ores of
Dolomite and Dolomitic Limestone	Molybdenite	Natural Gas
Monazite	Feldspar	

Secondary legislation (Statutory Instruments or S.I.s) have been developed from the primary legislation and cover such matters as application procedure, application forms and fees applicable to the issuing of Prospecting Licences. The SI currently applicable to exploration is:

- Minerals Development Regulations, No. 340 of 1979; and
- Minerals Development (Amendment) Regulations, No. 319 of 1994.

The Minister may issue guidance (guidelines) for the conduct of exploration. Guidelines have been prepared for the following:

- Commencement and Supervision of Work.
- Guidelines for Good Environmental Practice in Mineral Exploration.
- Guidelines for Regional Airborne Geophysical Surveying.
- Drilling.
- Excavations.
- Water Services, Pumping and other Groundwater Tests.

In addition, the Minister Issues **Requirements** covering such matters as reporting. Requirements have been issued for:

- General Requirements for work reports submitted to the Exploration and Mining Division.
- Requirements for Ground Geophysical Reports.
- Requirements for Airborne Geophysical Reports.

There are no other statutory bodies involved in the permitting of exploration, i.e. the issuing of licences, the monitoring of exploration and to which reports are submitted. However, certain activities may require other permits, e.g. permission from the Irish Aviation Authority to carry out airborne surveys or certain activities may be controlled in what are known as Restricted Areas (see below). In addition, exploration activities are subject to normal environmental, health and safety regulations. EIA or SEA studies are not necessary.

Restricted Areas

Under European Union Directives, certain areas are designated as **Special Areas of Conservation (SACs)** – EU Directive 92/43/EEC; or **Special Protection Areas (SPAs)** – EU Directive 79/409/EEC. Within these areas certain exploration activities may now be restricted, and require specific permission. All Licensees are required to ascertain whether there are any SACs or SPAs within their prospecting licence (PL) and to comply with any restrictions advised by EMD. Approval to carry out restricted activities must be sought in writing one month prior to the carrying out of such activities from EMD. In seeking such approval full details of the work to be undertaken must be provided.

Licensees must also ascertain the location of **National Nature Reserves, National Monuments, Rural Environmental Protection Schemes** and **gas pipelines** within the licence area and to ensure that there is no interference with such sites or features. With regard to:

- (a) **National Nature Reserves:** no access is permitted without the prior approval of the **Minister for Arts, Heritage, and the Gaeltacht**, and no trenching or drilling is to be undertaken without the prior approval of the Minister for Communications, Energy and Natural Resources. The approval normally takes two weeks.
- (b) Sites indicated on the **Sites and Monuments Record** (available for inspection at County Libraries or at Local Authority Offices): should not have any exploration work undertaken in or adjacent to them without the prior approval of the Minister for Arts, Heritage, and the Gaeltacht. Such approval should be sought through EMD. The approval normally takes two weeks.
- (c) **Rural Environmental Protection Schemes (REPS):** no work should be conducted in an area subject to REPS without the prior approval of the landowner(s)/user(s). Maps and details of REPS areas are available from the Farm Development Services (**Teagasc**) in each **Department of Agriculture, Food and the Marine** County office. There is normally no delay here as permission is granted by the landowner.
- (d) **Gas pipeline routes:** no trenching or drilling is permitted within 30m of the pipeline without the prior approval of **Ervia** (formerly known as **Bord Gáis Éireann** – has responsibility for the delivery of gas and water infrastructure and services in Ireland).

Permits are not required for exploring for normal construction aggregates, i.e. natural sand and gravel or crushed rock.

Exploration is carried out through a Prospecting Licence (PL) that gives the holder the right to explore for specified minerals over a certain area. A Prospecting Licence typically covers

some 35km² the boundaries of which typically follow Ordnance Survey of Ireland townland boundaries. The boundaries of the Prospecting Licence are shown on a map accompanying the Licence document.

Licences are issued for six years under the licence terms and conditions and may be renewed. Payment of fees and progressively increased work and expenditure commitments are also required. Work reports must be submitted every two years, and are publicly released after six years or upon surrender of the licence, whichever is the earlier.

Licence holders should respect the wishes of landowners regarding access. Mineral exploration is exempted from controls under the Planning Acts and Regulations. Generally mineral exploration activities are not likely to have a significant effect on the environment. Best environmental practice must be adhered to in compliance with environmental guidelines. Advance notice must be given for bulk sampling, drilling, trenching and activities near environmentally sensitive areas need prior approval.

A Prospecting Licence may be issued for certain mineral groups or for all minerals. If issued for all minerals it is expected that the licensee will carry out exploration for all minerals. The current mineral groupings are:

- Base Metals includes: zinc, lead, copper, nickel, cobalt, manganese, cadmium, molybdenum, vanadium, chromium, tantalum, tin, tungsten, gallium, indium, thallium, bismuth, arsenic, antimony, tellurium and germanium.
- Platinum Group Metals includes: platinum, palladium, rhodium, iridium, osmium and ruthenium.
- Rare Earth Elements includes: scandium, yttrium, lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium and lutetium.
- Gem Minerals are those minerals which when cut, polished or otherwise modified may be used to make jewellery or other decorative adornments. Examples include diamond, ruby, sapphire, emerald, aquamarine, topaz, peridot, tanzanite and opal.

In addition applicants may apply for specified industrial minerals such as gypsum, talc, barytes etc.

Application for Prospecting Licences for ground and or minerals not currently licensed may be made at any time. Onshore and offshore licences are issued on a first come basis. A register exists for this in the EMD website. Licences are described as either "**Standard**" or "**Incentive**". An "**Incentive**" licence is one upon which exploration has not been carried out for four years *or* areas currently licensed for certain minerals, but available for exploration for other minerals. Otherwise it is a "**Standard**" licence. There is also a category of ground which is described as "**Open Ground**". This is ground which has never been licensed.

However, a licence that is surrendered or expires is listed in the regular three monthly update on licences issued by the Exploration and Mining Division (EMD) of the Department (normally on 1st February, 1st May, 1st August and 1st November of each year). There is a general invitation to interested parties to submit applications for these licences within two calendar months. Any and all applications for such licences are treated on an equal basis and EMD makes a decision on which applicant should be awarded the licence. Such licences are called "**Competition**" licences.

Standard and **Competition** licences are treated equally from a fee point of view, there are minimum expenditure levels set for Standard licences but in the case of Competition licences the proposed expenditure in the application will be the committed expenditure for that licence. Such expenditures should at least meet the Standard expenditure levels. **Incentive** licences have reduced financial commitments (see below).

No permit is necessary for work of a regional or reconnaissance nature. To safeguard an explorer's interest, a Statement of Interest over available ground can be made prior to any Prospecting Licence application. You will be notified by EMD if a prospecting licence application is subsequently made in the area, and given two weeks to make your own application, on a competitive basis.

The main features and procedures of the Prospecting Licence system are described in the following paragraphs.

Application

To apply for a Prospecting Licence an *Applicant* must:

- Submit a completed Prospecting Licence Application Form. An *Applicant* must:
 - Provide the number of the Prospecting Licence Area being applied for or if the area has never been licenced a map indicating the area being applied for.
 - List the minerals for which the Licence is being sought.
 - Provide evidence of technical capability and financial viability (EMD may ask for additional information).
 - Provided reasons why particular the particular minerals are being sought.
 - Submit an appropriate costed exploration programme.
- Submit the Application Fee (currently € 190 per area).
- Provide evidence of having appropriate insurance against third party claims or environmental damage, indemnifying the Minister.
- Commit to the minimum expenditure requirements or the expenditures proposed in the Application Form, whichever is the greater.
- Agree with the standard licence terms.

All applications are processed on a time priority basis or 'first come - first served' (except for competition ground).

Issue

Before a Licence is issued the Minister will advertise his intention to grant a licence in newspapers circulating in the local area. This allows anyone with concerns about exploration 21 days to submit a representation or observation (either positive or negative) for consideration before the granting of the Prospecting Licence. The Minister will then take into account any submission received within the stipulated time-frame before making a decision on whether to grant a licence or not. If an application is successful, the applicant will receive a letter of offer stating the standard terms and conditions of the Prospecting Licence and any special terms and conditions.

The Minister may refuse to grant a PL if he/she is not satisfied that the applicant is a fit person to hold a PL; or the applicant does not have the necessary technical competence to carry out exploration; or does not have sufficient funds to carry out the exploration. The Minister may also refuse to issue a licence if he/she is of the opinion that the issue of the licence would be contrary to the Minister's Minerals Policy. There has never been a court case taken by an applicant over the non-issue of a PL.

Duration

A Prospecting Licence is normally issued for six years, with the option of renewal if the holder has met the terms and conditions of the Licence.

Fees and expenditure

A licensee must commit to minimum exploration expenditures on the licence as listed in Table 4. In addition, each issue, review or renewal must be accompanied by a consideration fee (Table 4). A consideration fee is a charge payable to the Minister for holding the Prospecting Licence.

Table 4: Minimum expenditure requirements and Consideration fees for prospecting licences.

Minimum Expenditures (per period)			
Reporting period	Standard or Competition	Incentive	Open Ground
1 st Period (Years 1 to 2)	€10,000	€2,500	€2,500
2 nd Period (Years 3 to 4)	€15,000	€5,000	€3,750
3 rd Period (Years 5 to 6)	€20,000	€10,000	€5,000
4 th Period (Years 7 to 8)	€30,000		
5 th Period (Years 9 to 10)	€30,000		
6 th Period (Years 11 to 12)	€37,500		
7 th Period (Years 13 to 14)	€50,000		
8 th Period (Years 15 to 16)	€50,000		
9 th Period (Years 17 to 18)	€50,000		
10 th Period (Years 19 to 20)	€62,500		
Consideration Fees			
	Standard or Competition	Incentive or Open Ground	
First 2 years	€ 750	€ 375	
Second 2 years	€ 875	€ 375	
Third 2 years	€ 1,500	€ 500	
After the sixth year, a consideration fee of € 2,500 is payable for each subsequent two-year term for each category of licence.			

Validation and reporting

During a licence period, two reviews are undertaken to ensure that exploration programmes meet the conditions of the Licence. These reviews require Licence Holders to submit Exploration reports for the previous two years of work. These reports must also be

accompanied by a Confidential Work Summary Form and a Statement of Qualification Form. EMD publishes requirements and guidance on the preparation of reports.

Renewal

After six years and before the licence is due to expire a company may apply to have the licence renewed by submitting a Prospecting Licence Renewal Application Form. If the Licence Holder does not wish to renew the licence the Licence Holder must submit a Prospecting Licence Expiry /Surrender Form and return the original licence document to the Minister.

Expiry or surrender

If a Licence is allowed to expire or is surrendered the Licence Area will be entered into the next available Prospecting Licence Area Competition. The area will not be available until the next competition which is held every quarter – February, May, August and November.

Exploration information

Exploration reports submitted to EMD are kept confidential until the licence is surrendered or after six years, whichever is the sooner. EMD makes these reports available on its website. This assists exploration companies assess a licence and eliminates expensive duplication of exploration effort. Other information is available from the Geological Survey of Ireland on its website.

Public entities involved in the process

The **Exploration and Mining Division** (EMD) of the Department of Communications, Energy and Natural Resources is the sole public entity involved in the grant, monitoring and regulation of Prospecting Licences.

However, permission needs to be obtained for certain activities from the following:

Irish Aviation Authority: for carrying out surveys from aircraft.

Minister for Arts, Heritage, and the Gaeltacht: for access to National Nature Reserves.

Minister for Arts, Heritage, and the Gaeltacht: for carrying out work on sites listed on The Sites and Monuments Record.

Ervia: for trenching or drilling within 30m of a gas pipeline

Permission to carry out any of these activities, except from the Irish Aviation Authority, is channelled through EMD who will obtain the permission from the relevant Authority.

There is little or no overlap in the functions of all the public entities involved in granting permission to explore and EMD acts as a “one-stop-shop” which facilitates the efficient performance of exploration.

Timeframes

The average time for the issue of a PL is four months. However, it may take longer and it almost entirely depends on the time it takes for the applicant to respond to requests for additional information. The only timeframe that is specified is the time for which the Minister advertises his intention to grant a licence (21 days) where third parties may make representations on the matter to the Minister.

Geographic areas covered by the permit

The average size of a PL is 35km²

Rights and duties of the licensee

Rights

The following are the rights granted to the licensee:

- Grants the licensee the exclusive right to explore for specified minerals over a certain area for a period of up to six years.
- Grants the licensee the right to apply for the licence to be renewed, provided all the terms and conditions of the licence are met.
- Grants the licensee the exclusive right to apply to develop the specified minerals within the licence area should a deposit be discovered.

Duties

The following are the duties of a licensee:

1. To pay the Minister the consideration fees due in respect of holding the licence.
2. To carry out the exploration and expenditure programme submitted when the licence was applied for, at the review stage and at the renewal stage.
3. To keep proper records of all the work carried out and to report the work to the Minister, at the required time.
4. To obtain the relevant permissions from the Minister when planning to carrying out certain activities or to carry out activities in restricted areas within the stipulated timeframes.
5. To obtain the relevant permissions from the Irish Aviation Authority if airborne surveys are to be carried out.
6. To operate in an environmentally responsible manner.
7. To operate in a safe manner with respect to employees, landowners, the Minister and/ or his agents and all other third parties.
8. Any damage to vegetation, the land surface or landowner property that may arise as a result of exploration activities should be minimised and corrected without undue delay.
9. To maintain all relevant employer liability and public liability insurances. The Minister will be nominated as an interested party on the licensee's Third Party and Employer's Liability Insurance.

Legal nature of the rights

The Licensee shall not without the prior written approval of the Minister assign, or attempt to assign, any rights granted by this Licence to any person and shall not without the prior written approval of the Minister sub-license or part with the possession of any of the rights hereby granted.

Links between the exploration permit and a future license for extraction

Only PL licensees are considered for Mining Facilities to develop the stated minerals within the licence area.

Average length to get an exploration permit

The average time for the issue of a PL is four months. However, it may take longer and it almost entirely depends on the time it takes for the applicant to respond to requests for additional information.

Main problems or major modifications related to exploration permitting

The permitting system for the issue and monitoring of Prospecting Licences has operated satisfactorily for many years. The systems have worked satisfactorily from the operators, public and regulatory points of view. The views of the industry are reflected by the high scores the system achieves in the annual Fraser Institute survey of mine and exploration managers.

The main reasons for the satisfactory operation of exploration in Ireland are:

1. Exploration is not an intrusive activity.
2. Exploration does not have or cause any significant environmental impact.
3. The system affords third parties the right to make representations to the Minister.
4. The Minister operates a "one-stop-shop" in the application of the regulations relating to exploration activities, i.e. obtaining permission to carry out certain activities (e.g. drilling) or to carry out activities within restricted areas (e.g. near gas pipelines).
5. The Minister carries out his duties in a speedy and efficient manner.
6. All the information collected as a result of exploration activities is made publically available either after six years or upon surrender of the licence – whichever is the sooner. This means that the data collected by exploration activities is available for the benefit of all and not just to the minerals industry.

1.6. Licensing procedures for extraction

Summary of all the different permitting procedures for extraction

In summary, three main permits are required before a new mineral development can take place:

1. Planning Permission
2. An Integrated Pollution Control (IPC) Licence
3. A State Mining Lease or Licence

Differences for the different types of mineral deposits

There are no differences in the permitting procedures for scheduled minerals

Description of the permitting procedures

The three permits required to operate a mine are described in the following paragraphs.

Planning Permission

Any development, whether related to minerals or not, requires Planning Permission under the Planning and Development Act 2000. An application for planning permission can only be made over land in which the applicant has "sufficient interest" in the title to the land in

question. What this means is that the applicant must own the land in question or have the written permission from the land-owner to submit the application for the planning permission sought.

Further information on the physical land use planning system can be obtained from the Department of Environment, Heritage and Local Government, and details of procedures from the relevant local planning authorities. An Environmental Impact Statement must accompany applications for developments involving the extraction of minerals under the Minerals Development Acts. The consent of the Minister for Communications, Energy and Natural Resources (the Minister) is also required to make a valid Planning Application for such minerals. In essence the process is as follows:

- An application is submitted to the relevant Local Authority.
- The Planning Authority has two months to consider the application. Third parties may make representations to the Local Authority (for or against) on the application. At the end of this period the Local Authority may:
 - Grant permission – with conditions.
 - Refuse permission – giving reasons.
 - Request further information – which normally should be provided within one month.
- If the response to the application is the last and the applicant provides the requested information, then the Local Authority has a further two months to make a determination. Public consultation: third parties may again make representations to the Local Authority (for or against) on the application. At the end of this period the Local Authority must make a determination taking the application, any responses made by the applicant to a request for additional information, any representations made by third parties into account and the relevant Development Plan for the area. It may:
 - Grant permission – with conditions.
 - Refuse permission – giving reasons.
- The applicant or any third party can appeal the Local Authority's decision (to grant or to refuse) or any of the conditions attached to a decision to grant permission to An Bord Pleanála (The Planning Appeals Board – a central authority) within four weeks of the decision. Any appellant may request An Bord Pleanála to hold a public hearing into the matter.
- An Bord Pleanála's statutory objective is to determine appeals within 18 weeks. However, where the Board does not consider it possible or appropriate to reach a decision within 18 weeks (e.g. because of delays arising from the holding of an oral hearing), it shall inform the parties of the reasons for this and shall state when it intends to make its determination.
- The decision of An Bord Pleanála is final and no challenge may be made to the decision other than to its legal validity. A person wishing to challenge the validity of a Board decision may do so by way of judicial review only.

Prescribed Bodies or Authorities

In each and every application for planning consent the Local Authority and An Bord Pleanála must consult with a number of public entities as listed in the Planning and Development Regulations (2110 – 2015) for particular types of development. These are known as Prescribed Bodies or Authorities. The occasion when the Local Authority must consult with and the name of the Bodies² are:

(a) where it appears to the authority that the land or structure is situated in an area of special amenity, whether or not an order in respect of that area has been confirmed under

² Those activities which are considered not relevant to Planning Applications for minerals development are shown in a lighter typeface.

section 203 (or deemed to be so confirmed under section 268(1)(c)) of the Act, or that the development or retention of the structure might obstruct any view or prospect of special amenity value or special interest — to **An Chomhairle Ealaíon, Fáilte Ireland, and An Taisce – the National Trust for Ireland**.

(b) where it appears to the authority that the development might obstruct or detract from the value of any tourist amenity or tourist amenity works—to **Fáilte Ireland**,

(c) where it appears to the authority that the development—

(i) would involve the carrying out of works to a protected structure or proposed protected structure, or to the exterior of a structure which is located within an architectural conservation area,

(ii) might detract from the appearance of a structure referred to in sub-paragraph (i).

(iii) might affect or be unduly close to-

(I) a cave, site, feature or other object of archaeological, geological, scientific, ecological or historical interest,

(II) a monument or place recorded under section 12 of the National Monuments (Amendment) Act 1994 (No. 17 of 1994),

(III) a historic monument or archaeological area entered in the Register of Historic Monuments under Section 5 of the National Monuments (Amendment) Act 1987 (No. 17 of 1987),

(IV) a national monument in the ownership or guardianship of the Minister under the National Monuments Acts 1930 to 2004, or

(iv) might obstruct any scheme for improvement of the surroundings of, or any means of access to, any structure, place, feature or object referred to in sub-paragraph (iii),

– to the Minister, **the Heritage Council**, and **An Taisce – the National Trust for Ireland**, and in the case of development of a type referred to in sub-paragraph (i) or (ii), **An Chomhairle Ealaíon** and **Fáilte Ireland**.

(d) where it appears to the authority that the area of **another local authority** might be affected by the development — to that local authority.

(e) where it appears to the authority that the development would not be consistent with or would materially contravene any regional planning guidelines (or any objective thereof) of a regional authority—to that **regional authority**,

(f) where it appears to the authority that if permission were granted, a condition should be attached under section 34 (4)(m) of the Act— to any **local authority** (other than the planning authority) who would be affected by any such condition,

(g) where it appears to the authority that -

(i) the development might cause the significant abstraction or addition of water either to or from surface or ground waters, whether naturally occurring or artificial,

(ii) the development might give rise to significant discharges of polluting matters or other materials to such waters or be likely to cause serious water pollution or the danger of such pollution, or

- (iii) the development would involve the carrying out of works in, over, along or adjacent to the banks of such waters, or to any structure in, over or along the banks of such waters, which might materially affect the waters,
- to the **appropriate Regional Fisheries Board** and, in any case where the waters concerned are listed in Part 1 of Annex 1 of the Schedule to the British-Irish Agreement Act, 1999 (No. 1 of 1999), to **Waterways Ireland**,
- (h) where it appears to the authority that the development might endanger or interfere with the safety of, or the safe and efficient navigation of aircraft — to the **Irish Aviation Authority**,
- (i) where it appears to the authority that the development might interfere with the operation and development of a licensed airport, whose annual traffic is not less than 1 million passenger movements — to the **airport operator**,
- (j) where the development may have an impact on bus or rail-based transport, **Córas Iompair Éireann** and the **Railway Procurement Agency**, as appropriate,
- (k) where it appears to the authority that -
- (i) the development consists of or comprises the formation, laying out or material widening of an access to a national road within the meaning of section 2 of the Roads Act 1993 (No. 14 of 1993), not being a national road within a built-up area within the meaning of section 45 of the Road Traffic Act 1961, or
- (ii) the development might give rise to a significant increase in the volume of traffic using a national road,
- to the **National Roads Authority**,
- (l) where the development might significantly impact on surface transport in the Greater Dublin Area, the **Dublin Transportation Office** (or any body that replaces that office),
- (m) where the development comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence— to the **Environmental Protection Agency**,
- (n) where it appears to the authority that the development might have significant effects in relation to nature conservation—to the **Heritage Council**, the Minister and **An Taisce - the National Trust for Ireland**,
- (o) where the development is in a Gaeltacht area and it appears to the authority that it might materially affect the linguistic and cultural heritage of the Gaeltacht, including the promotion of Irish as the community language — to the **Minister for Community, Rural and Gaeltacht Affairs** and **Údarás na Gaeltacht**,
- (p) where the development is in the vicinity of an explosives factory, storage magazine or local authority explosives store—to the **Minister for Justice, Equality and Law Reform**,
- (q) where the application relates to development for the purposes of breeding or rearing of salmonid fish — to the Minister for Communications, Marine and Natural Resources and the appropriate Regional Fisheries Board,
- (r) where the application relates to development for the purposes of initial afforestation or the replacement of broadleaf high forest by conifer species — to the Minister for Agriculture and Food, The Heritage Council and An Taisce - the National Trust for Ireland,

- (s) where it appears to the authority that the development might have significant effects on public health — to the **Health Service Executive**,
- (t) where the application relates to extraction of minerals within the meaning of the Minerals Development Acts, 1940 to 1995 — to the **Minister for Communications, Marine and Natural Resources**,
- (u) where it appears to the authority that the development might impact on the foreshore—to the **Minister for Communications, Marine and Natural Resources**,
- (v) where the application relates to the development of energy infrastructure, or may have an impact on energy infrastructure — the **Commission for Energy Regulation**,
- (w) where the development might—
 - (i) give rise to a significant increase in the volume or type of traffic (including construction traffic) passing under a height restricted railway bridge, or using a railway level crossing, or a bridge over a railway,
 - (ii) because of its proximity to a railway, impact on the structural integrity of railway infrastructure during construction of the development, or
 - (iii) endanger or interfere with the safe operation of a railway, during or after construction— to the **railway operator**, the **Railway Safety Commission**, and, in the case of development which might impact on a light railway or metro, the **Railway Procurement Agency**,
- (x) where the application relates to—
 - (i) the extraction of minerals, other than minerals within the meaning of the Minerals Development Acts 1940-1999, whether by surface or underground means,
 - (ii) the development of, or extensions to, quarries, including sand or gravel pits, for the extraction of earth materials, or
 - (iii) a development which, for other purposes, requires the excavation of earth materials greater than a total volume of 50,000m³ or the excavation of earth materials on a site area greater than 1 hectare— to the **Minister for Communications, Marine and Natural Resources**,
- (y) where it appears to the authority that the development might impact on the provision of public water services — to **Irish Water**.

Integrated Pollution Control (IPC) Licence

An IPC Licence is required for any development involving scheduled minerals. IPC Licences aim to prevent or reduce emissions to air, water and land, to reduce waste and to use energy/resources efficiently. Applications are made to the Environmental Protection Agency (EPA). The EPA provides guidance on the process (EPA, 2012).

The EPA Act 1992, as amended, provides a definition of Environmental Pollution as follows:

The direct or indirect introduction to an environmental medium, as a result of human activity, of substances, heat or noise which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment and includes –

- (a) Air pollution for the purposes of the Air Pollution Act 1987;*
- (b) The condition of waters after entry of pollution matter within the meaning of the Local Government (Water Pollution) Act 1977;*
- (c) In relation to waste, the holding, transport, recovery or disposal of waste in a manner, which would, to a significant extent, endanger human health or harm the environment and, in particular:*
 - (i) Create a risk to the atmosphere, waters, land, plants or animals,*
 - (ii) Create a nuisance through noise, odours or litter, or*
 - (iii) Adversely affect the countryside or places of special interest,*

or

- (d) noise which is a nuisance, or would endanger human health or damage property or harm the environment.*

A licence will only be granted if the emissions from the development comply with or will not result in the contravention of:

For air quality

- Any relevant air quality standard specified under Section 50 of the Air Pollution Act, 1987 (Environmental Specifications for Petrol and Diesel Fuels) (Amendment) Regulations 2004.
- Any relevant emission limit value specified under Section 51 of the Air Pollution Act, 1987.
- The Air Quality Standards Regulations, 2011 (S.I. No. 180/2011).

For water

- Any relevant quality standard for waters, trade effluent and sewage effluent and standards in relation to treatment of such effluent prescribed under Section 26 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009 (S.I. No. 272 of 2009).
- The European Communities Environmental Objectives (Ground Water) Regulations 2010 (S.I. No. 9 of 2010).

For noise

- Any regulations under Section 106, of the EPA Act, 1992, as amended.

Generally

- Any standard for an environmental medium prescribed under regulations made under the European Communities Act, 1972, or under any other enactment.
- Any emissions from the activity will not cause significant environmental pollution.
- The best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity.
- Necessary measures will be taken to prevent accidents in the carrying on of the activity and, where an accident occurs, to limit its consequences for the

environment and, in so far as it does have such consequences, to remedy those consequences.

- Necessary measures will be taken upon cessation of the activity (including such a cessation resulting from the abandonment of the activity) to avoid any risk of environmental pollution and return the site of the activity to a satisfactory state.

In addition

- Production of waste (not including extractive waste) in the carrying on of the activity will be prevented or minimized or, where waste is produced, it will be recovered or, where that is not technically or economically possible, disposed of in a manner which will prevent or minimize any impact on the environment.
- Energy will be used efficiently in the carrying on of the activity.
- The applicant or licensee or transferee, as the case may be, shall be a fit and proper person to hold a licence.

All activities shall be carried out following an Environmental Management Plan using an appropriate Environmental System. It is normal practice to include regular reporting of environmental performance and to report any and all exceedances of conditions to the EPA and any other relevant authority.

The application process involves a number of stages:

Stage 1: Pre-application

Before making an application, the developer 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

Stage 2: Making an application

This stage includes EPA assessment of the application and submissions on the application. The EPA has eight weeks to assess your application before making a "proposed determination". The eight-week period commences when all the necessary request(s) have been complied with. This period may be extended in certain circumstances, including by agreement with the applicant/licensee. Prior to making a proposed determination the EPA must take into account any written submissions received.

Stage 3: EPA proposed determination

The EPA is required to indicate how it proposes to determine an application, and will:

- Publish a newspaper notice indicating how the EPA proposes to determine the application
- Forward the proposed determination to all those who made a submission
- Make the proposed determination available for public inspection on its website
- Notify the following public bodies
 - (a) the Minister for Agriculture, Food and the Marine

- (b) the Minister for Communications, Energy and Natural Resources
- (c) the Minister for the Environment, Community and Local Government
- (d) the Minister for Transport, Tourism and Sport
- (e) Inland Fisheries Ireland
- (f) An Taisce — The National Trust for Ireland
- (g) each local authority in whose functional area the activity is or will be situated
- (h) in the case of a discharge to which section 99E of the Act of 1992 relates, the relevant water services authority
- (i) the Health Service Executive
- (j) the Health and Safety Authority
- (k) Fáilte Ireland
- (l) Teagasc
- (m) in the case of an activity any part of which is situated within the functional area of Shannon Development (the Shannon Free Airport Development Company Limited), that company
- (n) such other public authorities, persons or bodies, if any, as the Agency considers appropriate

Stage 4: Consideration of objections on the proposed determination

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. Where appropriate, the EPA may request a party to an objection to submit further information within a specified period. Files are available electronically via the EPA website; or hardcopy at the EPA's four regional offices.

Where no valid objection is made within the prescribed period, the EPA 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: Final determination

In arriving at our decision, the EPA 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 conducting the hearing.

When a final determination (decision) has been made, the EPA 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 the EPA website and published in a newspaper circulating in the area.

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

Stage 7: Judicial Review

What is a judicial review?

A judicial review is a form of court proceeding in which a judge reviews the lawfulness of a decision of action by a public body. It is a challenge to the way in which a decision has been made. It is not so much concerned with the decision itself and whether it was right but with whether the law has been correctly applied and whether the correct procedures were followed. It is not an appeals process. The court will not substitute its opinion for that of the public authority.

Whose decisions can be challenged by judicial review?

The types of public bodies whose decisions may be challenged include among others: Government ministers and departments, Local authorities and health authorities, and The Environmental Protection Agency.

Who can apply for a judicial review?

A person who feels that a decision of the Agency has violated his/her rights may apply to the High Court for a judicial review of the decision.

Time Limit

A person may institute proceedings within a period of 8 weeks beginning on the date the Agency issues its Decision.

What makes a decision unlawful?

Judicial review looks at the lawfulness of decisions and actions. These can be challenged on a number of grounds which may be described as – Illegal, Irrational or Unfair.

Illegal: Public bodies must correctly understand and apply the law that regulates their decision-making powers. If the decision maker had no power to make it or exceeded the powers given to him/her/it an action or decision may be unlawful.

Irrational: The court can reverse a decision if it is so unreasonable as to be “perverse” or “irrational”.

Unfairness: This generally deals with the process by which a decision was reached and includes the right to a fair hearing.

Remedies

If an application for a judicial review is successful, the court can grant a remedy by making one of a number of orders:

1. Certiorari: the Court may set aside or quash the unlawful act. This is the most commonly requested remedy and it overturns an invalid decision that has already been made.
2. Prohibition: the Court prohibits the public authority from taking an unlawful decision or action.
3. Mandamus or mandatory order: this order compels the public authority to perform a duty, either an action the body has a duty to perform or the duty to reach a discretionary decision.
4. Declarations: the Court may simply declare what the law is, or declare the respective rights of the parties without making any other order.

Proceedings

There are two stages in proceedings for a judicial review:

1. Leave to apply for a judicial review.
2. Where leave is granted, the substantive application is heard.

Stage 8: 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 of the EPA. 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.

If the Office of Environmental Enforcement decides that a review of the existing Licence is necessary, they will inform the licensee 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. Although this stage is possible, it has never happened in Ireland.

Stage 9: 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.
3. Otherwise facilitating the operation of the licence.

Mining Lease or Licence

The right to work minerals is vested in the Minister for Communications, Energy and Natural Resources under the Minerals Development Act 1979. The Minister may issue a State Mining Lease for minerals in State Ownership or a State Mining Licence for minerals not in State Ownership to work the minerals. As a matter of policy, the Minister will only accept an application from the holder of a valid Prospecting Licence, State Mining Lease, Licence or Permission over the area in question. Mining Leases etc. are negotiated on a case by case basis as required by Section 26 of the Minerals Development Act 1940 which also applies to Licences under the Minerals Development Act 1979 (see Section 17 of the 1979 Act).

Application

The application procedure is to send in a formal letter marked for the attention of the Principal Officer, Exploration and Mining Division applying for a State Mining Lease or Licence, stating what minerals are being applied for, accompanied by a map showing the area, and the appropriate application fee as set out in S.I. No. 259 of 1996 – Minerals Development Regulations (Application fees for certain state mining facilities).

Whilst the information that will be required to support an application may vary according to the individual circumstances, applicants are advised to consult the Exploration and Mining Division. The following is a generic list for a base metal mine of what is required in an Application:

- The relevant application fee (see Table 5)
- Mineral and Land Ownership of the area:
 - Area for which a facility is being sought. This should be clearly related to mineral reserves/resources.
 - Any information available to the applicant on mineral ownership; whether it is in State or Private ownership and details of any title searches.
 - Any information on land ownership within the application area, and specifically which land is in the control of the applicant. Folio numbers should be provided if possible.
- Minerals
Tonnage and Grade of mineral reserves, together with details of their calculation. Sufficient information should be provided so that the Department can verify that the estimate is reasonable.
- Development Plan and Feasibility Study
 - Mining and Processing Plans: these should include the development and production schedules, employment and equipment.
 - Estimated Capital and Operating Costs: the total estimated capital cost and annual operating costs showing the main elements should be provided together with their basis.
 - Sales (in the case of base metals and gold): proposed concentrate output, grade of concentrate, including any significant penalties, projected metal prices and treatment charges.
 - Sales (in the case of minerals other than base metals) - Proposed marketing plan, including product to be sold, target markets, level of penetration required, and projected prices. Details of any sales contracts, expressions of serious interest etc. would be advantageous.
 - Sources of capital: i.e. equity, loans, grants.
 - Financial projections: including cash flow projections for the life of the mine. Note: the level of information will normally be similar to that required for third-party funding.
- Mine closure plan (of which site rehabilitation is an element) cost estimates and financial sureties to the satisfaction of the Minister. The mine closure plan and

financial sureties shall cater for the normal closure of the mine (at the exhaustion of the reserves) and for an early closure, for whatever reason.

- Tax Clearance Certificate
It will normally be necessary to furnish a tax clearance certificate before a State Mining Facility is issued.
- Applicant
The applicant should be a body corporate registered in the Republic of Ireland (not an individual). Details of the applicant including for a limited company:
 - Memorandum and Articles of Association
 - A recent Balance Sheet
 - Shareholders
 - Evidence that the applicant has the financial and technical capacity to undertake the proposed development
 - Evidence that the applicant is a fit and proper person to hold a Mining Lease/Licence.

Governing law

The Lease or Licence Agreement shall be governed by and construed in accordance with the laws of Ireland. The courts of Ireland shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Lease or Licence Agreement.

Application Fees

The application fees payable for mining leases or licences are given in Table 5.

Table 5: Ireland. Application fees for mining leases or licences.

Application fees for Mining Leases and Licences	
For metalliferous minerals	
For an application involving the construction of a new processing facility	€ 19,046* (plus 13c per tonne of annual output of ore for the mine at full production for a new mine)
For an application not involving the construction of a new processing facility	€ 31,743*
For other minerals	
Where the output will be less than 100,000 tonnes per annum	€ 6,348*
Where the output will be 100,000 tonnes or more per annum	€ 12,697*

Note: * These fees are currency conversions from Irish Punts (pounds) to Euro.

Mine Lease or Licence terms and conditions

The Mine Lease or Licence will contain terms and clauses as the Minister and the Applicant agree and would normally cover such items as:

- Duration of the facility (a fixed term related to the predicted length of the operation).

- Financial payments, normally consisting of a fixed annual fee, plus a royalty payment related to tonnage produced or revenue - royalties are individually agreed. An example of royalty terms (for the Lisheen Zn-Pb mine) is presented in Table 6.
- Efficient and continuous working to ensure optimum development.
- Provisions to protect the rights and safety of third parties.
- Sureties to ensure that the site can be fully rehabilitated on closure.
- In cases involving private minerals, indemnification of the Minister against successful compensation claims.

Table 6: Ireland. The financial terms for the Lisheen Mine.

Lisheen	
Lease for 30 years under the 1940 Act	
Dead Rent (index linked)	
Year 1	€ 63,486*
Year 2	€ 126,973*
Year 3 onwards	€ 380,921*
After Closure	€ 25,394*
Royalty (per cent of revenue)	
Until 31 December 2000	1.75%
1 January 2001 to 31 December 2007	1.5%
Thereafter	3.5%

Note: * Converted from Irish Punt amounts

The financial terms of the above mine have been arranged between The Minister of Communications, Energy and Natural Resources and The Lisheen Mine Ltd.

Corporation Tax

Corporation tax on mining operations is charged at a rate of 25%. On site surface processing is considered to be part of mining operations. However, these operations attract special allowances, as listed below:

- Exploration Expenditure
- Development Expenditure
- Plant and Machinery
- Industrial Buildings
- Acquisition of Scheduled Mineral Assets
- Mine Closure and Rehabilitation
- Marginal Mine Allowance

Other Requirements

Under the Mines and Quarries Act, 1965, there are statutory obligations with regard to safety, health and welfare, provision of adequate plans, etc. Other permits may also be needed, e.g. for the use of explosives from the Department of Justice and for fire safety from the Local Authority.

Classification of minerals reserves and reserves

EMD requires that all mineral reserves and resources be reported using the PERC Standard or another CRIRSCO aligned code.

Public entities involved in the process

The main public entities involved in mine development permitting are:

For a Mine lease/ License

- The Minister for Communications, Energy and Natural Resources

For an Integrated Pollution Control License

- The Environmental Protection Agency

Other public entities consulted in the process of issuing an Integrated Pollution Control Licence are:

- the Minister for Agriculture, Food and the Marine
- the Minister for Communications, Energy and Natural Resources
- the Minister for the Environment, Community and Local Government
- the Minister for Transport, Tourism and Sport
- Inland Fisheries Ireland
- An Taisce — The National Trust for Ireland
- each local authority in whose functional area the activity is or will be situated
- in the case of a discharge to which section 99E of the Act of 1992 relates, the relevant water services authority
- the Health Service Executive
- the Health and Safety Authority
- Fáilte Ireland
- Teagasc
- in the case of an activity any part of which is situated within the functional area of Shannon Development (the Shannon Free Airport Development Company Limited), that company, and
- such other public authorities, persons or bodies, if any, as the Agency considers appropriate.

For Planning permission

- The Local Authority in whose functional area the proposed development lies
- An Bord Pleanála

Other public entities consulted in the process of issuing planning permission are:

- A Regional Authority. There are eight regional authorities.
- An Chomhairle Ealaíon (the Arts Council)
- An Taisce — the National Trust for Ireland
- Any airport operator with passenger numbers greater than one million per annum
- Any other local authority. There are 31 City and County Councils.
- Any railway operator
- Córas Iompair Éireann (Ireland's national transport company)
- Fáilte Ireland (Ireland's tourist board)
- Inland Fisheries Ireland
- Irish Water
- The Commission for Energy Regulation
- The Dublin Transportation Office
- The Health Service Executive

- The Heritage Council
- The Irish Aviation Authority
- The Minister for Agriculture and Food
- The Minister for Arts, Heritage and the Gaeltacht
- The Minister for Justice and Equality
- The National Roads Authority
- The Railway Procurement Agency
- The Railway Safety Commission
- Údarás na Gaeltacht (the regional authority responsible for the economic, social and cultural development of the Gaeltacht (Irish speaking areas)).
- Waterways Ireland

The views or representations (if any) expressed by any and all of these Prescribed Bodies must be taken into account by the Local Authority or An Bord Pleanála in arriving at a determination on a Planning Application.

The decisions made by the bodies (public entities) who issue the relevant permits are legally binding on the developer in their area of responsibility. Their roles do not overlap although they do liaise between each other when dealing with the various applications. The representations made by the prescribed bodies in the planning process must be taken into account by the Local Authority or An Bord Pleanála in arriving at their decision. If the Local Authority or An Bord Pleanála accepts the representation made by a prescribed body and include any such representation in a condition which grants permission the condition is legally binding on the developer.

Timeframes

The timeframes for the issue of Planning Permission and an Integrated Pollution Control Licence is covered by statute. These do not include the time taken by the developer to prepare the necessary documentation to make the applications for the permissions.

For Planning Permission, the following time schedules are prescribed:

Consideration of initial application.....	2 months
Provide additional information	1 month
Consideration of application	2 months
Time period for submission of appeals.....	1 month
Consideration by An Bord Pleanála ³	18 weeks
Total time lapsed.....	approximately 42 weeks

³ An Bord Pleanála may extend this period and must inform the developer of the reasons for this extension.

Parties then have 8 weeks to apply for a judicial review⁴.

For an Integrated Pollution Control Licence the following time schedules are prescribed:

- Stage 2: Initial application 8 weeks
- Stage 3: EPA proposed determination 28 days
- Stages 4, 5 & 6 Objections, Oral hearing and Final determination 4 months
- Total time lapsed approximately 28 weeks

Parties then have 8 weeks to apply for a judicial review⁵.

For a Mine Lease/ Licence

There is no set timeframe for the Minister to consider an application for a Mine Lease/ Licence. The only set time (28 days) is to allow the public to make representations on the Minister’s intention to grant a Mine Lease/Licence. Normally, the process takes about 6 to 10 months.

Planning permission

The developer designates the area to which the development relates. The developer must have “sufficient title” to all the lands to which the application relates. The area will normally cover the footprint of the orebody, any structures associated with the mine (for example ventilation raises), the plant site, explosives storage, car parking, water treatment facilities, extractive waste facilities, any access routes, and any pipeline routes.

Integrated Pollution Control

This will normally cover the same area as in the planning permission.

Mine Lease/Licence

This will normally cover the same area as in the planning permission.

Rights and duties of the licensee

The Mine Lease or Licence will contain terms and clauses as the Minister and the Applicant agree and would normally cover such items as:

- Duration of the facility (a fixed term related to the predicted length of the operation).
- Financial payments, normally consisting of a fixed annual fee, plus a royalty payment related to tonnage produced or revenue - royalties are individually agreed.

4 This time may be extended by the Court if it is satisfied there is good and sufficient reason for doing so, and the circumstances that resulted in the failure to make the application for leave within the 8 weeks were outside the control of, the applicant for such extension.

5 This time may be extended by the Court if it is satisfied there is good and sufficient reason for doing so, and the circumstances that resulted in the failure to make the application for leave within the 8 weeks were outside the control of, the applicant for such extension.

- Efficient and continuous working to ensure optimum development.
- Provisions to protect the rights and safety of third parties.
- Sureties to ensure that the site can be fully rehabilitated on closure – including possible early closure.
- In cases involving private minerals, indemnification of the Minister against successful compensation claims.

The developer must also comply with all the conditions associated with the Planning Permission and the Integrated Pollution Control Licence.

Legal nature of the rights

The Licensee shall not without the prior written approval of the Minister assign, or attempt to assign, any rights granted by this Licence to any person and shall not without the prior written approval of the Minister sub-license or part with the possession of any of the rights hereby granted.

Links between the exploration permit and a future license for extraction

The Minerals Development Bill was published in July 2015 (Number 69 of 2015). The Bill consolidates and modernises legislation on exploration and extraction of minerals, and seeks to replace a number of pieces of legislation from 1940 to 1999. The Bill provides a modern regulatory regime for exploration and mining. The purpose of the Bill is to make better provision for the prospecting for, and development, and management of the mineral resources of the State.

Integrity Assessment

There have not been, to the best of the respondent's knowledge, any complaints on this topic.

Access to information and transparency

Ireland's environmental authority (EPA) ensures access to information and transparency by making all application documentation, EPA decisions and monitoring and enforcement files open access (web).

1.7. Court cases on permitting procedures

Most decisive and representative court judgements

There have been no cases where matters relating to the issue of permits have been taken to court during the period 1995 to 2015.

1.8. Success rates of exploration and extraction permits

The following were the applications and issue of Prospecting Licences and Mining facilities issued for the three years 2013, 2014 and 2015. The statistics are summarised in Table 7.

Prospecting

2013

138 applications received in total (in all cases the principal commodity of interest is metallic ores).

7 applications are awaiting determination.

2 applications were rejected under a PL competition scenario (licence areas were subject of competing applications).

2014

81 applications received in total (in all cases the principal commodity of interest is metallic ores).

9 licence offers were declined by the applicants.

3 applications were withdrawn voluntarily by the applicant.

7 applications were rejected under a PL competition scenario (licence areas were subject of competing applications).

2015

60 applications received in total (in 52 cases the principal commodity of interest is metallic ores; in 8 cases the commodity of interest was gemstones).

2 licence offers were declined by the applicants.

11 applications were rejected under a PL competition scenario (licence areas were subject of competing applications).

Mining

2013

2 State Mining Licences were issued (one to Vedanta Lisheen Mining in respect of the Lisheen mine and one to Boliden Tara Mines in respect of Navan mine).

2 State Mining Licences were issued (both to Boliden Tara Mines in respect of Navan Mine).

2014

No State Mining Facilities Issued

2015

No State Mining Facilities Issued

Table 7: Ireland. Success rates for permit applications for 2013, 2014 and 2015.

	Exploration		
	2013	2014	2015
No. of applications	138	81	60
Awaiting consideration	7	0	0
Competing	2	7	11
No. of PLs applied for	136	74	49
No. declined	0	9	2
No. withdrawn	0	3	0
Valid applications	136	62	47
PLs issued	129	62	47
% Success	95	100	100
	Mining		
	2013	2014	2015
No. of applications	4	0	0
No. issued	4	0	0
% Success	100	N/A	N/A

1.9. EU legislation impacting permits and licenses for exploration and extraction

- 1) Does your country have any restrictive regulation on the private or legal entities performing the duties of an exploration or extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

Only in the context that the person be fit and proper.

- 2) Does any of your permitting documentation require the involvement/signature of a geologist or mining engineer? If yes, which are these permits? Does it require a BSc or MSc or PhD or chartered (certified) professional?

Yes. A Qualified Person⁶ must sign:

- Reports submitted in respect of reporting on exploration results must be signed by a person being a Professional Geologist or equivalent;*
- Report submitted reporting on the reserves and resources.*

- 3) Do you have legislation on financial guarantees (with regard to the Extractive Waste Directive, Art. 14)? Is the cost calculation of this guarantee done by an independent third party?

⁶ A Qualified Person must be a Member of a Professional Body such as the Institute of Geologists of Ireland or another equivalent body.

Yes. In the first instance the developer makes an estimate of the funds likely to be required to remediate any mine waste facility whether upon cessation of the operation due to the exhaustion of the ore deposit or for any other reason before the exhaustion of the ore deposit. This estimate is verified by the Department of Communications, Energy and Natural Resources; the Environmental Protection Agency and the Local Authority in whose functional area the mine is located and their advisors. The parties agree to the type of instrument that will host the funds and amount to be put into the dedicated financial instrument. This fund is reviewed periodically and amended if required.

- 4) Is there a list of inert mine waste published in your country in accordance with Art. 1(3) of Comm. Dec. 2009/359/EC?

"Inert waste" is defined in S.I. 566/2009 as: "waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater. The waste shall fulfil all of the criteria detailed in Commission Decision (EC) No. 2009/359/EC 7 or any amendment thereto."

- 5) Do you use the risk assessment of 2009/337/EC Commission Decision of 20 April 2009 on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries for abandoned sites as well?

Yes.

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Art. 3: MS may declare at their own option, that the deposit of non-hazardous non-inert mine waste, to be defined by the committee established under Art. 17 of this Directive can be exempted from the provisions in Annex I, points 2, 3.1, 3.2 and 3.3 (location screening, multiple barriers, leachate collection)?

No answer by the author.

- 7) Does a mine operator has to prepare and submit both a general waste management plan and a mine waste management plan as well? To the same or separate authorities?

A mine operator has to prepare both a general waste management plan and a mine waste management plan. Both plans have to be submitted to the Environmental Protection Agency and to the Local Authority in whose jurisdiction the mine is situated. The Mine Waste Plan must also be submitted to the minister for Communications, Energy and Natural Resources.

- 8) Has your national legislation transposed the Accounting Directive (2013/34/EC), with special regards its Art. 41-48 on the extractive industry? Do these rules on financial reporting appear in the concession law or mining act either?

Not yet. The Department of Jobs, Enterprise and Innovation are currently drafting the Bill which will transpose this Directive. These rules on financial reporting do not appear in the Mining Acts.

- 9) Has your national legislation transposed the Transparency Directive (2004/109/EC, 2013/50/EU), especially Article on the extractive industry? Do these rules appear in the concession law or mining act either?

Directive 2004/109/EC has been transposed into Irish Law by the following Statutory Instruments:

S.I. No. 277 of 2007 Transparency (Directive 2004/109/EC) Regulations 2007

S.I. No. 102 of 2010 Transparency (Directive 2004/109/EC) (Amendment) Regulations 2010

S.I. No. 238 of 2012 Transparency (Directive 2004/109/EC) (Amendment) Regulations 2012

S.I. No. 316 of 2012 Transparency (Directive 2004/109/EC) (Amendment) (No.2) Regulations 2012.

S.I. No. 44 of 2015 Transparency (Directive 2004/109/EC) (Amendment) Regulations 2015

- 10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipments when permitting or when having on-site inspections? Does the mining authority have a regulatory/supervision right in product safety/market surveillance in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance?

The Minister for Communications, Energy and Natural Resources does not have a role in product safety or market surveillance as outlined in the question.