STATUTORY INSTRUMENTS.

S.I. No. 136 of 2013

ELECTRICITY REGULATION ACT 1999 (PETROLEUM SAFETY) LEVY ORDER 2013

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The Commission for Energy Regulation in exercise of the powers conferred on it by the Electricity Regulation Act 1999 (No. 23 of 1999) as amended by the Petroleum (Exploration and Extraction) Safety Act 2010 (No. 4 of 2010), hereby makes the following Order:

1. (1) This Order may be cited as the Electricity Regulation Act 1999 (Petroleum Safety) Levy Order 2013

(2) This Order comes into operation on 26 April 2013.

2. (1) In this Order—

"Act" means the Electricity Regulation Act 1999 (No. 23 of 1999) as amended;

“Levy Year” means 26 April to December 31st 2013;

"Phase" means, with regard to the first half of the year 2013 only, the period from 26 April 2013 to 30 June 2013; and subsequent to this period means the period of 3 months starting on 1 July 2013 ending on 30 September 2013 or 1 October 2013 to 31 December 2013;

“Production Activity” has the meaning given to it in the Petroleum Safety (Designation of Certain Classes of Petroleum Activity) Regulations 2013 (No. 89 of 2013);

“Relevant Undertaking” means a petroleum undertaking that carries out, or proposes to carry out, a Production Activity.

and any cognate words shall be construed accordingly.

(2) In this Order unless it is otherwise indicated-

(*a*) all words and expressions defined in the Act shall have the same meanings when used in this Order and where in any case a word or expression used in this Order is defined in the Act, the word or expression shall have the meaning given to it by the Act for the purposes of this Order;

(*b*) a reference to legislation is a reference to that legislation as amended from time to time; and

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 26*th April*, 2013.

(*c*) a reference to an article or schedule is to an article of, or schedule to, this Order.

3. This Order shall apply to Relevant Undertakings.

4. (1) A levy is hereby imposed on each Relevant Undertaking. The levy will be payable in respect of each Phase.

(2) The levy imposed by Article 4(1) shall be payable no later than—

(*a*) 27 May 2013 in respect of the first Phase; and

(*b*) the last day of the first month of each subsequent Phase.

5. The amount of the levy imposed on a Relevant Undertaking shall be calculated in accordance with the methodology set out in the Schedule to this Order.

6. (1) Where any amount falling to be paid under Article 5 is not paid within the period for payment specified in Article 4, interest thereon shall accrue at the prescribed interest rate compounded monthly from the date when such payment is due until the same is made.

(2) In this Article, "the prescribed interest rate" means a rate 2 per cent per annum above the Euribor rate.

7. (1) All payments shall be made in Euro on the due date by direct bank transfer or equivalent instantaneous transfer of funds to the bank account specified by the Commission.

(2) A Relevant Undertaking shall notify the Commission as soon as payment has been made, indicating the date on which payment was made and the name of the bank effecting payment.

(3) A request for payment by the Commission to a Relevant Undertaking under this Order shall be made in accordance with Section 4 of the Act.

SCHEDULE

1. Under the Act, as amended by the Petroleum (Exploration and Extraction) Safety Act 2010, the Commission is required to establish and implement a risk-based petroleum safety framework (the “safety framework”). The levy will recover the Commission’s costs for establishing and implementing the safety framework (the “Establishment Costs”).

2. The Establishment Costs for the Levy Year are €2,870,000.

3. Establishment Costs will be recovered from Relevant Undertakings.

4. For Relevant Undertakings, the apportionment of Establishment Costs will be split as follows:

   a) 40% based on infrastructure; and

   b) 60% based on estimated production volumes for a 15 year period.

Establishment Cost Recovery Methodology — Infrastructure

5. The infrastructure portion of the Establishment Costs will be apportioned based on (*a*) petroleum infrastructure in situ; and (*b*) petroleum infrastructure proposed to be in situ. Table 1 below identifies the types of infrastructure that will incur costs under the levy for Establishment Costs along with their associated weighting.

Reference	Infrastructure	Weighting
A	Onshore Facility	5
B	Manned Offshore Facility	5
C	Unmanned Offshore Facility	2
D	Subsea infrastructure	3
E	Onshore Pipeline	3

Table 1: Infrastructure types for Establishment Costs and associated weightings

*The infrastructure term ‘Subsea Infrastructure’ incorporates the subsea pipeline(*s*) and subsea wells and well infrastructure.

Variable Weightings

6. The CER recognises that different infrastructure employed by Relevant Undertakings has the potential to require different levels of safety regulation by the CER under the safety framework. To this end, all weightings indicated in Table 1 are variable and indicate the maximum weighting that can be applied.

7. To determine the weighting for a specific piece of infrastructure, the CER will make an assessment to determine the intensity of resources required to perform the CER’s safety regulatory functions under the Act in relation to

such infrastructure (and associated Production Activity). The assessment of the appropriate weighting for such infrastructure for each Relevant Undertaking will be carried out on a case by case basis and in accordance with the CER's duty to act consistently. The CER will consult with Relevant Undertakings on the proposed weighting to be applied to it before it is imposed. Following the assessment and where deemed equitable by the CER, the CER may lower the weighting to zero.

8. The combined weightings of all Relevant Undertakings will be the total weighting. Each Relevant Undertaking will pay an Establishment Costs levy amount equivalent to the proportion of their weighting to the total weighting. The calculation is:

$$\frac{\text{Relevant Undertaking's weighting}}{\text{Total weighting}} * 40\% \text{ Establishment Costs}$$

Establishment Cost Recovery Methodology — Production Volumes

9. Relevant Undertakings will submit their estimated production volume profile for a 15 year period to the CER.The data submitted may be independently verified by the CER.

10. The combined estimated production volumes submitted by all Relevant Undertakings will be the total estimated production volume. Each Relevant Undertaking will pay the estimated production volume portion of the Establishment Costs based on the proportion of their estimated production volume to the total estimated production volume. The calculation is:

$$\frac{\text{Relevant Undertaking's Estimated Production Volume (15 year)}}{\text{Total Estimated Production Volumes}} * 60\% \text{ Establishment Costs}$$

Estimated production volumes are to be submitted to the CER using billion cubic metres (bcm) of gas or the equivalent metric for oil.

L.S.

Sealed with the common seal of the Commission for Energy Regulation
on the 23 April 2013.

DERMOT NOLAN,
Chairperson of the Commission.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This order imposes a levy on certain specified classes of petroleum undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Petroleum (Exploration and Extraction) Safety Act 2010.

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