



STATUTORY INSTRUMENTS.

S.I. No. 623 of 2019



ELECTRICITY REGULATION ACT 1999 (PETROLEUM SAFETY) LEVY ORDER
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The Commission for Regulation of Utilities 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 2019

(2) This Order comes into operation on 31 December 2019

(3) The Electricity Regulation Act 1999 (Petroleum Safety) Levy Order 2018 (S.I No. 515 of 2018) is revoked as and from 1 January 2020.

2. (1) In this Order -

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

“the Commission” means the Commission for Regulation of Utilities established under the Act;

“levy year” means a calendar year;

“Designated Petroleum Activity” has the meaning given to it in section 13A of the Electricity Regulation Act 1999;

“Quarter” means a period of 3 months ending on 31 March, 30 June, 30 September, or 31 December;

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

“Safety Case Fees” means the fees associated with safety case assessment by the Commission as set out in the Commission’s “Safety Case Fees Structure and Methodology Decision Paper”

“Well Work Activity” has the meaning given to it in section 4(1) of the Petroleum Safety Designation of Certain Classes of Petroleum Activity) Regulations 2013 (No.89 of 2013);

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
- (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 levy year.

(2) The levy imposed by Article 4(1) shall be payable in quarterly instalments in each case no later than the day which is 30 days after the date on which a request for payment of the levy instalment is made by the Commission.

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

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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 the operation of the safety framework (the “Operational Costs”).

Operational Cost Recovery

2. The Operational Costs for the Levy Year are €1,390,104
3. Operational Costs will be recovered from Relevant Undertakings

Operational Cost Recovery Methodology – Infrastructure

4. Operational Costs will apply to petroleum undertakings that carry out, or propose to carry out, designated petroleum activities and have, or propose to have, the types of Infrastructure set out in Table 2 in situ.
5. Operational 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 Operational 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 Pipeline	3
E	Onshore Pipeline	3
F	Well(s) (under a single approved well work safety case) **	3

Table 1: Infrastructure types for Operational Costs and associated weightings.

** Reference F, Wells, refers to a well or wells under a single approved well work safety case only. This does not include wells under a production safety case. Under a production safety case, the wells will be included as part of the weighting assigned to the most appropriate infrastructure type references A to E. The most appropriate infrastructure type into which wells will be assigned will be decided on a case by case basis.

Variable Weightings for Operational Costs

6. The Commission recognises that different infrastructure employed by Relevant Undertakings has the potential to require different levels of safety regulation by the Commission 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 Commission will make an assessment to determine the intensity of resources required to perform the Commission's safety regulatory functions under the Act in relation to such infrastructure (and any associated Designated Petroleum Activities). 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 Commission's duty to act consistently. The Commission 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 Commission, the Commission may lower the weighting to zero.

Establishment Cost Recovery

8. Establishment Costs will be recovered from Relevant Undertakings who carried out Well Work Activities during 2019.

Establishment Cost Recovery Methodology

Claw Back Facility

9. The CRU recovered its Establishment Costs between 2013 and 2016. However, any petroleum undertaking that carries out a Well Work Activity until 2028 is liable for a contribution towards the Establishment Costs. This is facilitated through the provision of a claw back facility whereby the original payees will be reimbursed Establishment Costs paid up to 2016 by future petroleum undertakings liable for the Establishment Costs.
10. Petroleum undertakings carrying out Well Work Activities with an accepted well work safety case during 2019 will contribute to the Establishment Costs via the following methodology:

*Final well work safety case fee * Number of days the non-production installation is on location / 365 * days*



Sealed with the common seal of the Commission for Regulation of Utilities on 6 December, 2019.

PAUL MCGOWAN,
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 Regulation of Utilities in the discharge of its functions under the Electricity Regulation Act 1999.

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