



STATUTORY INSTRUMENTS.

**S.I. No. 120 of 2011**



RAILWAY SAFETY ACT 2005 (SECTION 26) LEVY ORDER 2011

**(Prn. A11/0448)**

RAILWAY SAFETY ACT 2005 (SECTION 26) LEVY ORDER 2011

The Railway Safety Commission, in exercise of the powers conferred on it by section 26 of the Railway Safety Act 2005 (No. 31 of 2005), as amended by the European Communities (Railway Safety) Regulation 2008 (S.I. No. 61 of 2008), and with the consent of the Minister for Transport and the Minister for Finance, hereby makes the following order:

1. (1) This Order may be cited as the Railway Safety Act 2005 (Section 26) Levy Order 2011.

2. (1) In this Order—

“the Act” means the Railway Safety Act 2005 (No. 31 of 2005) as amended by the European Communities (Railway Safety) Regulations 2008 (S.I. No. 61 of 2008).

“Commission” means the Railway Safety Commission established under the Act;

“Heritage Railway” has the meaning assigned to it under the Act;

“levy year” means the period of one year commencing 1st January 2011;

“Minister” means the Minister for Transport;

“Railway Accident Investigation Unit” has the meaning assigned to it under the Act.

“railway undertaking” has the meaning assigned to it under the Act;

“relevant period” in relation to any calendar year means the three month period ending 31st day of March, 30th day of June, 30th day of September and 31st day of December in that year;

“relevant railway undertakings” means those undertakings to which this Order applies and on which a levy shall be imposed in accordance with the Schedule to this Order.

3. This order shall apply to the railway undertakings set out in the Schedule to this Order (“relevant railway undertaking”).

4. A railway undertaking that is also heritage railway shall be exempt from payment of any levy to the Commission.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 25th March, 2011.*

5. A levy is hereby imposed on each relevant railway undertaking in respect of the levy year. The levy shall be in the amount set out in the Schedule to this Order.

6. The levy shall be payable in four equal installments within a period of fourteen days of being notified by the RSC that the levy is due for payment.

7. Monies raised by the Commission through imposition of this levy shall be used for the purpose of meeting expenses properly incurred by the Commission in discharge of its functions under the Act with the exception of—

- (a) functions of the Railway Accident Investigation Unit,
- (b) expenses incurred in the administration and corporate governance of the Railway Accident Investigation Unit, and
- (c) any expenses otherwise incurred pursuant on the activities of the Railway Accident Investigation Unit.

8. Where any amount falling to be paid under Article 5 is not paid within a period of fourteen days of the time specified in Article 6 interest thereon shall accrue at the prescribed interest rate compounded monthly from the date such payment fell due until same is made. The prescribed interest rate shall be a rate 2% per annum above the Euribor rate

9. (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) Relevant railway undertakings 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 the payment.

(3) The Commission shall make a request for payment in accordance with section 5 of this Order to the relevant railway undertakings.

10. The total amount of levy imposed on relevant railway undertakings in any year shall not exceed the Commission's reasonable estimate of the expenses that it will incur in that year in the discharge of its functions under the Act excluding—

- (a) the amount of any grants received out of monies duly provided under the Act, and
- (a) any other payment received by the Commission to offset expenses incurred in the discharge of its functions.

11. (1) Where the gross income received by the Commission in each financial year exceeds the gross expenditure incurred in the administration of its office in that year, under section 26(6) of the Act, the Minister may, with the consent of the Minister for Finance, direct the Commission to pay into the Exchequer, such sums as he or she may specify, being a sum that represents such surplus.

(2) Where the Minister does not make such a direction, any surplus of Commission income over expenses in a particular year shall be deemed to be monies derived through the imposition of a levy and shall either—

- (a) be retained by the Commission to be offset against levy obligations for the subsequent year, or
- (b) be refunded proportionately to the relevant railway undertakings on whom the levy concerned was imposed.

## SCHEDULE

Relevant Railway Undertaking	Amount of levy for 2011
Iarnród Éireann	€809,582
Railway Procurement Agency	€478,285
Bord na Mona	€5,785



GIVEN under the Official seal of the Railway Safety Commission,  
21 March 2011.

GERALD BEESLEY,  
Commissioner.

EXPLANATORY NOTE

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

The purpose of this Order is to introduce a levy, in accordance with section 26 of the Railway Safety Act 2005, in order to meet the expenditure properly incurred by the Railway Safety Commission in the discharge of its functions.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
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