



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Response and Decision Paper  
on the  
Safety Case Publication Policy**

**Part of the  
Petroleum Safety Framework**

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## Glossary of Terms & Abbreviations

### List of Abbreviations and Defined Terms in this Consultation Response Paper

Unless otherwise indicated, words and phrases shall have the same meaning given to them in the Electricity Regulation Act 1999 as amended *inter alia* by the Petroleum (Exploration and Extraction) Safety Act 2010.

Term or Abbreviation	Definition or Meaning
Act	The Electricity Regulation Act 1999, as amended, <i>inter alia</i> , by the Petroleum (Exploration and Extraction) Safety Act 2010.
CER	Commission for Energy Regulation
Exclusion Criteria	The following criteria listed under Section 13AC(2) of the Act on the basis of which information may be excluded from the public version of an approved safety case: industrial, commercial or personal confidentiality, public security or national defence.
FOI	Freedom of Information
Framework	The Petroleum Safety Framework established under Section 13I of the Act which comprises the collection of regulations, written regulatory documents and procedures which, taken together, describe the system the CER uses to regulate the activities of petroleum undertakings with respect to safety.
High Level Design	The CER <i>Decision Paper on the High Level Design of the Petroleum Safety Framework</i> as amended from time to time.
Safety Case Guidelines	Guidelines, as amended from time to time, prepared by the CER under section 13L of the Act relating to the preparation and appropriate contents of safety cases for petroleum undertakings. The Safety Case Guidelines form part of the Framework.

## Related Documents

- [CER12062](#) High Level Design Petroleum Safety Framework
- [CER12016](#) Consultation Response Paper on the Consultation Paper on the High Level Design of the Petroleum Safety Framework
- [CER13071](#) Safety Case Guidelines Decision Paper
- [CER11015](#) GL Noble Denton Report on Review and Comparison of Petroleum Safety Regulatory Regimes

# 1. Introduction

## 1.1 Petroleum Safety Framework

The Electricity Regulation Act 1999, as amended inter alia by the Petroleum (Exploration and Extraction) Safety Act 2010 (the Act) gives the Commission for Energy Regulation (the CER) responsibility for the safety regulation of petroleum exploration and extraction activities in Ireland. The Act specifically includes a requirement for the CER to “establish and implement a risk-based Petroleum Safety Framework” (the Framework). The Framework can be understood as the entire system that the CER uses to regulate the safety of petroleum activities, and in particular designated petroleum activities<sup>1</sup>, carried out by petroleum undertakings. The Framework required by the Act is permissioning and risk-based, recognising that hazards may be presented by the activities to be regulated. It requires petroleum undertakings to obtain permission from the CER to undertake designated petroleum activities by submission and approval of a safety case that, amongst other things, describes how risks have been reduced to a level that is as low as is reasonably practicable (ALARP).

The CER Decision Paper on the High Level Design of the Petroleum Safety Framework (the High Level Design) sets out, at a high level, how the Framework operates.

## 1.2 Consultation on the Publication of Safety Cases

On 3<sup>rd</sup> May 2013, the CER published a Consultation Paper on the Safety Case Publication Policy (CER/13/109) (the ‘Consultation Paper’)<sup>2</sup>. This provided interested parties with the opportunity to comment on the CER’s approach to the publication of approved safety cases. This publication is required by Section 13AC(1) of Part IIA of the Act, subject to certain exceptions under Section 13AC(2). These exceptions must be approved by the CER (Section 13AC(3)).

The Consultation Paper requested responses to proposals and options including the following:

1. the proposed CER consent process for the exclusion of information from the “public version” of an approved safety case;
2. the CER’s guidance on the application of the matters listed in section 13AC(2) of the Act; and
3. the CER’s view on the reasonableness of the fee charged under section 13AC(4) of the Act.

The CER received submissions from the following three respondents (the ‘Respondents’) to the Consultation Paper:

- Uisce Domhain Ltd (“Uisce Domhain”) (CER/13/109a);
- Shell E&P Ireland Limited (“Shell”) (CER/13/109b); and

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<sup>1</sup> A designated petroleum activity designated as such by CER by regulation pursuant to Section 13D of the Act. See S.I. No. 89 of 2013

<sup>2</sup> <http://www.cer.ie/en/petroleum-safety-current-consultations.aspx?article=900e685e-82a4-41a8-a814-677d75ac85de>

- Talamh (CER/13/109c).

None of the Respondents requested to meet the CER to discuss their submission.

This Response and Decision Paper (the Paper) sets out the CER's response to the submissions received to the Consultation Paper.

### **1.3 Structure of the Paper**

The structure of the remaining sections of this Paper is as follows:

- Section 2 is structured around Respondents' comments to each of the consultation questions posed and CER's response to those comments.
- Section 3 sets out the amendments to the section 9 of the Safety Case Guidelines, following consideration of the issues raised during the consultation process.

## 2. Consultation Responses

This section sets out the responses to the consultation questions from the Consultation Paper and the associated CER response.

### 2.1 Consultation Question 1

Respondents are requested to comment on the above proposed procedure and suggest any changes which respondents believe could improve the procedure?

#### 2.1.1 *Summary of responses*

Shell had no comment.

Uisce Domhain stated that there should be no censoring at all of the safety case when it is made available to the public.

#### 2.1.2 *CER Response*

The CER is bound by the Act, which allows the petroleum undertaking to omit information from the public version of its approved safety case on the basis of commercial, industrial and personal confidentiality, public security and national defense. The CER cannot amend or circumvent the Act by refusing to approve such omissions, once the petroleum undertaking has adequately demonstrated that the information should be omitted.

## 2.2 Consultation Question 2(a)

Respondents are requested to suggest reasonable timeframes in relation to the following:

- (a) The length of time within which the petroleum undertaking should submit its request for exclusions to the CER, having received a request for a public version?

### 2.2.1 *Summary of responses*

Shell suggested a four week period to allow the petroleum undertaking to submit its request for exclusions to the CER.

Uisce Domhain does not believe any omissions should be allowed and did not provide a suggested timeframe.

### 2.2.2 *CER Response*

The CER recognises that it will take a number of weeks for a petroleum undertaking to review its safety case and prepare an amended version if required. The CER believes a period of four weeks is reasonable and not excessive.

As stated in the CER's response to the response to Consultation Question 1, the CER is bound by the Act which allows for certain exemptions to the public version of approved safety cases.

## 2.3 Consultation Question 2(b)

Respondents are requested to suggest reasonable timeframes in relation to the following:

- (b) How long should the petroleum undertaking have to make further submission to the CER if it disagrees with the CER's refusal or part refusal?

### 2.3.1 *Summary of responses*

Shell suggested a four week period to allow the petroleum undertaking to make further submissions should the CER refuse or part refuse to approve its proposed omissions.

Uisce Domhain does not believe any omissions should be allowed and did not provide a suggested timeframe.

### 2.3.2 *CER Response*

The CER believes that two weeks is reasonable. The CER recognises that the petroleum undertaking will need time to review and assess the CER's reasons for its refusal and to prepare further submissions. However, the CER believes the suggested four weeks will not be needed, given that the issues will have already been considered in detail by the petroleum undertaking when submitting the original request for exclusions.

As stated in the CER's response to the response to Consultation Question 1, the CER is bound by the Act which allows for certain exemptions to the public version of approved safety cases.

## 2.4 Consultation Question 3

Do respondents agree with the proposed scope of the public version of the approved safety case?

### 2.4.1 *Summary of responses*

Shell agreed with the proposed scope of the public version of the approved safety case; in other words that the safety case alone (excluding referenced documents) should be provided by petroleum undertakings.

Uisce Domhain did not agree with the proposed scope and gave two reasons: (1) At 3.1.1, the GL Noble Denton's report is incorrectly reported in two instances, and (2) freedom of information (FOI) is not the only or main reference point.

### 2.4.2 *CER Response*

The footnoted reference to the GL Noble Denton report at paragraph 3.1.1 of the Consultation Paper states CER/11/105 in error. It should read CER/11/015. However, the link provided within this footnote is correct. There is no other referencing of the GL Noble Denton report in Section 3.1.1 and the CER received no comments on the GL Noble Denton reports as part of the responses to the Consultation Paper.

Based on the CER's research, the CER identified the FOI as the most comparable national precedent to provide guidance on the suggested Exclusion Criteria, given the relevance of FOI exclusion criteria and the available guidance, decisions and precedents.

## 2.5 Consultation Question 4

Respondents are requested to provide comments on the proposed guidance of each of the Exclusion Criteria:

- (a) Industrial and commercial confidentiality
- (b) Personal confidentiality
- (c) Public security
- (d) National Defence

### 2.5.1 *Summary of responses*

Shell had no comment.

Uisce Domhain was concerned that these criteria should not be used at all. Uisce Domhain stated that industrial and commercial confidentiality is or should be insignificant when compared to public health and amenity. Uisce Domhain described the personal confidentiality and public security exclusions as “red herrings” and in relation to national defence, cited that this industrial process will exacerbate climate change.

### 2.5.2 *CER Response*

The CER has no control over what category of exclusion criteria can be applied. Section 13AC(2) of the Act determines that petroleum undertakings are not required to release information as part of the public version of the approved safety case that relate to industrial, commercial and personal confidentiality, public security and national defence. The CER must apply the law.

The purposes of the Consultation Paper was to provide an opportunity to comment on how the CER proposed to apply these Exclusion Criteria, rather than to debate the criteria themselves, over which the CER have no control. The CER has not received any suggestions of alternative ways to approach, interpret or apply the Exclusion Criteria and therefore proposes to apply the suggestions set out in the Consultation Paper.

## 2.6 Consultation Question 5

Do respondents agree with the CER's proposal to recommend a standard, nominal fee that petroleum undertakings should charge to members of the public who request a copy of the approved safety case?

### 2.6.1 *Summary of responses*

Shell agrees that a standard, nominal fee is appropriate.

Uisce Domhain does not agree that the public should be charged any fee, given that the safety case could potential reveal risks to the public safety.

### 2.6.2 *CER Response*

Section 13AC(4) of the Act provides that the petroleum undertaking may charge a fee for providing a public version of the approved safety case. The CER cannot insist that a petroleum undertaking provide a public version of the approved safety case for free as this would violate the Act.

The purpose of the Consultation Paper was to provide an opportunity for interested parties to comment on how this fee will be charged. The CER received no alternative suggestions to its proposed approach.

## 2.7 Consultation Question 6

Respondents are requested to suggest what fee would be reasonable, with associated rationale.

### 2.7.1 *Summary of responses*

Shell suggested that electronic copies of the approved safety case be made available in CD format for a standard, nominal fee of ca. €5 (based on a quotation received).

Shell suggested for a printed copy that the fee should cover the printing costs. Based on quotations from printing companies in relation to printing copies of a safety case, Shell stated that it is estimated that a black and white copy of an approved safety case could cost up to ca. €120 and that a colour copy could cost in the region of €500 to €900 to print.

Uisce Domhain disagreed completely with the CER allowing any fee.

### 2.7.2 *CER Response*

The CER believes a nominal fee is reasonable and considers €5 for a CD copy and €100 for a black and white paper copy to be reasonable, given the cost of production. Given the expense of producing a colour copy, should this be requested, the CER considers it reasonable that the petroleum undertaking recover the full cost from the requester. Should the requester complain to the petroleum undertaking that the price charged is unreasonable, then the petroleum undertaking shall seek a direction from the CER as to what constitutes a reasonable fee in the circumstances, and shall charge as per the CER's direction.

As stated in response to the response to Consultation Question 5 above, Section 13AC(4) of the Act provides that the petroleum undertaking may charge a fee for providing a public version of the approved safety case. The CER cannot insist that a petroleum undertaking provide a public version of the approved safety case for free as this would violate the Act.

## 2.8 General Comments

### 2.8.1 General Comment 1

Talamh expressed concern that the requirements in the Act to provide safety case information are not consistent with such requirements as set out in the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (COMAH).

COMAH requires that safety information be provided to certain specified persons, in a specified area. The Respondent argues that the Act fails to specify an area where persons would be provided with safety measures and the correct behaviour which should be adopted in the event of an accident. The Respondent also states that the Act does not ensure that the persons in that area are properly informed of the dangers by the petroleum undertaking.

Talamh also stated that the CER did not carry out a meaningful assessment of their response to the ALARP Demonstration Consultation and also failed to take into account responses of An Bord Pleanála in this regard.

#### 2.8.1.1 CER Response

COMAH and the Act both allow members of the public to access safety information from petroleum undertakings. Both are aligned in providing confidentiality, public security and national defence exceptions to any safety information released. The Act does not limit who can request a copy of the safety case. In relation to Major Accident Hazards, COMAH only allows persons within a specified area to receive safety information. Under the Act, anyone can request a copy of the safety case, which contains all the relevant safety information. By determining that any person can request a copy of the full approved safety case (with the same exceptions applied by COMAH), the Act ensures the persons in all areas have access to and are properly informed of the dangers by the relevant undertaking.

The CER responded to Talamh's response to the ALARP Demonstration Consultation in its Consultation Response Paper (CER/13/072) which includes CER's comments on the precautionary principle and cumulative risk. In that Consultation Paper, the CER acknowledged the comments of An Bord Pleanála. The CER and An Bord Pleanála have a Memorandum of Understanding in place which is published on the CER website (CER/13/032).<sup>3</sup> This addresses the interaction between the CER and An Bord Pleanála in relation to planning applications.

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<sup>3</sup>

<http://www.cer.ie/en/petroleum-safety-reports-and-publications.aspx?article=6f688e1c-a9bf-4bae-a481-08b9d49506bd>

## **2.8.2 General Comment 2**

Shell made an additional comment suggesting a further exclusion criterion for information which might prejudice the administration of justice or interfere with parties to litigation.

### *2.8.2.1 CER Response*

The CER has no control over what category of exclusion criteria can be applied. Section 13AC(2) of the Act determines that petroleum undertakings are not required to release information as part of the public version of the approved safety case that relate to industrial, commercial and personal confidentiality, public security and national defence. The CER does not have the vires to amend or add to this list.

## **2.8.3 General Comment 3**

Shell suggested that, in addition to FOI, the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006, 'Regulation 18 Information for the safety of the public', paragraph (12) and 'Regulation 34 Restrictions on disclosure of information' could also provide the CER with further guidance on the Exclusion Criteria.

### *2.8.3.1 CER Response*

The CER has reviewed the suggested Regulations. Paragraph 12, while it relates to the release of safety reports with certain exemptions, is a short, broad paragraph which does not enhance or add to the application of the Exclusion Criteria. Regulation 34 refers to the release of information generally, and so is not particularly helpful in relation to providing guidance or detail on the exemptions set out in the Act. The CER has considered these Regulations, among other sources, and is satisfied that FOI is the more comparable and relevant regime for the purpose of providing guidance on the Exclusion Criteria.

## **2.8.4 General Comment 4**

Uisce Domhain stated that the CER is bound by Statute to draft and implement Safety Regulations for Petroleum activities in a way that cannot override precautionary principles, burden of proof principles, Aarhus, International and European law.

### *2.8.4.1 CER Response*

The High Level Design addresses general principles as they relate to the CER's functions and requirements under the Act. CER comments on responses received during the consultation process are provided in the Consultation Response Paper on the Consultation Paper on the High Level Design (CER/12/016)<sup>4</sup>.

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<sup>4</sup> <http://www.cer.ie/en/petroleum-safety-decision-documents.aspx?article=57170b43-6dee-433a-b7b3-63dc68cb680f>

### 3. Amendments to Section 9 of the Safety Case Guidelines

The Consultation Paper published on 3<sup>rd</sup> May 2013 received a total of three responses from industry and interest groups. Having considered each of the issues raised, the following text in the grey box below will be inserted into Section 9 of the Safety Case Guidelines and will come into effect from November 30 2013. In addition, the following definition for Exclusion Criteria will be added to the List of Defined Terms section:

*The following criteria listed under Section 13AC(2) of the Act on the basis of which information may be excluded from the public version of an approved safety case: industrial, commercial or personal confidentiality, public security or national defence.*

Section 13AC(1) of Part IIA of the Act requires a petroleum undertaking that has been issued with a safety permit to make available a copy of the approved safety case to which that permit relates to any member of the public who requests it.

Under section 13AC(2), this obligation does not extend to any content of an approved safety case that relates to the following matters:

- industrial confidentiality;
- commercial confidentiality;
- personal confidentiality;
- public security; or
- national defence.

Under section 13AC(3) of the Act, a petroleum undertaking must obtain the written consent of the CER in order to omit any approved safety case content for the purposes of publication.

Under section 13AC(4) of the Act, a petroleum undertaking that makes available a copy of an approved safety case is entitled to charge a fee to the person who requests it. This fee shall not exceed an amount which is reasonable having regard to the cost of making it available and the CER may give the petroleum undertaking such direction as it considers appropriate in relation to what is a reasonable fee.

This purpose of this section of the Safety Case Guidelines is to set out the following:

- (a) the CER consent process for the exclusion of information from the “public version” of an approved safety case (section 9.1);
- (b) CER guidance on the application of the matters listed in section 13AC(2) of the Act (section 9.2); and
- (c) a direction by the CER under section 13AC(4)(b) of the Act in relation to the reasonableness of the fee charged under section 13AC(4)(a) of the Act (section 9.3).

For the purposes of this Paper, matters listed in section 13AC(2) of the Act (industrial, commercial or personal confidentiality, public security or national defence) are together termed the ‘Exclusion Criteria’.

### **9.1 CER Consent Procedure for Public Version of Approved Safety Case**

Section 13AC(3) states that where a petroleum undertaking proposes to rely on section 13AC(2) to exclude certain information from the public version of its approved safety case, “it shall obtain the prior written consent” of the CER.

The following procedure should be followed to obtain CER consent:

1. Within four weeks of a request being made by a member of the public for a copy of the approved safety case, the petroleum undertaking, should it believe any of the Exclusion Criteria apply, shall submit the following to the CER:
  - a. the exact content which the petroleum undertaking proposes to exclude from the public version of its approved safety case, if any;
  - b. if it proposes to exclude any content, the Exclusion Criteria on which it proposes excluding this information; and
  - c. if it proposes to exclude any content, a detailed explanation as to why the information falls under section 13AC(2).
2. The CER will provide either:
  - a. written consent to all of the exclusions;
  - b. written consent to part of the exclusions only and a written refusal of consent to the remaining exclusions; or
  - c. a written refusal of consent to all of the exclusions.
3. In the case of a refusal or part refusal of consent, the CER will provide an outline of the reasons for its decision.
4. Having received the CER’s decision and the fee from the requester, the petroleum undertaking will provide the public version of the approved safety case, as soon as possible, unless the petroleum undertaking provides further submissions under subparagraph 5 below.
5. If the petroleum undertaking disagrees with the CER’s refusal or part refusal to consent to the exclusion of certain information, it may make submissions to the CER outlining its concern(s) within two weeks of receiving the CER’s refusal or part refusal.
6. The CER will consider the petroleum undertaking’s submission and will revoke, amend or confirm its original decision. The CER will provide an outline of the reasons for its decision if the refusal to consent, or part of it, stands. Following the CER’s decision and the fee from the requester, the petroleum undertaking will, as soon as possible, provide the public version of the approved safety case to the requester.

This procedure shall be followed the first time the petroleum undertaking receives a request for the safety case from a member of the public. The version of the approved safety case approved by the CER under this procedure will be considered the “public version” of the approved safety case for all subsequent requests.

## **9.2 Guidance on the Application of the Exclusion Criteria**

As stated at the outset of this section, under section 13AC(2) of the Act, the obligation on a petroleum undertaking to make available their approved safety case to any member of the public upon request does not extend to any content of the approved safety case that relates to the following matters:

- industrial confidentiality;
- commercial confidentiality;
- personal confidentiality;
- public security; or
- national defence.

Where a petroleum undertaking proposes to omit certain information from the public version of its approved safety case under section 13AC(2) and has submitted such a proposal to the CER under the procedure set out in section 9.1 the CER shall approve or disapprove the proposed exclusion(s) following its consideration of the Exclusion Criteria.

Further guidance on the Exclusion Criteria are set below.

### **9.2.1 Scope of the public version of the approved safety case**

Under section 13A of the Act, an “approved safety case” is defined as “a safety case in respect of a designated petroleum activity or activities which has been approved by the Commission pursuant to the provisions of this Part and includes any revision made to a safety case which (a) may take effect without prior approval of the Commission, or (b) has been approved by the Commission.”

Safety cases may contain mentions of, or references to separate documents, for example, policies and procedures, without attaching these documents to the safety case. The CER may request sight of these documents for the purposes of determining if they are sufficient in the context of approving the safety case. For the purposes of providing a public version of an approved safety case, the petroleum undertaking is required to provide only the safety case approved by the CER. Petroleum undertakings are not required to publish referenced documents, regardless of whether the CER requested to review them.

### **9.2.2 Guidance on Exclusion Criteria**

When considering a request to exclude content that relates to the Exclusion Criteria, the CER will always be mindful of the public interest. The CER will always balance the importance the legislature has placed on public access with protecting privacy and ensuring security and defence are not compromised, which are in the interest of both the public and the petroleum undertaking. That being said, the following sections set out the CER guidance on each of the Exclusion Criteria:

- Industry & commercial confidentiality (section 9.2.2.1);
- Personal confidentiality (section 9.2.2.2);
- Public security (section 9.2.2.3); and
- National Defence (section 9.2.2.4).

### *9.2.2.1 Industrial & Commercial Confidentiality*

For the purposes of reviewing whether to approve the exclusion of information from an aspect of an approved safety case for the purposes of publication, “industrial confidentiality” and “commercial confidentiality” will be taken as interchangeable terms.

The CER may approve the exemption of certain information from disclosure under section 13AC(2) if that information contains:

- (a) a trade secret;
- (b) financial, commercial, scientific, technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation; or
- (c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

In determining whether information constitutes a “trade secret” in the application of paragraph (a) above, the following criteria may be considered by the CER:

1. the extent to which the information is known outside the business;
2. the extent to which the information is known to employees and others involved in the business;
3. the protective measures taken to guard the secrecy of the information;
4. the value of the information to the owners and the owner’s competitors;
5. the amount of money or effort expended by the owner to develop the information;
6. the ease or difficulty with which the information could be properly acquired or duplicated by others.

In applying paragraph (b) above, the phrase “financial, commercial, scientific, technical or other information” shall be interpreted broadly by the CER to relate to all information relevant to the business. The type of information shall not in itself be determinative of whether or not this criteria applies. The test shall be whether disclosure of that information (whether financial, commercial, scientific, technical or other) could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates or could prejudice the competitive position of that person in the conduct of their profession or business or otherwise in their occupation.

### *9.2.2.2 Personal Confidentiality*

The CER may approve the exemption of certain information from disclosure under section 13AC(2) if that information contains personal information.

For the purposes of this exclusion criterion, “personal information” means information about an identifiable individual that:

- (a) would in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual; or
- (b) is held by the petroleum undertaking on the understanding that it would be treated as confidential.

### *9.2.2.3 Public Security*

The CER may approve the exemption of certain information from disclosure under section 13AC(2) if the information could reasonably be expected to:

- (a) prejudice or impair lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property;
- (b) prejudice or impair the security of a building or other structure or a vehicle, ship, boat or aircraft;
- (c) endanger the life or safety of any person;
- (d) facilitate the commission of an offence; or
- (e) in any other way not covered by (a) – (d) above, prejudice public security.

### *9.2.2.4 National Defence*

The CER may approve the exemption of certain information from disclosure under section 13AC(2) if its publication could reasonably be expected to adversely affect the:

- (a) security of the State;
- (b) defence of the State; or
- (c) international relations of the State.

If a petroleum undertaking requests the exclusion of certain information from publication on the grounds of national defence, then in considering this criteria the CER must discuss the matter with the Minister for Defence and, if relevant, other ministers and other members of the Department of Defence.

## **9.3 Direction on fee for public version of approved safety case**

Section 13AC(4)(a) entitles petroleum undertakings to charge the person who requests the approved safety case a fee in respect of making the copy available. The fee must not exceed an amount which is reasonable having regard to the cost of making it available.

Section 13AC(4)(b) allows the CER give the petroleum undertaking a direction it considers appropriate in relation to what is a reasonable fee.

Once the approved safety case is modified to reflect exclusions approved by the CER under section 13AC(3), this shall be considered the “public version” for all subsequent requests. Therefore, the majority of the work involved in preparing the public version of the safety case will only have to be done once. The CER is of the view that it is not reasonable for one member of the public to be burdened with a higher fee than others to cover the cost of this exercise, simply because that person made the request first. However, there is no way to know how many requests there will be in the future and so realistically the actual cost of modifying the approved safety case for publication cannot be split evenly between all requesters.

It must also be recognised that the principle underpinning the requirement to make available a public version of the approved safety case is that that public access to this information is in the public interest and any fee charged should be nominal.

On the basis of the above, the CER is of the view that a standard, nominal fee is appropriate.

The CER directs that €5 is a reasonable fee to provide a member of the public with the public version of the approved safety case in CD format. The CER also directs that approximately €100 is reasonable for a paper version, should it be requested, given the cost of production. Given the expense of producing a colour copy, should this be requested, the CER directs that it is reasonable that the petroleum undertaking recover the full cost from the requester. Should the requester complain to the petroleum undertaking that the price charged is unreasonable, then the petroleum undertaking shall seek a direction from the CER as to what constitutes a reasonable fee in the circumstances, and shall charge as per the CER's direction.