



Department for  
Business, Energy  
& Industrial Strategy

# Charging regime for decommissioning offshore oil and gas installations

Consultation on changes to charging a fee in respect of decommissioning offshore (oil and gas) installations and pipelines under the Petroleum Act 1998 as amended by the Energy Act 2008

Closing date: 16 August 2021



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Any enquiries regarding this publication should be sent to us at: [odu@beis.gov.uk](mailto:odu@beis.gov.uk)

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# Introduction

The aim of this consultation is to formally seek views from stakeholders such as offshore oil and gas operators and other companies with an interest in decommissioning offshore oil and gas installations and pipelines and other interested parties on the proposal to update the charging regime for activity related to the regulatory functions for the decommissioning of offshore oil and gas installations. The Department would also be interested to hear whether you prefer any of the listed options or whether you wish to propose an alternative option(s).

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# General information

## Why we are consulting

This Government consultation is seeking the views of the oil and gas industry and other interested stakeholders, particularly those upon whom the changes would apply, on its proposal to amend its fee charging regime in respect of the services the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) provides for the regulation of decommissioning offshore oil and gas infrastructure.

In line with the fundamental polluter pays principle of environmental law, those who are responsible for putting in place the infrastructure (offshore oil and gas installations and pipelines and associated infrastructure) in order to benefit from the extraction of hydrocarbons should pay for its decommissioning. To avoid passing costs onto the taxpayer, under the Petroleum Act 1998 the Secretary of State has the power to make regulations to charge for the Department's work in relation to regulating decommissioning – so in 2012 the Government made the Offshore (Oil and Gas) Installation and Pipeline Abandonment Fees Regulations 2012<sup>1</sup> which put in place the existing fee charging regime.

The existing regime, however, was implemented at a time when the decommissioning process was still immature. In recent years, as operators have commenced decommissioning in the UKCS, it has become clear that the fee-charging regime does not sufficiently cover the full life cycle of the work involved in delivering the service to industry, which can take place over a period of 1 to 15 years.

The Department is considering whether primary legislation is needed to better recover its costs for fulfilling its regulatory functions, to ensure the effectiveness of the 'polluter pays' principle and in line with HM Treasury's guidance on Managing Public Money. This document consults on the intention and scope of the amendment to the current charging powers.

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<sup>1</sup> S.I. 2012/949.

## Consultation details

**Issued:** 24 May 2021

**Respond by:** 16 August 2021

**Enquiries to:**

FAO Offshore Decommissioning Unit  
Offshore Petroleum Regulator for Environment and Decommissioning  
Department of Business, Energy & Industrial Strategy  
AB1 Building  
Crimon Place  
Aberdeen  
AB10 1BJ

Email: [odu@beis.gov.uk](mailto:odu@beis.gov.uk)

Given that staff are currently still working from home we would appreciate if any enquiries could be sent electronically to the email address above.

**Consultation reference:** 'Consultation on changes to charging a fee in respect of decommissioning offshore (oil and gas) installations and pipelines under the Petroleum Act 1998 as amended by the Energy Act 2008'

**Audiences:**

The consultation is expected to be of interest to businesses responsible for the development and operation of offshore (oil and gas) installations and pipelines.

**Territorial extent:**

The offshore oil and gas regime is generally a reserved matter for Scotland, Wales, and Northern Ireland (although certain of the Secretary of State's functions under Part 4 of the Petroleum Act 1998, including the power to make regulations under section 39(1), can only be exercised in relation to Scotland and Wales following consultation with the Scottish and Welsh Ministers respectively). It is proposed that the Regulations would apply to all the UK territorial waters and to the United Kingdom Continental Shelf.

## How to respond

Responses should be provided electronically and emailed to the address below.

**Email to:** [odu@beis.gov.uk](mailto:odu@beis.gov.uk)

**Write to:**

FAO Offshore Decommissioning Unit  
Offshore Petroleum Regulator for Environment and Decommissioning  
Department of Business, Energy & Industrial Strategy  
AB1 Building  
Crimon Place  
Aberdeen  
AB10 1BJ

A response form is available on the Offshore Decommissioning Unit's page:  
<https://www.gov.uk/guidance/oil-and-gas-decommissioning-of-offshore-installations-and-pipelines>

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

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## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [beis.bru@beis.gov.uk](mailto:beis.bru@beis.gov.uk).



## Introduction

Offshore (oil and gas) installations and pipelines have an important role in supplying the nation's current and future energy needs and meeting our objectives for security of supply. Exploitation of the offshore energy resource also brings with it international obligations to decommission installations and pipelines at the end of their life to ensure safety of navigation, whilst taking account of fishing and protection of the marine environment.

The offshore oil and gas industry operates under a statutory decommissioning regime: The Petroleum Act 1998 (“the Act”) (as amended by the Energy Act 2008) for offshore (oil and gas) installations and pipelines. It is a fundamental principle of the UK’s decommissioning regime that the person who benefits from the exploitation or production of hydrocarbons on the UK Continental Shelf should be responsible for decommissioning the infrastructure at the end of its useful life.

Section 29 of the Act provides that the Secretary of State can require a person(s) to submit an abandonment programme, commonly referred to as a decommissioning programme, setting out the measures proposed to be taken in connection with the abandonment of offshore (oil and gas) installations and pipelines and to charge a fee in respect of the Secretary of State’s expenditure “under this Part”. Section 34 of the Act enables the Secretary of State or the holder of an existing decommissioning programme to propose revisions to an existing programme and powers a power for a fee to be charged. Under section 39, there is a power to make regulations to set the amount of fees payable. These regulations are the Offshore (Oil and Gas) Installation and Pipeline Abandonment Fees Regulations 2012<sup>2</sup> (“the 2012 Regulations”)

As such, the Department currently charges industry a fee when submitting programmes or requesting the revision of programmes, to recover its costs of carrying out functions in relation to the decommissioning of offshore (oil and gas) installations and pipelines. The current charging regime was introduced in 2012, when decommissioning was relatively immature. Since then, the industry and the services we provide with respect to decommissioning have evolved, introducing a need to amend our existing fee charging regime to ensure the Department is able to recover its costs incurred for its regulatory functions.

We are seeking to amend the current charging powers to ensure that fees or charges may be charged in respect of all the Secretary of State’s (i.e. the Department’s) statutory functions included in Part 4 of the Act. The Department will not be seeking to make a profit from such a charge but merely recover its costs in carrying out those functions. Once these new powers are in place the Department will bring forward regulations to put in place a new charging scheme.

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<sup>2</sup> S.I. 2012/949.

## Current fee regime

The current charging method was implemented in 2012. Following a consultation in 2011, stakeholders indicated that, should such a charging scheme be adopted, their preferred charging method was an indicative fee based on the type of facility. This was also the Department's preferred charging method as it would be equitable, costs to the companies would reflect the use of Departmental resource, it minimises administrative costs, and would also be relatively simple to adopt.

Current fees are payable on submission of decommissioning programme. An indicative fee is estimated at the start of the decommissioning process based on the Department's adopted charging bands based on the type of facility commonly referred to as indicative fees. With a final fee reflecting the regulatory time spent on each decommissioning programme.

The Act currently provides the Department with the power to charge Offshore Oil and Gas installation operators a fee in respect of the following situations:

- When a person submits an abandonment programme
- When a person requests to revise an abandonment programme

The Secretary of State is responsible for setting the fee through regulations made under section 39. In calculating the fee, the Secretary of State takes the following factors into account.

- The number of days which the Offshore Decommissioning Unit estimates will be required to consider a decommissioning programme from initial discussions, through development of the programme to final programme approval (section 29); and
- The number of officers which the Offshore Decommissioning Unit estimates will be required to consider a proposal to revise a decommissioning programme (section 34).

The decommissioning Section 29 approval and Section 34 revision processes are consistent, and the services standardised. Charges for these services are made on a daily full cost rate which will ensure that the customer pays a fee to cover the cost of dealing with the specific approval or revision of a decommissioning programme i.e. charged a bespoke cost on a case by case basis on the Unit's best estimate of the full cost incurred.

The Department's view is that the above activities are too restricted and do not cover all statutory functions under Part 4 of the Act where the Department acts on behalf of the Secretary of State. A new charging regime would help overcome these issues.

While the current system has worked well for the Department and its simplicity has been valued by stakeholders, there are several emerging issues that mean it is an appropriate time to review arrangements.

Experience shows that the current indicative cost framework where costs are aligned to type of facility is not a good proxy for cost estimation, and the regulatory process for small facilities

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can be as complex and time-consuming as it can be for large facilities. In addition, the decommissioning process has been streamlined and operators generally take less time than reflected in the indicative cost framework to deliver decommissioning programmes.

The regulatory process that supports the development and ultimate approval of a decommissioning programme can take place over several years. Not only does this create a complex accountancy accrual burden for the Department, but it also makes it difficult for operators to monitor costs that are accruing each year.

While the approval of a decommissioning programme is a key milestone there are many other discrete stages involved in the decommissioning process that should be reflected in a fee charging regime.

## Proposal

The Department intends to make changes to the operation of its charging regime and proposes to charge for all of the work it carries out to fulfil its statutory functions under Part 4 of the Act where it acts on behalf of the Secretary of State, and also for work carried out in connection with these functions.

The updated method of charging would be based on the application of an hourly rate system, and the number of personal undertaking the work.

The statutory functions for which a fee or charge could be imposed are:

Section 29 – Preparation of programmes, work under this section would include but not be limited to the following:

- Monitoring actions or communications prior to notice preparation
- Review of relevant documents and applications to determine possible section 29 activity
- Preparing, checking, authorising, and issuing warning letters and notices

Section 30 - Persons who may be required to submit programmes, work under this section would include but not be limited to the following:

- Review of relevant documents and applications to determine possible section 29 activity
- Monitoring actions or communications prior to notice preparation
- Review and consideration of financial risk to assess mitigations if required
- Preparing, checking, authorising, and issuing warning letters and notices

Section 31 - Section 29 notices: supplementary provisions, work under this section would include but not be limited to the following:

- Consider representations or withdrawal requests including assessment of financial capability

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- Review of relevant documents and applications to determine possible section 29 activity
- Monitoring actions or communications prior to notice preparation
- Preparing, checking, authorising, and issuing warning letters and notices
- Regular financial capability reviews

Section 32 – Approval of programmes, work under this section would include but not be limited to the following:

- Engagement with operators to discuss and provide guidance on UKCS decommissioning portfolio and decommissioning projects
- Review and guidance of decommissioning programmes and all associated documents
- Engagement with other government departments and interested stakeholders regarding decommissioning policies and practices
- Facilitating consultation periods
- Administering all relevant approval activities
- OSPAR consultation and engagement with contracting parties pertaining to derogation applications

Section 33 – Failure to submit programmes, work under this section would include but not be limited to the following:

- Any communications and Decision-making activities to reject a submitted programme
- Communications and engagement with Industry to prepare a Decommissioning Programme
- Recover any expenditure incurred and any fee that would have been payable in preparing the Decommissioning Programme

Section 34 – Revisions of programmes, work under this section would include but not be limited to the following:

- Communication and engagement with operators to discuss and identify potential revisions to approved programmes
- Review and provide guidance on revision request and all associated documents
- Facilitating consultation periods
- Administering all approval activities

Section 35 – Withdrawal of approval, work under this section would include but not be limited to the following:

- Consider any representation made by parties to withdraw approval of decommissioning programmes
- Any communications and Decision-making activities to withdraw approval of a programme

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- Engagement with other government departments and interested stakeholders

Section 37 – Default in carrying out programmes, work under this section would include but not be limited to the following:

- Any communications and Decision-making activities to request remedial action be taken.
- Consider any representation made by parties to the approved programme
- Engagement with other government departments and interested stakeholders
- Recover any expenditure incurred

Section 38 – Financial resources, work under this section would include but not be limited to the following:

- Communications and engagement with operators to obtain financial information
- Conducting financial reviews and risk assessment to determine risk and mitigation requirements
- Formal communications with operators to consider financial security requirements
- Consideration and negotiations relating to cost estimates to determine amount of security
- Engagement with other government departments and interested stakeholders
- Any communications and Decision-making activities to request financial security

### **Post decommissioning approval activities**

It is our intention to also introduce charging for all activities following decommissioning programme approval. As decommissioning activities in the UKCS are carried out, the Department must be content that decommissioning programmes are executed in compliance with UK and international obligations. Given the expectation that operators commence decommissioning planning up to a minimum of 2 years prior to cessation of production, decommissioning programme approval can occur early in the project planning process. The Department can spend considerable time post formal approval guiding operators to successful project close out. We intend to ensure that all such post approval activity is chargeable.

These new chargeable functions would include but not be limited to the following:

- Communication and engagement with operators to discuss and provide guidance on regular progress reports and close out reports
- Review progress report submissions, close out report submissions and all associated documents
- Facilitate consultation periods
- Engagement with other government departments and interested stakeholders

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- Discuss and agree future monitoring requirements
- Acceptance and approval activities

### **Enforcement activity**

The Act states that failure to comply with a notice under section 30, section 33 and section 37 is a criminal offence. The Department has not yet had to prosecute under these regulations, but should this be required all investigation work until such times as enforcement action is taken is chargeable.

## Implications of the proposal

We believe that our proposed charging regime will enable better recovery of our costs for delivering the regulatory regime. However, this will mean the Department will be charging for more activities than the current regime allows. Our expectation is that this is likely to equate to an additional circa £1.5m in fees or charges annually, spread across a range of activities and operators. Our view is that this is proportionate to the full life cycle of the work involved in delivering the service to industry, ensuring that costs are met by industry, with each company meeting its own costs.

The operation of the new regime would not place any additional administrative burden on operators as it would align with existing charging regimes used elsewhere in OPRED for environmental regulation, with invoices issued quarterly.

## Charging process

Charges will be calculated on an 'actuals' basis. That is, the recovery of the full costs of the time spent by OPRED staff carrying out the relevant function on any occasion.

The way in which the Department has approached the calculation of the relevant costs follows HM Treasury's Managing Public Money guidance<sup>3</sup> and will include the full cost of all the resources used in carrying out and supporting the cost-recoverable activity. The costs will include (but are not limited to):

- Gross salaries of direct staff
- Staff carrying out the work, their line managers and support staff
- General Administrative Expenditure
- Accommodation costs
- Use of information technology

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<sup>3</sup> <https://www.gov.uk/government/publications/managing-public-money>

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- Travel and subsistence
- Staff development and training
- Office services (for example, postage and telecommunications)
- Services bought from external suppliers
- Any other appropriate costs that may arise
- Corporate services
- Common services (for example, finance and planning, human resources, senior management, legal services, and business services such as learning and development)

The Department intends to use its new powers to charge a fee payable based on the application of an hourly rate. The Secretary of State would have powers to make regulations to determine the amount of any fee or charge payable.

The Department would not be seeking to make a profit from such a fee or charge, but merely recover its costs in carrying out those functions. As the Department enables and facilitates the decommissioning programme process it would therefore seem fair that the companies leading to this expenditure should make a contribution to such costs and enable the Department to maintain those functions ensuring that the costs of decommissioning are met by Industry and not the taxpayer.

### **Methodology used to calculate amounts payable**

With the introduction of charging per statutory function, at an hourly rate, the current indicative fee regime would no longer be used.

The applicable fee or charge will be reviewed at a frequency determined by the Department, and at least annually, to facilitate the full recovery of relevant costs.

The fee or charge is calculated based on the time spent on a particular cost-recoverable function multiplied by the relevant predetermined hourly rate. The Department has developed a recording system to generate the relevant information. This recording system is already used by the environmental team and offshore inspectors.

### **Administrative and financial arrangements**

Prior to the issue of invoices for cost-recoverable activities, The Department will provide a breakdown of the time spent on cost-recoverable activities under each statutory function covered by this consultation. The breakdown will cover a specified period, but it is possible that it will contain costs relating to activities that commenced during an earlier period.

The breakdown will include information such as Operator, Field, Activity, Reference number.



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Where a purchase order or separate purchase orders is/are required to facilitate payment of an invoice or separate invoices, the purchase order number or numbers must also be submitted to the Department within 30 days of receipt of the breakdown.

Invoices will generally be issued within five (5) working days of receipt of a purchase order number or numbers, or confirmation that a purchase order is not required. If no response to the breakdown is received, the invoices will generally be issued 30 days after submission of the breakdown. The invoices will detail the total amount(s) payable to cover fees for the period stated in the breakdown.

Payment will be due within 30 days of the date of the invoice, and outstanding debts will be actively pursued in accordance with BEIS's debt recovery procedures.

## Policy Options Considered

Option 1: The charging regime remains unchanged. We continue to charge using the existing charging powers for decommissioning programme approval and revision approval based on an indicative fee per type of installation. Our view is that this option is no longer tenable as it does not enable proper cost recovery for fulfilling our regulatory obligations.

Option 2: Make, by inserting new charging powers into the Act, amendments to our charging regime, to align with the statutory functions of the Secretary of State which provide a service to industry under Part IV of the Act. This is currently the preferred option as it will ensure companies directly benefiting from the regulatory services meet the cost associated with its provision. The charging regime for decommissioning activities would be brought into line with that for environmental fee recovery.

Option 3: Introduce amendments to our charging regime as described above for Option 2, but charging on completion of statutory function / activity, rather than regularly as proposed in option 2. Our view is that this option is complex and differs from the already established method for environmental fee recovery.



## Consultation questions

- 1. Do you have any comments on the Department's proposals to charge a fee for all its statutory functions carried out under part 4 of Petroleum Act 1998?**
- 2. Do you have any comments on the Department's intention to expand its statutory functions under the Act to allow it to charge for post decommissioning approval activities?**
- 3. Do you have any comments on the Department's proposals to change the fee regime from charging at Decommissioning Programme approval and revision to charging at regular defined points?**
- 4. Do you have a preferred charging scheme method from the list of options as discussed in this document?**
- 5. Do you have an alternative option(s) that you wish the Department to consider?**

## Next steps

The deadline for responses to this consultation is 16 August 2021.

The Department will review the responses to the consultation, considering all views and will determine what our new charging regime will look like. To make changes to the charging regime will require Primary legislation to be amended, and how the charging regime works will be set out in Secondary legislation. These changes will take considerable time and the Department will inform industry before any changes are implemented.

Guidance Notes for decommissioning offshore (oil and gas) installations and pipelines under the Petroleum Act 1998 are available at: <https://www.gov.uk/guidance/oil-and-gas-decommissioning-of-offshore-installations-and-pipelines>. Subject to the outcome of this consultation and the Parliamentary process, when Regulations are made to implement the proposals set out in this consultation document, the Department will update the Guidance Notes to reflect this.

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This consultation is available from: <https://www.gov.uk/guidance/oil-and-gas-decommissioning-of-offshore-installations-and-pipelines>

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