



Department for
Business, Energy
& Industrial Strategy

A CHARGING SCHEME FOR OFFSHORE INSTALLATIONS MADE UNDER ARTICLE 35 OF THE GREENHOUSE GAS EMISSIONS TRADING SCHEME ORDER 2020 (AS AMENDED)

June 2022



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Background

The Greenhouse Gas Emissions Trading Scheme Order 2020 (as amended) (“the Order”) makes provision for the Secretary of State to recover costs associated with matters under the Order. The associated fees must be set out in a charging scheme.

It is the intention of the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) to secure full cost recovery for all relevant regulatory activities relating to offshore oil and gas operations, gas unloading and storage operations and carbon dioxide storage operations.

The current charging scheme has been in place since January 2021. This document replaces the January 2021 charging scheme and has been in place since 1st July 2021.

The BEIS OPRED hourly rate costs for specialist and non-specialist staff have recently been reviewed based on revised full economic staff costs, accommodation costs, IT costs and relevant consultancy costs.

Environmental specialists are technical staff who carry out the relevant functions of the Secretary of State and non-specialists are administrative staff.

Following that review, the BEIS OPRED hourly rates are to change and will come into force on the day after the date on which the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022 (“the Fees Regulations”) are made in Parliament.

This document replaces the 2021 charging scheme. It incorporates the new hourly rates and explains the arrangements for invoicing and payment in regard to the Order.

Guidance providing a detailed description of all the charging schemes and the cost recovery process is available at <https://www.gov.uk/guidance/oil-and-gas-fees-and-charges>.

The Greenhouse Gas Emissions Trading Scheme Order 2020

The Greenhouse Gas Emissions Trading Scheme Order 2020 (the Order) was introduced to limit, or encourage the limitation of, the emission of greenhouse gas emissions by businesses.

The Order was amended by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020, which makes further provision for the UK Emissions Trading Scheme (the “UK ETS”); in particular, the free allocation of allowances and a registry for the UK ETS.

The relevant aspects of Articles 35 and 36 of the Order which detail provisions relating to a charging scheme for offshore oil and gas installations are set out below:

Charges

35 (1) The regulator or the registry administrator may charge an applicant, operator, aircraft operator or any other person an amount as a means of recovering costs incurred by the regulator or the registry administrator in performing activities in accordance with or by virtue of this Order.

(2) The activities referred to in paragraph (1) include—

- (a) giving advice in relation to an application under or by virtue of this Order or any other advice in relation to the operation of the UK ETS;*
- (b) considering an application under or by virtue of this Order;*
- (c) issuing, varying, transferring, cancelling, surrendering or revoking a permit;*
- (d) issuing or varying an emissions monitoring plan;*
- (e) giving any notice or other document provided for by or under this Order;*
- (f) receiving any notice or other document provided for by or under this Order;*
- (g) monitoring compliance with this Order;*
- (h) making a determination of emissions or aviation emissions under article 45;*
- (i) estimating the value of a parameter under article 34H(4) of this Order or Article 3(4) of the Activity Level Changes Regulation;*
- (j) administering an account in the registry.*

(3) A charge under paragraph (1) may include an annual or other periodic charge to an operator or aircraft operator that does not relate to any specific activity.

(4) The regulator or the registry administrator may apply different charges for different categories of person in relation to the same activity.

(5) Payment of a charge is not received until the regulator or, as the case may be, the registry administrator has cleared funds for the full amount due and a charge, if unpaid, may be recovered by the regulator or, as the case may be, the registry administrator as a civil debt.

(6) The regulator or the registry administrator may require a charge to be paid before it carries out the activity to which the charge relates.

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(7) If the regulator or the registry administrator does not require a charge to be paid in accordance with paragraph (6), it is payable on demand.

(8) Neither the regulator nor the registry administrator is required to reimburse a charge where—

(a) an activity is not completed; or

(b) the person liable to pay the charge does not remain within the scheme for all of the period in relation to which the charge is payable or has been calculated.

(9) In this article, a reference to this Order includes a reference to the Monitoring and Reporting Regulation 2018, the Verification Regulation 2018, the Free Allocation Regulation and the Activity Level Changes Regulation.

Charging scheme: regulators

36 (1) The regulator must publish a document (a “charging scheme”) setting out the charges payable in accordance with article 35(1) or how they will be calculated.

(2) Before publishing a charging scheme, the regulator must—

(a) bring the proposals to the attention of persons likely to be affected by them;

(b) specify the period within which representations or objections to the proposals may be made.

(3) A charging scheme may not be published unless it has been approved by the appropriate national authority.

(4) Where a proposed charging scheme is submitted for approval under paragraph (3), the appropriate national authority -

(a) must consider any representations or objections made under paragraph 2(b);

(b) may make such modifications to the proposals as the appropriate national authority considers appropriate.

(5) If the regulator proposes to revise a charging scheme in a material way, paragraphs (2) to (4) apply to the revised charging scheme.

(6) Paragraphs (2) to (5) do not apply in relation to a charging scheme published by the Secretary of State.

(7) In this article, “appropriate national authority” means –

(a) where the regulator is the Environment Agency, the Secretary of State;

(b) where the regulator is the chief inspector, the Department of Agriculture, Environment and Rural Affairs;

(c) where the regulator is SEPA, the Scottish Ministers;

(d) where the regulator is NRW, the Welsh Ministers.

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Charging scheme: registry administrator

36(A)(1) The registry administrator must publish a document (a “charging scheme”) setting out the charges payable in accordance with article 35(1) or how they will be calculated.

(2) Before publishing a charging scheme, the registry administrator must –

- (a) bring the proposals to the attention of persons likely to be affected by them;*
- (b) specify the period within which representations or objections to the proposals may be made.*

(3) A charging scheme may not be published unless it has been approved by the UK ETS authority.

(4) Where a proposed charging scheme is submitted for approval under paragraph (3), the UK ETS authority -

- (a) must consider any representations or objections made under paragraph 2(b);*
- (b) may make such modifications to the proposals as the UK ETS authority considers appropriate.*

(5) If the registry administrator proposes to revise a charging scheme in a material way, paragraphs (2) to (4) apply to the revised charging scheme.

To note: OPRED is neither the regulator for aircraft operators nor the registry administrator and will not be charging for any activities undertaken in relation to emissions from aircraft or by the registry administrator.

Description of the Scheme

Functions under the Order are administered on behalf of the Secretary of State by OPRED. The relevant chargeable activities are detailed above.

Specialist and non-specialist staff record the time taken undertaking the chargeable activities, for operators, applicants and others, and the individual offshore installations for which they are responsible (where applicable).

The calculated hourly rate costs for specialist and non-specialist staff will be applied to the total time spent undertaking the activities and used to calculate a fee for each activity referred to above.

The separate hourly rate costs for specialist and non-specialist staff that will be used to calculate the total fees from the day after the date on which the Fees Regulations are made in Parliament are:

- £201 for specialist staff; and
- £104 for non-specialist staff.

Fee Recovery

Article 35 of the Order requires that charges prescribed by the charging scheme must be paid to the Secretary of State. Fees will be recovered by OPRED acting on behalf of the Secretary of State.

A breakdown of the time spent by specialist and non-specialist staff on cost-recoverable activities will be provided. The breakdown will cover a specified period, but it is possible that it will contain costs relating to activities undertaken outside that period (for example, a submission received towards the end of one period, but the review not completed until the next period).

The breakdown will include information such as the name of the relevant company, installation, and the location and, where appropriate, the reference number of any relevant permit issued under the legislation.

Separate entries will be provided for any relevant offshore inspections of named installations.

Separate entries will also be provided for any investigation activity, including costs relating to dealing with any activity undertaken prior to the commencement of formal enforcement action, and for any cost-recoverable overseas visits.

A request can be made for separate invoices for different assets, providing those representations are made to OPRED within 30 days of receipt of the breakdown clearly detailing the request.

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 OPRED 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, detailing the total amount(s) payable to cover fees for the period stated in the breakdown.

Payment will be due to OPRED within 30 days of the date of the invoice.

If any invoice is not paid, BEIS will actively pursue outstanding debts in accordance with its debt recovery procedures.

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