



Department for
Energy Security
& Net Zero

DESNZ OFFSHORE ENVIRONMENT UNIT (OEU)

Cost Recovery for Offshore Petroleum
Functions – A Guide



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Introduction

This guide has been prepared for licence operators, field operators, offshore installation operators and well operators, hereafter known as “operators”, the owners of non-production installations, potential licensees and licensees, including exploration licence holders undertaking geological survey operations, the North Sea Transition Authority¹ and any others who may be interested in how the cost recovery regime for environmental functions undertaken by DESNZ OEU will operate. The cost recovery regime applies to relevant environmental functions undertaken by DESNZ OEU in respect of offshore oil and gas operations, offshore gas unloading and storage operations and offshore carbon dioxide storage operations. It provides information on the scope and nature of the functions undertaken by DESNZ OEU for which costs may be recoverable in relation to:

- The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998;
- The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999²;
- The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001;
- The Offshore Chemicals Regulations 2002;
- The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005;
- Part 4A of the Energy Act 2008 (consents to locate);
- Part 4 of the Marine and Coastal Access Act 2009 (marine licensing);
- The Greenhouse Gas Emissions Trading Scheme Regulations 2012³;
- The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013;
- The Energy Savings Opportunity Scheme Regulations 2014;
- The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015;
- The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015.

¹ North Sea Transition Authority is a business name of the Oil and Gas Authority. Oil and Gas Authority is a limited company registered in England and Wales.

² The regulations have been revoked but saved by regulation 29 of the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 in so far as they relate to a project pending a decision from the Oil and Gas Authority (now the North Sea Transition Authority) on whether to grant consent when these Regulations come into force.

³ Those provisions have been revoked but saved by regulation 45 of the Greenhouse Gas Emissions Trading Scheme (Withdrawal Agreement) (EU Exit) Regulations 2020 (the Withdrawal Regulations) so far as they relate to emissions which arose before 1st January 2021 (subject to modifications).

- Various EU Fluorinated Gas Regulations (which are now retained EU law) and the Fluorinated Greenhouse Gases Regulations 2015;
- Regulation 55 of the Conservation of Offshore Marine Habitats and Species Regulations 2017; and
- The Greenhouse Gas Emissions Trading Scheme Order 2020.
- The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020

This guide also explains how the costs are to be calculated and recovered and details the hourly fee rates.

What is cost-recoverable?

In general terms, DESNZ OEU will aim to recover the relevant costs of work associated with the processing, assessment and determination of submissions made under the relevant legislation, where possible including costs relating to providing advice and/or facilitating consultation; and work associated with the modification, transfer, surrender and revocation of any relevant approvals. In addition, DESNZ OEU will aim to recover the relevant costs associated with compliance monitoring activities, including offshore environmental inspections and investigations. However, the exact scope of the work that can be included in the cost recovery process will depend upon the provisions included in the relevant legislation.

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 ('the 2015 Regulations'), as amended, set out the applicable fees relating to:

- The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998;
- Regulation 55 of the Conservation of Offshore Marine Habitats and Species Regulations 2017;
- The Energy Act 2008, Part 4A - Consent to Locate;
- Marine licences determined by DESNZ under section 71 of the Marine and Coastal Access Act 2009;
- The Energy Savings Opportunity Scheme Regulations 2014;
- Various EU Fluorinated Gas Regulations (which are now retained EU law) and the Fluorinated Greenhouse Gases Regulations 2015;
- The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015.

Fees are also provided for in the following Regulations:

- the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015;
- The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020; and
- The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001;

There are charging schemes which set out the applicable fees relating to:

- The Offshore Chemicals Regulations 2002;
- The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005;

- The Greenhouse Gas Emissions Trading Scheme Regulations 2012;
- The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013; and
- The Greenhouse Gas Emissions Trading Scheme Order 2020.

Links to the relevant legislation are provided at Annex A.

The applicable fees will be reviewed at a frequency determined by DESNZ OEU, and at least annually, to facilitate the full recovery of relevant costs.

Cost-recoverable activities

To provide guidance on the sort of work that may be covered by a fee, the scope for cost recovery can be broken down into three types of ‘activities for which costs may be recoverable’, as detailed below:

- Advice;
- Assessment of submissions required under the relevant legislation; and
- Monitoring compliance with the requirements of the legislation and any associated permit; consent; direction; licence or other approval.

Advice

The legislation detailed in this guide includes provisions to charge for advice in relation to applications or potential applications for directions, permits, licences or other approvals. Costs for advice will include, for example, whether an application is required; the information required in support of that application; whether a project is likely to have a significant effect on the environment; and advice with respect to the refusal, revocation or surrender of a licence, permit or consent.

DESNZ OEU do not charge for general advice that is not related to an application, permit or consent or a potential application, permit or consent such as how to obtain an account on the Energy Portal.

Advice may be given verbally or in writing. In each case, DESNZ OEU will record: who the advice was given to, including contractors or consultants working on behalf of applicants/permit holders; the relevant regulation; the relevant installation; the permit number, if appropriate; the format of the advice and what the advice related to.

Assessment of submissions

Assessment costs will normally include all work associated with the provision of an auditable record of the determination of a legislative submission in accordance with DESNZ OEU procedures and/or the Offshore Major Accident Regulator (OMAR) procedures. The whole of the time that DESNZ OEU personnel spend assessing a particular potential licensee’s, licensee’s, operator’s, owner’s or exploration licence holder’s submission is cost-recoverable.

The costs will include, for example, time spent on planning the assessment; recording the findings of the assessment; communicating with the operator, owner, potential licensee or licensee (including exploration licence holders) to provide advice or obtain further information; and communicating with third parties, such as consultants or agents engaged to prepare or support a submission.

Most assessment work involves consideration of the information provided in the form of various submissions under the relevant legislation, or documents provided in support of those submissions. However, it may be necessary to supplement the documentation with visits to a company's office for discussion and clarification of the proposals.

Monitoring Compliance

Charging powers under the legislation covered by this guide will normally include provisions relating to the subsistence of a permit, consent, direction, licence or other approval, or specifically include reference to monitoring compliance with obligations under the relevant legislation or the conditions of the permit, consent, direction, licence or other approval issued under the legislation.

Monitoring compliance activities will include the checking of submissions or returns to confirm compliance with relevant obligations under the legislation or the conditions of the permit, consent, direction, licence or other approval; undertaking inspections of offshore installations or visits to onshore facilities, including for the purpose of assessing both compliance and the capacity of the operator to undertake the functions and duties in respect of which they were appointed; and undertaking investigations relating to any apparent breach of the legislation or the conditions of the permit, consent, direction, licence or other approval issued under the legislation.

Inspections

All inspection work in relation to controlled activities on, or in connection with offshore installations, including Mobile Drilling Units (MoDUs), will normally be cost-recoverable. Cost recovery applies to the normal range of activities associated with an inspection, including the auditing of processes and system, technical assessments and examinations, meeting with representatives, etc.

Examples of the sort of work likely to be undertaken in relation to an inspection include:

- Preparatory work, for example administrative time to collate existing information for the inspector, e.g. all relevant permits, consents etc. and returns, oil pollution emergency plans, safety cases, any non-compliance reports, correspondence and previous inspection reports, so that the inspector can then review the documentation and draw up a detailed plan for a specific operator, owner, exploration licence holder or installation;
- Examinations of the installation or parts of it, including making tests, taking samples, taking photographs and gathering other information;
- Examination of management systems and systems of work or work practices, including making enquiries with employees or other persons holding relevant information relating to compliance with the regulations;
- Documentation of the findings and the preparation of reports; and

- Pursuing matters with the operator, owner or exploration licence holder, or their representative, as necessary to ensure compliance with the legislation or the conditions of the permit, consent, direction, licence or other approval issued under the legislation.

The operator, owner or exploration licence holder will be informed of planned DESNZ OEU inspections. There are several factors which will affect the frequency, duration and nature of inspection visits. There may also be visits by DESNZ OEU inspectors to other locations, such as operator's, owner's, exploration licence holder's, contractor's or other person's offices or workplaces, to follow up matters arising from work carried out on or in connection with a specific installation, and this work may also be cost-recoverable. Where appropriate, inspection activity involving contractors and other third parties will be cost-recoverable via the relevant operator, owner or exploration licence holder.

Most inspections are planned in advance and prior notification is provided to the operator, owner or exploration licence holder. However, occasionally, some inspections may be undertaken at short notice where this is deemed appropriate.

For all activities involving a visit to an offshore installation or onshore facilities, the chargeable time starts at the point of departure from the normal place of work and concludes at the point of return to the normal place of work. For visits starting or ending at home, the chargeable time starts at the point of departure from the home address and concludes at the point of return to the home address, but the total time is adjusted by removing the time normally taken to travel between the home address and the normal place of work.

Investigations

When DESNZ OEU becomes aware of any activity or incident which may constitute a breach of the legislation or the conditions of any associated permit, consent, direction, licence or other approval issued under the legislation, whether as a result of an inspection, a PON1 submission, a non-compliance notification or any other means, an investigation will normally be undertaken with a view to ascertaining whether the operator, owner, exploration licence holder or any contractor operating on their behalf, is compliant with the requirements. Investigations may also arise following complaints received from third parties. This investigation work will normally also be cost-recoverable.

Examples of the sort of activities likely to be carried out to enable DESNZ OEU to decide whether compliance has been compromised include:

- Consideration of the facts given in a report or in a telephone conversation;
- A visit to an installation;
- The gathering of evidence (include forensic testing); and
- The taking of statements.

Examples of the sort of work likely to be undertaken during an inspection relating to an investigation include:

- Examination of the installation, or parts of it, or the execution of activities in connection with the installation which were relevant to the possible breach, including making tests, taking samples, taking photographs and gathering other information needed to confirm the nature or extent of the breach and to determine suitable remedial measures; and
- Examination of management systems and systems of work or work practices, including making enquiries of employees or other persons (including contractors and their employees) holding relevant information relating to the possible breach, the documentation of findings and the preparation of reports.

Investigative work is reactive in nature and cannot be pre-planned. The costs would be recovered from the relevant operator and/or owner or exploration licence holder responsible for undertaking the activities being investigated, and experience indicates that investigations are usually resource intensive and the costs can therefore be significant.

The cost-recoverable activity would start as soon as DESNZ OEU became aware of any activity or incident which potentially constituted non-compliance with the conditions of a permit, consent, direction, licence or other approval, and would finish either when DESNZ OEU is satisfied that the operator, owner or exploration licence holder has secured legislative compliance or on commencement of formal enforcement action. The costs associated with ensuring that the required remedial measures and improvements had been undertaken where this was not part of formal enforcement action would also be recoverable. However, costs incurred by DESNZ OEU with respect to formal enforcement action or its response to any appeal would not be recoverable.

Where, following an investigation, DESNZ OEU decides to take formal enforcement action, this could include the service of an improvement, enforcement or prohibition notice, to secure compliance with the legislation; the revocation of any relevant permit, consent, direction, licence or other approval issued under the legislation; or the submission of details to the relevant prosecuting authority for the consideration of criminal proceedings. The costs connected with the investigation up to the point that the formal enforcement action is commenced will normally be recovered from the operator, owner or exploration licence holder.

Examples of the sort of work likely to be undertaken after formal enforcement action is commenced, that would therefore not be cost-recoverable, would include:

- Written communication with the operator, owner, exploration licence holder or their representatives after formal enforcement action has commenced to discuss remedial measures;
- The service of improvement, enforcement or prohibition notices;
- Visits to check compliance that are not included as part of the original inspection or investigation; and
- The collection of evidence on behalf of the prosecuting authority after referral of the case for potential prosecution.

Overseas Visits

The legal powers relating to application of the fee provisions in the relevant regulations are generally limited to the United Kingdom Continental Shelf (UKCS). However, there may be occasions when DESNZ OEU personnel undertake activities abroad which are related to activities carried out or to be carried out in the UKCS. In such circumstances DESNZ OEU will seek to recover the cost of such work.

The general principles covering any chargeable overseas visit by DESNZ personnel are:

- There must be clear benefit to DESNZ OEU in influencing improvements in environmental performance on an offshore installation which is, or will be in the reasonably near future, working on the UKCS. The convenience of the licensee, operator, owner or exploration licence holder alone is not sufficient justification;
- DESNZ OEU will explore if there are any alternative methods of achieving the same aims (for example, company presentations in the UK or inspection of an installation when it arrives in UK waters); and
- The overseas visit must be essential and the most efficient and effective approach to securing compliance with the UK legislation, or to bring about a significant improvement in environmental performance.

Providing the above criteria are met and the purpose of a visit is to facilitate legislative assessment or early resolution of possible issues, the activity, including travel time and personnel time, is considered to fall into a cost-recoverable category. In most cases, it is expected that visits of this nature will be requested by the licensee, operator, owner or exploration licence holder, although there may be instances when DESNZ OEU might initiate a visit. In either case, the fact that such a visit would incur a fee will be raised with the licensee, operator, owner or exploration licence holder in advance of the visit, so that they will have a chance to make a representation as to a possible alternative approach to carrying out the proposed visit.

Where it is necessary to inspect an installation or vessel prior to its entering UK waters to work on the UKCS, the necessity and reasons for such a visit will be agreed in advance with the licensee, operator, owner or exploration licence holder and the inspection costs will be recoverable under the normal cost recovery provisions. Similarly, where an overseas visit is required as part of an investigation relating to activities on the UKCS, the normal cost recovery provisions will apply.

Fee Calculations

Fees will be calculated on an 'actuals' basis. That is, the recovery of the full costs of the time spent by DESNZ OEU staff carrying out the relevant function for a particular operator, owner, potential licensee, licensee (including an exploration licence holder), installation or the North Sea Transition Authority, on any particular occasion or occasions. The way in which DESNZ OEU has approached the calculation of the relevant costs follows HM Treasury's Managing Public Money guidance and will include the full cost of all the resources used in carrying out and supporting the cost-recoverable activity. The costs will include:

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;
- Travel and subsistence;
- Staff development and training;
- Office services (for example, postage and telecommunications);
- Services bought from external suppliers; and
- Any other appropriate costs that may arise.

Corporate services:

- Common services (for example, finance and planning, human resources, senior management and business services such as learning and development).

The cost recovery rates in force since 17th June 2022 for the legislation covered by this guide are £201 per hour for specialist staff and £104 per hour for non-specialist staff.

Who is subject to cost recovery?

Costs fall to the operator, owner, licence holder or potential licensee who is subject to the relevant legislation, or to the North Sea Transition Authority in the case of functions related to the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015.

Methodology used to calculate amounts payable

The fee is calculated based on the time spent on a particular cost-recoverable function multiplied by the relevant predetermined hourly rate. DESNZ OEU has developed a recording system to generate the relevant information.

Where costs relate to the OMAR partnership with the HSE to regulate offshore safety and environmental risks covered by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015, DESNZ OEU and the HSE will recover costs separately according to the relevant legislation.

Administrative and financial arrangements

Prior to the issue of invoices for cost-recoverable activities, DESNZ OEU will provide a breakdown of the time spent by specialist and non-specialist staff on cost-recoverable activities under each item of legislation covered by this guide. 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 (e.g. a submission received, or an inspection undertaken towards the end of one period, but the review or report was not completed until the next period).

The breakdown will include information such as the name of the relevant company, installation or vessel, the location and, where appropriate, the reference number of any relevant submission, permit, consent, direction, licence or other approval issued under the legislation. Separate entries will be provided for any relevant inspection or investigation activity, and for any cost-recoverable overseas visits.

Operators and owners can request separate invoices for different assets, and exploration licence holders can request separate invoices for different geological surveys, providing they make their representations to DESNZ OEU within 30 days of receipt of the breakdown clearly detailing their 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 DESNZ OEU within 30 days of receipt of the breakdown. Should the purchase order number change for any reason, the Department must be notified of the change immediately.

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 DESNZ's debt recovery procedures.

Invoicing and debt recovery functions will be carried out by administrative support personnel, and environmental specialist staff are not responsible for the issuing of invoices nor for any follow up actions relating to the non-payment of invoices. Queries on invoices and charging policy should therefore be referred to the address detailed below.

Procedure for handling queries and disputed invoices

If an operator, owner, licence holder, potential licensee or the North Sea Transition Authority has a query about a breakdown or an invoice, they should contact DESNZ Fees Team at the address detailed on the page below to seek to resolve the issue. If it is not possible to resolve the issue, the matter will be referred to the Deputy Director of the DESNZ Offshore Petroleum Regulator for Environment and Decommissioning. If the matter still cannot be resolved, it will be referred to the Director of the DESNZ Offshore Petroleum Regulator for Environment and Decommissioning.

Contact

Should you need advice on the operation of the cost recovery system or have any queries about the system, a specific invoice or the method of payment, please contact

OPRED.Fees@energysecurity.gov.uk.

Annex A

Please satisfy yourself that the link below provides the most up to date version of the legislation.

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/uksi/2015/1431/contents/made>

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2016

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/uksi/2016/529/contents/made>

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) (No. 2) Regulations 2016

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/id/uksi/2016/1042>

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2017

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/uksi/2017/404/made>

The Oil and Gas Authority (Levy) and Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2018

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/uksi/2018/311/contents/made>

The Oil and Gas Authority (Levy) and Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2019

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/ukxi/2019/439/contents/made>

The Oil and Gas Authority (Levy and Fees) and Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2020

A copy of the Statutory Instrument can be obtained at:

<http://www.legislation.gov.uk/ukxi/2020/208/contents/made>

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2021

A copy of the Statutory Instrument can be obtained at:

<https://www.legislation.gov.uk/ukxi/2021/741/contents/made>

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022

A copy of the Statutory Instrument can be obtained at:

<https://www.legislation.gov.uk/ukxi/2022/672>

The charging schemes for The Offshore Chemicals Regulations 2002 (as amended), The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended), The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (as amended), The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 (as amended) and The Greenhouse Gas Emissions Trading Scheme Order 2020 can be obtained at: <https://www.gov.uk/guidance/oil-and-gas-fees-and-charges>.

This publication is available from: www.gov.uk/desnz

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