

16 March 2020

Response to Marine Scotland Offshore Renewables Decommissioning Guidance Consultation

Scottish Renewables

Scottish Renewables is the voice of Scotland's renewable energy industry, working to grow the sector and sustain its position at the forefront of the global clean energy industry. We represent around 260 organisations working across the full range of renewable energy technologies in Scotland and around the world, from large suppliers, operators and manufacturers to small developers, installers and community groups and companies right across the supply chain.

RenewableUK

RenewableUK's members are building our future energy system, powered by clean electricity. We bring them together to deliver that future faster; a future which is better for industry, billpayers, and the environment. We support over 400 member companies to ensure increasing amounts of renewable electricity are deployed across the UK and to access export markets all over the world. Our members are business leaders, technology innovators, and expert thinkers from right across industry. On behalf of members within our Offshore Consents and Licensing Group (OCLG), the following feedback sets out several broad themes and specific questions industry has on the proposed guidance.

Summary

Scottish Renewables and RenewableUK welcome the opportunity to respond to this Marine Scotland consultation on offshore renewables decommissioning guidance and welcome the development of policies and procedures for the decommissioning of offshore renewable energy projects.

To ensure a consistent approach for the UK, across England, Scotland and Wales, clarity in the application of the guidance will be required in addition to an effective and joined up approach between key stakeholders – namely The Crown Estate, Crown Estate Scotland, Marine Scotland and the Marine Management Organisation.

Industry comments on the draft guidelines have clustered around the following core issues, where it is felt a revision or further discussion would be helpful:

- Deep water operations/full removal policy
- Timescales and reviewing processes
- Aspects of financial securities
- Treatment of commercial information

Scottish Renewables and RenewableUK would be very happy to engage in collaborative discussion as these important guidelines are finalised.

1. This is the first version of the guidance for decommissioning offshore renewable energy installations in Scottish waters. We have, where possible, kept this in line with the UK Government's guidance.

Do you agree or disagree with this approach?

Please explain your view.

Agree – Industry would welcome a broadly consistent approach to offshore renewables decommissioning in both Scotland and England. However, industry notes that Scotland's deeper waters mean that there is already a built-in competitive disadvantage in relation to complete-removal decommissioning in Scottish waters, and that the guidelines could reflect that by being more explicit that projects will be assessed on a case-by-case basis.

Where the guidance differs between Scotland and England, this should be noted explicitly, particularly with regards to the following differences identified:

Submission of first draft decommissioning programme: Industry notes that the difference in submission timeline requirements between Scotland and England means Marine Scotland's approach is more onerous than BEIS' requirement. Marine Scotland's requires submission to Scottish Ministers ~18 months in advance of construction, comparatively to BEIS requiring submission only 12 months.

Environmental assessment and surveys: The Marine Scotland guidance does not include a section on environmental assessment and surveys prior to decommissioning. Industry assumes that this omission is because decommissioning activities will be subject to a separate marine license issued by Scottish Ministers, which will likely contain prior to commencement conditions (such as any required surveys) but would welcome clarity on whether this is the case.

2. The main proposed variation from the UK Government's approach is in relation to test centres. The BEIS guidance states that test centres remain responsible for ensuring decommissioning of tenants. The Scottish Government is proposing that plans for tenants should instead be approved by Marine Scotland. Do you agree or disagree with this approach? Agree Disagree Please explain your view.

Agree. Requiring early-stage developers to engage directly with the regulator can help to build commercial and regulatory experience.

However, we strongly support the position of EMEC, Scotland's world-leading test centre, that draft clause 4.11 would result in an unacceptable level of financial risk for any test centre. As Marine Scotland will be responsible for the collection of financial securities, industry feels that it would be appropriate for Scottish Ministers to be the funder of last resort as well. An alternative route might be via the seabed owner (CES).

3. Do you agree or disagree with the proposed approach and timings in relation to financial securities set out in Section 9 of the draft guidance? Agree/Disagree Please explain your view.

For offshore wind: Agree. The proposal to require mid-life accrual from year 10 of a CfD period is acceptable, although some developers feel that a requirement simply to have funds in place by the end of the CfD period would be sufficient. Industry wishes to highlight the fast-developing nature of the CfD auction mechanism, which most recently led to contract strike prices for offshore wind lower than forecast wholesale prices. It is arguably

no longer acceptable to refer to the scheme as a subsidy, when it is conceivable that offshore projects will be paying back to the state for duration of their contract.

For wave and tidal installations: Disagree. A more proportionate requirement than upfront cash is required for those technology developers who are well-established and have demonstrable experience of delivering projects, but do not have consistent revenue support such as ROCs. Industry would welcome discussions on designing a 'middle option', that would enable further vital innovation in this area of renewables.

Industry would welcome clearer definition of "full security" – does this refer to the cost of decommissioning at present, or at the final point of decommissioning?

Industry feels that the requirement to include VAT in costings for territorial water projects is a significant requirement that requires further justification. If the Scottish Government became responsible for decommissioning, it would have access to private funds held in security, rather than spending public money, so it would be useful to have a fuller rationale from officials.

Industry also feels strongly that scrappage income should be permitted in the calculation of secured amounts. The guidelines justify this exclusion by referring to commodity volatility but given the need for review, when prices can be adjusted, it seems inconsistent to treat scrappage income in this way. Industry would welcome discussion on an acceptable way forward for forecasting scrappage costs.

4. We are proposing to include a requirement for developers to set out inflation on their securities up to the end of the project lifetime, as set out in the draft guidance document at section 8.8-8.11. Do you have any comments on this proposal? Please explain your view.

Securities should be in place to cover the decommissioning costs applying as of the current year

Industry is keen to ensure that there is no double-counting of inflation costs, and that this guidance aligns with any comparable requirements from Crown Estate Scotland.

5. Do you agree or disagree with the proposed timescales for review of decommissioning programmes set out in sections 5.24 – 5.29? Agree Disagree Do you have any further comments on these suggested review schedules?

Disagree. Industry has suggested it would be more proportionate to have, following the post-construction report, an ongoing review process that is based on material changes rather than fixed periods. Annual reviews with notification letters, and the timescales pre-decommissioning (5.27) seem overly prescriptive.

This section of the guidance could instead set out a list of circumstances that would trigger reassessment, perhaps based on the points set out in 5.25.

6. We aim to ensure that all future offshore renewable energy installations have an approved decommissioning programme in place prior to construction, as this will help to manage the risk of projects going into the water without proper plans in place for removal. How achievable is this for developers? What are the challenges for different types of project? Please explain your view.

Industry is concerned that this requirement, despite its good intentions, is not deliverable. Requiring plan approval rather than submission at this stage could add uncertainty and risk to the overall process, as developers will clearly not have full details at this stage.

Industry would welcome further clarity on why this is a requirement so early on (drafts at 18 months), and what the rationale is for the difference with BEIS guidelines. For wave and tidal projects seeking to test at EMEC, these timescales are not at all practical, with typical engagement with tenant beginning 3-9 months in advance of deployment, depending on the scale of testing.

Industry is also concerned that any lack of resource from Scottish Ministers in approving the programme could have an impact on the commencement of construction, and that reciprocal commitments should be made on response times.

7. We have provided a draft template for a decommissioning programme as this was something that was highlighted as good practice from the oil and gas sector. Do you think that a template is useful? Yes/ No Do you have any suggestions on how it could be improved?

In general, industry notes that the requirement for content to be included in the template is very detailed and would welcome clarity as to why this level of detail is required.

The requirement to provide financial modelling seems disproportionate, and we would ask for reconsideration on this point.

Additionally, industry raises the following comments on specifics of the template:

Section 4 -

- A detailed description of items to be decommissioned is required.
- The requirement for a first draft of the document 18 months ahead of construction is too far in advance. A more phased approach should be considered.
- Industry notes that the difference in submission timeline requirements between Scotland and England means Marine Scotland's approach is more onerous than BEIS' requirement. Marine Scotland's requires submission to Scottish Ministers ~18 months in advance of construction, comparatively to BEIS requiring submission only 12 months.

Section 5 –

- Details of items left in situ are required.
- Further clarity if required on the definition of "clear seabed" (cables left in situ or removed).

Section 8 –

- The application of the template for costs/ securities is not clear: columns are in place for costs in "today's money" and for costs "at the point of decommissioning", against each work package. Additionally, there is a row for "inflation" and a separate "inflation calculator". It would seem logical that the figure in the "inflation calculator", be passed through into the "inflation" row, negating the need for the second column.

8. It seems likely that there will be cases where part of a windfarm or array may reach the end of its lifetime earlier than others, for example where the turbines at

the edge wear out more quickly than those at the centre. We would be interested to hear views on how decommissioning might work in these scenarios, for example whether non-functioning turbines could or should be left in situ until the rest of the windfarm or array can be decommissioned, and what the risks of this approach might be, or any other risks or opportunities relating to the idea of “step-down” decommissioning. Please explain your view.

Where part of a windfarm or array may reach the end of its lifetime earlier than others, industry would like to see the approach to decommissioning reflected in the consent conditions of the project or array to ensure planning policy consistency across Scotland. Alternatively, industry would welcome an approach that deals with such scenarios on a case-by-case basis via periodic reviews of the decommissioning programme, noting that under section 36 consents Scottish Ministers have existing powers to require the removal of non-generating turbines.

Industry has presented a range of scenarios that would all require a flexible approach from Marine Scotland and CES, and it feels that further discussion will be needed to understand the constraints of lease conditions. Examples raised include:

- The impact of removing some turbines on the inter-array electrical setup
- Potential commercial efficiencies of partial decommissioning in combination with other vessel work nearby, which would require short approval times.

9. In relation to the Partial Business and Regulatory Impact Assessment, do the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Yes/ No If so, please explain these.

The accrual of securities poses a significant financial cost to developers and obtaining approval prior to offshore construction could lead to increased construction and commissioning costs for projects through any delays to the construction programme. That said, industry supports the principle and the positive approach to providing offshore decommissioning guidance for renewable energy projects.

10. Do you have any further comments on the draft guidance? Please explain your view.

Commercially sensitive information: Industry understands that decommissioning plans are likely to be made public. Industry would welcome clarity on how commercially sensitive information (e.g. business plans, cash forecasts) will be treated given the commercial risk of sharing confidential information. Further clarity would be welcome on the role of the Scottish Parliament’s Finance and Constitution Committee: whether it will consider plans in private, and what information will be included in the Committee’s reports.

Review period: Industry would welcome clarity on whether Marine Scotland intends to review the guidance and if so, what the likely review period will be and the expected impact of any changes on implementation. For instance, if the decommissioning programme is changed, is it subject to re-approval and what would be the requirements here? If the conditions are always changing, does a developer ever have an approved plan?

Definition of ‘partial decommissioning’: Industry would welcome further clarity on this definition as it is unclear within the guidance – is this something which is flexible?

Territorial seas limit: Industry understands that as this guidance relates to the Marine Scotland Act, it will apply to infrastructure located within territorial waters. Industry would welcome clarity on which regime will apply to applications beyond the territorial seas limit – for instance, will these installations revert to the Marine Management Organisation’s regime/ guidance rather than Marine Scotland’s?

Full removal of infrastructure: As with the equivalent oil and gas decommissioning practice, Section 7 on environmental and safety considerations sets out a clear presumption towards full removal of infrastructure from the marine environment on decommissioning (acknowledging that the IMO sets out circumstances in which potential exemptions may apply), however:

- It may be beneficial for this guidance to expand on the range of exceptions that may be considered (in addition to a developer/ owner referring to the oil and gas comparative assessment methodology for considering and demonstrating the case for decommissioning) and under what circumstance a comparative assessment may be appropriate – this type of expanded guidance is given in the oil and gas guidance equivalent with reference to OSPAR (particularly decision 98/3 which wouldn’t apply here) and the Petroleum Act for pipelines etc. Where it is clear that a recognised exemption applies, industry would argue that it should not be a requirement to provide costings and security for full removal.
- In the interest of ensuring consistency across offshore renewables’ decommissioning plans, industry would like to understand whether Marine Scotland intends to publish its own version of the oil and gas comparative assessment – better tailored to offshore renewables’ industry specific factors. The oil and gas methodology is scalable, sets out a range of evaluation method options (ranging from purely qualitative discussion through to quantitative assessment of parameters) and has been successfully applied across a range of oil and gas projects. However, it is likely that the criteria and sub-criteria for evaluation set out within the oil and gas guidelines may not be entirely appropriate for offshore renewables.
- Industry would welcome explanation on how the presumption towards removal can be reconciled against the more likely approach within the offshore renewables sector of repowering/ upgrading of facilities – where old is removed, but then replaced with new and improved technology. Removal makes sense for a sector such as oil and gas where a non-renewable resource is being exploited, however, for renewables, consideration should be given to repowering as an alternative – particularly as it is unlikely that the need for the power generated will disappear at the point of decommissioning. Rather than the developments being removed at the end of engineering life, an approach of staged repowering throughout their lifetime is anticipated, with a portion of the technology being upgraded and replaced throughout the life of the project, with the project lifetime being extended as required.
- Industry notes that the presumption towards full removal of infrastructure perpetuates the current regulatory position which doesn’t necessarily acknowledge the growing body of environmental science evidencing that full removal may not necessarily be the best environmental outcome.

Post-decommissioning: Industry would welcome further detail on the requirement around third-party evidence, described in 7.12, as this is not required under the BEIS guidelines. Industry also seeks further detail on the length of time that post-decommissioning monitoring will be expected to last, and how this will be controlled when CES leases will have ended.

Best practice: Industry would welcome a section on how lessons learnt, and best practice can be captured and shared across the industry, and any ways that Marine Scotland could facilitate this within review processes for both decommissioning plans and the guidelines themselves.

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