

Thinking about doing any North Sea Decommissioning?

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Decommissioning – A Massively Complex Business!

- Strategic – MER Strategy/Energy Act 2016
- Regulatory – Petroleum Act 1998 Part 4
- Licence Model Clause 15
- International – OSPAR
- Environmental
- Contracting Modality
- Taxation/DRD
- Decommissioning security – deal making
- Insurance for decommissioning



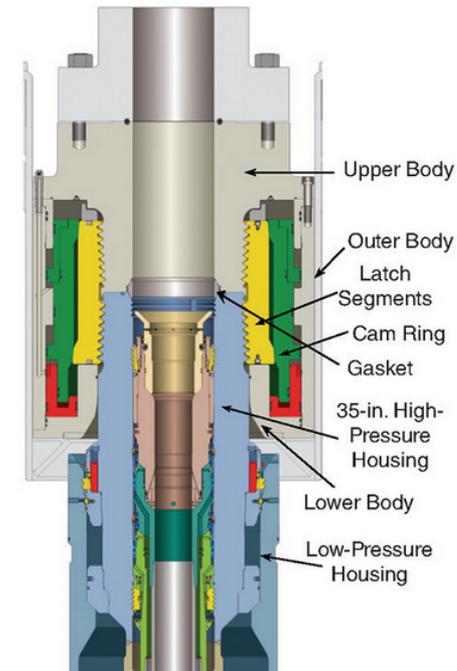
Two Regulators

- OGA
- BEIS



A Bi-Furcated System

- One system for Well P&A
- Another system for “Facilities”



International Law

- UNCLOS III, Article 60(3)
- Convention on the Protection of the Marine Environment of the North East Atlantic 1992 (OSPAR)
- OSPAR Decision 98/3



Fundamental Decommissioning Rules

- Basic rule of Decision 98/3 is that offshore structures cannot be dumped at sea or left wholly or partially in place.
- The rule can be derogated for steel structures (footings) which weigh more than 10,000 tonnes in air. There is also a potential derogation for concrete structures.
- No derogation for steel structures laid after 9 Feb 1999
- OSPAR does not apply to pipelines. In certain circumstances these can be buried or trenched in situ.

Well P&A

- Obligation to plug and abandon wells comes from Licence Model Clause
- Well Decommissioning Guidelines, Oil & Gas UK
- OGA is in charge of this
- 45% of entire decommissioning cost estimated to lie with P&A

Decommissioning of Installations

- Governed by Petroleum Act 1998 (as amended) Sections 29-45
- Broad meaning of “installation” – Section 44
- Liability established by issuance of Section 29 notice
- If more than one person receives a Section 29 notice relative to the same installation / pipeline then liability is joint and several.

Who gets a Section 29 Notice?

- Overwhelmingly, licensees with an economic interest in the field and its installations
- But Section 30 also adds potential other holders
- Parent companies
- Persons who manage an installation

Further to Section 29

- It is up to BEIS to decide whether to withdraw Section 29 upon an asset disposal.
- New asset owners would expect to be issued new Section 29 but parties may suggest that exiting party retains liability.
- Even if asset seller has its Section 29 notice withdrawn it can ALWAYS be pulled back to pay for the installation covered by the original Section 29. Section 34

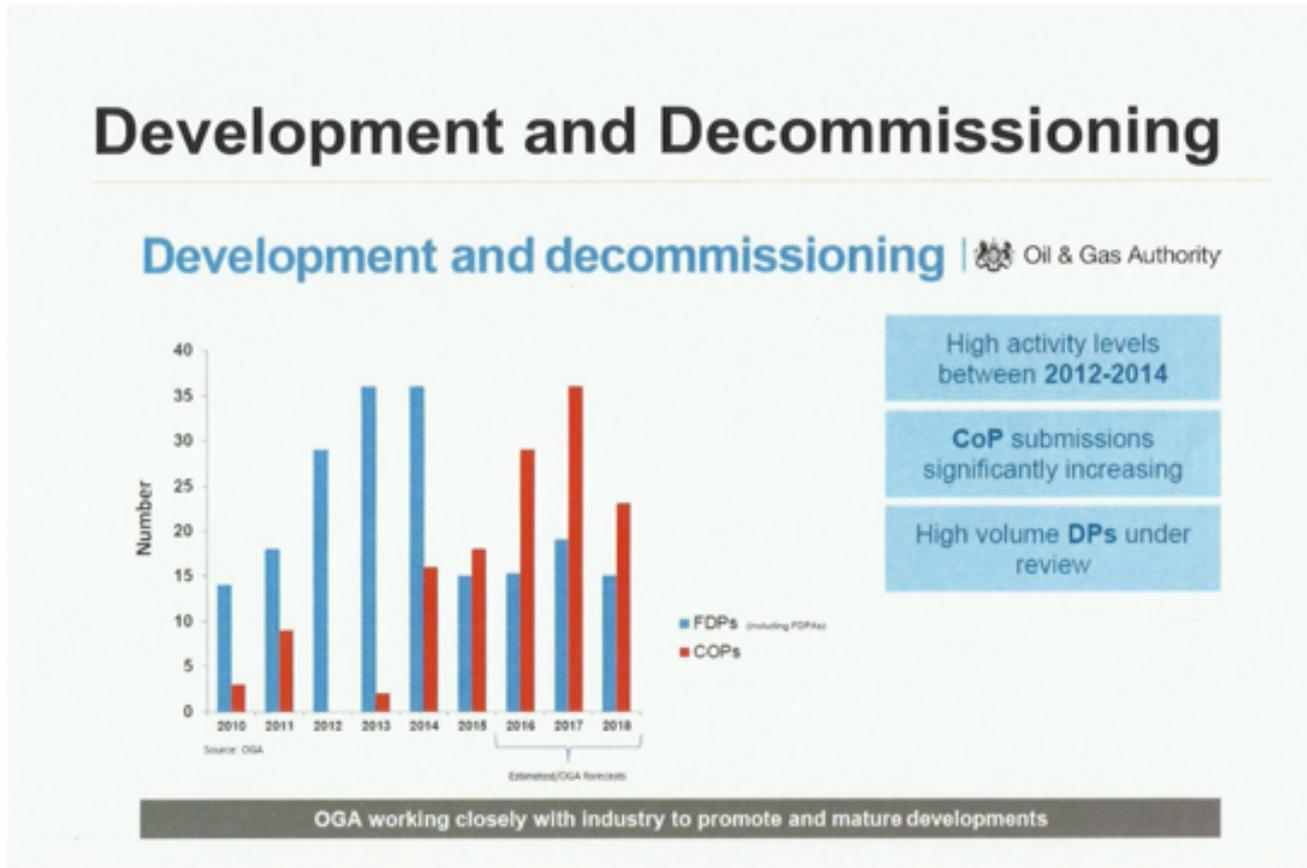
Further Regulatory Powers of BEIS

- BEIS has broad powers to obtain financial data against persons who either: (i) could receive a Section 29 notice; or (ii) have received a Section 29 notice.
- Can require a holder to put up financial security
- Funds set aside for decommissioning invulnerable to bankruptcy of Section 29 holder
- Can require a holder to publish details of the extent of its “protected” funds.

BEIS Decision-Making

- BEIS receives a list of COP orders each year and contacts the operators.
- BEIS works with operators on draft Abandonment Programmes (APs)
- BEIS mainly takes decision on basis of Guidance on Decommissioning.

Development and Decommissioning



MER – the Key Principle

“This Report details the key principles of MER UK, central to which will be the regulator exercising its functions with a view to securing the maximum amount of economically recoverable petroleum from UK waters, and licence holders required to act in a manner **best calculated to give rise to the recovery of the maximum amount of petroleum from UK waters as a whole, not just that recoverable under their own licences**”.



Wood Review



Infrastructure Act

Section 41 – The Key Provision

9A The principal objective and the strategy

- 1) In this Part the “principal objective” is the objective of maximising the economic recovery of UK petroleum, in particular through –
 - a) development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure), and
 - b) Collaboration among the following persons-
 - (i) holders of petroleum licences;
 - (ii) operators under petroleum licences;
 - (iii) owners of upstream petroleum infrastructure;
 - (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure;
 - (v) owners of relevant offshore installations.
- 2) The OGA must produce one or more strategies for enabling the principal objective to be met.

Strategy – MER Parties

- Licensees
- Operators
- Owners of upstream petroleum infrastructure
- Owners of relevant offshore installations
- Persons planning and carrying out the commissioning of upstream petroleum infrastructure

The Central Obligation – Para. 7

Relevant persons must, in the exercise of their relevant functions, take the steps necessary to secure that the maximum value of economically recoverable petroleum is recovered from the strata beneath UK waters.

Decommissioning – Para. 20

20. Before commencing the planning of decommissioning of any infrastructure in relevant UK waters, owners of such infrastructure must ensure that all viable options for their continued use have been suitably explored, including those which are not directly relevant to the recovery of petroleum such as the transport and storage of carbon dioxide.

Decommissioning – Para. 21

21. Relevant persons must decommission infrastructure located in relevant UK waters in the most cost effective way that does not prejudice the maximising of the recovery of economically recoverable petroleum from a region. This includes ensuring due regard is given to the obligations in paragraph 18 insofar as they apply to decommissioning (emphasis added).

Decommissioning – Para. 22

22. Where the OGA produces a plan under paragraph 23, which relates to the obligation in paragraph 20, it may identify particular pieces of infrastructure the decommissioning of which would prejudice the maximising of the recovery of economically recoverable petroleum in a region.

Relinquishment/Divestment – Para. 30

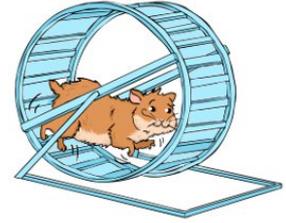
30. Where this paragraph applies, by virtue of paragraphs 31 or 32, relevant persons must allow others to seek to maximise the value of economically recoverable petroleum from their licences or infrastructure including by divesting themselves of such licences or assets to other financially and technically competent persons who are able to recover economically recoverable petroleum.

Relinquishment/Divestment – Paras. 31 - 32

31. Where relevant persons are not able to ensure the recovery of the maximum value of economically recoverable petroleum from their licences or infrastructure for financial reasons they must seek to secure investment from other persons. If they are not able to secure sufficient investment in a reasonable time, the obligation in paragraph 30 applies.
32. The obligation in paragraph 30 applies in all other circumstances where relevant persons decide not to ensure the recovery of the maximum value of economically recoverable petroleum from their licences or infrastructure, including where the reason for the decision not to recover is because recovery generates returns which are unsatisfactory to the relevant persons, they cannot raise suitable finance or there are technical or other non-economic reasons.

Relinquishment/Divestment – Para. 34

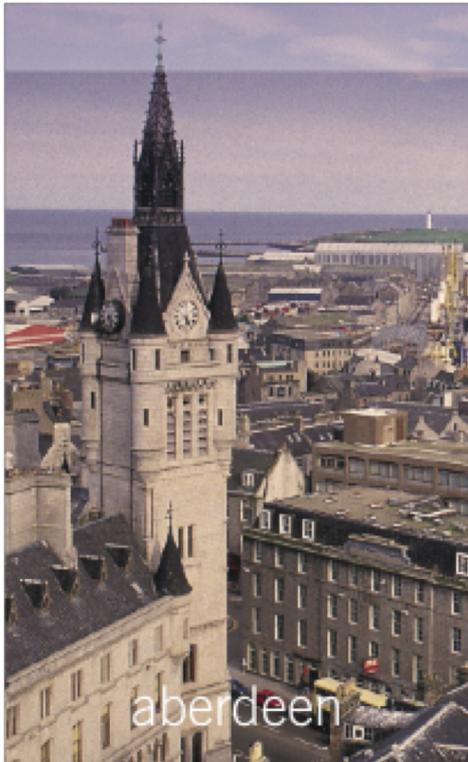
34. Where after a reasonable period the relevant person is unable to secure alternative funding or to divest themselves of the asset then, if the recovery of maximum value of economically petroleum would achieve a satisfactory expected commercial return they shall relinquish the related licenses.



A Possible Example: Decoms Conundrum

- A owns and operates critical infrastructure (listed in an OGA Plan) which it wants to decommission.
- B feeds a small field's throughput into the infrastructure and C and D hold licences with several discoveries nearby.
- In order to maximise the "economically recoverable petroleum" on the licences of B, C and D, OGA requires A to continue operating the infrastructure at a loss.
- A pleads SECR and attempts to relinquish but no buyer is found.
- Per Para. 34, a requirement to continue operating will not produce SECR. Are we back to the start?

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