
THE CROWN ESTATE’S GUIDANCE ON THE DECOMMISSIONING OF SUBMARINE TELECOMMUNICATIONS CABLES

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1. INTRODUCTION

- 1.1 The Crown Estate has developed this guidance in support of licensing arrangements to advise applicants on decommissioning requirements.

- 1.2 This guidance offers a framework and is not intended to be prescriptive. The principles presented will be reviewed regularly and adapted in accordance with any future changes in legislation and policy. The Crown Estate intends to make the process of submission and approval of a decommissioning programme as straight forward as possible, allowing adequate time for full consideration but without unnecessary delay. We recognise that circumstances will vary from case to case and that differing approaches may be required.

- 1.3 Any person or organisation, who constructs, extends, operates or uses any temporary or permanent installation on Crown Estate owned seabed should be responsible for ensuring that the installation is decommissioned to an appropriate standard at the end of its useful life, and should be responsible for meeting the costs of decommissioning.

- 1.4 All developers seeking to obtain Crown Estate consent for the installation and operation of a submarine telecommunication cable on Crown Estate owned seabed (within 12nm) will be bound to comply with the decommissioning requirements that are current at the date of decommissioning.

2. BACKGROUND

2.1 In the absence of a statutory regime for the decommissioning of submarine telecommunication cables the extent of infrastructure allowed to remain following the permanent cessation of use, is at the discretion of The Crown Estate, acting reasonably.

2.2 The general principle is one of complete removal but we recognise that in certain circumstances this may not be appropriate. The Crown Estate expects all apparatus to be properly decommissioning and requires all proposed decommissioning works to comply with the relevant sections of recommended policy and guidelines for similar offshore developments and the conditions of seabed consents.

2.3 DECC (The Department for Energy and Climate Change) and IMO (international Maritime Organisation) guidelines adopt the following recommendations when determining decommissioning procedures for offshore installations;

- A general presumption in favour of full removal with recovered infrastructure reused, recycled or incinerated with energy recovery or disposal at a licensed site,
- Exceptions to this general presumption will apply, where individual circumstances may not allow for full recovery resulting in all or part of the device remaining in situ.
- Installations can remain in situ where a second use had been identified and confirmed, or the process of removal presents an unacceptable level of risk to the marine environment and/or personnel involved, or made unfeasible by the occurrence of technical obstacles.

2.4 The information provided in DECC and IMO guidance addresses similar issues to those encountered in the decommissioning of submarine cables, and in the absence of a statutory regime for Submarine Telecommunication Cables this guidance has been referred to. The Crown Estate will seek to replicate the relevant areas of this guidance and policy, where appropriate.

2.5 In the event that a statutory regime for the decommissioning of submarine telecommunication cables is implemented the Licensee and The Crown Estate will comply with it. The introduction of a statutory decommissioning scheme would likely require developers to prepare only one decommissioning programme, this programme would meet all decommissioning obligations in respect of Crown Estate and Statutory requirements.

2.6 The criteria listed under clause 2.3 will dictate the requirement for decommissioning and the extent of removal but consideration should also be given to the impact on other marine users (e.g. safety of navigation) and resulting changes to ocean and seabed properties, as well as other development opportunities. Given the potential impacts, it is recommended that decommissioning works, where appropriate, are appraised in line with recognised methodologies such as Best Practical Environmental Option (BPEO) and BATNEEC (The Best Available Techniques Not Entailing Excessive Cost). Decommissioning programmes must comply with any statutory requirements that may apply to the proposed works.

2.7 Our approach is in accordance with the “Polluter Pays” principles and that the business responsible for the installation has responsibility to manage and mitigate the costs and risks associated with decommissioning.

3. DECOMMISSIONING REQUIREMENTS AND PLANS

3.1 Before entering the licence, developers will be required to confirm their compliance with The Crown Estate’s decommissioning policy and demonstrate how decommissioning requirements will be met. This will be achieved through the submission of a Decommissioning Plan. The Plan should demonstrate acceptance of the general presumption in favour of full removal, barring where exceptional circumstances are encountered. The extent of removal will be assessed on a case specific basis with consideration given to the environmental and technical circumstances encountered locally; obstacles to removal at a single location will not infer an acceptance for the entire system to remain in situ.

3.2 Suitable consideration of the relevant costs must be taken into account and factored into project life. Applicants will need to provide evidence of suitable financial security to fully cover all decommissioning costs and where necessary The Crown Estate may require additional cover. The Licence defines the required Covenant Strength of the Licensee and it will be for the applicant to demonstrate how that covenant strength is met. Additional security will be required where the proposed Licensee fails to meet our reasonable tests of financial robustness. Acceptable forms of security will be discussed in detail at the time of such circumstances being encountered.

3.3 The Crown Estate acknowledges that the precise extent of removal cannot be confirmed from the outset and it is likely that decommissioning plans will change during system life. Therefore The Crown Estate will require that reviews of the Decommissioning Plan are undertaken from time to time to account for and accommodate changing circumstances as they become evident. It is recommended that developers

discuss proposals for decommissioning with The Crown Estate prior to submitting plans in order that plans meet initial licence requirements.

3.4 A Decommissioning Plan will be produced at the point of entering into agreement and will be attached as an annex to the seabed licence.

3.5 Decommissioning Plans as a minimum:

- Must start from the presumption for full removal.
- Must set out the measures, including timescales, to be taken to decommission the cable.
- Where only partial removal is anticipated, justification for those sections intended to be left in situ must be provided that includes appropriate assessment, using recognised methods for doing so such as BATNEEC and BPEO. Consideration should be given to potential impacts on the local environment, other marine users including fishing, surface and subsurface navigation, and alternative development proposals/opportunities.
- Must indicate adherence to any relevant statutory requirements in place or that may arise prior to decommissioning.
- Must contain an estimate of the costs likely to be incurred in achieving the measures set out, and in line with the 'Polluter Pays' principle, indicate the means by which these costs are to be provided for, including details on any additional assurance The Crown Estate may reasonably require to ensure compliance;
- Must indicate the provisions, where appropriate, for the restoration of the seabed and/or foreshore.
- Must indicate the provisions for a post-decommissioning survey to confirm compliance with the measures set out in the Decommissioning Plan, and an indication of whatever provisions may be necessary for the monitoring and maintenance of any cable sections proposed to be left in situ.
- Must include periodic review from time to time, during the period of the Licence, to ensure the measures set out remain appropriate to any change in relevant circumstances. Any proposed amendments to the Decommissioning Plan arising from reviews must be submitted to The Crown Estate for approval and inclusion in the Licence. The Crown Estate reserves the right to require review of decommissioning and associated costs from time to time.

- 3.6 Licensees looking to enter into out of service arrangements will be required to reach final agreement with The Crown Estate on their decommissioning proposals. The Licensee will be required to submit a Final Decommissioning Plan (FDP) explaining the procedures involved in removal works, the locations where cable sections are to be left in situ and the justification for their non-removal. Where and when appropriate, the relevant legislative requirements associated with the proposed decommissioning works will have to have been addressed. Where cable sections are to be left in situ for environmental reasons, The Crown Estate reserves the right to request evidence of endorsement from the relevant statutory authority e.g. Natural England, CCW, SNH, NIEA or a third party/expert opinion, at the cost of the licensee.
- 3.7 The Crown Estate reserves the right to request that decommissioning plans be prepared by a suitably experienced and independent expert.
- 3.8 In the event that agreement cannot be reached on the proposed decommissioning works either party may reserve the right to refer the matter to an agreed independent expert, on the basis that both parties undertake to accept the expert view. If the parties cannot agree on a suitable expert then the matter will be referred to the President of the RICS who will then refer the matter to an appropriate party.
- 3.9 Once agreed the decommissioning works can proceed. The works are expected to be completed within 2 years from approval of the Final Decommissioning Plan. Upon completion the Licensee will be required to provide The Crown Estate with a post decommissioning report in which, evidence should be given to demonstrate compliance with the agreed decommissioning plan.
- 3.10 Where additional assessment of proposed FDP is required and such assessment falls beyond the internal capabilities of The Crown Estate, the developer will be responsible for all reasonable costs incurred in the appointment and use of an industry expert and the performance of any investigations (e.g. surveys) that may be required.
- 3.11 Upon completion of decommissioning works the developer will surrender the existing licence and enter into a Deed of Grant (Out of Service Deed) for any remaining cable sections. Under the terms of the Out of Service Deed the Licensee will remain liable for the parts of the system left in situ and will be responsible for ensuring that suitable public liability insurance is in place.

- 3.12 The Crown Estate may require infrastructure left in situ following the performance of agreed decommissioning works to be removed at a later date, should the cable present an obstacle to later development.