

SANCTION NOTICE

To: **Shell U.K. Limited**
Company Number: 00140141

Addresses: Shell U.K. Limited
C/o ONEgas
Schepersmaat 2
9405 TA Assen
The Netherlands

Date: **21 April 2022**

1. PREAMBLE

- 1.1. On 21 March 2022, the Oil & Gas Authority (“**OGA**”) changed its name to the North Sea Transition Authority (“**NSTA**”). The abbreviation NSTA will be used throughout this Notice to refer to both the NSTA now and when the NSTA was known as the OGA.¹

2. SANCTION

- 2.1. For the reasons given in this Sanction Notice, the NSTA gives a Financial Penalty Notice which imposes on Shell U.K. Limited (“**Shell**”) a financial penalty of **£50,000** (fifty thousand pounds).

3. SUMMARY OF FACTS

- 3.1. The NSTA has power to give Sanction Notices under Chapter 5 of the Energy Act 2016 where there has been a failure to comply with a petroleum-related requirement.² A petroleum-related requirement includes a duty to comply with a term or condition of an offshore licence.³ Production consents are given under the model clauses to which the licence refers. A production consent is a term or condition of an offshore licence.
- 3.2. Shell operates several fields in the Southern North Sea (“**SNS**”) on behalf of itself as a licensee and its co-licensee. In **November 2020**, the NSTA became aware through meetings and emails that Shell failed to comply with the maximum and minimum quantities specified in the 2020

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 with registered number 09666504 and VAT registered number 249433979. Our registered office is at 21 Bloomsbury Street, London, WC1B 3HF.

² [Chapter 5, Energy Act 2016](#).

³ Section 42(3), [Chapter 5, Energy Act 2016](#).

production consents for the following Shell-operated SNS fields (consent and production quantities below refer to gas unless noted otherwise):

Field	Minimum Consented Production	Maximum Consented Production	Actual production
Corvette Field		364 ksm ³ per day (annual total 133,224 ksm ³)	140,457 ksm ³ from January to October 2020
Shamrock Field	10 ksm ³ per day (annual total 3,660 ksm ³)		1,548 ksm ³ for 2020
Barque South Field	34.087 ksm ³ per day (annual total 12,476 ksm ³)		5,819 ksm ³ for 2020
Brigantine D Field	1 ksm ³ per day (annual total 366 ksm ³)		0 ksm ³ for 2020
Skiff Field	123 ksm ³ per day (annual total 45,018 ksm ³)		0 ksm ³ for 2020

3.3. All the fields referenced in the table have Shell and Esso Exploration and Production UK Limited (“**ExxonMobil**”) as licensees except for Shamrock which just has Shell. The figures in the table are those set out in the applicable consents.

4. BACKGROUND

4.1. Section 1 of the Petroleum Act 1998 defines “*petroleum*” as including “*natural gas*.”⁴

Exceedance of production consents

Licences P7 and P16 (Corvette Field)

4.2. Licences P7 and P16 cover the Corvette field. Shell operates the Corvette field on behalf of itself as a licensee and its co-licensee. The Corvette production consent dated 26 November 2019, and in force during 2020, set out a maximum production consent quantity of 364 ksm³ per day; this equates to an annual total of 133,224 ksm³ for the 366 days of 2020. The Corvette production consent contains the following condition at clause 2(b):

“during each year specified in the Schedule hereto the quantity of petroleum got from the field is not greater than the maximum quantity in respect of that year.”

4.3. On **2 November 2020**, the NSTA informed Shell that it considered the maximum production consent quantity for 2020 for the Corvette field was at risk of being exceeded. On **9 November 2020**, at a meeting with the NSTA, Shell confirmed that the 2020 maximum gas production consent quantity of 364 ksm³ (thousand cubic metres) per day for the Corvette field had been exceeded in **October 2020**. Information provided by Shell to the NSTA Petroleum Production Reporting System (“**PPRS**”) shows that 140,457 ksm³ of gas was produced from the Corvette field from January to October 2020. Shell exceeded its production consent in the Corvette field in 2020.

⁴ [Petroleum Act 1998](#).

- 4.4. Shell halted production from the Corvette field on or around **4 November 2020** until a revised consent was provided by the NSTA on **11 November 2020**.

Failure to achieve minimum production consents

- 4.5. At the **9 November 2020** meeting with the NSTA, Shell confirmed that the minimum production consents would not be met for the following fields: Shamrock; Barque South; Brigantine D; and Skiff.

Licence P88 – Shamrock Field

- 4.6. Licence P88 covers the Shamrock field. Shell operates the Shamrock field on behalf of itself as sole licensee. The Shamrock production consent dated **6 December 2016**, and in force during 2020, set out that the minimum production quantity for 2020 is 10 ksm³ per day; this equates to an annual total of 3,660 ksm³ for 2020. The Shamrock production consent contains the following condition at clause 2(b):

“during each year specified in the Schedule hereto the quantity of petroleum got from the field is neither greater than the maximum quantity nor less than the minimum quantity specified in the Schedule in respect of that year.”

- 4.7. Information provided by Shell to PPRS shows that 1,548 ksm³ was produced from the Shamrock field during 2020. Shell failed to meet its minimum production consent in the Shamrock field in 2020.

Licence P8 – Barque South Field, Brigantine D Field and Skiff Field

- 4.8. Licence P8 covers the Barque South field, Brigantine D field and Skiff field. Shell operates the Barque South field, Brigantine D field and Skiff field, on behalf of itself as a licensee and its co-licensee.
- 4.9. The Barque South, Brigantine D and Skiff production consent contains the following condition at clause 2(b):

“during each year specified in the Schedule hereto the quantity of petroleum got from the field is neither greater than the maximum quantity nor less than the minimum quantity specified in the Schedule in respect of that year.”

- 4.10. The Barque South production consent dated **20 September 2013**, and in force during 2020, set out that the minimum production quantity for 2020 is 34.087 ksm³ per day; this equates to an annual total of 12,476 ksm³ for 2020. Information provided by Shell to PPRS shows that 5,819 ksm³ was produced from the Barque South field during 2020.
- 4.11. The Brigantine D production consent dated **19 December 2016**, and in force during 2020, set out that the minimum production quantity for 2020 is 1 ksm³ per day; this equates to an annual total of 366 ksm³ for 2020. Information provided by Shell to PPRS shows that no gas was produced from the Brigantine D field during 2020.

- 4.12. The Skiff production consent dated **16 August 2010**, and in force during 2020, set out that the minimum production quantity for 2020 is 123 ksm³ per day; this equates to an annual total of 45,018 ksm³ for 2020. Information provided by Shell to PPRS shows that no gas was produced from the Skiff field during 2020.
- 4.13. Shell failed to meet its minimum production consents in the Barque South field, Brigantine D field and Skiff field in 2020.

Production Consents

The purpose of a production consent

- 4.14. Production consents typically define a range that production levels should lie within, normally varying annually. The top of the range is consistent with that allowed by a relevant environmental statement or direction (issued by BEIS OPRED)⁵ and the bottom of the range is intended to ensure that licensees either take action to bring forward further activity in a field or decommission the field in a timely manner.
- 4.15. The NSTA considers the effective management of production consents is an indicator of good stewardship of fields by operators and licensees. The management of production consents is an important component of a stable well-regulated environment in which industry, investors and the public can have confidence.

Shell Management Role: failure to comply with Production Consents

- 4.16. In May 2019, Shell introduced a procedure titled “*Overview of Shell U.K. procedures for managing and maintaining compliance with NSTA consents*” (the “**2019 Procedure**”). This was shared with ONEgas West (“**ONEgas**”), the group within Shell responsible for operating Shell assets in the SNS in June 2019. The 2019 Procedure required monthly checks of production consents.
- 4.17. The Production Planning and Scheduling Manager (“**PPSM**”) within ONEgas was accountable for licence compliance and had received the 2019 Procedure. On a day-to-day basis, the Production Support Engineers (“**PSEs**”) reporting to the PPSM were responsible for managing consents. However, the PPSM did not inform the PSEs about the 2019 Procedure. Annual checks of production consents were being carried out by ONEgas but the monthly checks required by the 2019 Procedure were not.
- 4.18. On **1 January 2020**, the PPSM moved to a new role. Management of consents was handed to the Wells Reservoir Facilities Management (“**WRFM**”) Manager. As part of a restructuring exercise, the accountability for the management of consents was moved from the WRFM Manager to the “*Team Lead Production Programming*” in **March 2020**.
- 4.19. Following the concerns raised by the NSTA with Shell in **November 2020** regarding compliance with production consents, Shell carried out an internal review of this matter. The Shell internal review found that the handover from the PPSM to the WRFM Manager did not include the 2019

⁵ OPRED stands for “Offshore Petroleum Regulator for Environment and Decommissioning”.

Procedure and the WRFM Manager was not aware of the need for monthly checks of production consents. Shell has stated that the 2019 Procedure was not “hardcoded” into the ONEgas processes or referenced within the relevant role accountabilities; this left compliance being dependent on an effective handover, which did not happen. Shell has acted on the recommendations from the review; these have either been completed or are ongoing.

5. LICENSEES

5.1. Part II, Clause 1(2) of the relevant Model Clauses applicable to the licences, sets out that “*any obligations which are to be observed and performed by the Licensee shall at any time at which the Licensee is more than one person be joint and several obligations*”.⁶ Although Shell has a co-licensee in the Fields set out above (except the Shamrock field where Shell is the sole licensee), the NSTA has determined that, in the circumstances of this case, action should only be taken against Shell. In making its decision, the NSTA has taken into account the fact that Shell was in day-to-day control of SNS Fields which it operates. Shell has not suggested that joint venture budgetary issues or other approval issues have contributed to the failures that occurred. Co-licensees do not normally get involved in the management and monitoring of consents, and there is no evidence that ExxonMobil has done so. For these reasons, a Financial Penalty Notice is issued solely to Shell.

6. FAILURE TO COMPLY

6.1. Under section 42 of the Energy Act 2016, the NSTA may give a Sanction Notice where it considers a person has failed to comply with a petroleum-related requirement which is imposed on it. Petroleum related requirements mean:

- a. *“a duty imposed under section 9C of the Petroleum Act 1998 to act in accordance with the current strategy or strategies produced under section 9A(2) of that Act for enabling the principal objective to be met,*
- b. *a term or condition of an offshore licence, or*
- c. *a requirement imposed on a person by or under a provision of this Act which, by virtue of the provision, is sanctionable in accordance with [Chapter 5 of the Energy Act 2016].”⁷*

6.2. The NSTA considers that Shell failed to comply with the production consents.

6.3. Production consents are given under the model clauses to which the licence refer. The relevant model clause for licences P7, P8, P16 and P88 is the same, titled “Development and production programmes” and sets out:⁸

“The licensee shall not-

⁶ Licences P7, P8, P16 and P88 references the Model Clauses in Schedule 2 to SI 1964/708, updated and re-stated in [Schedule 2 to SI 1999/160](#). The relevant Model Clause is set out in Part II, Clause 1(2), titled “Interpretation”.

⁷ Section 42(3), [Chapter 5, Energy Act 2016](#).

⁸ Licences P7, P8, P16 and P88 references the Model Clauses in Schedule 2 to SI 1964/708, updated and re-stated in [Schedule 2 to SI 1999/160](#). The relevant Model Clause is 15(1).

(a) *erect or carry out any relevant works, either in the licensed area or elsewhere, for the purpose of getting petroleum from that area or for the purpose of conveying to a place on land petroleum got from that area; or*
(b) *get petroleum from that area otherwise than in the course of searching for petroleum or drilling wells;*
except with the consent in writing of the Minister or in accordance with a programme which the Minister has approved or served on the Licensee in pursuance of the following provisions of this clause.”

6.4. The NSTA and its predecessors issue consents under these clauses rather than approve programmes.⁹ The licences also allow the consent to include conditions.¹⁰ Failure to comply with the production consents is a failure to comply with the terms of a licence. Failure to comply with the terms of a licence is a failure to comply with a petroleum-related requirement.

7. SANCTION

Type and level

7.1. In deciding whether to apply a sanction and, if so, which type and level of sanction to apply to the failure to comply, the NSTA has in mind various matters including its obligations under the relevant Strategy in place at the time,¹¹ those listed at section 8 of the Energy Act 2016, in particular the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities,¹² and the NSTA’s Sanction Procedure (the “**Sanction Procedure**”).¹³

7.2. As set out in paragraph 42 of the Sanctions Procedure, the NSTA considers that any penalty determined should be among other things:

7.2.1. Effective in addressing the underlying cause of the failure to comply;

7.2.2. Deterrent of future failure to comply, either by the person or, further to publication of the Sanction Notice, other persons in similar circumstances; and

7.2.3. Proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on the relevant persons.

7.3. The NSTA has considered the sanctions available, including the following: licence revocation; operator removal; financial penalty; enforcement notice. Alternatively, the NSTA may decide that an agreed action *in lieu* of enforcement is a more appropriate outcome of the investigation.

⁹ Licences P7, P8, P16 and P88 references the Model Clauses in Schedule 2 to SI 1964/708, updated and re-stated in [Schedule 2 to SI 1999/160](#). The relevant Model Clause is 16(1): “A consent given by the Minister in pursuance of clause 15(1) of this licence may be given subject to such conditions as are specified in the document signifying the consent and may in particular, without prejudice to the generality of the preceding provisions of this paragraph, be limited to a period so specified.”

¹⁰ *ibid.*

¹¹ These failures occurred in 2020 when the [MER Strategy](#) was in place. The [OGA Strategy](#) is currently in place.

¹² Section 8, [Energy Act 2016](#).

¹³ [OGA’s Sanctions Procedure, version 2, May 2019](#).

- 7.4. The NSTA does not consider it would be appropriate in this case to remove the licence or the operator because a sanction of that severity would not be proportionate to the failure to comply.
- 7.5. Shell has investigated how the failure occurred and has taken on board the recommendations of its internal review. Shell's compliance with production consents has improved significantly from 2020. The NSTA acknowledges the attention Shell is now paying to adherence with regulatory commitments. Hence there does not appear to be a need for the NSTA to specify the requirement for a compliance plan in an enforcement notice. However, but for the NSTA bringing these matters to Shell's attention, the failure to monitor production more closely may not have come to light and Shell would have remained in breach of regulatory commitments. Compliance with the terms of licences and consents is fundamental to trust and confidence in licensees and operators and goes to the heart of industry's social licence to operate. A financial penalty is considered the most appropriate way to reinforce the message to Shell and to industry that compliance with regulatory commitments and breaches of licence terms are serious matters which must be examined and remedied. A financial penalty should serve as a reminder to the recipient to remain vigilant to commitments given to the NSTA.
- 7.6. Having considered the sanctions at its disposal, the NSTA considers a Financial Penalty Notice appropriate in this matter to meet the aims set out at paragraphs 7.1 and 7.2 above.

Financial Penalty Notice

- 7.7. Through this Sanction Notice, the NSTA gives a Financial Penalty Notice in this matter pursuant to sections 42 and 44 of the Energy Act 2016.
- 7.8. Pursuant to section 44(2) of the Energy Act 2016, a Financial Penalty Notice is a notice which:
- (a) specifies the petroleum-related requirement in question;*
 - (b) gives details of the failure to comply with the requirement;*
 - (c) informs the person or persons to whom the notice is given that the person or persons must –*
 - (i) comply with the petroleum-related requirement before the end of a period specified in the notice, in a case where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and*
 - (ii) pay the NSTA a financial penalty of the amount specified in the notice before the end of a period specified in the notice."*

Financial Penalty

- 7.9. A financial penalty, pursuant to section 44 of the Energy Act 2016, should be among other things dissuasive of future failures to comply, either by Shell or, further to publication of the Sanction Notice, other persons in similar circumstances.

7.10. The NSTA issues Shell with a financial penalty. The NSTA has the statutory power to impose a financial penalty up to £1 million.¹⁴ The NSTA gives notice to Shell that, within 30-days of the date of this Sanction Notice, it is to pay a financial penalty of **£50,000** to the NSTA, which will be paid to HM Treasury. The NSTA considers the financial penalty of **£50,000** to be proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on Shell.

Financial Penalty – Relevant Factors

7.11. As required by section 45 of the Energy Act 2016, the NSTA has published its Financial Penalty Guidance.¹⁵ Paragraph 21 of the NSTA’s Financial Penalty Guidance states that the NSTA may also take into account when determining the amount of the financial penalty matters relating to the specific circumstances of the failure to comply including, but not limited to:

7.11.1. The extent to which the person(s) may have sought to benefit from the failure to comply.

7.11.2. Any gain (financial or otherwise) made by the person(s) or any connected body as a consequence of the failure to comply.

7.11.3. The severity of the failure to comply in the context of the relevant petroleum-related requirement.

7.11.4. The degree of harm caused, or increased cost incurred, by the failure to comply.

7.11.5. The extent to which parties have followed industry Codes of Practice where these are relevant to the failure to comply.

7.11.6. The duration of the contravention.

7.12. The Financial Penalty Guidance also states that the NSTA may take into account the following mitigating (clause 21.2) and aggravating (clause 21.3) factors:

Mitigating	Aggravating
Action taken by the person(s) in advance to address the failure to comply	Persistent inaction to address the failure to comply
Previous positive conduct by the person with respect to this and other petroleum related requirements	Previous negative conduct by the person with respect to this and other the petroleum related requirements
The presence of internal mechanisms/processes intended to prevent the failure to comply	Absence of internal mechanisms / processes to prevent the failure to comply
Co-operation with the NSTA’s investigation	Evidence of senior management involvement in support of the failure to comply

¹⁴ Section 45(1), [Chapter 5, Energy Act 2016](#).

¹⁵ [Financial Penalty Guidance](#), 20 March 2017, Rev 1.0.

Financial Penalty – Application of Relevant Factors

Benefit from the failure to comply

- 7.13. There is no evidence to suggest that Shell benefited (financially or otherwise) or intended to benefit (financially or otherwise) from the failure.

Gain as a consequence of the failure to comply

- 7.14. There is no evidence that Shell gained as a consequence of the failure to comply.

Severity of failure to comply

- 7.15. The NSTA has repeatedly signalled to the UK upstream oil and gas industry (“**Industry**”) that compliance with its regulatory obligations is vitally important to sustaining Industry’s social licence to operate in the UKCS.¹⁶ A failure to comply with the terms and conditions of a licence or consent has the potential to undermine public confidence in the ability of Industry to operate within prescribed limits which in turn impacts and/or affects Industry’s social licence to operate, may undermine the confidence of investors, and potentially undermines the authority of the regulator. In particular, the NSTA notes its ability under section 8(1) of the Energy Act 2016, as set out in paragraph 7.1 above, to have regard to such matters when exercising its functions. In this case, the potential severity also relates to insufficient attention being given to stewardship of the fields and potentially causing a negative impact on maximising economic recovery.

Degree of harm

- 7.16. Shell’s failure to comply undermines trust and confidence in Shell’s asset management and its oversight of its regulatory obligations. It raises questions as to Shell’s attention and investment in regulatory compliance.
- 7.17. As a consequence of Shell’s failure to comply, the NSTA has spent its finite resources enquiring into the failure and liaising with Shell to try to ensure compliance with the production consents.

Industry Codes of Practice

- 7.18. There are no relevant industry codes of practice governing reporting of production consents.

Duration of the contravention

- 7.19. Shell ceased production from the Corvette Field once it had realised it was not in compliance. This immediately stopped any further over-production. Shell has also engaged more proactively with the NSTA since becoming aware of these issues, and in 2021 has demonstrated that it has acted on lessons learned.

¹⁶ See: [Open letter from the OGA to licensees and infrastructure owners to outline the next stage of our regulatory approach, 4 June 2019](#); and the OGA’s [Thematic Review into Industry Compliance with Regulatory Obligations, 29 October 2020](#).

Mitigating circumstances

- 7.20. Shell has cooperated fully with the NSTA's Investigation. Shell conducted its own internal investigation to determine any failure and prevent any future failure to comply and shared this in full with the NSTA. Shell is already implementing the recommendations from its internal review which will deal with the immediate causes of the failure to comply with production consents.

Aggravating circumstances

- 7.21. The NSTA expects licensee senior management to be aware of and ensure that licensees comply with their licence regulatory obligations. This did not happen in this matter as set out in paragraphs 4.16-4.19. Licensee senior management should have been aware of, and rectified, problems with licence regulatory obligations due to Shell's acceptance of previous failures to comply with production consents in the Gannet F Field and Howe Field in 2018.
- 7.22. In its internal investigation, Shell set out that, through the 2019 Procedure, it introduced a new procedure to improve compliance but did not fully implement it. Instead, compliance with the 2019 Procedure was dependent on an effective handover, which did not happen.

Financial Penalty – Decision

- 7.23. Having taken into account all the circumstances of the case, including the mitigating and aggravating factors set out in the Sanction Procedure and Financial Penalty Guidance, the NSTA imposes a financial penalty of **£50,000**.

8. PUBLICATION

- 8.1. Pursuant to section 53 of the Energy Act 2016, the NSTA may publish details of any Sanction Notice given in accordance Chapter 5 of the Energy Act 2016.
- 8.2. The NSTA may not publish anything that, in the NSTA's opinion is (a) commercially sensitive; (b) not in the public interest to publish; or (c) otherwise not appropriate for publication.¹⁷ With respect to this Sanction Notice, the NSTA considers that: it does not contain any commercially sensitive information; it is in the public interest to publish; and it is appropriate for publication.

¹⁷ [Energy Act 2016](#), section 53(2).