

SCHEDULES

SCHEDULE 3

Section 1.

PETROLEUM REVENUE TAX : MISCELLANEOUS PROVISIONS

Definition of sale of oil at arm's length

- 1 (1) For the purposes of this Part of this Act a sale of any oil is a sale at arm's length if, but only if, the following conditions are satisfied with respect to the contract of sale, that is to say—
- (a) the contract price is the sole consideration for the sale ;
 - (b) the terms of the sale are not affected by any commercial relationship (other than that created by the contract itself) between the seller or any person connected with the seller and the buyer or any person connected with the buyer; and
 - (c) neither the seller nor any person connected with him has, directly or indirectly, any interest in the subsequent resale or disposal of the oil or any product derived therefrom.
- (2) Section 533 of the Taxes Act (connected persons) shall apply for the purposes of the preceding sub-paragraph.

Definition of market value of oil

- 2 (1) For the purposes of this Part of this Act the market value of any oil shall be ascertained in accordance with this paragraph ; and in this paragraph the time as at which market value is to be ascertained is referred to as " the relevant time " .
- (2) Subject to the following provisions of this paragraph, the market value of any oil at the relevant time is the price at which the oil could have been sold to a willing buyer at that time in a sale at arm's length under a contract of sale made at that time and satisfying the following conditions, that is to say—
- (a) the contract requires the oil to have been subjected to appropriate initial treatment before delivery ;
 - (b) the contract requires the oil to be delivered—
 - (i) in the case of oil extracted in the United Kingdom, at the place of extraction ; or
 - (ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction ;
 - (c) in the case of oil whose market value falls to be ascertained as at a particular time for the purposes of paragraph (b) of section 2(4) or paragraph (d) of section 2(5) of this Act or, subject to sub-paragraph (3) below, under paragraph 3 below for the purposes of paragraph (b) or (c) of the said

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section 2(5), the contract is for the sale of the whole quantity of oil whose market value falls to be ascertained as at that time for the purposes of the paragraph in question, and of no other oil.

- (3) If oil whose market value falls to be ascertained as at a particular time under paragraph 3 below for the purposes of paragraph (b) of the said section 2(5) was not all disposed of to the same person, then the market value at that time of so much of that oil as was disposed of to any one person shall be ascertained in accordance with sub-paragraphs (1) and (2) above as if that were the only oil whose market value fell to be ascertained as at that time for those purposes (with sub-paragraph (2)(b) above applying accordingly).
- (4) The provisions of sub-paragraphs (2) and (3) above shall apply for the ascertainment of the market value of oil in any case mentioned in paragraph 2(2) of Schedule 2 to this Act as they apply in relation to the corresponding case mentioned in those provisions.

Aggregate market value of oil for purposes of section 2(5)

- 3 (1) For the purposes of subsection (5) of section 2 of this Act the aggregate market value of any oil falling within paragraph (b) or (c) of that subsection shall be arrived at by ascertaining, for each calendar month in the chargeable period in question, the market value at the material time of so much, if any, of that oil as was—
- (a) in the case of oil falling within the said paragraph (b), delivered as there mentioned in that month; or
 - (b) in the case of oil falling within the said paragraph (c), appropriated as there mentioned in that month,
- and, in either case, aggregating the market values so ascertained.
- (2) In this paragraph and elsewhere in this Part of this Act "calendar month" (where those words are used) means a month of the calendar year, and "the material time", in relation to a calendar month, means noon on the relevant day, that is to say—
- (a) for a month containing an odd number of days, the middle day of the month ;
 - (b) for a month containing an even number of days, the last day of the first half of the month.

Oil delivered in place of royalties to be disregarded for certain purposes

- 4 Oil delivered to the Secretary of State under the terms of a licence granted under the Petroleum (Production) Act 1934 shall be disregarded for the purposes of section 2(5) of this Act and for the purposes of the references in section 8(3) and (4) of this Act to a participator's share of the oil won and saved from an oil field in a chargeable period.

Effect of transfer to an associated company of participator's rights etc. in connection with an oil field or relevant licence

- 5 (1) This paragraph applies to any agreement or other arrangement between a participator in an oil field and a company associated with the participator whereby—
- (a) ownership of all or any of the participator's share of the oil won and saved from the field is transferred to the company ; and
 - (b) the company obtains or assumes all or any of the participator's other rights, interests and obligations in connection with the field or any relevant licence.

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- (2) As regards any chargeable period in which a participator in an oil field is a party to an arrangement to which this paragraph applies, the other party to the arrangement shall be treated for all purposes of this Part of this Act (except this paragraph) and for the purposes of section 17 of this Act as having been a participator in the field at all times when the actual participator was such a participator (including times before the arrangement was made), and shall be assessable and chargeable to tax and entitled to make any claim under this Part of this Act, and any deduction or claim under the said section 17, accordingly.
- (3) Where a participator in an oil field is or has been a party to an arrangement to which this paragraph applies then for all purposes of this Part of this Act—
- (a) anything done by or in relation to the participator in connection with the field or any relevant licence shall be treated as being or having been done by or, as the case may be, in relation to the other party to the arrangement; and
 - (b) all rights, interests or obligations of the participator in connection with the field or any relevant licence shall be treated as being or having been rights, interests or obligations of the other party.
- (4) Where a participator in an oil field is or has been a party to an arrangement to which this paragraph applies, then, if any tax or interest payable under this Part of this Act by the other party to the arrangement is not paid within thirty days after the date on which it becomes payable, the Board may by notice in writing require the participator to pay that tax or interest; and where such a notice is served on the participator, the tax or interest in question shall be payable by him forthwith, but without prejudice to the Board's right to recover it from the other party.
- (5) For the purposes of this paragraph "company" means any body corporate, and a participator in an oil field and another company are associated with one another if—
- (a) the participator has control over or is under the control of the other company ;
or
 - (b) the participator and the other company are both under the control of the same person or persons ;
- and in this sub-paragraph " control" has the meaning given by section 534 of the Taxes Act.

Oil owned by a person other than a participator in the oil field from which it was won

- 6 (1) Where a proportion of a participator's share in the oil won and saved from an oil field (as distinct from a specific quantity of oil comprised in that share) is owned by another person (in this paragraph referred to as " the owner ") who acquired it (whether directly or indirectly) under an agreement to which paragraph 5 above does not apply, the following provisions of this paragraph shall have effect.
- (2) For the purposes of this Part of this Act the oil acquired by the owner under the agreement shall be treated in every case as having been disposed of to him by the participator otherwise than in a sale at arm's length.
- (3) Where any oil which the owner owns in right of the agreement is in pursuance of the agreement—
- (a) delivered to the owner by the participator ; or
 - (b) delivered to a third person by the participator acting on behalf of the owner,

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the delivery shall for the purposes of this Part of this Act be regarded as a delivery by the participator although he does not own the oil.

- (4) This sub-paragraph applies to all such oil (if any) as, being owned by the owner in right of the agreement, is in any chargeable period delivered by the participator as mentioned in the preceding sub-paragraph and would accordingly, apart from the following sub-paragraph, fall to be brought into account under section 2(5)(b) of this Act in computing the assessable profit or allowable loss accruing to the participator in that period (in the following sub-paragraph referred to as " the relevant period ").
- (5) If on a claim made by the participator within two months after the end of the relevant period—
- (a) it is shown that some or all of the oil to which sub-paragraph (4) above applies has been disposed of by or on behalf of the owner crude in sales at arm's length ; and
 - (b) the Board are satisfied that the oil with respect to which it is so shown includes the whole of so much of the oil to which that sub-paragraph applies as has been so disposed of,

then, in computing the assessable profit or allowable loss accruing to the participator in the relevant period, the oil with respect to which it is so shown shall be brought into account by reference to the price received or receivable for it by the owner instead of by reference to its market value.

*Exclusion from section 2(4)(b) and (5)(d) of offshore oil
in transit to place of first landing in United Kingdom*

- 7 In computing the assessable profit or allowable loss accruing to a participator in a chargeable period from an oil field, the market value of any oil won as mentioned in section 3(1)(f) of this Act—
- (a) shall not be taken into account under section 2(4)(b) of this Act if and to the extent that at the end of the preceding chargeable period the oil was in the course of being transported to the place where it was first landed in the United Kingdom ; and
 - (b) shall not be taken into account under section 2(5)(d) of this Act if and to the extent that at the end of the first-mentioned chargeable period the oil was in the course of being so transported.

Certain subsidised expenditure to be disregarded

- 8 (1) Expenditure shall not be regarded for any of the purposes of this Part of this Act as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the first-mentioned person, unless it is so met by a grant made under Part I of the Industry Act 1972 or a grant made under an enactment of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly and declared by order of the Treasury under section 84 of the Capital Allowances Act 1968 to correspond to a grant made under the said Part I.
- (2) In considering, for the purposes of this paragraph, how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, there shall be left out of account any insurance or compensation payable in respect of the loss or destruction of any asset.

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Election to have amounts mentioned in section 2(9)(b) and (c) spread

- 9 (1) If a participator in an oil field so elects by notice in writing given to the Board before 1st January 1976 or not later than three months after the end of the earliest chargeable period in which he is a participator in that field, the following provisions of this paragraph shall apply in his case as regards that field; and an election under this sub-paragraph shall be irrevocable.
- (2) Where, in computing the assessable profit or allowable loss accruing to the participator in the first or any subsequent chargeable period from the field, any amount attributable to expenditure qualifying for supplement under paragraph (b)(ii) or (c)(ii) of section 2(9) of this Act by virtue of section 3(5) of this Act would, apart from the election, fall to be taken into account under paragraph (b) or (c) of the said section 2(9), then only one-tenth of that amount shall be so taken into account for that period, and, subject to sub-paragraph (3) below, one-tenth of that amount shall be so taken into account in computing the assessable profit or allowable loss accruing to the participator in each of the nine following chargeable periods.
- (3) If the winning of oil from the field permanently ceases at a time before the end of the last of those nine chargeable periods, so much of the amount mentioned in sub-paragraph (2) above as at that time has not been taken into account as there mentioned for any chargeable period shall be so taken into account in computing the assessable profit or allowable loss accruing to the participator in the chargeable period in which that time falls.
- (4) Sub-paragraphs (2) and (3) above shall, if the participator in his notice so elects and specifies accordingly, apply as if for the references to " one-tenth" and " nine" there were substituted references to one of the fractions mentioned in the left-hand column below and the corresponding number mentioned in the right-hand column, namely—
- | | |
|-------------|-------|
| one-eighth | seven |
| one-sixth | five |
| one-quarter | three |
| one-third | two. |
- (5) The reference in sub-paragraph (2) above to an amount attributable to expenditure qualifying for supplement as there mentioned includes an amount attributable to the expenditure itself as well as an amount calculated by reference to it under paragraph (b)(ii) or (c)(ii) of section 2(9).
- 10 (1) Where a participator has made an election under paragraph 9(1) above, section 8 of this Act shall have effect in his case subject to the following provisions of this paragraph.
- (2) The reduction made under subsection (1) of that section for any chargeable period shall not exceed the reduction which would have fallen to be so made if the participator had not made any such election.
- (3) If for any chargeable period the reduction which would, apart from this sub-paragraph, fall to be made under the said subsection (1) is less than it would have been if the participator had not made any such election, an amount equal to the difference shall be available for use under the following sub-paragraph as regards subsequent chargeable periods.

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- (4) For any chargeable period for which a reduction falls to be made under paragraph (a) of the said subsection (1), so much, if any, as the participator may specify of, or of the unused balance of, any amount available for use under this sub-paragraph by virtue of sub-paragraph (3) above shall be used by treating for all purposes of the said section 8 the cash equivalent of his share of the oil allowance for the field for that period as increased thereby.

Restriction of amount of reduction under section 8(1)

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Where—

- (a) a claim under Schedule 5 or 6 to this Act is made after the relevant time ;
and
- (b) the reduction which would, apart from this paragraph, fall to be made under subsection (1) of section 8 of this Act for any chargeable period is greater than it would have been if the expenditure and other amounts allowed on the claim had been claimed before and allowed at the relevant time,

then, if the Board so direct, the reduction made under that subsection for that chargeable period shall be only what it would have been if the expenditure and other amounts allowed on the claim had been claimed before and allowed at the relevant time. In this paragraph " the relevant time " means the end of twelve months from the end of the claim period to which the claim mentioned in sub-paragraph (a) above relates.