



Capital Allowances Act 1990

1990 CHAPTER 1

PART IV

MINERAL EXTRACTION

CHAPTER IV

SUPPLEMENTARY PROVISIONS

119 Transitional provisions relating to old expenditure

- (1) Except as provided by subsections (2) to (5) below, this Part does not apply in relation to old expenditure and in this section—

“old expenditure” means expenditure which is not new expenditure;

“new expenditure” means, subject to the following provisions of this section, expenditure incurred on or after 1st April 1986; and

“the relevant day” means 1st April 1986.

- (2) If—

(a) immediately before the relevant day, no allowance had been made under Chapter III of Part I of the 1968 Act in respect of old expenditure incurred before that day on mineral exploration and access; and

(b) after that day and before mineral exploration and access ceases at the source in question, the person by whom the expenditure was incurred began or begins to carry on a trade of mineral extraction,

then section 106 or 107, as the case may be, shall (or shall continue to) apply as if the expenditure were new expenditure.

In this subsection “source” has the same meaning as it had in Schedule 14 to the 1986 Act.

- (3) For the purposes of this Part—

Status: This is the original version (as it was originally enacted).

- (a) expenditure which by virtue of any provision of Schedule 14 to the 1986 Act was treated immediately before the coming into force of this Act as new expenditure incurred on the relevant day for any purpose or purposes shall continue to be so treated;
- (b) any allowances treated as having been made under Schedule 13 of that Act shall continue to be so treated;
- (c) any amount treated as qualifying expenditure for the purposes of that Schedule shall continue to be so treated; and
- (d) in relation to any expenditure to which paragraph 6(4)(a) of Schedule 14 to the 1986 Act applied, section 112 shall not apply (so that no deduction shall be made from the amount of any disposal receipt by reference to the undeveloped market value of the land in question);

but, in the case of expenditure incurred in the acquisition of a mineral asset, nothing in paragraph (c) above shall affect the time as at which under section 110 the undeveloped market value of an interest is to be determined.

- (4) In any case where—
 - (a) by virtue of any provision of this section the whole or any part of the outstanding balance (within the meaning of paragraph 1 of Schedule 14 to the 1986 Act) of an item of old expenditure is treated for the purposes of this Part as qualifying expenditure, and
 - (b) a balancing charge falls to be made under section 100 in respect of that expenditure,
 then, in determining the amount on which that charge falls to be made, subsection (2) (b) of that section shall have effect as if it referred not only to allowances made as mentioned in subsection (1)(c) of that section but also, subject to subsection (5) below, to allowances made in respect of the item under Chapter III of Part I of the 1968 Act.
- (5) Where the qualifying expenditure in respect of which a balancing charge falls to be made represents part only of the outstanding balance of an item of old expenditure, the reference in subsection (4) above to allowances made in respect of that item shall be construed as a reference to such part of those allowances as it is just and reasonable to apportion to that part of the balance (having regard to any apportionment made under paragraph 3(2) of Schedule 14 to the 1986 Act).
- (6) In this section “the 1986 Act” means the Finance Act 1986.

120 Time when expenditure is incurred

- (1) For the purposes of this Part, except section 119, expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by him on the first day on which he does carry it on.
- (2) Without prejudice to subsection (1) above, pre-trading expenditure on machinery or plant and pre-trading exploration expenditure shall be treated for the purposes of Chapter I of this Part as incurred on the first day on which the person who incurred the expenditure carries on a trade of mineral extraction.

121 Interpretation of Part IV

- (1) In this Part—

Status: This is the original version (as it was originally enacted).

“development” and “development order” have the meanings given by the relevant planning enactment;

“mineral asset” means any mineral deposits or land comprising mineral deposits, or any interest in or right over such deposits or land;

“mineral exploration and access” means searching for or discovering and testing the mineral deposits of any source or winning access to any such deposits;

“planning permission” has the meaning given by the relevant planning enactment;

“pre-trading expenditure on machinery or plant” shall be construed in accordance with section 106;

“pre-trading exploration expenditure” shall be construed in accordance with section 107;

“qualifying expenditure” shall be construed in accordance with Chapters II and III of this Part;

“the relevant planning enactment” means—

- (a) in relation to land in England and Wales, section 290(1) of the Town and Country Planning Act 1971;
- (b) in relation to land in Scotland, section 275(1) of the Town and Country Planning (Scotland) Act 1972;
- (c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1972;

“source of mineral deposits” includes a mine, an oil well and a source of geothermal energy; and

“trade of mineral extraction” means a trade which consists of or includes the working of a source of mineral deposits.

- (2) Any reference in this Part to mineral deposits is a reference to mineral deposits of a wasting nature and, in the case of a mineral asset which consists of or includes an interest in or right over mineral deposits or land, the asset shall not be regarded as situated in the United Kingdom unless the deposits or land are or is so situated.
- (3) Any reference in this Part to assets representing any expenditure includes, in relation to expenditure on mineral exploration and access, any results obtained from any search, exploration or inquiry upon which the expenditure was incurred.
- (4) Any reference in this Part to a chargeable period or its basis period is a reference to a chargeable period or, as the case may be, its basis period beginning (or treated by virtue of section 55 of the Finance Act 1986 as beginning) on or after 1st April 1986.
- (5) The provisions of this Part apply in relation to a share in an asset of any description as, by virtue of section 161(7), they apply to a part of an asset; and, for the purposes of those provisions, a share in an asset of any description shall be deemed to be used for the purposes of a trade so long as, and only so long as, the asset is used for those purposes.