



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

### CHAPTER 13

#### PROVISIONS AFFECTING MINING AND OIL INDUSTRIES

#### *Expenditure connected with mineral extraction trades*

#### **159 Meaning of “mineral extraction trade” etc.**

In this Chapter—

- “mineral extraction trade”, and
- “mineral exploration and access”

have the same meaning as in Part 5 (mineral extraction allowances).

#### **160 Expenditure treated as incurred for purposes of mineral extraction trade**

For the purposes of this Part, expenditure incurred by a person—

- (a) on the provision of plant or machinery for mineral exploration and access, and
- (b) in connection with a mineral extraction trade carried on by him,

is to be treated as incurred for the purposes of that trade.

#### **161 Pre-trading expenditure on mineral exploration and access**

(1) This section applies if a person—

- (a) incurs pre-trading expenditure on the provision of plant or machinery for the purposes of mineral exploration and access, and

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- (b) owns the plant or machinery on the first day of trading.
- But this is subject to subsection (5).
- (2) The person is to be treated for the purposes of this Part as if he had—
- (a) sold the plant or machinery immediately before the first day of trading, and
  - (b) on that first day incurred capital expenditure on the provision of the plant or machinery for the purposes of the trade.
- (3) The amount of the capital expenditure that the person is to be treated as having incurred is an amount equal to—
- (a) the pre-trading expenditure, or
  - (b) if there has been an actual sale and re-acquisition before the first day of trading, the amount last incurred on the provision of the plant or machinery.
- (4) In this section—
- (a) “pre-trading expenditure” means capital expenditure incurred before the day on which a person begins to carry on a mineral extraction trade, and
  - (b) “the first day of trading”, in relation to a person’s pre-trading expenditure, means the day on which that person begins to carry on the mineral extraction trade.
- (5) This section does not apply if the plant or machinery on which the pre-trading expenditure was incurred is sold, demolished, destroyed or abandoned before the first day of trading (but see section 402 (mineral extraction allowances: pre-trading expenditure on plant or machinery)).

*<sup>F1</sup> Expenditure connected with reuse etc. of offshore oil infrastructure*

#### **Textual Amendments**

**F1** Ss. 161A-161D and crossheading inserted (with effect as mentioned in Sch. 20 para. 9(1)-(4)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 para. 5\(1\)](#)

### **161A Meaning of “offshore infrastructure”**

- (1) In sections 161C and 161D “ offshore infrastructure ” means—
- (a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 (c. 17) or a part of such an installation, or
  - (b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section “ relevant waters ” meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or
  - (c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—
    - (i) the territorial sea adjacent to the United Kingdom, or
    - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or
  - (d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.

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(2) In subsection (1)(b) and (d)—

“ foreign sector of the continental shelf ” means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

“ foreign tidal waters ” means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.

### **161B Meaning of “decommissioning expenditure”**

(1) In sections 161C and 161D “ decommissioning expenditure ” means expenditure in connection with—

- (a) preserving plant or machinery pending its reuse or demolition,
- (b) preparing plant or machinery for reuse, or
- (c) arranging for the reuse of plant or machinery.

(2) It is immaterial for the purposes of subsection (1)(a) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(b) and (c) whether the plant or machinery is in fact reused.

### **161C Expenditure related to reuse etc. qualifies for writing-down allowances**

(1) This section applies where—

- (a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and
- (b) the plant or machinery concerned—
  - (i) has been brought into use for the purposes of the trade, and
  - (ii) is, or was when last in use for those purposes, offshore infrastructure.

(2) The decommissioning expenditure is allocated to the appropriate pool for the chargeable period in which it is incurred.

(3) Subsection (2) is subject to sections 161D and 164(4).

(4) In subsection (2) “ the appropriate pool ” means the pool to which the expenditure on the plant or machinery concerned has been or would be allocated in accordance with this Part.

### **161D Exceptions to section 161C(2)**

(1) Subsection (2) of section 161C does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—

- (a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or
- (b) any condition to which the approval of such a programme is subject.

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- (2) Subsection (2) of section 161C does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person's income for any tax purpose.
- (3) For the purposes of subsection (1), decommissioning expenditure is “ on UK infrastructure ” if the plant or machinery concerned—
- (a) is offshore infrastructure within section 161A(1)(a) or (c), or
  - (b) is not offshore infrastructure but was offshore infrastructure within section 161A(1)(a) or (c) when last in use for the purposes of the trade.]

*Provisions relating to ring fence trades*

## 162 Ring fence trade a separate qualifying activity

- (1) If a person carries on a ring fence trade, it is a separate qualifying activity for the purposes of this Part.
- (2) In this Chapter “ring fence trade” means activities which—
- (a) fall within [<sup>F2</sup>the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 or within]<sup>F2</sup>[the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 or within] any of paragraphs (a) to (c) of section 492(1) of ICTA (oil extraction activities, the acquisition, enjoyment or exploitation of oil rights, etc.), and
  - (b) constitute a separate trade (whether as a result of [<sup>F3</sup>section 16(1) of ITTOIA 2005 or]<sup>F3</sup>[section 16(1) of ITTOIA 2005 or] section 492(1) of ICTA or otherwise).

### Textual Amendments

- F2** Words in s. 162(2)(a) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 545\(a\)](#) (with [Sch. 2](#))
- F3** Words in s. 162(2)(b) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 545\(b\)](#) (with [Sch. 2](#))

## 163 Meaning of “abandonment expenditure”

- (1) In sections 164 and 165 “abandonment expenditure” means expenditure which meets the requirements in subsections (2) to (4).
- (2) The expenditure must have been incurred—
- (a) for the purposes of, or in connection with, the closing down of an oil field or of any part of an oil field, and
  - (b) on the [<sup>F4</sup>decommissioning] plant or machinery—
    - (i) which has been brought into use for the purposes of a ring fence trade, and
    - (ii) which is, or forms part of, an offshore installation or a submarine pipeline [<sup>F5</sup>or which, when last in use for the purposes of a ring-fence trade, was, or formed part of, such an installation or pipeline.]

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- (3) The [<sup>F6</sup>decommissioning] of the plant or machinery must be carried out, wholly or substantially, to comply with—
- (a) an abandonment programme, or
  - (b) any condition to which the approval of an abandonment programme is subject.
- (4) The plant or machinery must not be replaced.

[<sup>F7</sup>(4A) In this section “decommissioning”, in relation to any plant or machinery, means—

- (a) demolishing the plant or machinery,
- (b) preserving the plant or machinery pending its reuse or demolition,
- (c) preparing the plant or machinery for reuse, or
- (d) arranging for the reuse of the plant or machinery.

(4B) In determining whether expenditure is incurred on preserving plant or machinery pending its reuse or demolition, it is immaterial whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(4C) In determining whether expenditure is incurred on preparing plant or machinery for reuse, or on arranging for the reuse of plant or machinery, it is immaterial whether the plant or machinery is in fact reused.]

(5) In this section—

- (a) “oil field” has the same meaning as in Part I of OTA 1975, and
- (b) “abandonment programme”, “offshore installation” and “submarine pipeline” have the same meaning as in Part IV of the Petroleum Act 1998 (c. 17).

#### Textual Amendments

- F4** Words in s. 163(2)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 6\(2\)](#)
- F5** Words in s. 163(2)(b)(ii) inserted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 6\(3\)](#)
- F6** Word in s. 163(3) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 6\(4\)](#)
- F7** S. 163(4A)-(4C) inserted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 6\(5\)](#)

## 164 Abandonment expenditure incurred before cessation of ring fence trade

- (1) If a person carrying on a ring fence trade incurs abandonment expenditure, [<sup>F8</sup>and the plant or machinery concerned has been brought into use for the purposes of that trade,] he may elect to have a special allowance made to him.
- (2) The election—
- (a) must be made by notice to the Inland Revenue no later than 2 years after the end of the chargeable period in which the abandonment expenditure is incurred, and
  - (b) is irrevocable.
- (3) The election must specify—
- (a) the abandonment expenditure to which it relates, and

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- [<sup>F9</sup>(b) where the plant or machinery concerned has been or is to be demolished, any amounts received for its remains.]
- (4) If a person makes an election under this section—
- (a) he is entitled to a special allowance <sup>F10</sup>... for the chargeable period in which the abandonment expenditure is incurred, and
- [<sup>F11</sup>(b) neither of sections 26(3) and 161C(2)(net cost of demolition where plant or machinery not replaced, or cost of preparing for reuse, added to existing pool) applies.]
- [<sup>F12</sup>(5) The amount of the special allowance for a chargeable period is equal to so much of the abandonment expenditure to which the election relates as is incurred in that period.
- (6) If plant or machinery is demolished, the total of any special allowances in respect of expenditure on decommissioning the plant or machinery is reduced by any amount received for the remains of the plant or machinery.
- Here “ decommissioning ” has the meaning given by section 163(4A).
- (7) Effect is given to subsection (6) by setting the amount (until wholly utilised)—
- first, against any special allowance for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (6));
- second, against special allowances for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and
- third, against special allowances for later chargeable periods (as so reduced and taking earlier such periods before later ones).]

#### Textual Amendments

- F8** Words in s. 164(1) inserted (retrospectively) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 paras. 7\(2\), 9\(9\)](#)
- F9** S. 164(3)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 7\(3\)](#)
- F10** Words in s. 164(4)(a) repealed (with effect as mentioned in Sch. 20 para.9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, 110, [Sch. 20 Pt. 2 para. 7\(4\)](#), [Sch. 33 Pt. 2\(5\)](#) Note 1
- F11** S. 164(4)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 7\(5\)](#)
- F12** S. 164(5)-(7) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) for s. 164(5) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 Pt. 2 para. 7\(6\)](#)

### 165 Abandonment expenditure within 3 years of ceasing ring fence trade

- (1) This section applies if—
- (a) a person (“the former trader”) has ceased to carry on a ring fence trade,
- (b) the former trader incurs abandonment expenditure <sup>F13</sup>... within the post-cessation period, and
- (c) the abandonment expenditure is not otherwise deductible in calculating the income of the former trader for any tax purpose.
- (2) “The post-cessation period” means the period of 3 years immediately following the last day on which the former trader carried on the ring fence trade.
- (3) If this section applies—

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- (a) an amount equal to the relevant abandonment cost is allocated to the appropriate pool for the chargeable period in which the former trader ceased to carry on the ring fence trade, and
  - (b) [<sup>F14</sup>where any of the abandonment expenditure was incurred on the demolition of plant or machinery,]any amount received within the post-cessation period for the remains of the plant or machinery does not constitute income of the former trader for any tax purpose.
- (4) In subsection (3)—
- “the appropriate pool” means the pool to which the expenditure on the demolished plant or machinery has been allocated, and
- “the relevant abandonment cost” means the amount by which the abandonment expenditure exceeds any amounts received within the post-cessation period for the remains of [<sup>F15</sup>any plant or machinery on whose demolition any of the abandonment expenditure was incurred].
- (5) All such adjustments, by discharge or repayment of tax or otherwise, are to be made as are necessary to give effect to this section.

#### Textual Amendments

- F13** Words in s. 165(1)(b) repealed (retrospectively) by [Finance Act 2001 \(c. 9\)](#), s. 68, 110, [Sch. 20 Pt. 2 para. 8\(2\)](#), [Sch. 33 Pt. 2\(5\)](#), Note 2
- F14** Words in s. 165(3)(b) inserted (with effect as mentioned in [Sch. 20 para. 9\(1\)\(5\)\(8\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 para. 8\(3\)](#)
- F15** Words in s. 165(4) substituted (with effect as mentioned in [Sch. 20 para. 9\(1\)\(5\)\(8\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 para. 8\(4\)](#)

### *Transfers of interests in oil fields: anti-avoidance*

#### 166 Transfers of interests in oil fields: anti-avoidance

- (1) This section applies if—
- (a) there is, for the purposes of Schedule 17 to FA 1980, a transfer by a participator in an oil field of the whole or part of his interest in the field, and
  - (b) as part of the transfer, the old participator disposes of, and the new participator acquires—
    - (i) plant or machinery used, or expected to be used, in connection with the field, or
    - (ii) a share in such plant or machinery.
- (2) The amount, if any, by which the new participator’s expenditure exceeds the old participator’s disposal value is to be left out of account in determining the new participator’s available qualifying expenditure.
- (3) In subsection (2)—
- (a) “the new participator’s expenditure” means the expenditure incurred by the new participator on the acquisition of the plant or machinery, and
  - (b) “the old participator’s disposal value” means the disposal value to be brought into account by the old participator as a result of the disposal of the plant or machinery to the new participator.

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- (4) In this section—
- (a) “oil field” and “participator” have the same meaning as in Part I of OTA 1975,
  - (b) “the old participator” means the participator whose interest in the oil field is wholly or partly transferred, and
  - (c) “the new participator” means the person to whom the interest in the oil field is transferred.
- (5) Nothing in this section affects the operation of Chapter 17 (anti-avoidance).

### *Oil production sharing contracts*

#### **167 Oil production sharing contracts**

- (1) Sections 168 to 170 apply if—
- (a) a person (“the contractor”) is entitled to an interest in a contract made with, or with the authorised representative of, the government of a country or territory in which oil is or may be produced, and
  - (b) the contract provides (among other things) for any plant or machinery of a description specified in the contract which—
    - (i) is provided by the contractor, and
    - (ii) has an oil-related use under the contract,
 to be transferred (immediately or later) to the government or representative.
- (2) For the purposes of this section and sections 168 to 170, plant or machinery has an oil-related use if it is used—
- (a) to explore for, win access to or extract oil,
  - (b) for the initial storage or treatment of oil, or
  - (c) for other purposes ancillary to the extraction of oil.
- (3) In this section and sections 168 to 170 “oil” has the meaning given by section 556(3).

#### **168 Expenditure on plant or machinery incurred by contractor**

- (1) This section applies if—
- (a) the contractor incurs capital expenditure on the provision of plant or machinery of a description specified in the contract,
  - (b) the plant or machinery is to have an oil-related use under the contract, for the purposes of a trade of oil extraction carried on by the contractor,
  - (c) the amount of the expenditure is commensurate with the value of the contractor’s interest under the contract, and
  - (d) the plant or machinery is transferred to the government or representative in accordance with the contract.
- (2) Despite the transfer, the plant or machinery is to be treated for the purposes of this Part as owned by the contractor (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
  - (b) it ceases to be used, or held for use, by any person under the contract.

This is subject to section 170(2).



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## **169 Expenditure on plant or machinery incurred by participator**

- (1) This section applies if—
- (a) a person (“the participator”) acquires an interest in the contract from—
    - (i) the contractor, or
    - (ii) another person who has acquired it (directly or indirectly) from the contractor,
  - (b) the participator incurs capital expenditure on the provision of plant or machinery,
  - (c) the plant or machinery is to have an oil-related use under the contract, for the purposes of a trade of oil extraction carried on by the participator,
  - (d) the amount of the expenditure is commensurate with the value of the participator’s interest under the contract, and
  - (e) the plant or machinery is transferred to the government or representative in accordance with the contract.
- (2) Despite the transfer, the plant or machinery is to be treated for the purposes of this Part as owned by the participator (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
  - (b) it ceases to be used, or held for use, by any person under the contract.
- This is subject to section 170(2).

## **170 Participator’s expenditure attributable to plant or machinery**

- (1) This section applies if—
- (a) a person (“the relevant participator”) acquires an interest in the contract from—
    - (i) the contractor, or
    - (ii) another person who has acquired it (directly or indirectly) from the contractor, and
  - (b) some of the expenditure incurred by the relevant participator to acquire the interest in the contract is attributable to plant or machinery which—
    - (i) is treated by section 168 as owned by the contractor, or
    - (ii) is treated by section 169 or subsection (2) as owned by another person (“the other participator”).
- (2) The plant or machinery is to be treated for the purposes of this Part as owned by the relevant participator (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
  - (b) it ceases to be used, or held for use, by any person under the contract.
- This is subject to a later application of this subsection.
- (3) The person who, until subsection (2) applies, is treated as owning the plant or machinery is to be treated for the purposes of this Part as if he had disposed of it for a consideration equal to the relevant participator’s expenditure attributable to it.
- (4) The relevant participator is to be treated for the purposes of this Part as if—
- (a) he had incurred capital expenditure of an amount given by subsection (5), and
  - (b) he owned the plant or machinery (in accordance with subsection (2)) as a result of having incurred that expenditure.

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- (5) The amount of that expenditure is—
- (a) the amount of the relevant participator's expenditure attributable to the plant or machinery, or
  - (b) if less, the disposal value to be brought into account by the contractor or the other participator as a result of subsection (3).
- (6) The expenditure attributable to plant or machinery for the purposes of this section is to be determined having regard to what is just and reasonable in the circumstances.

#### **171 Disposal values on cessation of ownership**

- (1) This section applies if a person treated as owning plant or machinery under section 168(2), 169(2) or 170(2) ceases to be treated as owning it solely as a result of one of those provisions.
- (2) If the person receives capital compensation, the disposal value to be brought into account is the amount of the compensation.
- (3) If the person does not receive capital compensation, the disposal value to be brought into account is nil.

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