



# Oil Taxation Act 1975

## 1975 CHAPTER 22

### PART I

#### PETROLEUM REVENUE TAX

##### **[<sup>F1</sup>5A Allowance of exploration and appraisal expenditure.**

- (1) The exploration and appraisal expenditure which, subject to the provisions of this section and Schedule 7 to this Act, is allowable in the case of a person who is a participator in an oil field is any expenditure (whether or not of a capital nature) which—
- (a) is incurred after 15th March 1983 by that person or, if that person is a company, by that company or a company associated with it in respect of the expenditure; and
  - <sup>F2</sup>(aa) [ either is incurred before 16th March 1993 or is incurred within the period of two years beginning on that date and is expenditure to which that person or, if that person is a company, that company or a company associated with it in respect of the expenditure, is committed immediately before that date; and]
  - (b) is so incurred wholly and exclusively for one or more of the purposes specified in subsection (2) below; and
  - (c) at the time it is so incurred, does not relate to a field for which a development decision has previously been made.

[ For the purposes of subsection (1)(aa) above, in respect of expenditure incurred on or <sup>F3</sup>(1A) after 16th March 1993, a person is to be regarded as committed to that expenditure immediately before that date if—

- (a) he has an obligation under an exploration and appraisal contract entered into before that date to incur the expenditure; or
- (b) the expenditure is incurred wholly and exclusively for the same purpose as that for which the contract referred to in paragraph (a) above was entered into and is so incurred pursuant to an obligation under an exploration and appraisal contract entered into on or after 16th March 1993 and before 16th June 1993.

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- (1B) In considering whether a person has at any time such a contractual obligation as is referred to in paragraph (a) or paragraph (b) of subsection (1A) above in respect of any expenditure,
- (a) if the contract contains a power (however exercisable) by virtue of which the person concerned, or a company associated with him in respect of the expenditure, is able to bring any contractual obligations to an end, he shall not be regarded as committed to any expenditure which, if the power were to be exercised, would not be incurred; and
  - (b) if the person concerned (or a company associated with him in respect of the expenditure) has an option (however described) which was not exercised before 16th March 1993 but the exercise of which would increase his expenditure under the contract, he shall not be regarded as committed to any expenditure which would be incurred only as a result of the exercise of the option.
- (1C) For the purposes of subsection (1A) above a contract is an exploration and appraisal contract if it is a contract for the provision of any services or other business facilities or assets for any of the purposes specified in subsection (2) below.]
- (2) The purposes referred to in [F<sup>4</sup>subsections (1) to (1C)] above are—
- (a) the purpose of searching for oil in [F<sup>5</sup>the territorial sea of the United Kingdom] or a designated area;
  - (b) the purpose of ascertaining the extent or characteristics of any oil-bearing area in [F<sup>5</sup>the territorial sea of the United Kingdom] or a designated area;
  - (c) the purpose of ascertaining what are the reserves of oil of any such oil-bearing area; and
  - (d) subject to subsection (3) below, the purpose of making to the [F<sup>6</sup>OGA] any payment under or for the purpose of obtaining a licence (not being a payment by way of royalty or other periodic payment).
- [ Any reference in subsection (2) above to a designated area does not include a
- F<sup>7</sup>(2A) sector which, by virtue of subsection (3)(b) of section 107 of the Finance Act 1980 (transmedian fields), is deemed to be a designated area.]
- (3) Expenditure incurred for the purpose mentioned in subsection (2)(d) above is not allowable under this section unless, at the time the allowance is claimed,—
- (a) the licence to which the expenditure related has expired or has been determined or revoked; or
  - (b) part of the licensed area has been surrendered;
- and where paragraph (b) above applies only that proportion of the expenditure which corresponds to the proportion of the licensed area which has been surrendered is expenditure falling within subsection (1) above.
- (4) Subject to subsection (5) below, subsections (2) and (4) to (8) of section 5 of this Act apply for the purposes of this section as they apply for the purposes of that section.
- (5) In the application for the purposes of this section of the provisions of section 5 of this Act referred to in subsection (4) above,—
- (a) any reference in subsection (2) of section 5 to the purpose mentioned in subsection (1)(b) of that section shall be construed as a reference to any of the purposes specified in subsection (2) of this section;

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- (b) the reference in subsection (2)(a) of section 5 to subsection (1) of that section shall be construed as a reference to subsection (1) of this section; and
  - (c) the reference in subsection (6) of section 5 to a sum received—
    - [ includes a reference to a sum received, or treated by virtue of
    - <sup>F8</sup>(i) subsection (5A) below as received, from the disposal of oil won in the course of operations carried out for any of the purposes in paragraphs (a) to (c) of subsection (2) of this section; but
    - (ii) does not include a reference to a sum received for the assignment of any of the rights conferred by a licence or of any interest in a licensed area.]
- [ Subsection (5B) below applies in any case where—
- <sup>F9</sup>(5A) (a) oil which is won as mentioned in paragraph (c)(i) of subsection (5) above is either disposed of otherwise than in sales at arm's length or appropriated to refining or to any use except for production purposes of an oil field, and
- (b) if that oil had been disposed of in a sale at arm's length, then, by virtue of section 5(6) of this Act as applied by subsection (5) above, certain expenditure would have been reduced by reference to the receipt of a sum from that disposal.
- (5B) Where this subsection applies, the oil concerned shall be treated for the purposes of subsection (5)(c)(i) above and section 5(6) of this Act as having been disposed of for a sum equal to its market value [<sup>F10</sup>at the material time][<sup>F11</sup>determined in accordance with Schedule 3 to this Act for the disposal or appropriation mentioned] in subsection (5A) (a) above and, accordingly, for those purposes—
- (a) a sum equal to that market value shall be treated as having been received from that disposal; and
  - (b) no account shall be taken of any sum actually received from the disposal of any of that oil.
- (5C) In the application of Schedule 3 to this Act for the purpose of ascertaining the market value of oil as mentioned in subsection (5B) above,—
- <sup>F12</sup>(a) . . . . .
- (b) [<sup>F13</sup>sub-paragraph (4)] of paragraph 2 shall be omitted; and
  - (c) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in subsection (5A)(a) above[<sup>F14</sup>; and
  - (d) any reference in paragraph 2 to the notional delivery day for the actual oil shall be construed as a reference to the day on which the oil is disposed of or appropriated as mentioned in subsection (5A)(a) above.]]
- (6) Expenditure is not allowable under this section in connection with an oil field if, or to the extent that, it has been allowed under Schedule 5, Schedule 6 or Schedule 7 to this Act in connection with any oil field.
- (7) For the purposes of subsection (1)(c) above, a development decision is made when—
- (a) consent for development is granted to a licensee by the [<sup>F6</sup>OGA] in respect of the whole or part of an oil field; or
  - (b) a programme of development is served on a licensee or approved by the [<sup>F6</sup>OGA] for the whole or part of an oil field;

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and subsections (4) and (5) of section 36 of the Finance Act 1983 (meaning of development etc.) apply in relation to this subsection as they apply in relation to subsections (2) and (3) of that section.

- (8) If, at the time when it is incurred, expenditure relates to an area—
- (a) which is not then an oil field, but
  - (b) in respect of which notice of a proposed determination has previously been given under paragraph 2(a) of Schedule 1 to this Act,
- that area shall be treated for the purposes of this section as having become an oil field at the time the notice was given unless, when the actual determination is made, the area is not included in an oil field.]

#### Textual Amendments

- F1** S. 5A added by [Finance Act 1983 \(c. 49\), s. 37\(1\)](#) and Sch. 8 Part I
- F2** S. 5A(1)(aa) inserted (27.7.1993) by [1993 c. 34, s. 188\(1\)](#)
- F3** S. 5A(1A)-(1C) inserted (27.7.1993) by [1993 c. 34, s. 188\(2\)](#)
- F4** Words in s. 5A(2) substituted (27.7.1993) by [1993 c.34 s. 188\(3\)](#)
- F5** Words substituted by [Finance Act 1985 \(c. 54\), s. 90\(2\)](#) with respect to expenditure incurred on or after 1 April 1986
- F6** Word in s. 5A substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\), regs. 1\(2\), 4\(4\)](#)
- F7** S. 5A(2A) added by [Finance Act 1985 \(c. 54\), s. 90](#) with respect to expenditure incurred on or after 19 March 1985
- F8** S. 5A(5)(c)(i)(ii) substituted by [Finance Act 1985 \(c. 54\), s. 90](#) with respect to expenditure incurred on or after 19 March 1985
- F9** S. 5A(5A)-(5C) added by [Finance Act 1985 \(c. 54\), s. 90](#) with respect to expenditure incurred on or after 19 March 1985
- F10** Words repealed by [Finance Act 1987 \(c. 16\), ss. 62\(1\)\(b\), 72\(7\)](#) and Sch. 16 Part X for chargeable periods ending after 31 December 1986
- F11** Words in s. 5A(5B) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 18 para. 3\(2\)](#)
- F12** S. 5A(5C)(a) repealed (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 18 para. 3\(4\), Sch. 26 Pt. 5\(1\)](#)
- F13** Words in s. 5A(5C)(b) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 18 para. 3\(5\)](#)
- F14** S. 5A(5C)(d) and preceding word inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 18 para. 3\(6\)](#)

#### Modifications etc. (not altering text)

- C1** See [Finance Act 1984 \(c. 43\), s. 113](#)
- C2** Also for the purposes of [Oil Taxation Act 1983 \(c. 56\), s. 8\(3\)](#) and Sch. 1 para. 6(1)

**Status:**

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**Changes to legislation:**

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