



Capital Allowances Act 1990 (repealed)

1990 CHAPTER 1

PART IV

MINERAL EXTRACTION

CHAPTER I

ALLOWANCES AND CHARGES

98 Writing-down and balancing allowances.

- (1) Allowances shall be made in accordance with this section to a person who carries on a trade of mineral extraction in respect of qualifying expenditure incurred by him for the purposes of that trade.
- (2) Subject to subsection (4) below, for the chargeable period related to the incurring of the expenditure, there shall be made to the person incurring it an allowance equal to the appropriate percentage of the excess (if any) of that expenditure over any disposal receipts which he is required to bring into account by reference to that expenditure for that chargeable period.
- (3) Subject to subsection (4) below, for each of the chargeable periods following that related to the incurring of the expenditure, there shall be made to the person incurring it an allowance equal to the appropriate percentage of the excess (if any) of that expenditure over the aggregate of—
 - (a) the allowances made in respect of the expenditure for earlier chargeable periods by virtue of subsection (2) above and this subsection; and
 - (b) any disposal receipts which he is or was required to bring into account by reference to that expenditure for the chargeable period in question and any earlier chargeable periods.
- (4) For a chargeable period for which, in accordance with section 101, a balancing allowance falls to be made to any person in respect of any expenditure, subsection (2)

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

or, as the case may be, subsection (3) above shall have effect with the omission of the words “the appropriate percentage of”.

- (5) Subject to subsection (6) below, in relation to expenditure which is qualifying expenditure falling within section 105, 108 or 109, other than expenditure falling within section 105(1)(b), the appropriate percentage is 25 and, in relation to all other qualifying expenditure, the appropriate percentage is 10.

[^{F1}(6) If a chargeable period is a period of less or more than a year or if the trade has been carried on for part only of it, the percentage appropriate under subsection (5) above shall be correspondingly reduced or, as the case may require, increased.]

Textual Amendments

- F1** S. 98(6) substituted (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(8\)](#)

99 Disposal receipts.

(1) In any case where—

- (a) qualifying expenditure has been incurred by any person on the provision of any assets (including the construction of any works), and
- (b) in any chargeable period ^{F2}... any of those assets is disposed of or otherwise permanently ceases (whether because of the discontinuance of the trade or for any other reason) to be used by him for the purposes of a trade of mineral extraction,

he shall bring into account as a disposal receipt in respect of that expenditure for the chargeable period related to the disposal or, as the case may be, cessation the disposal value of any asset falling within paragraph (b) above.

(2) If, at any time after a mineral asset has been acquired by any person, it begins to be used (by him or by any other person) in a way which constitutes development but is neither existing permitted development nor development for the purposes of a trade of mineral extraction carried on by him, the asset shall be treated as having permanently ceased, immediately before that time, to be used by him for the purposes of that trade; and for the purposes of this subsection “existing permitted development” means—

- (a) development which, prior to the acquisition, had been or had begun to be lawfully carried out; and
- (b) any other development for which planning permission is granted by a development order made as a general order and in force at the time of the acquisition;

and section 110(3) applies for the purposes of this subsection as it applies for the purposes of section 110(2).

(3) Subject to section 112, section 26 shall apply to determine the disposal value of any asset falling within subsection (1) above, substituting a reference to that asset for any reference in those subsections to machinery or plant.

(4) In any case where—

- (a) qualifying expenditure has been incurred by any person, and
- (b) in any chargeable period ^{F2}... he receives any capital sum which, in whole or in part, it is reasonable to attribute to that expenditure, and

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

(c) that capital sum does not fall to be brought into account as a disposal receipt by virtue of subsection (1) above,
he shall bring into account as a disposal receipt in respect of that expenditure for the chargeable period related to the receipt of that capital sum so much of it as is reasonably attributable to the expenditure.

Textual Amendments

F2 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

Modifications etc. (not altering text)

C1 S. 99 modified (19.9.1994) by [Coal Industry Act 1994 \(c. 21\), s. 68\(4\), Sch. 4 para. 20\(4\)\(b\)](#); [S.I. 1994/2189](#), art. 2, Sch.

100 Balancing charges: excess of allowances etc. over expenditure.

- (1) If, for any chargeable period for which a person is required to bring into account a disposal receipt in respect of qualifying expenditure incurred by him, the aggregate of—
- (a) the disposal receipts in respect of that expenditure which he is required to bring into account for that period, and
 - (b) any disposal receipts in respect of that expenditure which he was required to bring into account for earlier chargeable periods, and
 - (c) the net amount of the allowances made to him for earlier chargeable periods under section 98 in respect of that expenditure,
- exceeds the expenditure concerned, there shall be made on him a charge (“a balancing charge”).
- (2) In relation to any qualifying expenditure, the amount on which a balancing charge is made for a chargeable period shall be whichever is the less of—
- (a) the amount by which the aggregate referred to in subsection (1) above exceeds the expenditure; and
 - (b) the net amount of the allowances made as mentioned in subsection (1)(c) above.
- (3) In relation to any chargeable period, the net amount of the allowances made to any person for earlier chargeable periods under section 98 in respect of expenditure incurred by him means the total of those allowances less the total of the amounts on which balancing charges have been made on him for earlier chargeable periods, being charges arising by reason of his bringing into account disposal receipts in respect of that expenditure.

101 Occasions of balancing allowances.

- (1) For the chargeable period related to the permanent discontinuance of a trade of mineral extraction, any allowance to which the person carrying on that trade is entitled under section 98 in respect of qualifying expenditure incurred by him for the purposes of that trade shall be a balancing allowance.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (2) If in any chargeable period ^{F2}... a person carrying on a trade of mineral extraction permanently ceases to work particular mineral deposits (and subsection (1) above does not apply in respect of that period) any allowance to which he is entitled for that chargeable period under section 98 in respect of—
- (a) expenditure on mineral exploration and access which relates solely to those deposits, or
 - (b) expenditure on the acquisition of a mineral asset which consists of those deposits or any part of them,
- shall be a balancing allowance.
- (3) Where a person carrying on a trade of mineral extraction is for the time being entitled to two or more mineral assets which at any time were comprised in a single mineral asset or were otherwise derived from a single mineral asset, subsection (2) above shall not apply until such time as he permanently ceases to work the deposits comprised in all the mineral assets concerned taken together and, for this purpose, where a mineral asset relates to, but does not actually consist of, mineral deposits, the deposits to which the asset relates shall be treated as comprised in the asset.
- (4) If, in a case where subsection (1) of section 99 applies, neither subsection (1) nor subsection (2) above has effect in relation to the expenditure referred to in subsection (1)(a) of that section, then, for the chargeable period related to the disposal or cessation referred to in subsection (1)(b) of that section, any allowance in respect of that expenditure shall be a balancing allowance.
- (5) In relation to pre-trading expenditure on machinery or plant and pre-trading exploration expenditure falling within section 107(3), any allowance under section 98 shall be a balancing allowance.
- (6) If in any chargeable period ^{F2}... a person who has incurred qualifying expenditure on mineral exploration and access (including pre-trading exploration expenditure falling within section 107(2)) gives up the search, exploration or inquiry to which the expenditure related and does not carry on then or subsequently a trade of mineral extraction which consists of or includes the working of any mineral deposits to which the mineral exploration and access related, any allowance to which he is entitled for that chargeable period under section 98 in respect of that expenditure shall be a balancing allowance.
- (7) In any case where—
- (a) a person has incurred expenditure consisting of contributions falling within section 108 to the cost of any buildings or works, and
 - (b) in any chargeable period ^{F2}... the buildings or works permanently cease to be used for the purposes of, or in connection with, a trade of mineral extraction carried on by him,
- then, without prejudice to subsection (1) above, any allowance to which he is entitled for that chargeable period under section 98 in respect of that expenditure shall be a balancing allowance.
- (8) If in any chargeable period ^{F2}... any of the following events occurs in relation to assets representing any qualifying expenditure, namely—
- (a) the person by whom the expenditure was incurred loses possession of the assets in circumstances where it is reasonable to assume that the loss is permanent,

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (b) the assets cease to exist as such (as a result of destruction, dismantling or otherwise),
 - (c) the assets begin to be used wholly or partly for purposes other than those of the trade of mineral extraction carried on by that person,
- any allowance to which that person is entitled for that chargeable period under section 98 in respect of that expenditure shall be a balancing allowance.

Textual Amendments

- F2** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

102 Treatment of qualifying expenditure on mineral exploration and access.

For the purposes of this Chapter, where a person is carrying on a trade of mineral extraction, qualifying expenditure incurred by him in connection with that trade (whether before or after the trade begins to be carried on) on mineral exploration and access shall be taken to be incurred for the purposes of the trade.

103 Demolition costs.

- (1) The net cost to a person of the demolition of an asset representing qualifying expenditure shall, for the purposes of this Chapter, be added to that qualifying expenditure in determining the amount of any balancing allowance or balancing charge for the chargeable period related to the demolition of the asset.
- (2) The cost or net cost to a person of the demolition of any asset shall not, if subsection (1) above applies to it, be treated for the purposes of this Part as expenditure incurred in respect of any other asset by which that asset is replaced.
- (3) Any reference in this section to the net cost of the demolition of any asset is a reference to the excess (if any) of the cost of the demolition over any moneys received for the remains of the asset.

104 Manner of making allowances and charges.

All allowances and charges falling to be made under this Chapter to or on any person shall be made to or on him in taxing his trade of mineral extraction.

CHAPTER II

QUALIFYING EXPENDITURE

105 General provisions.

- (1) Subject to subsections (2) to (5) below, in relation to a person carrying on a trade of mineral extraction, the following capital expenditure is qualifying expenditure, namely—
 - (a) expenditure on mineral exploration and access;
 - (b) expenditure on the acquisition of a mineral asset;

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (c) expenditure on the construction of any works in connection with the working of a source of mineral deposits, being works which, when the source is no longer worked, are likely to be of little or no value to the person working it immediately before that time; and
 - (d) where a source of mineral deposits is worked under a foreign concession, expenditure on the construction of works which, when the concession comes to an end, are likely to become valueless to the person working it immediately before that time.
- (2) Where expenditure falling within subsection (1)(a) above is incurred by any person before he begins to carry on a trade of mineral extraction, it shall not be qualifying expenditure except to the extent that section 106 or 107 provides.
- (3) Chapter III of this Part shall have effect to limit in certain cases the amount of expenditure which is qualifying expenditure.
- (4) Except as provided by section 106, expenditure on the provision of machinery or plant or on any asset which has been treated for any chargeable period as machinery or plant is not qualifying expenditure.
- (5) The following is not qualifying expenditure by virtue of this section—
- (a) any expenditure on the acquisition of the site of any such works as are referred to in subsection (1) above, or of rights in or over any such site;
 - (b) any expenditure on works constructed wholly or mainly for subjecting the raw product of a source to any process, except a process designed for preparing the raw product for use as such;
 - (c) any expenditure on buildings or structures provided for occupation by or for the welfare of workers;
 - (d) any expenditure on a building where the whole of the building was constructed for use as an office; and
 - (e) any expenditure on so much of a building or structure as was constructed for use as an office, unless the capital expenditure on the construction of the part of the building or structure constructed for use as an office was not more than one-tenth of the capital expenditure incurred on the construction of the whole building or structure.
- (6) Where a person carrying on a trade of mineral extraction incurs expenditure on seeking any planning permission necessary to enable any mineral exploration and access to be undertaken at any place or any mineral deposits to be worked and that permission is not granted, the expenditure shall be treated for the purposes of this Part as expenditure on mineral exploration and access; and in this subsection “seeking”, in relation to planning permission, includes not only making any necessary application but also pursuing any appeal against a refusal of permission.
- (7) In so far as any provision of this Part or any other enactment is expressed to be about expenditure falling within subsection (1)(a) or (b) above—
- (a) expenditure on the acquisition of, or of rights in or over, the site of a source, and
 - (b) expenditure on the acquisition of, or of rights in or over, mineral deposits, shall be treated as falling within subsection (1)(b) and not within subsection (1)(a).

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

106 Pre-trading expenditure on machinery or plant which is sold etc.

- (1) This section applies where—
 - (a) capital expenditure is incurred by any person on the provision of machinery or plant; and
 - (b) that expenditure falls within section 105(1)(a); and
 - (c) that expenditure is so incurred before he begins to carry on a trade of mineral extraction; and
 - (d) before he begins to carry on that trade, the machinery or plant is sold, demolished, destroyed or abandoned.
- (2) Where this section applies and there is such an excess of expenditure as is referred to in subsection (3) below, then, for the purposes of this Part, the person concerned shall be treated as incurring qualifying expenditure equal to that excess on the first day on which he begins to carry on a trade of mineral extraction; and that qualifying expenditure is in this Part referred to as pre-trading expenditure on machinery or plant.
- (3) Subject to subsection (4) below, the excess referred to in subsection (2) above is the amount by which the capital expenditure referred to in subsection (1) above exceeds any sale, insurance, salvage or compensation moneys resulting from the event mentioned in subsection (1)(d) above.
- (4) If, in a case where this section applies, the mineral exploration and access at the source in connection with which the machinery or plant was used ceased before the first day referred to in subsection (2) above, any capital expenditure which was incurred more than six years before that day shall be left out of account in determining the amount of any excess under subsection (3) above.

107 Pre-trading exploration expenditure.

- (1) This section applies to capital expenditure which—
 - (a) is incurred by any person on mineral exploration and access at any source, and
 - (b) is so incurred before he begins to carry on a trade of mineral extraction, and
 - (c) is not incurred on the provision of machinery or plant.
- (2) Where this section applies to any capital expenditure and the mineral exploration and access is continuing at the source in question at the time when the person concerned begins to carry on a trade of mineral extraction, so much of the expenditure as exceeds any relevant capital sum received by him is qualifying expenditure.
- (3) Where this section applies to any capital expenditure and the mineral exploration and access has ceased at the source in question before the time when the person concerned begins to carry on a trade of mineral extraction, so much of that expenditure as was incurred within the six years ending at that time and exceeds any relevant capital sum received by him shall be treated as qualifying expenditure incurred on the first day on which he begins to carry on that trade.
- (4) In relation to capital expenditure to which this section applies, a relevant capital sum is a capital sum—
 - (a) which is received by the person incurring the expenditure before he begins to carry on a trade of mineral extraction; and
 - (b) which is or, as the case may be, to the extent to which it is reasonably attributable to the incurring of the expenditure at the source in question.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (5) Expenditure which is qualifying expenditure by virtue of subsection (2) or (3) above is in this Part referred to as pre-trading exploration expenditure.

108 Contributions by mining concerns to public services etc. outside the United Kingdom.

- (1) Subject to subsections (2) and (3) below, expenditure incurred by a person carrying on a trade of mineral extraction outside the United Kingdom and consisting of contributions of capital sums to the cost of—
- (a) buildings to be occupied by persons employed at or in connection with the working of a source outside the United Kingdom, or
 - (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed, or
 - (c) works to be used in providing other services or facilities wholly or mainly for the welfare of persons so employed or their dependants,
- is by virtue of this section qualifying expenditure.
- (2) Expenditure incurred by any person as mentioned in subsection (1) above is not qualifying expenditure unless—
- (a) it is incurred for the purposes of his trade of mineral extraction; and
 - (b) when the source in question is no longer worked, the buildings or works concerned are likely to be of little or no value to the person working the source immediately before that time.
- (3) Subsection (1) does not apply—
- (a) to expenditure resulting in the acquisition of an asset by the person incurring the expenditure; nor
 - (b) to expenditure in respect of which an allowance may be made under any provision of the Tax Acts (other than this Part).

109 Restoration expenditure.

- (1) Where a person who has ceased to carry on a trade of mineral extraction incurs expenditure on the restoration of the site of a source to the working of which that trade related and all or any of that expenditure—
- (a) is incurred within the period of three years immediately following the last day on which he carried on that trade, and
 - (b) has not been deducted for the purposes of corporation tax or income tax in relation to that or any other trade carried on by him, and
 - (c) is expenditure which, if it had been incurred while that trade was being carried on, either would have been qualifying expenditure by virtue of any provision of sections 105 to 108 or would have been allowable as a deduction in computing the profits or gains from that trade,
- so much of that expenditure as falls within paragraphs (a) to (c) above and does not exceed the net cost of the restoration of the site shall be qualifying expenditure by virtue of this section and shall be treated as incurred by him on the last day on which he carried on that trade.
- (2) Any reference in this section to the site of a source includes a reference to land used in connection with the working of the source.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (3) In this section “restoration” includes landscaping and—
- (a) in relation to land in the United Kingdom, the carrying out of any works required by a condition subject to which planning permission for development consisting of the winning and working of minerals was granted; and
 - (b) in relation to land outside the United Kingdom, the carrying out of any works required by any equivalent condition imposed under the law of the territory in which the land is situated.
- (4) For the purposes of this section, the net cost to any person of the restoration of the site of a source is the excess, if any, of expenditure falling within subsection (1)(a) to (c) above over any receipts which—
- (a) are attributable to the restoration (whether for spoil or other assets removed from the site or for tipping rights or otherwise); and
 - (b) are received within the period of three years immediately following the last day on which the person concerned carried on a trade of mineral extraction.
- (5) As respects the person who incurs any expenditure which is qualifying expenditure by virtue of this section—
- (a) expenditure falling within subsection (1)(a) to (c) above (not only so much of it as constitutes qualifying expenditure) shall not be deductible in computing his income for any purpose of income tax or corporation tax; and
 - (b) to the extent that any receipts are, under subsection (4) above, taken into account to determine the net cost of the restoration of the site of a source, those receipts shall not constitute income of his for any purpose of income tax or corporation tax.
- (6) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of subsections (1) to (5) above.

CHAPTER III

LIMITATIONS ON QUALIFYING EXPENDITURE ETC.

110 Expenditure on the acquisition of land.

- (1) In so far as capital expenditure falling within section 105(1)(b) consists of expenditure on the acquisition of an interest in land (whether in the United Kingdom or elsewhere) and that land includes a source of mineral deposits, so much of that expenditure as is equal to the undeveloped market value of the interest shall not constitute qualifying expenditure.
- (2) In relation to the acquisition of an interest in land, the undeveloped market value means the consideration which, at the time of the acquisition, the interest might reasonably be expected to fetch on a sale in the open market on the assumptions—
- (a) that there is no source of mineral deposits on or in the land; and
 - (b) that it is and will continue to be unlawful to carry out any development of the land other than—
 - (i) development which, at the time of the acquisition, has been or had begun to be lawfully carried out; and

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (ii) any other development for which planning permission is granted by a development order which has been made as a general development order and is in force at that time.
- (3) In the application of subsection (2) above to the acquisition of an interest in land outside the United Kingdom—
- (a) any question whether development has been or is being lawfully carried out shall be determined in accordance with the law of the territory in which the land is situated; and
- (b) any question whether development is of a character for which planning permission is granted by a general development order shall be determined as if the land were situated in England or Wales.
- (4) In any case where—
- (a) subsections (1) to (3) above have effect to limit the amount of expenditure falling within section 105(1)(b) which is qualifying expenditure, and
- (b) the undeveloped market value of the interest in land in question includes the value of any buildings or other structures on the land, and
- (c) at the time of the acquisition of the interest in land or at any time thereafter, those buildings or structures cease permanently to be used for any purpose,
- then at the time referred to in paragraph (c) above the person who incurred the expenditure referred to in paragraph (a) above shall be treated as having incurred qualifying expenditure falling within section 105(1)(b) equal to the unrelieved value of the buildings or structures referred to in paragraph (b) above.
- (5) In subsection (4) above “the unrelieved value” of buildings or structures falling within paragraph (b) of that subsection means the value of those buildings or structures determined as at the date of the acquisition of the interest in land (and without regard to any value properly attributable to the land on which the buildings or structures stand) less the excess of any allowances over balancing charges which the person treated by subsection (4) above as incurring expenditure has received in respect of buildings or structures or assets therein under this Act disregarding Part III and, in cases where the buildings or structures have ceased before 27th July 1989 permanently to be used for any purpose, Part V.
- (6) References in subsections (1) to (5) above to the time of the acquisition of an interest in land are not affected by section 120.

111 Reduction of qualifying expenditure for premium relief.

In any case where—

- (a) a person incurs capital expenditure falling within section 105(1)(b) on the acquisition of an asset which is or includes an interest in land, and
- (b) for chargeable periods previous to the chargeable period for which he first becomes entitled in respect of the expenditure to an allowance under section 98, the person incurring the expenditure has been allowed, in respect of that land, any deductions under section 87 of the principal Act (deductions where premiums etc. taxable),

the expenditure shall be treated for the purposes of this Part as reduced by so much of those deductions as would have been excluded by subsection (7) of section 87 of the principal Act if the person concerned had been entitled to an allowance under

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

section 98 of this Act (or, as the case may be, section 60 of the 1968 Act) for the previous chargeable periods referred to in paragraph (b) above.

112 Restriction of disposal receipts.

- (1) Where a disposal receipt to be brought into account in respect of any expenditure for a chargeable period would, apart from this section, be the disposal value of an interest in land (determined as mentioned in section 99(3)), only so much of that disposal value as exceeds the undeveloped market value of the interest shall constitute a disposal receipt for the purposes of Chapter I of this Part.
- (2) Section 110(2) and (3) shall apply to determine the undeveloped market value of an interest for the purposes of this section as they would apply in relation to an acquisition of that interest at the time the disposal value falls to be determined.

113 Assets formerly owned by traders.

- (1) Subject to subsection (2) below, section 114 applies where a person carrying on a trade of mineral extraction (“the buyer”) incurs capital expenditure in acquiring an asset (“the purchased asset”) from another person in circumstances falling within subsection (3) below.
- (2) This section and section 114 have effect subject to section 116, and neither this section, section 114 nor section 116 applies if—
 - (a) the purchased asset is a mineral asset situated in the United Kingdom; and
 - (b) the capital expenditure incurred by the buyer consists of the payment of sums under a contract entered into by him before 16th July 1985.
- (3) Subject to subsection (5) below, the circumstances referred to in subsection (1) above are that—
 - (a) in connection with a trade of mineral extraction carried on by him, the other person referred to in subsection (1) above incurred expenditure on the acquisition or bringing into existence of the purchased asset; or
 - (b) that other person has not incurred expenditure as mentioned in paragraph (a) above but, at any time prior to the buyer’s acquisition, the purchased asset was owned by a person who, in connection with a trade of mineral extraction carried on by him, had incurred such expenditure as is mentioned in paragraph (a) above;

and, in a case where the purchased asset is a mineral asset situated in the United Kingdom, the reference in paragraph (b) above to a time prior to the buyer’s acquisition does not include any time earlier than 1st April 1986.

- (4) In this section “the previous trader” means—
 - (a) where the circumstances are as mentioned in paragraph (a) of subsection (3) above, the person referred to in that paragraph; and
 - (b) where the circumstances are as mentioned in paragraph (b) of subsection (3) above, the last person who, prior to the buyer’s acquisition, incurred such expenditure as is mentioned in paragraph (a) of that subsection;

and, subject to subsections (5) and (6) below, any reference in section 114 to the previous trader’s qualifying expenditure is a reference to so much of the expenditure incurred by him on the acquisition or bringing into existence of the purchased asset as constituted his qualifying expenditure for the purposes of this Part.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (5) Any reference in subsections (3) and (4) above to the purchased asset includes a reference—
- (a) to two or more assets which together make up the purchased asset; and
 - (b) to an asset from which or, as the case may be, to two or more assets from the combination of which the purchased asset is derived.
- (6) Where the previous trader in fact incurred expenditure on the acquisition or bringing into existence of one or more assets from which the purchased asset is derived, so much of that expenditure as was qualifying expenditure of his for the purposes of this Part and as it is just and reasonable to attribute to the purchased asset shall be taken to be the previous trader's qualifying expenditure.

114 Assets previously acquired.

- (1) In this section “the buyer's expenditure” means the capital expenditure incurred by him as mentioned in section 113(1), less any amount of that expenditure which, by virtue of section 110, does not constitute qualifying expenditure.
- (2) If the previous trader did not become entitled to an allowance or liable to a balancing charge in respect of his qualifying expenditure, so much of the buyer's expenditure as does not exceed the amount of the previous trader's qualifying expenditure shall be the buyer's qualifying expenditure in respect of the acquisition of the purchased asset.
- (3) If the previous trader became entitled to an allowance or liable to a balancing charge in respect of his qualifying expenditure, so much of the buyer's expenditure as does not exceed the residue of the previous trader's qualifying expenditure shall be the buyer's qualifying expenditure in respect of the acquisition of the purchased asset.
- (4) In relation to the previous trader's qualifying expenditure, the residue referred to in subsection (3) above is that expenditure—
- (a) less the total of all allowances made to him in respect of that expenditure; and
 - (b) plus the amount (if any) on which a balancing charge was made in respect of that expenditure.
- (5) For the purposes of subsection (4) above, where the previous trader's qualifying expenditure is an amount attributed to the purchased asset on a just and reasonable basis in accordance with section 113(6), any allowances and any balancing charge made by reference to a greater amount of expenditure shall be apportioned on the like basis.
- (6) In this section—
- “allowance” means an allowance under section 98;
 - “balancing charge” means a balancing charge under section 100; and
 - “the buyer”, “the previous trader” and “the purchased asset” have the same meanings as in section 113.

115 Expenditure partly attributable to mineral exploration and access.

- (1) This section applies where, in a case falling within section 113(1)—
- (a) the purchased asset is a mineral asset; and
 - (b) part of the value of that asset is attributable to expenditure incurred by the previous trader on mineral exploration and access.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (2) Where this section applies—
- (a) such part of the buyer’s expenditure as it is just and reasonable to attribute to the part of the value referred to in subsection (1)(b) above (being no greater than the amount of the previous trader’s expenditure on mineral exploration and access which is properly attributable to that part of the value) shall be treated for the purposes of Chapters I and II of this Part as expenditure on mineral exploration and access and the remainder shall be treated for those purposes as expenditure on the acquisition of a mineral asset; and
 - (b) if under Part VII allowances were made to the previous trader in taxing his trade, the existence of these allowances shall not affect the question whether any of his expenditure on the purchased asset was qualifying expenditure.
- (3) In this section “the previous trader” and “the purchased asset” have the same meanings as in section 113 and “the buyer’s expenditure” has the same meaning as in section 114.

116 Oil licences etc.

- (1) Where a person carrying on a trade of mineral extraction (“the buyer”) incurs capital expenditure falling within section 105(1)(b) in acquiring a Petroleum Act licence or any interest in such a licence, only so much of that expenditure as does not exceed the corresponding expenditure of the original licensee shall be the buyer’s qualifying expenditure.
- (2) In this section “a Petroleum Act licence” means a licence under the ^{M1}Petroleum (Production) Act 1934 or the ^{M2}Petroleum (Production) Act (Northern Ireland) 1964 authorising the winning of oil, as defined in section 1 of the ^{M3}Oil Taxation Act 1975; and in relation to such a licence “the original licensee” means the person to whom the licence was granted under the enactment in question.
- (3) In relation to the acquisition of a Petroleum Act licence “the corresponding expenditure” of the original licensee is the amount of the payment made by him (whenever made) to the Secretary of State or, in Northern Ireland, to the Department of Economic Development for the purpose of obtaining the licence, and, in relation to an interest in such a licence, that corresponding expenditure is such portion of the amount of that payment as it is just and reasonable to attribute to that interest.

Marginal Citations

- M1** 1934 c. 36.
M2 1964 c. 28(N.I.).
M3 1975 c. 22.

117 Transfer of mineral assets within a group.

- (1) Subject to subsection (2) below, this section applies where a company (“the transferee”) acquires a mineral asset from another company (“the transferor”) and either—
- (a) the transferor has control of the transferee or the transferee has control of the transferor, or
 - (b) both the transferor and the transferee are under the control of another person.
- (2) This section does not apply—

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (a) where the acquisition is a sale in respect of which an election is made under section 158; nor
 - (b) where the mineral asset in question is, or is an interest in, a Petroleum Act licence as defined in section 116;
- but, subject to paragraph (a) above, this section applies notwithstanding anything in section 157.
- (3) Subject to subsection (4) below, so much, if any, of the capital expenditure incurred by the transferee on the acquisition of the mineral asset as exceeds the capital expenditure incurred by the transferor on the acquisition of the mineral asset by him shall be left out of account for the purposes of this Part (and, accordingly, if the transferee is carrying on a trade of mineral extraction, shall not be qualifying expenditure).
- (4) Where the mineral asset acquired by the transferee consists of an interest or right granted by the transferor in a mineral asset acquired by him, the reference in subsection (3) above to the capital expenditure incurred by the transferor on the acquisition of the mineral asset by him shall be construed as a reference to so much of that expenditure as, on a just apportionment, is referable to the interest or right granted by the transferor.
- (5) If the transferee is carrying on a trade of mineral extraction and the expenditure incurred by him on the acquisition of the mineral asset is expenditure falling within section 110, any reference in that section to the time of the acquisition of the interest in land is a reference to the time it was acquired by the transferor or, if there is a sequence of two or more acquisitions each of which falls within subsection (1) above, the time at which the interest was acquired by the company which was the transferor under the earliest of those acquisitions.
- (6) If, in a case where subsection (5) above applies, there is a sequence of two or more acquisitions each of which falls within subsection (1) above—
- (a) any expenditure which one of the companies involved in the sequence is treated as incurring under section 110(4) shall be treated as incurred by the company which is the transferee from that company and by any subsequent transferee company in the sequence; and
 - (b) the reference in section 110(5) to the person treated by subsection (4) of that section as incurring expenditure shall be construed as including a reference to any other company which, under paragraph (a) above, is treated as incurring that expenditure.

118 Assets formerly owned by non-traders.

Where a person incurs expenditure on mineral exploration and access and, without having carried on a trade of mineral extraction, he sells any assets representing that expenditure, then, if the person who acquires the assets carries on such a trade, only so much of the price paid by him for the assets as does not exceed the amount of the seller's expenditure which is represented by the assets shall be qualifying expenditure for the purposes of this Part.

[^{F3}118A Disposals of oil licences relating to undeveloped areas.

- (1) If, at the time of the material disposal of a licence, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or
 - (b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,
- the value of that consideration shall be treated as nil for the purposes of this Part and Part VII.
- (2) For the purposes of this section “material disposal” means a disposal (including a part disposal) other than a disposal in relation to which sections 157 and 158 of this Act have effect.
- (3) If a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another material disposals of two or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (1)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those two or more licences.
- (4) Expressions used in this section and in section 194 of the Taxation of Chargeable Gains Act 1992 have the same meaning in this section as they have in that.]

Textual Amendments

- F3** S. 118A inserted (in relation to tax for the year 1992/93 and subsequent years subject as mentioned in s. 289 of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1), 290(1), [Sch. 10 para. 21\(1\)](#) (with ss. 60, 101(1), 201(3)).

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.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

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—
- (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 ^{M4}Finance Act 1986.

Marginal Citations

M4 1986 c. 41.

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.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

- (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—

“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 ^{M5}Town and Country Planning Act 1971;

(b) in relation to land in Scotland, section 275(1) of the ^{M6}Town and Country Planning (Scotland) Act 1972;

(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) [^{F4}Order 1991];

“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 ^{F2}... is a reference to a chargeable period ^{F2}... beginning (or treated by virtue of section 55 of the ^{M7}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

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV. (See end of Document for details)

for the purposes of a trade so long as, and only so long as, the asset is used for those purposes.

Textual Amendments

- F2** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F4** Words in s. 121(1) substituted (21.8.1991) by [S.I.1991/1220 \(N.I. 11\), arts. 1\(2\), 133\(1\), Sch. 5](#)
-

Marginal Citations

- M5** 1971 c. 78.
- M6** 1972 c. 52.
- M7** 1986 c. 41.

Status:

Point in time view as at 01/05/1995.

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part IV.