



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VI U.K.

COMPANIES, OIL, INSURANCE ETC.

### CHAPTER II U.K.

OIL AND MINING INDUSTRIES

*Oil exploration and exploitation*

#### 196 Interpretation of sections 194 [<sup>F1</sup>to [<sup>F2</sup>195F]] . U.K.

- (1) For the purposes of section 194 [<sup>F3</sup>and this section], a [<sup>F4</sup>UK licence] relates to an undeveloped area at any time if—
- (a) for no part of the licensed area has consent for development been granted to the licensee by the [<sup>F5</sup>appropriate authority] on or before that time; and
  - (b) for no part of the licensed area has a programme of development been served on the licensee or approved by the [<sup>F6</sup>appropriate authority] on or before that time.

[<sup>F7</sup>(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—

- (a) no development has actually taken place in any part of the licensed area; and
- (b) no condition for the carrying out of development anywhere in that area has been satisfied—
  - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or
  - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development.]

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[<sup>F8</sup>(1B) In sections 195A to [<sup>F9</sup>195F], a reference to a UK licence that relates to a developed area is a reference to any UK licence apart from one that relates to an undeveloped area.]

(2) Subsections (4) and (5) of section 36 of the <sup>M1</sup>Finance Act 1983 (meaning of “development”) shall have effect in relation to [<sup>F10</sup>subsections (1) [<sup>F11</sup>to (1B)] above] as they have effect in relation to subsection (2) of that section.

<sup>F12</sup>(3) . . . . .

(4) In relation to a disposal to which section 194 applies of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in subsection (1) or subsection (3) of that section or subsection (1) above to the licensed area shall be construed as a reference only to that part of the licensed area to which the buyer’s acquisition relates.

[<sup>F13</sup>(5) In sections 194 [<sup>F14</sup>to [<sup>F15</sup>195F]] and this section—

[<sup>F16</sup>“appropriate authority”, in relation to a UK licence means—

(a) in the case of a licence under Part 1 of the Petroleum Act 1998—

(ai) [<sup>F17</sup>the Scottish Ministers, in relation to the Scottish onshore area, as defined in section 8A of that Act;]

(i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);

(ii) otherwise, the Oil and Gas Authority;

(b) in the case of a licence under the Petroleum (Production) Act (Northern Ireland) 1964, the Department for the Economy;]

“foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

“interest” in relation to a licence, includes, where there is an agreement which—

(a) relates to oil from the whole or any part of the licensed area, and

(b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

“licence” means any UK licence or foreign oil concession;

[<sup>F18</sup>“licence-consideration swap” has the meaning given in section 195A(2);]

“licensed area” (subject to subsection (4) above)—

(a) in relation to a UK licence, has the same meaning as in Part I of the <sup>M2</sup>Oil Taxation Act 1975; and

(b) in relation to a foreign oil concession, means the area to which the concession applies;

“licensee”—

(a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and

(b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

[<sup>F19</sup>“mixed consideration” means consideration that consists partly of disposal of a UK licence;]

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[<sup>F19</sup>“mixed-consideration swap” has the meaning given in section 195A(2);]

[<sup>F19</sup>“no gain/no loss amount”, in relation to a company that disposes of a UK licence, means the amount that would be taken to be the consideration for the disposal if section 56(2) applied to the disposal;]

[<sup>F19</sup>“non-licence consideration” means consideration that does not consist of disposal of a UK licence, <sup>F20</sup>... ;]

“oil”—

(a) except in relation to a UK licence, means any petroleum (within the meaning of [<sup>F21</sup>Part I of the Petroleum Act 1998]); and

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“overseas petroleum” means any oil that exists in its natural condition at a place to which neither [<sup>F21</sup>Part I of the Petroleum Act 1998] nor the <sup>M3</sup>Petroleum (Production) Act (Northern Ireland) 1964 applies; and

[<sup>F19</sup>“swap arrangements”, in relation to a licence-consideration swap or a mixed-consideration swap, means the arrangements under which the swap takes place;]

“UK licence” means a licence within the meaning of Part I of the <sup>M4</sup>Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.]

[<sup>F22</sup>(5B) Subsections (5C) to (5F) apply for the purposes of sections 195A to 195F.

(5C) Any determination—

- (a) of the consideration given for disposal A or disposal B,
- (b) of the non-licence consideration, or
- (c) of the value of a licence comprised in disposal A or disposal B,

is to be made as at the time the swap arrangements are entered into.

But this is subject to subsections (5D) to (5F).

(5D) Subsections (5E) and (5F) apply if, under the swap arrangements, economic benefits and liabilities under the licences concerned are treated as passing at a time (“the effective time”) which falls before or after the day on which the arrangements are entered into.

(5E) Any determination—

- (a) of the consideration given for disposal A or disposal B,
- (b) of the non-licence consideration, or
- (c) of the value of a licence comprised in disposal A or disposal B,

is to be made as at the effective time.

(5F) But if the swap arrangements make provision for an increase in the non-licence consideration to reflect the period between the effective time and the time it is payable, the non-licence consideration is to be treated as if it were the amount found by making a corresponding increase in the amount determined under subsection (5E).]

(6) In section 194—

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- (a) “exploration work”, in relation to any area, means work carried out for the purpose of searching for oil anywhere in that area;
- (b) “appraisal work”, in relation to any area, means work carried out for the purpose of ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the area concerned or what the reserves of oil of any such oil-bearing area are.

### Textual Amendments

- F1** Words in s. 196 heading substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(2\)](#)
- F2** Word in s. 196 heading substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 3\(2\)](#)
- F3** Words in s. 196(1) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(3\)](#)
- F4** Words in s. 196(1) substituted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 181\(1\)](#)
- F5** Words in s. 196(1)(a) substituted (1.10.2018) by [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 21\(2\)](#) (with [Sch. 7 paras. 1, 6](#); [S.I. 2017/1179](#), [reg. 4\(b\)](#))
- F6** Words in s. 196(1)(b) substituted (1.10.2018) by [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 21\(2\)](#) (with [Sch. 7 paras. 1, 6](#); [S.I. 2017/1179](#), [reg. 4\(b\)](#))
- F7** S. 196(1A) inserted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 181\(2\)](#)
- F8** S. 196(1B) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(4\)](#)
- F9** Word in s. 196(1B) substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 3\(3\)](#)
- F10** Words in s. 196(2) substituted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 181\(2\)](#)
- F11** Words in s. 196(2) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(5\)](#)
- F12** S. 196(3) omitted (1.10.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 21\(3\)](#) (with [Sch. 7 paras. 1, 6](#); [S.I. 2017/1179](#), [reg. 4\(b\)](#))
- F13** S. 196(5)(5A) substituted for s. 196(5) (retrospectively and with effect in accordance with s. 181(4)(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 181\(3\)](#)
- F14** Words in s. 196(5) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(7\)\(a\)](#)
- F15** Word in s. 196(5) substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 3\(4\)\(a\)](#)
- F16** Words in s. 196(5) inserted (1.10.2018) by [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 21\(4\)](#) (with [Sch. 7 paras. 1, 6](#); [S.I. 2017/1179](#), [reg. 4\(b\)](#))
- F17** Words in s. 196(5) inserted (1.10.2018 immediately after [Wales Act 2017 \(c. 4\)](#), [Sch. 6 Pt. 2](#) comes into force) by [The Scotland Act 2016 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/79\)](#), [regs. 1\(3\)](#), [9](#)
- F18** Words in s. 196(5) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(7\)\(b\)](#)
- F19** Words in s. 196(5) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 6\(7\)\(c\)](#)
- F20** Words in s. 196(5) omitted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 3\(4\)\(b\)](#)
- F21** Words in s. 196(5) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\)](#), [s. 52\(4\)](#), [Sch. 4 para. 32\(3\)](#) (with [Sch. 3](#); [S.I. 1999/161](#), [art. 2\(1\)](#))

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**F22** S. 196(5B)-(5F) substituted for s. 196(5B) (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 3\(5\)](#)

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

**C1** S. 196 modified (temp.) (9.2.2018) by [The Scotland Act 2016 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/79\)](#), regs. 1(2), 4 (with art. 2)

**Marginal Citations**

**M1** 1983 c. 28.

**M2** 1975 c. 22.

**M3** 1964 c. 28 (N.I.).

**M4** 1975 c. 22.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)