

# FINANCE ACT 2009

---

## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 87 Schedule 41: Oil Production Assets Put to Certain Other Uses*

#### Background Note

9. When oil and gas production ceases there are a number of ways in which North Sea oil and gas infrastructure can be re-used or modified to ensure it does not simply have to be decommissioned. Potential change of use projects include gas storage, carbon capture and storage and wind, or other power generation, which bring with them benefits such as improved energy security and low-carbon energy production.
10. However, it is apparent that there are significant tax barriers discouraging the use of assets for activities other than oil and gas production.
11. The issue that arises with a change of use project is that there may be a period prior to decommissioning where the infrastructure is not used for a PRT or ring fence trade purpose.
12. Within the PRT regime there are a number of possible effects. For example:
  - a. a PRT exit charge may arise where an asset the cost of which has been allowed for PRT ceases to be used for a PRT purpose and is used for another purpose. Such a charge is calculated on a time basis by reference to the use of the asset and could be considerable;
  - b. any income that arises from a change of use activity may well fall within the scope of PRT by being a tariff receipt within Section 6 of OTA 1983; and
  - c. section 3(1C) of OTA 1975 restricts the amount of PRT decommissioning costs allowable by reference to the extent to which the asset is used for a change of use purpose.
13. This section and Schedule remove the exit charge, take any change of use income out of the scope to PRT and allow the decommissioning costs in full as long as the change of use is otherwise than in connection with that field and carried out within the UK or UKCS, and is not used wholly or partly for an oil purpose.
14. Within the (RFCT) regime it may be that the ring fence trade is continuing at the same time as the change of use activity, or it could also be the case that the ring fence trade has already ceased. In those circumstances, decommissioning costs will fall outside RFCT, as the assets are being used for the purposes of a non-ring fence activity.
15. Under the current rules a non-ring fence change of use activity will normally deny companies access to previous periods' ring fence profits, against which to offset their decommissioning costs. In those circumstances there is evidence to suggest that companies may be unable to consider change of use projects and thus extend the economic life of their assets and infrastructure, by employing them in some other economically viable activity.

*These notes refer to the Finance Act 2009 (c.10)  
which received Royal Assent on 21 July 2009*

16. Nearly all decommissioning expenditure is capital in nature and is therefore relieved, within the RFCT regime, under the capital allowances legislation.
17. Section 163 of CAA provides 100 per cent first year allowances (FYA) relief for general decommissioning expenditure in respect of all decommissioning expenditure which has been incurred on decommissioning plant or machinery which has been brought into use for the purposes of a ring fence trade. The main conditions are that the:
  - expenditure is on decommissioning plant or machinery; and
  - decommissioning is of plant or machinery which is, or forms part of, an offshore installation or a submarine pipeline, or when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation or pipeline.
18. However, under current rules, the amount of general decommissioning expenditure that can qualify for 100 per cent relief is reduced where the decommissioned plant and machinery was brought into use for the purposes of another trade. The amount of relief is reduced where the decommissioned plant and machinery was brought into use:
  - partly for the purposes of the ring fence trade and partly for the purposes of another trade; or
  - wholly for the purposes of the ring fence trade, but has, at any time since, not been used wholly for those purposes.
19. The proposed changes within this section and Schedule extend the availability of 100 per cent FYA to all general decommissioning expenditure incurred for the purposes of any ring fence trade of any person, or for any other use within the UK or UKCS.