

Status: Point in time view as at 01/01/2015.

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SCHEDULES

SCHEDULE 7

Section 26

CONTAMINATED AND DERELICT LAND

PART 1

AMENDMENTS OF PART 14 OF CTA 2009

- 1 Part 14 of CTA 2009 (remediation of contaminated land) is amended as follows.
- 2 In the heading of the Part, after “CONTAMINATED” insert “ OR DERELICT ”.
- 3 (1) Section 1143 (overview of Part) is amended as follows.
- (2) In subsection (1), after “contamination” insert “ or dereliction ”.
- (3) In subsection (7), after “contaminated” insert “ or derelict ”.
- 4 (1) Section 1144 (“qualifying land remediation expenditure”) is amended as follows.
- (2) In subsection (1), for “E” substitute “ F ”.
- (3) In subsection (2), insert at the end “or a derelict state (see section 1145A)”.
- (4) In subsection (3), after “contaminated” insert “ or derelict ”.
- (5) For subsection (4) substitute—
- “(4) Condition C is that it is—
- (a) in the case of land in a contaminated state, expenditure on relevant contaminated land remediation undertaken by the company (see section 1146), or
- (b) in the case of land in a derelict state, expenditure on relevant derelict land remediation so undertaken (see section 1146A).”
- (6) In subsection (5), for paragraph (c) (and the “or” before it) substitute—
- “(c) incurred in respect of relevant land remediation contracted out by the company to another person with whom the company is not connected, or
- (d) qualifying expenditure on connected sub-contracted land remediation (see section 1175).”
- (7) After subsection (6) insert—
- “(6A) Condition F is that the expenditure is not incurred on landfill tax.”
- 5 For section 1145 substitute—

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“1145 Land “in a contaminated state”

- (1) For the purposes of this Part land is in a contaminated state if (and only if), because of something in, on or under the land, the land is in a condition such that—
 - (a) relevant harm is being caused, or
 - (b) there is a serious possibility that relevant harm will be caused.
- (2) But land is not in a contaminated state by reason of the presence in, on or under it of—
 - (a) living organisms or decaying matter deriving from living organisms, air or water, or
 - (b) anything present otherwise than as a result of industrial activity.
- (3) The Treasury may by order specify circumstances in which subsection (2) is not to apply to the extent specified in the order; and an order under this subsection may contain incidental, supplemental, consequential and transitional provision and savings.
- (4) In this section “relevant harm” means—
 - (a) death of living organisms or significant injury or damage to living organisms,
 - (b) significant pollution of controlled waters,
 - (c) a significant adverse impact on the ecosystem, or
 - (d) structural or other significant damage to buildings or other structures or interference with buildings or other structures that significantly compromises their use.

1145A Land “in a derelict state”

For the purposes of this Part land is in a derelict state if (and only if) the land—

- (a) is not in productive use, and
- (b) cannot be put into productive use without the removal of buildings or other structures.

1145B Exclusion of nuclear sites

- (1) A nuclear site is not land in a contaminated state or land in a derelict state for the purposes of this Part.
- (2) “Nuclear site” means—
 - (a) any site in respect of which a nuclear site licence is for the time being in force, or
 - (b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end.
- (3) In subsection (2) “nuclear site licence”, “licensee” and “period of responsibility” have the same meaning as in the Nuclear Installations Act 1965.”

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- 6 (1) Section 1146 (“relevant land remediation”) is amended as follows.
- (2) In subsection (1)—
- (a) for “land remediation”, in relation to land” substitute “contaminated land remediation”, in relation to land which is in a contaminated state and in which a major interest has been”, and
 - (b) for “and B” substitute “ to C ”.
- (3) In subsection (3)—
- (a) in paragraph (a), for “harm, or any pollution of controlled waters,” substitute “ relevant harm ”, and
 - (b) omit paragraph (b) (and the “or” before it).
- (4) After that subsection insert—
- “(3A) Condition C is that the activities are not—
- (a) activities of a description specified by order made by the Treasury, or
 - (b) activities required by or by virtue of any enactment specified by such an order.
- (3B) An order under subsection (3A) may contain incidental, supplemental, consequential and transitional provision and savings.”
- (5) In subsection (5), for the words after “(and only if)” substitute “because of something in, on or under the land by virtue of which it is contaminated land, the land is in a condition such that—
- (a) significant pollution of those waters is being caused, or
 - (b) there is a serious possibility that significant pollution of those waters will be caused.”
- (6) In the heading, after “**relevant**” insert “ **contaminated** ”.
- 7 After that section insert—

“1146A “Relevant derelict land remediation”

- (1) For the purposes of this Part “relevant derelict land remediation”, in relation to land which is in a derelict state and in which a major interest has been acquired by a company, means—
 - (a) activities in relation to which conditions A and B are met, and
 - (b) if there are such activities, relevant preparatory activity.
- (2) Condition A is that the activities comprise the doing of any works, the carrying out of any operations or the taking of any steps in relation to the land in question.
- (3) Condition B is that the purpose of the activities is a purpose specified by order made by the Treasury.
- (4) An order under subsection (3) may contain incidental, supplemental, consequential and transitional provision and savings.
- (5) For the purposes of subsection (1)(b) “relevant preparatory activity” has the same meaning as for the purposes of subsection (1)(b) of section 1146 (see

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subsection (4) of that section, but reading the reference to subsection (1)(a) of that section as a reference to subsection (1)(a) of this section.”

8 In the heading of Chapter 2, after “CONTAMINATED” insert “ OR DERELICT ”.

9 (1) Section 1147 (deduction for capital expenditure) is amended as follows.

(2) In subsection (2), after “that” insert “ a major interest in ”.

(3) For subsection (3) substitute—

“(3) Condition B is that—

- (a) in the case of land in a contaminated state, the land was in a contaminated state at the time of the acquisition, and
- (b) in the case of land in a derelict state, the land was in a derelict state throughout the period beginning with the earlier of—
 - (i) 1 April 1998, and
 - (ii) the date on which a major interest in the land was first acquired by the company or a person who was connected with the company.

(3A) The Treasury may by order—

- (a) specify circumstances in which the condition in paragraph (a) of subsection (3) need not be met, or
- (b) replace the date for the time being specified in paragraph (b)(i) of that subsection with a later date.

(3B) An order under subsection (3A) may contain incidental, supplemental, consequential and transitional provision and savings.”

10 (1) Section 1149 (additional deduction for qualifying land remediation expenditure) is amended as follows.

(2) In subsection (2), after “that” insert “ a major interest in ”.

(3) For subsection (3) substitute—

“(3) Condition B is that—

- (a) in the case of land in a contaminated state, the land was in a contaminated state at the time of the acquisition, and
- (b) in the case of land in a derelict state, the land was in a derelict state throughout the period beginning with the earlier of—
 - (i) 1 April 1998, and
 - (ii) the date on which a major interest in the land was first acquired by the company or a person who was connected with the company.

(3A) The Treasury may by order—

- (a) specify circumstances in which the condition in paragraph (a) of subsection (3) need not be met, or
- (b) replace the date for the time being specified in paragraph (b)(i) of that subsection with a later date.

(3B) An order under subsection (3A) may contain incidental, supplemental, consequential and transitional provision and savings.”

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- 11 (1) Section 1150 (no relief if company responsible for contamination) is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection, for “state if the land is in that” substitute “ or derelict state if the land is in a contaminated or derelict ”.
- (4) After that subsection insert—
- “(2) A company is not entitled to relief under this Chapter in respect of expenditure on land all or part of which is in a contaminated or derelict state if—
- (a) the land is in that state wholly or partly as a result of any thing done, or omitted to be done, by a person not within subsection (1), and
- (b) that person, or a person connected with that person, has a relevant interest in the land.
- (3) For the purposes of subsection (2) a person has a relevant interest in land if the person—
- (a) holds any interest in, right over or licence to occupy the land (including an option to acquire any such interest, right or licence in any circumstances), or
- (b) has disposed of any estate or interest in the land for a consideration that to any extent reflects the impact, or likely impact, on the value of the land of the remediation of its contamination or dereliction.”
- (5) In the heading, insert at the end “**or dereliction or polluter has interest**”.
- 12 (1) Section 1161 (relief in respect of I minus E basis: enhanced expenses payable) is amended as follows.
- (2) In subsection (2), after “that” insert “ a major interest in ”.
- (3) For subsection (3) substitute—
- “(3) Condition B is that—
- (a) in the case of land in a contaminated state, the land was in a contaminated state at the time of the acquisition by the company of a major interest in the land, and
- (b) in the case of land in a derelict state, the land was in a derelict state throughout the period beginning with the earlier of—
- (i) 1 April 1998, and
- (ii) the date on which a major interest in the land was first acquired by the company or a person who was connected with the company.
- (3A) The Treasury may by order—
- (a) specify circumstances in which the condition in paragraph (a) of subsection (3) need not be met, or
- (b) replace the date for the time being specified in paragraph (b)(i) of that subsection with a later date.
- (3B) An order under subsection (3A) may contain incidental, supplemental, consequential and transitional provision and savings.”

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- (4) In subsection (4)—
- (a) for “Chapter 4” substitute “ land remediation ”, and
 - (b) omit “(see section 1162)”.
- (5) Omit subsection (5).
- (6) In subsection (6), omit “150% of”.
- (7) In the heading, omit “**enhanced**”.
- (8) In the heading before the section omit “*for qualifying Chapter 4 expenditure*”.
- 13 For section 1162 substitute—
- “1162 Additional relief**
- (1) If a company is entitled to relief under section 1161 for an accounting period it is also entitled to relief under this section for the period.
 - (2) For the company to obtain the relief it must make a claim.
 - (3) The relief is that the company may treat 50% of the qualifying Chapter 4 expenditure as expenses payable which fall to be brought into account at Step 3 in section 76(7) of ICTA (deduction for expenses payable).
 - (4) For the purposes of this Chapter “the qualifying Chapter 4 expenditure” means—
 - (a) the company's qualifying land remediation expenditure for the accounting period, less
 - (b) the amount (if any) which as a result of paragraph (a) of Step 1 in section 76(7) of ICTA is not to be brought into account at that step as expenses payable for the period.”
- 14 (1) Section 1163 (no relief if company responsible for contamination) is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
 - (3) In that subsection—
 - (a) after “1161” insert “ or 1162 ”, and
 - (b) for “state if the land is in that” substitute “ or derelict state if the land is in a contaminated or derelict ”.
 - (4) After that subsection insert—
 - “(2) A company is not entitled to relief under this Chapter in respect of expenditure on land all or part of which is in a contaminated or derelict state if—
 - (a) the land is in that state wholly or partly as a result of any thing done, or omitted to be done, by a person not within subsection (1), and
 - (b) that person, or a person connected with that person, has a relevant interest in the land.
 - (3) For the purposes of subsection (2) a person has a relevant interest in land if—

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- (a) the person holds any interest in, right over or licence to occupy the land (including an option to acquire any such interest, right or licence in any circumstances), or
 - (b) has disposed of any estate or interest in the land for a consideration that to any extent reflects the impact, or likely impact, on the value of the land of the remediation of its contamination or dereliction.”
- (5) In the heading, insert at the end “**or dereliction or polluter has interest**”.
- 15 In section 1165(1)(a) (meaning of “qualifying life assurance business loss”), after “1161” insert “ or 1162 ”.
- 16 In section 1169(2)(c) and (3)(c) (artificially inflated claims for relief), after “1161” insert “ or 1162 ”.
- 17 (1) Section 1173 (expenditure incurred because of contamination) is amended as follows.
 - (2) In subsections (1) and (2), after “contaminated” insert “ or derelict ”.
 - (3) For subsection (3) substitute—
 - “(3) Subsection (4) applies—
 - (a) in the case of land in a contaminated state, if the main purpose of any activities is any of those specified in section 1146(3), or
 - (b) in the case of land in a derelict state, if the main purpose of any activities is any of those specified in section 1146A(3).”
 - (4) In the heading, insert at the end “**or dereliction**”.
- 18 Omit section 1174 (sub-contractor payments: introductory).
- 19 (1) Section 1175 (“qualifying expenditure on sub-contracted land remediation”: connected persons) is amended as follows.
 - (2) After subsection (1) insert—
 - “(1A) In this section, a “sub-contractor payment” means a payment made by the company to the sub-contractor in respect of relevant land remediation contracted out by the company to the sub-contractor.”
 - (3) In subsection (2), for “sub-contracted land remediation” substitute “connected sub-contracted land remediation” for the purposes of section 1144(5)”.
 - (4) In subsection (3)—
 - (a) in paragraph (a), after “carrying on” insert “ or arranging for carrying on ”, and
 - (b) in paragraph (c) for “incurred on” substitute “ in respect of ”.
 - (5) For the heading substitute “**Connected sub-contractors**”.
- 20 Omit section 1176 (“qualifying expenditure on sub-contracted land remediation”: other cases).
- 21 In section 1178 (persons having a “relevant connection” to a company)—
 - (a) after “contaminated” insert “ or derelict ”, and
 - (b) in paragraph (b), after “when” insert “ a major interest in ”.
- 22 After section 1178 insert—

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“1178A “Major interest in land”

- (1) References in this Part to the acquisition of a major interest in land are to the acquisition of a freehold interest in the land or of a relevant leasehold interest in the land.
- (2) The reference in subsection (1) to the acquisition of a freehold interest in land is—
 - (a) in relation to land in England and Wales, to the acquisition of an estate in fee simple absolute (whether subsisting at law or in equity),
 - (b) in relation to land in Scotland, to the acquisition of the interest of an owner of land, and
 - (c) in relation to land in Northern Ireland, to the acquisition of any freehold estate (whether subsisting at law or in equity).
- (3) The reference in subsection (1) to the acquisition of a relevant leasehold interest in land is to the acquisition by grant or assignment (or assignment) of—
 - (a) in relation to land in England and Wales, a term of years absolute (whether subsisting at law or in equity),
 - (b) in relation to land in Scotland, the tenant's right over or interest in a property subject to a lease, or
 - (c) in relation to land in Northern Ireland, any leasehold estate (whether subsisting at law or in equity),
 in relation to which the condition in subsection (4) is met.
- (4) That condition is that—
 - (a) in the case of a grant, the term of years or period of the lease is at least 7 years, and
 - (b) in the case of an assignment (or assignment) the unexpired portion of the term or period is at least 7 years.”

23 In section 1179 (definitions), omit the definitions of “harm” and “land” and the definition of “substance” (apart from the “and” at the end).

PART 2

AMENDMENTS OF OTHER ENACTMENTS

ICTA

24 In section 76(7) of ICTA (expenses of insurance companies), in step 3—

- (a) for “1161” substitute “ 1162 ”,
- (b) for “150%” substitute “ 50% additional ”, and
- (c) after “contaminated” insert “ or derelict ”.

FA 1998

25 In Schedule 18 to FA 1998 (company tax returns etc), in the heading of Part 9B, after “CONTAMINATED” insert “ OR DERELICT ”.

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CTA 2009

26 (1) Schedule 4 to CTA 2009 (index of expressions) is amended as follows.

(2) After the entry relating to “deposit back arrangements” insert—

“derelict state (in relation to land) (in Part 14) section 1145A.”

(3) Omit the entries relating to “harm (in Part 14)” and “land (in Part 14)”.

(4) After the entry relating to “major interest (in Chapter 12 of Part 8)” insert—

“major interest in land (in Part 14) section 1178A.”

(5) After the entry relating to “relevant consortium creditor relationship (in Chapter 7 of Part 5)” insert—

“relevant contaminated land remediation (in Part 14) section 1146.”

(6) After the entry relating to “relevant debits (in Part 8)” insert—

“relevant derelict land remediation (in Part 14) section 1146A.”

(7) Omit the references relating to “relevant land remediation (in Part 14)”, “sub-contractor payment (and sub-contractor) (in Chapter 6 of Part 14)” and “substance (in Part 14)”.

PART 3

COMMENCEMENT

27 Any power to make orders which is conferred on the Treasury by virtue of an amendment of CTA 2009 made by this Schedule may be exercised at any time after this Act is passed; and any order made by virtue of any such amendment before 6 April 2010 may make provision having effect in relation to expenditure incurred on or after 1 April 2009.

28 Subject to that, the amendments made by this Schedule have effect in relation to expenditure incurred on or after 1 April 2009; and for this purpose no account is to be taken of section 61 of CTA 2009 (earlier expenditure treated as incurred when trade started).

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