

NOTICES OF AMENDMENTS

Monday 23 June 2014

CONSIDERATION OF BILL

Mr Chancellor of the Exchequer

NC1

*To move the following Clause—

“Oil contractor activities: ring-fence trade etc

Schedule (*oil contractors: ring-fence trade etc*) contains provision about the corporation tax treatment of oil contractor activities.”

Mr Chancellor of the Exchequer

NS1

*To move the following Schedule—

“OIL CONTRACTORS: RING-FENCE TRADE ETC

CTA 2010

- 1 CTA 2010 is amended as follows.
- 2 In section 1 (overview of Act), in subsection (3), after paragraph (a) insert—
- “(aa) oil contractor activities (see Part 8ZA),
- (ab) profits arising from the exploitation of patents etc (see Part 8A),”.
- 3 In Chapter 4 of Part 8 (oil activities: calculation of profits), after section 285 insert—

“Hire of relevant assets

285A Restriction on hire etc of relevant assets to be brought into account

- (1) This section applies if—
- (a) oil contractor activities are, or are to be, carried out, and
- (b) a company that carries on a ring fence trade makes, or is to make, one or more payments under a lease of a relevant asset, or part of a relevant asset, which is, or is to be, provided, operated or used in the relevant offshore service in question.
- (2) The total amount that may be brought into account in respect of the payments for the purposes of calculating the company’s ring fence profits in an accounting period is limited to the hire cap.
- (3) The “hire cap” is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (4).

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- (4) If payments in relation to which subsection (2) or section 356N (2) (restriction on hire for oil contractors under Part 8ZA) applies are also made, or to be made, by one or more other companies in respect of the relevant asset or part, the “hire cap” is to be such proportion of the amount mentioned in subsection (3) as is just and reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by each company.
- (5) The “relevant percentage” and TC are to be determined in accordance with section 356N (5) to (16).
- (6) To the extent that, by virtue of this section, payments within subsection (1)(b) cannot be brought into account for the purposes of calculating the company’s ring fence profits in an accounting period, the payments may be—
- (a) allowed as a deduction from the company’s total profits for the accounting period, or
- (b) treated as a surrenderable amount of the company for the accounting period for the purposes of Part 5 (group relief) (see section 99(7)) as if they were a trading loss,
- but this is subject to subsection (7).
- (7) No deduction may be made by virtue of subsection (6) from total profits so far as they are ring fence profits or contractor’s ring fence profits.
- (8) If the company or an associated person enters into arrangements the main purpose or one of the main purposes of which is to secure that subsection (2) does not apply in relation to one or more payments to any extent, that subsection applies in relation to the payments to the extent that it would not otherwise do so.
- (9) In subsection (8) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (10) In this section—
“associated person” has the meaning given by section 356LB;
“contractor’s ring fence profits” has the meaning given by section 356LD;
“oil contractor activities” and “relevant offshore service” have the meaning given by section 356L;
“relevant asset” has the meaning given by section 356LA;
“lease” has the meaning given by section 868.”
- 4 After Part 8 (oil activities) insert—

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“Part 8ZA

OIL CONTRACTORS

Chapter 1

INTRODUCTION

356K Overview of Part

- (1) This Part is about the corporation tax treatment of oil contractor activities.
- (2) Chapter 2 contains basic definitions used in this Part.
- (3) Chapter 3 treats oil contractor activities as a separate trade.
- (4) Chapter 4 makes provision about the calculation of profits from oil contractor activities.
- (5) For the meaning of oil contractor activities, see section 356L.

Chapter 2

BASIC DEFINITIONS

356L “Oil contractor activities” etc

- (1) The definitions in this section have effect for the purposes of this Part.
- (2) “Oil contractor activities” means activities carried on by a company (“the contractor”), which are not oil-related activities (within the meaning of section 274), but are—
 - (a) exploration or exploitation activities in, or in connection with, which the contractor provides, operates or uses a relevant asset (see section 356LA) in a relevant offshore service, or
 - (b) otherwise carried on in, or in connection with, the provision by the contractor of a relevant offshore service.
- (3) The contractor provides a “relevant offshore service” if the contractor provides, operates or uses a relevant asset in, or in connection with, the carrying on of exploration or exploitation activities in a relevant offshore area by the contractor or any other associated person.
- (4) “Exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of the seabed and subsoil and their natural resources.
- (5) “Relevant offshore area” means—
 - (a) the territorial sea of the United Kingdom;

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- (b) the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

356LA “Relevant asset”

- (1) In this Part “relevant asset” means an asset within subsection (2) in respect of which conditions A and B are met.
- (2) An asset is within this subsection if it is a structure that—
- (a) can be moved from place to place (whether or not under its own power) without major dismantling or modification, and
- (b) can be used to—
- (i) drill for the purposes of searching for, or extracting, oil, or
- (ii) provide accommodation for individuals who work on or from another structure used in a relevant offshore area for, or in connection with, exploration or exploitation activities (“offshore workers”).
- (3) But an asset is not within subsection (2)(b)(ii) if it is reasonable to suppose that its use to provide accommodation for offshore workers is unlikely to be more than incidental to another use, or other uses, to which the asset is likely to be put.
- (4) In subsection (2)—
- “oil” means any substance capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964;
- “structure” includes a ship or other vessel.
- (5) Condition A is that the asset, or any part of the asset, is leased (whether by the contractor or not) from an associated person other than the contractor.
- (6) Condition B is that the asset is of the requisite value.
- (7) The asset is of the “requisite value” if its market value is £2,000,000 or more.
- (8) The Treasury may by regulations modify the meaning of “requisite value”.
- (9) Regulations under subsection (8) may—
- (a) amend this section,
- (b) make different provision for different cases or different purposes, and
- (c) make incidental, consequential, supplementary or transitional provision or savings.

356LB “Associated person”

- (1) For the purposes of this Part each of the following is an “associated person”—
- (a) the contractor,
- (b) any person who is, or has been, connected with the contractor,
- (c) any person who has acted, acts or is to act, together with the contractor to provide a service, and
- (d) any person who is connected with a person falling within paragraph (b) or (c).

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- (2) A person does not act together with the contractor to provide a service by reason only of leasing an asset, to any person, which is provided, operated or used in the service.

356LC “Lease”

In this Part “lease” has the meaning given by section 868 and “leased” and “leasing” are to be construed accordingly.

356LD “Contractor’s ring fence profits”

In this Part the “contractor’s ring fence profits”, in relation to an accounting period, means the contractor’s income arising from oil contractor activities for that period.

Chapter 3

DEEMED SEPARATE TRADE

356M Oil contractor activities treated as separate trade

If the contractor carries on oil contractor activities as part of a trade, those activities are treated for the purposes of the charge to corporation tax on income as a separate trade, distinct from all other activities carried on by the contractor as part of the trade.

Chapter 4

CALCULATION OF PROFITS

Hire of relevant assets

356N Restriction on hire etc of relevant assets to be brought into account

- (1) This section applies if the contractor makes, or is to make, one or more payments under a lease of—
- (a) a relevant asset, or
 - (b) part of a relevant asset.
- (2) The total amount that may be brought into account in respect of the payments for the purposes of calculating the contractor’s ring fence profits in an accounting period is limited to the hire cap.
- (3) The “hire cap” is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (4).
- (4) If payments in relation to which subsection (2) or section 285A (2) (restriction on hire for company carrying on a ring fence trade under Part 8) applies are also made, or to be made, by one or more other companies in respect of the relevant asset or part, the “hire cap” is to be such proportion of the amount mentioned in subsection (3) as is just and reasonable, having regard (in

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particular) to the amounts of the payments made, or to be made, by the contractor and each other company.

- (5) Subject to subsection (7), the “relevant percentage” is—

$$\frac{\text{UROS}}{\text{TU}} \times 7.5\%$$

where—

UROS is the number of days in the accounting period that the relevant asset is provided, operated or used in a relevant offshore service, and

TU is the number of days in the accounting period that the relevant asset is provided, operated or used (whether or not in a relevant offshore service).

- (6) Accordingly, the relevant percentage is zero if the relevant asset is not provided, operated or used in the accounting period.

- (7) If the accounting period is less than 12 months, the relevant percentage is to be proportionally reduced.

- (8) TC is— $\text{OC} + \text{CE}$

- (9) Unless subsection (11) applies, OC is the sum of—

- (a) any consideration given for the acquisition of the relevant asset or part when it was first acquired by an associated person, and
- (b) any expenses incurred by an associated person in connection with that acquisition (other than the costs of financing the acquisition).

This is subject to subsections (12) and (13).

- (10) Subsection (11) applies if the relevant asset or part—

- (a) is leased by an associated person from a person who is not an associated person, and
- (b) has never been owned by an associated person.

- (11) OC is the sum of—

- (a) the consideration that it is reasonable to suppose would have been given for the acquisition of the relevant asset or part, if it had been acquired by an associated person by way of a bargain at arm’s length at the time it was first leased as mentioned in subsection (10)(a), and
- (b) the expenses (other than the costs of financing the acquisition) that it is reasonable to suppose would have been incurred by an associated person in connection with such an acquisition.

This is subject to subsections (12) and (13).

- (12) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), before the beginning of the accounting period, OC does not include any part of the consideration mentioned in subsection (9)(a) or (as the case may be) (11)(a) that it is reasonable to attribute to anything that no longer forms part of the relevant asset or part at the beginning of the accounting period.

- (13) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), in the accounting period, OC for the accounting period is—

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$$OC \times \frac{D - DBA}{D}$$

where—

D is the total number of days in the accounting period,

DBA is the number of days in the accounting period before the day on which the relevant asset or part was first acquired or first leased, and

OC is the amount given by subsection (9) or (as the case may be) (11).

- (14) CE is capital expenditure on the relevant asset or part (other than capital expenditure in respect of its acquisition or the acquisition of a lease of it) incurred by an associated person—
- (a) after it was first acquired by an associated person or (as the case may be) was first leased as mentioned in subsection (10)(a), and
 - (b) before the end of the accounting period.

This is subject to subsections (15) and (16).

- (15) CE does not include any capital expenditure mentioned in subsection (14) that is—
- (a) incurred before the beginning of the accounting period, and
 - (b) not reflected in the state or nature of the relevant asset or part at the beginning of the accounting period.

- (16) If any capital expenditure mentioned in subsection (14) is incurred on a day in the accounting period, the amount of CE for the accounting period in respect of that capital expenditure is—

$$CEA \times \frac{D - DBI}{D}$$

where—

D is the total number of days in the accounting period,

DBI is the number of days in the accounting period before the day on which that capital expenditure is incurred, and

CEA is the amount of that capital expenditure.

356NA Restriction on hire: further provision

- (1) The Treasury may by regulations modify the “relevant percentage” for the purposes of section 356N or 285A.
- (2) Regulations under subsection (1) may—
 - (a) amend section 356N or section 285A,
 - (b) make different provision for different cases or different purposes, and
 - (c) make incidental, consequential, supplementary or transitional provision or savings.
- (3) To the extent that, by virtue of section 356N, payments within subsection (1) of that section cannot be brought into account for the purposes of calculating the contractor’s ring fence profits in an accounting period, the payments may be—
 - (a) allowed as a deduction from the contractor’s total profits for the accounting period, or

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- (b) treated as a surrenderable amount of the contractor for the accounting period for the purposes of Part 5 (group relief) (see section 99(7)) as if they were a trading loss,
subject to subsection (4).
- (4) No deduction may be made by virtue of subsection (3) from total profits so far as they are contractor's ring fence profits or ring fence profits for the purposes of Part 8.
- (5) If an associated person enters into arrangements the main purpose or one of the main purposes of which is to secure that section 356N (2) does not apply in relation to one or more payments to any extent, that provision applies in relation to the payments to the extent it would not otherwise do so.
- (6) In subsection (5) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

*Loan relationships***356NB Restriction on debits to be brought into account**

- (1) Debits may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of the contractor's loan relationships in any way that results in a reduction of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).
- (2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—
- (a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or
- (b) appropriated to meeting expenditure to be so incurred by the contractor.
- (3) Subsection (1) does not apply, in the case of debits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).
- (4) Subsection (1) does not apply, in the case of debits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—
- (a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or
- (b) the exchange loss arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.
- (5) If a debit—
- (a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but

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- (b) as a result of this section cannot be brought into account in a way that results in any reduction of what would otherwise be the contractor's ring fence profits,
the debit is to be brought into account for those purposes as a non-trading debit despite anything in section 297 of that Act.
- (6) References in this section to a loan relationship, in relation to the borrowing of money, do not include a relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies.

356NC Restriction on credits to be brought into account

- (1) Credits in respect of exchange gains from the contractor's loan relationships may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in any way that results in an increase of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).
- (2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—
 - (a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or
 - (b) appropriated to meeting expenditure to be so incurred by the contractor.
- (3) Subsection (1) does not apply, in the case of credits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).
- (4) Subsection (1) does not apply, in the case of credits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—
 - (a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or
 - (b) the exchange gain arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.
- (5) If a credit—
 - (a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but
 - (b) as a result of this section cannot be brought into account in a way that results in any increase of what would otherwise be the contractor's ring fence profits,
the credit is to be brought into account for those purposes as a non-trading credit despite anything in section 297 of that Act.
- (6) Section 356NB (6) applies for the purposes of this section.

Finance Bill, continued*Relief***356ND Management expenses**

No deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) is to be allowed from the contractor's ring fence profits.

356NE Losses

Relief in respect of a loss incurred by the contractor may not be given under section 37 (relief for trade losses against total profits) against the contractor's ring fence profits except so far as the loss arises from oil contractor activities.

356NF Group relief

- (1) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief may not be allowed against the claimant company's contractor's ring fence profits except so far as the claim relates to losses incurred by the surrendering company that arose from oil contractor activities.
- (2) In section 105 (restriction on surrender of losses etc within section 99(1)(d) to (g)) the references to the surrendering company's gross profits of the surrender period do not include the company's relevant contractor's ring fence profits for that period.
- (3) The company's "relevant contractor's ring fence profits" for that period are—
 - (a) if for that period there are no qualifying charitable donations made by the company that are allowable under Part 6 (charitable donations relief), the company's contractor's ring fence profits for that period, or
 - (b) otherwise, so much of the contractor's ring fence profits of the company for that period as exceeds the amount of the qualifying charitable donations made by the company that are allowable under section 189 for that period.
- (4) In this section "claimant company" and "surrendering company" are to be read in accordance with Part 5 (group relief) (see section 188).

356NG Capital allowances

A capital allowance may not to any extent be given effect under section 259 or 260 of CAA 2001 (special leasing) by deduction from the contractor's ring fence profits."

- 5 In Schedule 4 (index of defined expressions), insert the following entries at the appropriate places—

"associated person (in Part 8ZA)	section 356LB"
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"contractor (in Part 8ZA)	section 356L (2)"
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“contractor’s ring fence profits (in Part 8ZA)	section 356LD”
“exploration or exploitation activities (in Part 8ZA)	section 356L (4)”
“lease (in Part 8ZA)	section 356LC”
“oil contractor activities (in Part 8ZA)	section 356L (2)”
“relevant asset (in Part 8ZA)	section 356LA”
“relevant offshore area (in Part 8ZA)	section 356L (5)”
“relevant offshore service (in Part 8ZA)	section 356L (3)”

Commencement etc

- 6 This Schedule is to be treated as having come into force on 1 April 2014 (“the commencement date”).
- 7 Section 356L of CTA 2010 has effect in relation to activities carried out on or after the commencement date.
- 8(1) If, on the commencement date, a company was carrying on a trade that consisted of, or included, carrying out oil contractor activities, an accounting period ends (if it would not otherwise do so) with 31 March 2014.
- (2) Sub-paragraph (3) applies if—
 - (a) but for sub-paragraph (1), a company would have had an accounting period that began before the commencement date and ended on or after that date (“the split accounting period”), and
 - (b) the company’s accounting period beginning with 1 April 2014 ends when the split accounting period would have ended but for that sub-paragraph.
- (3) For the purposes of Chapter 4 of Part 22 of CTA 2010 (surrender of tax refund within group)—

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- (a) the company is to be treated as having the split accounting period,
 - (b) any tax refund due to the company for—
 - (i) the accounting period ending with 31 March 2014, or
 - (ii) the accounting period beginning with 1 April 2014,is to be treated as if it were a tax refund due to the company for the split accounting period, and
 - (c) if the company surrenders a tax refund that is so treated (or part of such a refund), the references in section 964(6) of CTA 2010 to the date on which corporation tax became due and payable are to be treated as references to the date on which corporation tax would have become due and payable had the company had the split accounting period.
- 9(1) A company may be given relief under section 45 of CTA 2010 (carry forward of trade loss against subsequent trade profits) for a loss made in an accounting period ending before the commencement date against profits of a ring fence trade so far as (and only so far as) the loss would have been a loss of the ring fence trade had section 356L of that Act had effect in relation to activities carried out before the commencement date and Part 8ZA therefore applied.
- (2) In sub-paragraph (1) “ring fence trade” means oil contractor activities that constitute a separate trade (whether by virtue of section 356M of that Act or otherwise).”

EXPLANATORY NOTE

NEW CLAUSE 1 AND NEW SCHEDULE 1: OIL CONTRACTOR ACTIVITIES: RING-FENCE TRADE ETC.

SUMMARY

1. New Clause 1 and New Schedule 1 introduce provisions to restrict the use of deductions for leasing payments relating to assets used as part of a composite offshore oil and gas service.

DETAILS OF THE SCHEDULE

Schedule 1

2. Paragraph 1 provides that CTA2010 is to be amended.
3. Paragraph 2 inserts a reference to the new Part 8ZA into the overview section of the existing overview of the CTA. Part 8ZA contains new rules applicable to contractors operating in the offshore oil and gas industry, (who are not also within the Part 8 oil and gas ring fence) who lease assets from their associates.
4. Paragraph 3 inserts a new section into the existing rules for the calculation of profits from Oil and Gas exploration and exploitation activities. This section mirrors the effect of the new Part 8ZA in circumstances where separate contracts have been used and is required to prevent new Part 8ZA being sidestepped.
5. New subsection 285A(1) defines the two conditions that must both be satisfied for payments to be within scope of the new section. New subsection 285A(1)(a) requires that oil contractor activities are carried out, which is defined in new subsection 285A(10) so as to have the same meaning as in new Part 8ZA. New subsection 285A(1)(b) requires that the ring fence company (that is to say one whose activities are within Chapter 4 Part 8) is making payments under a lease as part of obtaining a composite service from a contractor. New subsection 285A(10) provides the definitions for the terms used.
6. New subsection 285A(2) limits the amount that can be deducted in computing the company's ring fence profits. Any amount paid in excess of that limit will be allowed as a deduction from a company's non ring fence profit under new subsection 285A(6).
7. New subsection 285A(3) provides the size of that limitation, referred to as a "hire cap", by reference to the relevant percentage which is further defined in new subsection 285A(5).
8. New subsection 285A(4) provides for the case where more than one contractor or ring fence company are subject to the hire cap in respect of the same asset. The subsection ensures

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that the total hire cap available is equal to that which would apply if there had been a single entity. The hire cap itself is then allocated to each payer on the basis of their relative contribution as is just and reasonable.

9. New subsection 285A(5) defines “relative percentage” and TC (the cost on which the relevant percentage operates to determine the hire cap) by using the same definitions as in the new Part 8ZA which are to be found in new 356N subsections (5) to (15).

10. New subsection 285A(6) provides that any amount paid in excess of the hire cap will be allowed as a deduction from the company’s total profits; or may be surrendered as a trading loss for use against profits by other members of the paying company’s group. New subsection (7) prevents any deduction under new subsection 285A(6) from profits within either the existing ring fence for producers (under Chapter 4 of Part 8 of CTA2010) or the new contractor’s ring fence brought in by new Part 8ZA.

11. New subsection 285A(8) provides a targeted anti avoidance rule to prevent arrangements with a tax avoidance main purpose from frustrating the intended application of new subsection 285A.

12. New subsection 285A(9) defines "arrangements" for the purposes of new subsection 285A(8).

13. New subsection 285(10) provides definitions for terms used in new section 285A by reference to definitions provided in new Part 8ZA. The definition of lease uses that provided by the existing section 868 CTA 2010 which is:

“Section 868 CTA2010 Lease

- (1) This section applies for the purposes of this Chapter.
- (2) A lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset.
- (3) In particular it includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it.”

14. Paragraph 4 inserts new Part 8ZA into the CTA2010.

15. New section 356K provides an overview of new Part 8ZA.

16. New subsection 356L(1) gives effect to the definitions for the purposes of new Part 8ZA. New subsection 356L(2) defines what "oil contractor activities" are for the purposes of new part 8ZA and new section 285A . This excludes activities which are already within the existing ring fence for oil exploration and exploitation. There are two possible legs: new subsection 356L(2)(a) requires that the activities are exploration or exploitation activities which take place as part of the provision of a relevant offshore service, which is defined in new subsection 356L(3). New subsection 356L(2)(b) covers the situation where the activities are carried on alongside the provision of a relevant offshore service.

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17. New subsection 356L(3) defines a relevant offshore service.
18. New subsection 356L(4) defines exploration and exploitation activities and requires that those services are in connection with the exploration or exploitation of the natural resources under the sea. (“In connection” takes its natural wide meaning so as to encompass all stages of exploitation and exploration from initial searching for oil to the final decommissioning of extraction plant).
19. New subsection 356L(5) defines “relevant offshore area” for the purposes of new subsection 356L. “Territorial sea” is defined by section 1170 of CTA2010.
20. New section 356LA provides the definition of a "relevant asset" for the purposes of the hire cap. New subsection 356LA(1) identifies three conditions which must all be met for an asset to qualify.
21. New subsection 356LA(2) provides the first of these conditions. New subsection 356LA(2)(a) requires that the asset is a mobile asset. New subsection 356LA(2)(b) restricts the vessels which are a relevant asset by reference to the use to which they can be put. Note that this does not require that they are being so used. New subparagraph 356LA(2)(b)(i) identifies vessels used to drill for oil, whilst new subparagraph 356LA(2)(b)(ii) identifies any vessel used to provide accommodation to workers, **other than those who work on the accommodation providing vessel itself**, where that other structure is itself used in connection with exploration and exploitation activities carried on by anyone whether connected with the accommodation provider or not. These workers are termed “offshore workers” for the purposes of new subsection 356LA(3).
22. New subsection 356LA(3) provides an exception to the class of asset which would otherwise fall within the definition of accommodation provider within new subsection 356LA(2)(b)(ii). Where the provision of accommodation to “offshore workers” is only an incidental part of the use to which the asset is put, then the asset as a whole is not within new subsection 356LA(2)(b)(ii).
23. New subsection 356LA(4) provides further definitions for the purposes of identifying the vessel classes in new subsection 356LA(2).
24. New subsection 356LA(5) provides the second condition (Condition A), which is that the asset or any part of the asset, is leased from an associated person. (“Associated person” is defined in new subsection 356LB). It does not matter to whom the asset is leased.
25. New subsection 356LA(6) provides the third condition (Condition B) which is that the asset is of the requisite value as defined in new subsection 356LA(7).
26. New subsection 356LA(7) provides that the requisite value for Condition B of new section 356LA is that the market value of the asset is £2m or more.
27. New subsections 356LA(8) and (9) provide a power for HM Treasury to amend the operation of Condition B in future.

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28. New section 356LB provides the definition of “associated person” for the purposes of new Part 8ZA.
29. New subsection 356LB(1) provides four classes of “associated persons” Those classes include the contractor or contractors carrying out the oil contractor activities (new 356LB(1)(a)) and anyone connected with them or who has been connected with them (new 356LB(1)(b)). Connected has the same meaning here as for the rest of CTA 2010, which is provided by section 1122 of CTA2010. The final two classes of associated person are those who act together with the contractor (new 356LB(1)(c)) as well as those who are connected with the classes in (b) and (c) (new 356LB(1)(d)).
30. New subsection 356LB(2) clarifies that simple leasing of an asset to others who carry out relevant services themselves, is insufficient for those persons to be acting together.
31. New section 356LC provides the definition of the term “lease” for the purposes of new Part 8ZA and new section 285A. This uses the existing wide definition in section 868 CTA 2010 as noted in paragraph 13 above.
32. New section 356LD provides the definition of contractor’s ring fence profits for the purposes of new Part 8ZA and new section 285A. This means income arising from oil contractor activities which are themselves defined in new section 356L.
33. New section 356M provides the new contractor’s ring fence. It splits a contractor’s actual trade into two parts by defining the activities carried on which are to be treated as a separate trade for corporation tax purposes. This applies to oil contractor activities which are defined in new 356L. Additional restrictions on how the profits of that separate trade are computed for corporation tax purposes are provided by new sections 356NA to 356NE. These provisions mirror those in place for the existing ring fence in Part 8 of the CTA 2010.
34. New section 356N makes provision for a hire cap. New subsection 356N(1) identifies the circumstances in which the hire cap is to apply.
35. New subsection 356N(2) limits the amount that can be deducted when computing the contractor’s ring fence profits. Any amount otherwise allowable as a deduction is dealt with under new subsections 356NA(3) and (4).
36. New subsection 356N(3) provides the size of that limitation (the hire cap), by reference to the relevant percentage (further defined in new subsection 356N(5)), which is applied to qualifying total costs (as further defined in new subsections (8) to (16)).
37. New subsection 356N(4) applies in the case where more than one lessor would be entitled to a deduction and therefore subject to the hire cap in respect of the same asset. The subsection ensures that the total hire cap does not exceed that which would have been available had there been a single lessor. The hire cap is to be allocated amongst the lessors as a whole in such as way as is just and reasonable.

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38. New subsection 356N(5) provides that the relevant percentage is a proportion, calculated according to the formula provided, of 7.5%. The effect of the formula is to reduce the relevant percentage in cases where a relevant vessel is in fact in use somewhere other than the UKCS or territorial waters during an accounting period (the greater the number of days it is used elsewhere, the lower the relevant percentage, and so the lower the hire cap).

39. New subsection 356N(6) confirms that, if the vessel is not used at all anywhere in the world - including UK waters - for the whole of an accounting period, then the hire cap is reduced to nil.

40. New subsection 356N(7) provides that, where the accounting period is less than 12 months, the amount of the hire cap provided by new subsection 356N(2) is reduced proportionately.

41. New subsection 356N(8) provides the formula for computing total qualifying costs (to which the relevant percentage is to be applied, under new subsection 285A(3) and new subsection 356N(3)) to determine the hire cap. It is made up of two components, the original cost (OC) which is defined in new subsections 356N(9) to (13) and certain subsequent capital expenditure (CE) which is defined in new subsections 356N(14) to (16).

42. New subsection 356N(9) provides the base rule for determining OC. The amount has two components. The first (new subsection 356N(9)(a)) is the original acquisition cost by an associated person (as defined in new section 356LB). This effectively provides for the cost to the contractor's group as a whole. It does not recognise intra group transfers since the asset was first acquired. The second component (new subsection 356N(9)(b)) is any acquisition expenses incurred at the time of first acquisition, but does not include any finance costs. This is subject to new subsections (12) and (13).

43. New subsections 356N(10) and (11) provide for an alternative computation in certain circumstances. New subsection 356N(12) sets out those circumstances as being when the relevant asset has never been acquired by an associated person, but instead has been leased from a third party. (It follows that a relevant asset which was once owned by an associated person cannot qualify under this section, even if it subsequently leased from a third party).

44. New subsection 356N(11) provides the alternative calculation of OC when making the computation in new subsection 356N(8). OC will be based on the cost that would have arisen at the time the relevant asset was first leased, if the associated person had acquired the asset at that point rather than leased it (new subsection 356N(11)(a)). That cost is increased by the expected incidental costs of acquisition that would have arisen, other than financing (new subsection 356N(11)(b)). This is also subject to new subsections (12) and (13).

45. New subsection 356N(12) excludes from the calculation of OC, any element of that consideration which it is reasonable to attribute to a part of the asset which has been removed as at the beginning of the accounting period.

46. New subsection 356N(13) makes provision for the calculation of OC for assets newly acquired in an accounting period. It applies a fraction to the value of OC based on the number

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of days during which the asset was owned or leased. This fraction is applied for the whole of the accounting period.

47. New subsection 356N(14) provides the definition of the CE used in the computation of total cost by new subsection 356N(8). CE includes any subsequent capital expenditure on the asset (such as subsequent modifications).

48. New subsection 356N(15) excludes from the computation of CE any expense related to items which are effectively no longer part of the asset. This includes items which have subsequently been removed or items which, whilst still present, are otiose.

49. New subsection 356N(16) makes provision for new expenditure during an accounting period. It applies a fraction to the value of that new expenditure based on the number of days during which the asset was owned or leased. This fraction is applied for the whole of the accounting period.

50. New section 356NA makes further provisions for the calculation of the hire cap.

51. New subsections 356NA(1) and (2) allow HM Treasury to make regulations to modify the relevant percentage for the purposes of new section 356N or new section 285A in specified circumstances.

52. New subsection 356NA(3) provides that any amount paid in excess of the hire cap will be allowed as deduction from the contractor's total profits; or may be surrendered for use against profits by other members of the paying company's group, as a trading loss.

53. New subsection 356NA(4) prevents any deduction under new subsection 356NA(3) from profits of the existing ring fence for producers (under Chapter 4 of Part 8 of CTA2010) or the new contractor's ring fence.

54. New subsection 356NA(5) provides a targeted anti avoidance rule to prevent arrangements with a tax avoidance main purpose from frustrating the intended application of new subsection 356N(2).

55. New subsection 356NA(6) defines 'arrangements' for the purposes of new subsection 356NA(5).

56. New sections 356NB to 356NG provide rules as to who the new contractor's ring fence operates. These are based on similar rules which operate the existing ring fence in Part 8 CTA2010 (which applies to oil production and is referred to as the "production ring fence", below).

57. New section 356NB modifies the loan relationship rules in the case of a ring fence trade. It is based on section 286 of CTA2010, which applies to the Part 8 CTA10 ring fence for oil producers. New subsection 356NB(1) ensures that non-trading debits from a company's loan relationships cannot be set against the company's contractor's ring fence profits, unless the loan relationship represents money borrowed to finance oil contractor

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activities under new subsection 356NB(2). The loan relationship rules are in Parts 5 and 6 of CTA 2009.

58. New subsection 356NB(5) provides that where a non-trading debit is restricted in this way the legislation allows the company to have relief for the debit against other profits other than those of the contractor's ring fence.

59. New section 356NC ensures that exchange gains in respect of loan relationships are not treated as part of the contractor's ring fence profits where the exchange gains do not arise from money borrowed to finance oil contractor activities. It is based on section 287 CTA 2010, which applies to the production ring fence. The section operates in a similar way to new section 356NB. Where a credit is excluded from the computation of ring fence profits it is brought into account by new subsection 356NB(5).

60. New section 356ND prohibits a deduction for expenses of management of an investment business against a contractor's ring fence profits.

61. New section 356NE prevents losses that arise in trades outside the contractor's ring fence from being set off against a contractor's ring fence profits.

62. New section 356NF concerns claims for group relief. New subsection 356NF(1) prevents group relief arising from losses, allowances or expenditure outside the contractor's ring fence trade from being set against profits from that ring fence trade.

63. New subsections 356NF(2) and (3) provide that where a company cannot use certain amounts against its contractor's ring fence profits, those contractor's ring fence profits are disregarded in calculating how much the company can surrender as group relief.

64. New subsection 356NF(4) provides the definitions required for group relief claims

65. New section 356NG ensures that capital allowances arising from "special leasing" cannot be deducted from a company's contractor's ring fence profits.

66. Paragraph 5 inserts the definitions provided by this measure into Schedule 4 of the CTA2010.

67. Paragraph 6 provides the commencement for the measure, which is 1 April 2014.

68. Paragraph 7 provides that activities defined by section 356L (oil contractor activities, relevant offshore services and relevant offshore area) relate to activities carried out on or after 1 April 2014.

69. Subparagraph 8 (1) provides that an accounting period which would otherwise straddle the 1 April 2014 commencement date, is split into two accounting periods with the first treated as ending on 31 March 2014.

70. Subparagraph 8 (2) makes additional provision for group payment arrangements. Where accounts periods have been split under subparagraph 8(1), they can continue to be treated as a single accounting period for the purposes of allowing the surrender and receipt of tax refunds.

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71. Paragraph 9 provides the rules which apply to losses which have accumulated before commencement. The only losses which can be used against subsequent profits within the new contractor's ring fence are those which would have been losses within that ring fence, had the ring fence existed when the loss arose. Other losses can continue to be carried forward, but cannot be used against profits of the new contractor's ring fence.

BACKGROUND NOTE

72. As announced in Autumn Statement 2013, the government is concerned about the use of bareboat charters to move significant taxable profit outside the UK tax net. Legislation is being introduced alongside the Finance Bill 2014 to cap the amount allowed as a deduction for companies that provide drilling services or accommodation services on the UK Continental Shelf. The cap will apply in respect of lease payments made on or after 1 April 2014). The measure will also ensure that the profits arising from that service are not reduced by unrelated tax relief.

73. Draft legislation was issued on 1 April 2014. The legislation being introduced today largely follows that draft but, in addition, clarifies the definition of accommodation vessel, makes provision for expenditure within an accounting period, adopts an existing approach for the identification of extant capital expenditure and permits group payment arrangements to operate as they would have done previously. None of the changes increase the burden on the taxpayer.