



HM TREASURY

Decommissioning Relief Deeds:

increasing tax certainty for oil
and gas investment in the UK
Continental Shelf



HM TREASURY

Decommissioning Relief Deeds:

increasing tax certainty for oil and gas
investment in the UK Continental Shelf



Official versions of this document are printed on 100% recycled paper. When you have finished with it please recycle it again.

If using an electronic version of the document, please consider the environment and only print the pages which you need and recycle them when you have finished.

© Crown copyright 2012

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

Any queries regarding this publication should be sent to us at: public.enquiries@hm-treasury.gov.uk.

ISBN 978-1-84532-989-1
PU1340

Contents

	Page
Foreword	3
Chapter 1 Introduction	5
Chapter 2 Background	7
Chapter 3 The Government's objectives and approach	11
Chapter 4 The reference amount in the Deed	15
Chapter 5 Deed eligibility and definitions	21
Chapter 6 Protecting the taxpayer	23
Chapter 7 The taxation of decommissioning security agreement trusts	25
Chapter 8 Technical amendments and other considerations	27
Annex A Summary of consultation questions	31
Annex B Consultation process	33
Annex C Code of Practice for consultations	35
Annex D Summary of impacts	36

Foreword

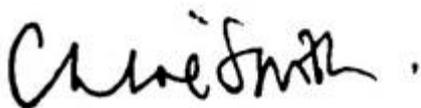
At Budget 2012 the Government announced that it would provide further certainty over tax relief for decommissioning for oil and gas companies operating in the UK and UK Continental Shelf.

The Government recognises the considerable contribution that the UK oil and gas sector makes to the UK economy. Even as we move towards a less carbon-intensive future, oil and gas are set to remain a vital part of our energy system for years to come. The sector also has an important role to play in driving jobs and growth across the UK, and is a rich source of skills, expertise and technology.

It is therefore important that we do all we can to maximise the economic recovery of our indigenous hydrocarbon reserves, and the Government remains firmly committed to encouraging investment and innovation in the UK Continental Shelf. As the basin matures, the tax regime will continue to play an important role in helping us achieve those objectives.

The Government recognises that a lack of certainty over how much decommissioning tax relief companies will be able to claim is currently making it difficult for assets to change hands, limiting the funds available for new ventures, and deterring incremental investment. The contractual approach that the Government is proposing in this consultation is intended to address these issues, facilitating ongoing investment and production in the UK Continental Shelf and increasing Exchequer benefits.

This consultation presents an opportunity for the Government to work with interested parties across the oil and gas sector to ensure that the proposed contracts are as effective as possible in achieving our objectives, while ensuring fairness to the taxpayer.



Chloë Smith

Economic Secretary to the Treasury

1

Introduction

Background

1.1 At Budget 2012, the Government announced a package of measures on oil and gas taxation to support investment. This package includes the introduction of legislation in 2013 giving the Government statutory authority to sign contracts with companies operating in the UK and UK Continental Shelf (UKCS), to provide assurance on the tax relief they will receive when decommissioning assets.

Aim of the consultation

1.2 This document sets out proposals for a contractual approach which seeks to provide certainty on decommissioning relief through a Decommissioning Relief Deed ('the Deed'). Views on this approach are invited from a wide range of stakeholders including individuals, companies, and representative and professional bodies. In particular, the Government invites comments from companies involved in upstream oil and gas production in the UK and UKCS and connected activities, including the provision of financial and legal services.

1.3 The Government will consider all responses before finalising the policy design and publishing a draft Deed and legislation for consultation in the autumn.

Working groups with industry

1.4 As part of the consultation process, the Government will establish four working groups covering: Commercial Aspects, Legal Design, Reference Amounts, and Technical and Anti-Avoidance issues. These working groups will operate with officials during the consultation period and meet to discuss issues raised by the consultation. If you would like to be a working group member please send a nomination, identifying which group you would like to be a member of and your current position, using the correspondence details provided below.

Structure of the document

1.5 The remainder of the document is set out as follows:

- Chapter 2 explains the background to these proposals;
- Chapter 3 sets out the Government's objectives and proposed approach;
- Chapters 4 and 5 explain how the Deed will work;
- Chapter 6 outlines how the Government will ensure a fair return for the taxpayer and protect the Exchequer;
- Chapter 7 discusses issues around the taxation of Decommissioning Security Agreement trusts;
- Chapter 8 considers technical amendments to the tax code in respect of decommissioning relief; and

- Annex A summarises the consultation questions posed in this document. Annexes B and C set out the consultation process. Annex D includes a consultation stage Tax Impact Assessment, on which the Government would welcome views.

Stage of consultation

1.6 The proposals set out in this document are at stage 1 (setting out objectives) and identifying options and stage 2 (determining the best option and developing a framework for implementation including detailed policy design) of the Government's framework for tax consultation.

1.7 This is the first part of a two-part consultation process. This consultation will last for 12 weeks. A further consultation period will commence with the publication of a draft Deed and relevant legislation in the autumn.

Box 1.A: How to respond to the consultation

Please send comments by 1 October 2012 to:

Stuart Gregory and Rachel Joseph,
Oil and Gas Decommissioning Consultation,
Business and International Tax,
HM Treasury,
1 Horse Guards Road,
London,
SW1A 2HQ.

Email: decommissioning.certainty@hmtreasury.gsi.gov.uk

Phone: 020 7270 6029

2

Background

UK oil and gas

Box 2.A: The UK oil and gas sector

Since the late 1960s, production in the UK and UKCS has totalled around 41 billion barrels of oil equivalent (boe). It is estimated that around 20 billion boe remain in the UKCS. There are some 300 offshore fields in production and the sector:

- provides around half of UK energy needs;
- directly and indirectly supports around 350,000 jobs;
- attracts around £18 billion annual expenditure by the industry; and
- paid £11.2 billion in upstream taxation in 2011/12.

2.1 In the context of the Government's overall objective of maximising the economic recovery of the UK's oil and gas reserves, the Government aims to:

- encourage investment in, and production from, the UKCS;
- strike the right balance between oil producers and consumers, and ensure fairness to taxpayers.

2.2 The dominant drivers of investment and, hence, ultimate recovery levels are underlying geology, future oil and gas prices and development costs. However, the Government does have a crucial role to play in ensuring that the regulatory and fiscal regimes help to deliver the best possible future for the UKCS. This consultation is part of the Government's work to improve the fiscal environment by providing certainty on the tax treatment of oil and gas decommissioning expenditure.

2.3 The proposals in this consultation are part of the action the Government announced in Budget 2012 to support growth, attract investment in energy, ensure energy security and make the best use of the nation's natural resources.

Oil and gas taxation

2.4 The fiscal regime which applies to the exploration and production of oil and gas in the UK and UKCS currently comprises three taxes:

2.5 Ring Fence Corporation Tax (RFCT) – This is calculated in the same way as the mainstream corporation tax applicable to all companies but with the addition of a "ring fence" and the availability of 100 per cent first year allowances for virtually all capital expenditure. The ring fence prevents taxable profits from oil and gas extraction in the UK and UKCS from being reduced by losses from other activities or by excessive interest payments. The current rate of tax on ring fence profits, which is set separately from the rate of mainstream corporation tax, is 30 per cent.

2.6 Supplementary Charge (SC) – This is an additional charge, currently set at a rate of 32 per cent, on a company's ring fence profits (but with no deduction for finance costs). Field allowances perform an important role as the basin matures, removing a slice of production income from the SC, for qualifying small or technically challenging new fields.

2.7 Petroleum Revenue Tax (PRT) – This is a field-based tax charged on profits arising from oil and gas production from individual oil fields which were given development consent before 16 March 1993. The current rate of PRT is 50 per cent; PRT is deductible as an expense in computing profits chargeable to RFCT and SC.

Box 2.B: Marginal tax rates

The combined effect of the fiscal regime is a marginal tax rate of:

- 81 per cent on profits from PRT-paying fields;
- 62 per cent for other fields except where field profits are wholly covered by field allowances.

Tax relief for decommissioning

2.8 Decommissioning is an inherent cost of doing business in the UKCS. As a result, tax relief within the upstream regime is given for decommissioning costs at the point that they are incurred and the decommissioning is carried out. If decommissioning expenditure produces an overall loss for a year, the loss may be carried back against previous ring fence profits, as far as 2002 for RFCT and SC, and indefinitely for PRT. Losses are offset against the profits of most recent years first. Losses generated by decommissioning costs and carried back to be offset against previous profits will be relieved at the rate at which those profits were taxed. This is subject to the restriction to relief for Supplementary Charge purposes introduced in the Finance Bill 2012. The provision of relief requires a company to have previously taxed upstream profits against which to offset losses (i.e. tax history/capacity). Tax relief for decommissioning is currently available at 20 per cent for SC and 30 per cent for RFCT in non-PRT paying fields. The rate of relief in PRT fields is up to 75 per cent.

2.9 Tax relief in respect of oil and gas decommissioning is currently forecast to meet a significant part of decommissioning liabilities:

Table 2.A: Current estimates of decommissioning (at 2011 prices)

Overall cost	Cost (£bn)
Total cost	33
Total cost to industry	13
Total cost of tax relief	20
Source: HMRC Annual Report and Accounts 2011-12 (For the year ended 31 March 2012)	

Legal obligations for decommissioning

2.10 The legal framework for decommissioning of offshore oil and gas installations and pipelines on the United Kingdom Continental Shelf is set out in the Petroleum Act 1998 (The Act).¹ The framework provides that the parties who have gained a benefit from a field remain liable to pay for the decommissioning in the event that the operator/licensee/owner of an offshore installation or pipeline at the time of decommissioning defaults on its obligations. This

¹ Unless the contrary intention is indicated, statutory references are to the Act.

ensures that – leaving aside tax relief – UK taxpayers are protected and do not bear the cost of decommissioning offshore installations or pipelines in the event of a default.

2.11 To minimise the risk of default Chapter 3 of Part 3 of the Energy Act 2008 gives the Secretary of State power to require decommissioning security at any time during the life of an oil or gas field if the risks to the taxpayer are assessed as unacceptable.

2.12 Section 29 of the Act authorises DECC on behalf of the Secretary of State to serve a notice requiring the recipient(s) to submit a costed decommissioning programme for approval. Notices may be served not only on the licensees but also on the operator, owners of the installation/pipelines and the parties to a Joint Operating Agreement or similar agreement. Notices may also be served on parents or other associated companies. Once submitted and approved, this decommissioning programme creates an obligation on the parties to the programme to ensure it is carried out.

2.13 The obligation to carry out the programme is joint and several between the parties. This means that, if any one of those with a duty to carry out a programme is unable to do so, the other parties to the programme will be responsible for the defaulting party's decommissioning costs. Ultimately, this could result in one party being liable for the full decommissioning costs.

2.14 If a company disposes of its interest in the installation(s) or pipeline(s) on a field, liabilities for decommissioning may remain. The effect of this is that those parties previously involved in a field may be required, in certain circumstances, to assume responsibility for decommissioning even after they have sold their interest.

2.15 Section 31(5) of the Act gives the Secretary of State the power to withdraw a notice served under Section 29 of the Act. If a Section 29 notice is withdrawn this does not necessarily mean that the company is excused from its decommissioning responsibilities in relation to the installation(s) or pipeline(s). Section 34 of the Act provides that a company may, in certain circumstances, be placed under a duty to carry out the decommissioning programme even though it has previously been released from a notice under section 31(5) of the Act. Section 34 of the Act also enables the Secretary of State to impose a duty to carry out a programme on any person on whom a Section 29 notice could have been served since the serving of the first Section 29 notice in respect of the installation or pipeline. Section 34 of the Act is regarded as a measure of last resort. In the first instance, the Secretary of State would expect the current Section 29 notice holders (i.e. the parties to the programme) to carry out the decommissioning and would only use the powers under Section 34 in potential default cases.

The impact of decommissioning obligations

2.16 These provisions mean that a number of parties may ask for security in respect of the costs of decommissioning an asset:

- **the vendor of an asset** may want security from the buyer to ensure that funds to meet the costs of decommissioning are in place if the vendor is required to assume liability for decommissioning;
- **licensees who are jointly and severally liable** for decommissioning with co-venturers may want security from those co-venturers to ensure that they can cover their share of the costs of decommissioning.

2.17 Security requirements are generally calculated on a **pre-tax basis** i.e. taking no account of the proportion of costs that a company undertaking decommissioning would receive in tax relief under the existing tax code. This is driven by a lack of certainty in respect of tax relief for decommissioning. The result is that more capital is tied up than is necessary, thus reducing the amount available for investment.

3

The Government's objectives and approach

3.1 The Government's overriding objective for this work is to ensure a fair return for the taxpayer while maximising the economic production of oil and gas, by providing greater certainty over the future availability of decommissioning tax relief. The Government is taking action to help businesses make the most of the UK's natural resources, and to attract inward investment in energy.

Effects of a lack of certainty over decommissioning tax relief

3.2 Industry's concerns over a lack of certainty regarding the future availability of decommissioning tax relief are affecting potential oil and gas investment and production by:

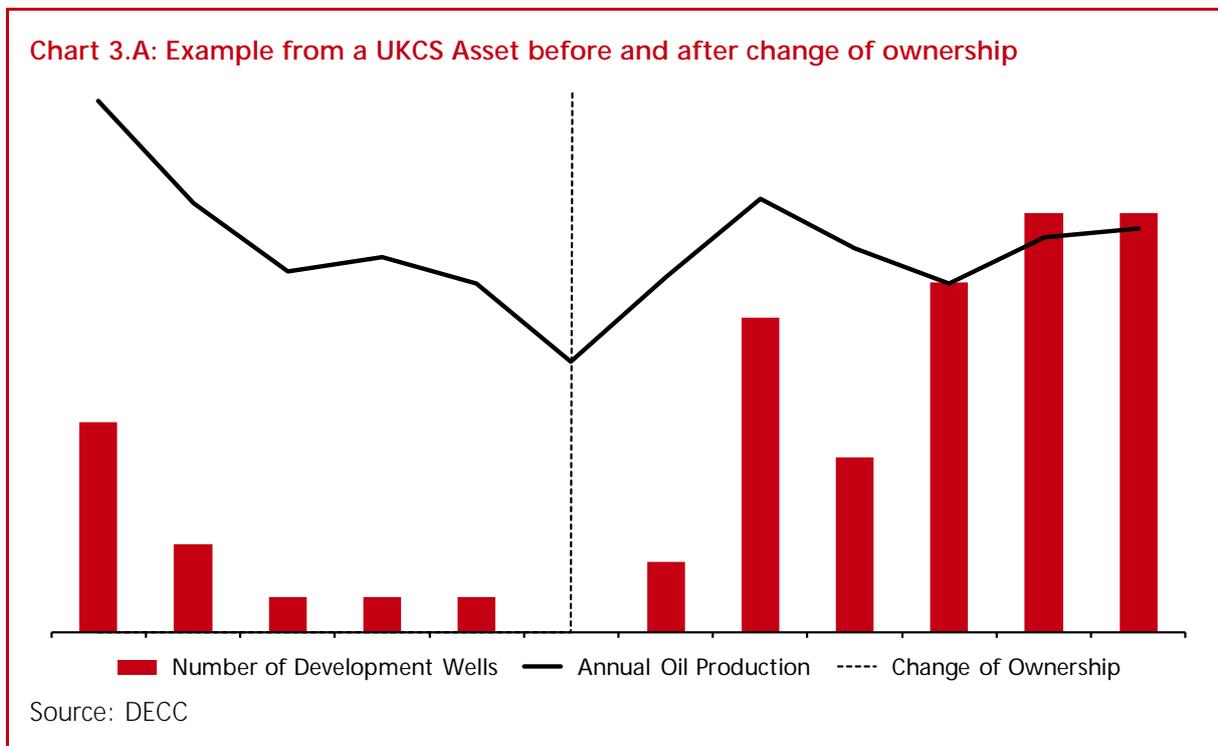
- **creating a barrier to the transfer of assets in the UKCS.** Vendors of assets require purchasers to provide security for decommissioning costs on a pre-tax basis. This restricts the pool of potential buyers to those who are able to raise the considerable capital required, and adds complexity to commercial negotiations;
- **limiting capacity for additional investment.** Companies' capital is tied up in securitisation arrangements for full (i.e. pre-tax) decommissioning costs and financiers assess decommissioning liabilities on a pre-tax basis; and
- **detering incremental investment by existing licensees.** Some companies may choose to cease production and crystallise relief, rather than extending the life of assets if they believe that relief could be reduced or withdrawn in future.

Asset trades

3.3 The frequency and number of asset trades commonly increase later in the life of a basin as companies look to rationalise their portfolios, and smaller independent players seek to take advantage of existing infrastructure. Late-life operators often commit more resources or invest in new technology to increase overall reserve recovery.

3.4 Compared with other mature basins, such as the Gulf of Mexico, there have been relatively few changes in ownership of assets across the UKCS. However, where asset trades have occurred, this has tended to increase investment and extend asset life significantly, sustaining production.

Chart 3.A: Example from a UKCS Asset before and after change of ownership



Investment

3.5 Moving to post-tax decommissioning calculations will make additional capital available which will drive additional and incremental investment by new and current owners.

3.6 Incremental investment in existing and future fields is expected to be one of the main sources of future production from the UKCS. It could result in additional production of between 4 and 6 billion boe. This is broadly on a par with, or greater than, the contributions from currently planned activity in existing fields, development of existing as-yet-undeveloped discoveries and development of as-yet-undiscovered fields. By extending the life of existing infrastructure, incremental activity will also be an enabler of these other categories of production, through effective use of “hubs” and subsea tie-backs.

3.7 However, the potential benefits of increased overall production and fewer stranded reservoirs will be realised only if the right conditions are in place to sustain incremental investment. This includes ensuring that current owners have confidence to continue investing in their assets, and that the market in UKCS assets functions effectively to ensure that assets are held by those most likely to maximise reserve recovery.

Policy aims

3.8 Through this consultation, the Government is seeking to ensure that a lack of certainty over decommissioning tax relief does not:

- create a barrier to asset trades and joint ventures;
- reduce companies’ ability to access investment capital in the UKCS; and
- discourage existing asset owners from incremental investment.

3.9 While the Government is committed to achieving the level of certainty on decommissioning relief necessary to meet these policy aims, it also needs to retain sufficient flexibility to ensure that the wider tax system for oil and gas remains fit for purpose as the UKCS continues to mature.

Proposed outcomes

3.10 The Government will adopt an approach that seeks to ensure that:

- Companies are able to adopt post-tax securitisation arrangements for the costs of decommissioning, in particular by providing certainty that companies will be able to access appropriate tax relief where they are assuming the liability of a defaulting party;
- Financiers are able to use post-tax estimates of decommissioning costs when making liability assessments;
- Companies are better able to model the rate and availability of decommissioning tax relief when making investment decisions; and
- All investors can easily understand potential decommissioning liabilities.

Box 3.A outlines the Government's proposed approach to achieve these outcomes.

3.11 The Government will also:

- Avoid action that would increase the forecast Exchequer cost of decommissioning;
- Ensure companies continue to make their investments for commercial rather than tax reasons;
- Consider changes with due regard to the fairness and integrity of the tax system;
- Prevent unintended advantages being gained through the Deed; and
- Allow the Deed to function as a mechanism of 'last resort', by minimising the number of situations where an appropriate level of relief is not achievable through the tax code.

Chapters 6-8 give more detail on these considerations.

3.12 For the purposes of this consultation the Government will take an evidence-based approach, primarily focused on current practice in the UKCS. A working group will also be established to consider the commercial outcomes of the Deed being in place.

Providing further certainty on decommissioning tax relief

3.13 The Government's proposed approach is to implement Decommissioning Relief Deeds (DRDs).

3.14 These Deeds will provide companies and investors with the certainty they need so they take account of decommissioning liabilities on a post-tax basis.

3.15 Decommissioning Relief Deeds will function as set out in Box 3.A overleaf:

Box 3.A: Overview of the Decommissioning Relief Deed (DRD)

- 1 **A Decommissioning Relief Deed will be executed by the Government and individual company counterparties.**
 - One Deed will cover all a company's assets and will be valid beyond cessation of production by the counterparty.
 - The Deed will be a standardised document with an individual side note certifying a company's PRT history by field.
- 2 **It will define the type of expenditure on which relief can be claimed.**
 - This expenditure will be defined in accordance with the tax regime as at Royal Assent to Finance Act 2013.
- 3 **It will establish the amount of relief the company can expect to receive in various circumstances.**
 - In a "default scenario", where a company is required to pay for another party's share of decommissioning, the Deed will ensure that a company receives a defined amount of relief in respect of expenditure on the defaulting party's obligation.
 - Where a company is incurring expenditure as a result of its own decommissioning liabilities the deed will provide certainty over the rate of relief it will achieve in relation to that expenditure.
- 4 **If this level of relief is not achieved a shortfall payment may be claimed by the counterparty.**

3.16 Detailed consideration of each of the four main aspects is provided in the following chapters.

Questions for consultation

Question 3.1: Do respondents believe that providing greater certainty on decommissioning tax relief will enable the achievement of the outcomes set out at Paragraph 3.10?

It is proposed that a working group on commercial aspects will be established as part of the consultation process to consider how to ensure that the necessary commercial arrangements are in place to achieve the outcomes set out in Paragraph 3.10.

4

The reference amount in the Deed

What is the reference amount?

4.1 The reference amount is a comparator amount of relief which Deed holders will use to assess whether the provisions of the Deed are engaged and whether they are entitled to make a claim under the Deed for relief on their decommissioning expenditure (as defined in Chapter 5).

4.2 The reference amount largely mirrors the tax code, while protecting companies in the event of a default and ensuring Deed holders can obtain any benefit from future tax changes.

4.3 If the relief a Deed holder receives in respect of its costs at the time of decommissioning expenditure is less than the reference amount, the Deed holder will be entitled to claim a shortfall payment from the Government.

4.4 There are no circumstances under which entitlement under the Deed will reduce the level of relief that a company can claim under the tax code.

What does the reference amount need to achieve?

4.5 The reference amount will be designed to ensure that the Government achieves the objectives set out in Chapter 3.

4.6 The reference amount must be designed to:

- be simple enough to give Deed holders and potential investors in the UKCS certainty about the level of relief that they are entitled to receive;
- ensure that Deed holders are only eligible to claim a payment under the Deed where they have not received sufficient relief through the tax code;
- avoid giving Deed holders an incentive to invest in uneconomic projects, for example by routinely offering a higher rate of relief on their decommissioning expenditure than the rate of tax they would expect to pay on their profits; and
- eliminate opportunities for abuse of the Deed through avoidance or artificial arrangements.

4.7 The proposed reference amounts are designed to ensure that future changes to the tax rate are possible, while providing industry with certainty over the availability of tax relief for decommissioning.

4.8 Outside of a default scenario, the rate of relief defined within the Deed is aligned to the prevailing rate of tax, subject to the restriction to relief for Supplementary Charge purposes introduced in Finance Bill 2012. This reflects a general principle of the tax system that the rate of relief available should – except in exceptional circumstances – not exceed the rate of tax payable.

Why is the reference amount different in a “default scenario”?

4.9 The Government’s approach distinguishes between a “default scenario”, where a company is required to pay for another party’s share of decommissioning, and a “non-default scenario”, when a company is meeting its own decommissioning liability.

4.10 Specifically, a “default” is a situation where a party with responsibility for decommissioning (usually the Operator) is unable to meet its share of the costs of carrying out an approved decommissioning programme, and liability therefore passes to another party subject to a Section 29 or 34 notice. **The Government expects that, as cases of default are likely to be the exception, provisions applicable to such scenarios will only apply in very limited circumstances.**

4.11 A company seeks security for decommissioning costs from another party in order to ensure that funds will be available to meet those costs in the event of a default by that other party. **To ensure that the Government’s approach enables companies to require security on a post-tax basis, the Deed needs to give companies certainty over the relief they would receive in a default scenario.**

4.12 When making investment decisions, companies are unlikely to factor in an assumption that they may have to assume liability for another party’s decommissioning costs. This means that companies will not necessarily be sure that they have sufficient tax capacity to achieve relief in respect of expenditure on another party’s decommissioning costs.

4.13 **To enable companies to move to post-tax securitisation, the Government will use the Deed to provide certainty that, in a default scenario, companies will receive a defined amount of relief in respect of expenditure on the defaulting party’s decommissioning obligation.**

4.14 Where a company knows that it will have to bear the costs of decommissioning an asset, it will factor the tax relief it expects to receive on those costs into its investment decision. The Government believes that a company would expect to make sufficient profits to cover any expenditure incurred on decommissioning, and therefore to have the tax history necessary to access the relief. The Government therefore proposes that, **where a company is incurring expenditure as a result of its own decommissioning liabilities (rather than those of a defaulting party), the reference amount should not offer relief in excess of the company’s tax capacity.**

4.15 The exception to this will be in cases where a company has insufficient tax capacity to relieve all its own decommissioning costs because that tax capacity has already been reduced as a result of taking on another party’s decommissioning costs. **In such cases, the Deed holder will be able to claim a shortfall payment up to the level of additional relief that it would have received in respect of expenditure on its own decommissioning costs had it not previously assumed liability for another party’s costs in a default scenario.**

The reference amount for each of the different taxes in the upstream tax regime

4.16 The Government proposes that the reference amount for each of Ring Fence Corporation Tax (RFCT), Supplementary Charge (SC) and Petroleum Revenue Tax (PRT) should be calculated separately in accordance with the current tax regime for oil and gas.

4.17 **The total reference amount guaranteed in the Deed will be the sum of the reference amounts for RFCT, SC and, where applicable, PRT.**

The explanations of the proposed reference amount are set out below.

Reference amount for Ring Fence Corporation Tax (RFCT)

Default scenario

4.18 The Government proposes that:

- where the Deed holder is meeting the decommissioning liability of a defaulting party which has failed to meet its decommissioning obligation; **and**
- the Deed holder is not paying a connected party to undertake the decommissioning on its behalf; **and**
- the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has not been a factor in the insolvency or default; **then**
- the reference amount in respect of RFCT is 30 per cent of the Deed holder's decommissioning expenditure.

4.19 Under the terms of the Deed, where any necessary conditions are satisfied, and a Deed holder is paying for another party's decommissioning costs, and has not been able to access tax relief at a rate of 30 per cent in respect of RFCT on that expenditure through the tax code, that Deed holder shall be contractually entitled to obtain a shortfall payment from the Government.

4.20 The Government will consider further how to define situations where the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has been a factor in the insolvency or default (in relation to the third condition in 4.18) and would welcome views on this in response to the consultation.

Non-default scenario

4.21 The Government proposes that:

- where the Deed holder is meeting its own decommissioning liability; **and**
- the Deed holder is not paying a connected party to undertake the decommissioning on its behalf; **then**
- where decommissioning expenditure is offset in computing current profits, the reference amount in respect of RFCT is calculated by applying the prevailing rate of RFCT to that expenditure;
- where decommissioning expenditure generates losses which are offset against previous profits, the reference amount in respect of RFCT is calculated by using the prevailing rate of RFCT at which those profits were taxed and applying it to those losses.

4.22 The exception to this will be in cases where a company has insufficient tax capacity to relieve all its own decommissioning costs because that tax capacity has already been reduced as a result of taking on a defaulting party's decommissioning costs. In such cases, the Deed holder will be able to claim a shortfall payment up to the level of additional relief that it would have received in respect of its own expenditure had it not previously assumed liability for another party's costs in a default scenario.

4.23 This provides certainty that the Deed will pay out if the rate of relief in respect of RFCT does not align with the rate at which profits were taxed.

4.24 The Government believes that this leaves scope for flexibility in the future tax rate. For example if a company receives less than 30 per cent RFCT relief on expenditure because the

profits against which the expenditure has been set have been taxed at less than 30 per cent (and the rate of relief on the expenditure and the rate of tax on the profits are the same), the Deed will not pay out.

Reference amount for Supplementary Charge (SC)

4.25 The Government proposes that a similar approach to default and non-default scenarios should apply when calculating the reference amount in respect of Supplementary Charge (SC), while reflecting the restriction to the rate of relief for SC purposes introduced by Finance Bill 2012.

Default scenario

4.26 The Government proposes that:

- where the Deed holder is meeting the decommissioning liability of a defaulting party which has failed to meet its decommissioning obligation; **and**
- the Deed holder is not paying a connected party to undertake the decommissioning on its behalf; **and**
- the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has not been a factor in the insolvency or default; **then**
- the reference amount in respect of SC is 20 per cent of the Deed holder's decommissioning expenditure.

4.27 Under the terms of the Deed, where any necessary conditions are satisfied, and a Deed holder is paying for another party's decommissioning costs, and has not been able to access tax relief at a rate of 20 per cent in respect of SC on that expenditure through the tax code, that Deed holder shall be contractually entitled to obtain a shortfall payment from the Government.

Non-default scenario

4.28 The Government proposes that:

- where the Deed holder is meeting its own decommissioning liability; **and**
- the Deed holder is not paying a connected party to undertake the decommissioning on its behalf; **then**
- where decommissioning expenditure is offset in computing current profits that are taxed at 20 per cent or higher, the reference amount in respect of SC is 20 per cent of that expenditure;
- where decommissioning expenditure generates losses which are offset against previous profits that have been taxed at a SC rate of 20 per cent or higher, the reference amount in respect of SC is 20 per cent of those losses;
- where decommissioning expenditure is offset in computing current profits that are taxed at a SC rate of less than 20 per cent, the reference amount in respect of SC is calculated by applying the prevailing rate of SC to that expenditure;
- where decommissioning expenditure generates losses which are offset against previous profits that have been taxed at a SC rate of less than 20 per cent, the reference amount in respect of SC is calculated by applying the prevailing rate of SC at which those profits were taxed to those losses.

4.29 The exception to this will be in cases where a company has insufficient tax capacity to relieve all its own decommissioning costs because that tax capacity has already been reduced as

a result of taking on a defaulting party's decommissioning costs. In such cases, the Deed holder will be able to claim a shortfall payment up to the level of additional relief that it would have received in respect of its own expenditure had it not previously assumed liability for another party's costs in a default scenario.

Reference amount for Petroleum Revenue Tax (PRT)

4.30 PRT operates differently to other UK oil and gas taxes. It is a field-based tax with various reliefs, making it much harder to establish a "headline" rate of relief that companies would achieve under the current tax code. PRT is currently only paid by companies operating in a relatively small number of fields in the UKCS.

4.31 The Government proposes that a similar principle of distinguishing between default and non-default scenarios should apply for the PRT reference amount.

Default scenario

4.32 The Government proposes that:

- where the Deed holder is meeting the decommissioning liability of a defaulting party which has failed to meet its decommissioning obligation; **and**
- the Deed holder is not paying a connected party to undertake the decommissioning on its behalf; **and**
- the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has not been a factor in the insolvency or default; **and**
- the Deed holder has insufficient PRT history, for the field, to obtain the same level of relief that the defaulting party would have achieved under the tax code; **then**
- the reference amount in respect of PRT is the level of relief that the defaulting party would have achieved under the tax code, as certified by HMRC, and provided that relief in respect of that expenditure has not already been obtained by another party;
- if PRT were to be abolished, the reference amount would be the level of relief that the defaulting party would have achieved as of the last period of account where PRT was in place.

4.33 In some cases, a defaulting party would not have had sufficient tax history to access full relief itself, but an additional amount of relief in respect of the cost of decommissioning that asset may have been accessible by a former participator in the field. In such cases, it is common practice for a repayment of the equivalent amount of relief to be made by the party that has access to the relief to the party incurring the decommissioning costs. This is usually achieved through a commercial Sale and Purchase Agreement (SPA). The Government would welcome industry's views on how these commercial arrangements could be used to complement the approach being taken in the Deed.

4.34 The Government is also considering amending the tax rules in relation to the order in which decommissioning losses are offset against previous profits, and the Unrelieved Field Losses (UFL) rules (see Chapter 8).

Non-default scenario

4.35 Where the Deed holder is incurring decommissioning expenditure which is not the result of a defaulting party failing to meet its decommissioning obligation, the Government proposes that the reference amount in respect of PRT will be linked to the taxpayer's own PRT history.

- each Deed holder will have its PRT history certified by HMRC to establish the reference amount to which it would be entitled at the time of certification;
- if PRT were to be abolished, the reference amount would be calculated as of the last period of account where PRT was in place.

4.36 The exception to this will be in cases where a company has insufficient tax capacity to relieve all its own decommissioning costs because that tax capacity has already been reduced as a result of taking on another party's decommissioning costs. In such cases, the Deed holder will be able to claim a shortfall payment up to the level of additional relief that it would have received in respect of its own expenditure had it not previously assumed liability for another party's costs in a default scenario.

4.37 The Government would welcome views on how the PRT tax history certification process should work in practice, and how frequently it should occur.

Questions for consultation

Question 4.1: Do the proposed reference amounts in respect of RFCT, SC and PRT achieve the objectives as set out in Chapter 3?

Question 4.2: Do respondents have views on how the certification process for PRT history should work in practice, and how frequently it should occur?

Question 4.3: Do respondents have views on how commercial arrangements such as Sale and Purchase Agreements (SPAs) could be used to complement the approach being taken in the Deed in the event of a default in a PRT field?

See also Question 6.1 in Chapter 6.

It is proposed that these issues should be discussed in a working group on the reference amount to be established as part of the consultation process

5

Deed eligibility and definitions

5.1 This chapter outlines the eligibility for the Deed and explains what aspects of decommissioning it covers.

Eligibility for the Deed

5.2 The Government proposes that:

- an appropriate Secretary of State or Lords Commissioner is likely to act as the Government signatory; and
- all companies that are or have been subject to the UK's oil and gas fiscal regime and their associates should be eligible to be a counter party to a Deed.

5.3 The Government believes that this will cover all those who require security and all those who have been subject to the UK's oil and gas fiscal regime.

Questions for consultation

Question 5.1: Does the Government's approach to eligibility for the Deed achieve the objectives as set out in Chapter 3?

Definitions of decommissioning expenditure

5.4 The Government proposes that decommissioning expenditure will be defined in accordance with the tax regime as at Royal Assent to Finance Act 2013.

5.5 This is consistent with the Government's general approach that the Deed should as far as possible be aligned with the fiscal regime.

For claims made in respect of the Ring fence Corporation Tax and Supplementary Charge reference amounts

5.6 The definition of decommissioning expenditure will mirror section 163 of the Capital Allowances Act 2001, applying to:

- demolishing any plant or machinery;
- preserving any plant or machinery pending its reuse or demolition;
- preparing any plant or machinery for reuse;
- arranging for the reuse of any plant or machinery; or
- the restoration of any land.

For claims made in respect of the PRT Reference amount

5.7 The definition of decommissioning expenditure will mirror sections 3(1)(i)&(j) of Oil Taxation Act 1975, applying to:

- closing down;
- decommissioning;
- abandoning;
- wholly or partially dismantling or removing

any qualifying asset (as defined under Section 8(1) of the Oil Taxation Act 1983). In addition the definition includes qualifying restoration work consequential upon the closing down of the field or any part of it.

5.8 Where a qualifying asset has been used otherwise than in connection with the field (e.g. in another field), the PRT apportionment rules will apply.

Questions for consultation

Question 5.2: Do the proposed definitions of decommissioning expenditure achieve the objectives as set out in Chapter 3?

6

Protecting the taxpayer

Safeguarding the integrity of the tax regime

6.1 As set out in Chapter 3, the Government is committed to ensuring a fair return to the taxpayer and protecting the Exchequer.

6.2 The Government is confident that the vast majority of companies would not consider using the Deed for anything other than legitimate claims. Nonetheless, by taking all available steps to ensure that the Deed cannot be used to inappropriately reduce a company's tax liability, the Government will:

- avoid action that increases the forecast Exchequer cost of decommissioning;
- ensure that companies continue to make their investments for commercial rather than tax reasons;
- prevent unintended advantages being gained through the Deed; and
- ensure the Deed functions as a “mechanism of last resort” by minimising the number of situations where an appropriate level of relief is not achievable through the tax code.

6.3 The Government has identified two significant areas of concern as being:

- artificially inflated claims for relief; and
- inappropriate claims.

Artificially inflated claims for relief

6.4 Where there is an ‘arms length’ relationship in place between the party incurring the decommissioning expenditure and the party undertaking the work, the Government would expect the scope for the artificial inflation of costs to be significantly reduced.

6.5 The Government therefore proposes to take a proportionate response to this risk by **restricting claims under the Deed to cases where the claimant is not paying a connected party to undertake decommissioning on its behalf.**

Inappropriate claims

6.6 The Government will remove the scope for any inappropriate claims under the Deed where, for example:

- a the claimant or its relevant associate has not been subject to the upstream tax regime;
- b relief in respect of the expenditure has already been achieved by the claimant or another party;

- c an insolvency or default has been triggered with the purpose of securing more beneficial treatment under the Deed than would be available under the tax regime; or
- d the Deed is called to secure a timing advantage in comparison with relief achieved through the tax regime.

6.7 The Government believes that the design of the reference amount, definition of decommissioning, and eligibility conditions provide protection against inappropriate claims under (a) and (b) outlined above.

6.8 The Government will consider further how to define those situations where the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has been a factor in an insolvency or default. The Government would welcome views on this in response to the consultation.

6.9 The Government would also welcome views on how to ensure that the Deed cannot be used to gain a timing advantage in comparison with relief achieved through the tax code.

Questions for consultation

Question 6.1: Do respondents have views on how the Government should seek to define the exclusions within the reference amount for those situations where the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has been a factor in an insolvency or default?

Question 6.2: Do respondents have views on how to ensure that the Deed cannot be used to gain a timing advantage in comparison with relief achieved through the tax code?

Question 6.3: Can respondents suggest further ways to prevent inappropriate claims under the Deed so the taxpayer is protected?

Question 6.4: Can respondents suggest further ways to prevent abuse of the Decommissioning Relief Deeds and ensure that they remain effective?

It is proposed that these issues should be discussed in a working group on technical and anti-avoidance issues.

7

The taxation of decommissioning security agreement trusts

The use of Decommissioning Security Agreement (DSA) trusts

7.1 Decommissioning Security Agreements (DSAs) are commercial agreements put in place to ensure that the necessary funds will be available when the time comes to decommission an asset. These may be entered into between existing licensees, or between current and past licensees.

7.2 DSAs generally provide for the establishment of two trusts:

- A “**provision trust**”: where a licensee provides cash which is used to pay for decommissioning. This will usually remain empty other than in cases where companies cash collateralise their decommissioning costs or in the event of a default by a licensee; and
- An “**alternative provision trust**”: where a licensee provides a source of funds in the event that the provision amount is not paid. The alternative provision trust will usually hold standby letters of credit or similar instruments such as on demand payment bonds and guarantee and indemnity instruments.

7.3 These trusts are subject to the usual trust taxation regime and are within the scope of Income Tax (IT), Capital Gains Tax (CGT) and Inheritance Tax (IHT).

7.4 Any potential changes to the trust taxation regime that the Government might wish to consider would apply only in respect of DSA trusts which are established for the sole purpose of meeting decommissioning obligations under the Petroleum Acts.

Inheritance Tax

7.5 DSA trusts are potentially subject to IHT charges. IHT is targeted at the transfer of assets at the end of a natural person’s life or on lifetime transfers.

7.6 Provisioning for these IHT charges can require companies to set aside more security than they would otherwise provide, eroding the availability of capital in the UKCS. Companies currently have to make provision for the amount of IHT that the trustees would be required to pay if the DSA “provision trust” held funds.

7.7 While companies have not tended to make additional provision for IHT charges on the “alternative provision trust”, any requirement to do so could further increase securitisation requirements.

7.8 This means that provisioning for potential future IHT charges is increasing current securitisation requirements in the UKCS.

7.9 The Government has received a number of representations that the principle behind DSA trusts is different to that of other trust arrangements.

7.10 In deciding whether to remove the IHT charges in the context of DSA trusts in the UKCS, the Government will continue to consider the potential for avoidance and consistency with broader IHT and trust policy.

Income Tax

7.11 The income (such as interest) received by these trusts is taxable on the trustees.

- the Government has not seen strong evidence that Income Tax is a consideration in determining securitisation requirements. **Can respondents provide evidence on what effect, if any, this potential tax liability has on securitisation, including any relevant evidence on the domicile of DSA trusts?**

If responses to the question above are commercially sensitive, they should be marked so in accordance with the guidance set out in Annex B (Confidentiality Disclosure).

Questions for consultation

Question 7.1: The Government has not seen strong evidence that Income Tax is a consideration in determining securitisation requirements. Can respondents provide evidence on what effect, if any, the potential Income Tax liability has on securitisation in DSA trusts, including any evidence on the domicile of DSA trusts?

If responses to the question above are commercially sensitive, they should be marked so in accordance with the guidance set out in Annex B (Confidentiality Disclosure).

8

Technical amendments and other considerations

8.1 There are several technical changes to the tax code that may be necessary or beneficial to ensure the effectiveness of the approach set out in this consultation.

Subsidy rules

8.2 The subsidy rules are an important aspect of the UK tax regime for plant and machinery. They provide that, where a person who incurs expenditure that qualifies for capital allowances receives a contribution towards that expenditure, generally the contribution is deducted from the expenditure and the person obtains capital allowances on the net amount.

8.3 However, these rules will prevent companies from accessing full relief on their decommissioning expenditure where funds are obtained from a post-tax securitisation arrangement to meet decommissioning costs. This would be likely to prevent companies from accepting decommissioning security on a post-tax basis and so prevent the policy objective of this work from being achieved.

8.4 The Government therefore proposes to “switch off” the subsidy rules in targeted circumstances where decommissioning security has been provided on a post-tax basis, to ensure companies can obtain relief under the tax code in default scenarios.

- the Government proposes to “switch off” the subsidy rules in cases where:
 - a defaulting party has failed to meet its obligation under a relevant agreement or decommissioning programme; and
 - another party has been required by DECC to assume the liability for that obligation and has already incurred the resulting decommissioning costs; and
 - the party assuming the liability has used funds released from a post-tax securitisation arrangement to meet those costs; and
 - relief in relation to the decommissioning costs has not already been achieved by the defaulting party.

Questions for consultation

Question 8.1: Do respondents agree that switching off the subsidy rules in the targeted instances listed in 8.4 is necessary to enable companies to accept security on a post-tax basis?

Accessing Petroleum Revenue Tax (PRT) relief in default scenarios

8.5 The Government will consider amending the tax rules in respect of PRT so that, as far as possible, where a company is meeting the decommissioning liability of a defaulting party, it is permitted to offset the losses arising from the defaulting party’s decommissioning against its own profits before offsetting any losses in respect of its own decommissioning liability. Relief for losses arising for the company’s own decommissioning liabilities can then be accessed under the

current tax rules and through the operation of the Sale and Purchase Agreement (SPA). The Unrelieved Field Losses (UFL) rules could be amended to access further relief if necessary.

Questions for consultation

Question 8.2: Do respondents have views on how the tax rules in respect of Petroleum Revenue Tax (PRT) relief could be amended in relation to offsetting provisions and Unrelieved Field Losses (UFL) rules to provide greater accessibility to relief in a default scenario?

Field allowances

8.6 The Government currently provides a number of field allowances targeted at commercially marginal fields.

8.7 Decommissioning losses and field allowances both reduce the amount of profit subject to Supplementary Charge (SC). Field allowances reduce the profits on which SC is initially chargeable, while losses arising from decommissioning relief could result in a repayment of tax that has been paid on past profits.

8.8 Field allowances are applied to profits chargeable to SC once any losses, including those incurred as a result of decommissioning expenditure, have been taken into account.

8.9 If decommissioning losses are sufficient to remove the entire profits subject to SC in a given year any available field allowances are unused and are carried forward.

8.10 The Government will consider whether any potential changes to the tax code in relation to the interaction of field allowances and decommissioning expenditure are necessary to achieve the objectives of this consultation.

Questions for consultation

Question 8.3: Can respondents provide any evidence that the current operation of the field allowance legislation could run counter to the aim of providing certainty in respect of decommissioning relief?

Additional amendments to the tax code

8.11 The aim of this work is to provide certainty on the availability of tax relief in respect of decommissioning expenditure. Industry has made Government aware of a number of situations in which it is unclear whether the existing tax regime currently provides relief. Government is currently considering the following:

- decommissioning studies;
- well abandonment – setting cement plugs;
- removal of drill cuttings;
- onshore decommissioning; and
- situations where a company associated to a licensee is required by DECC to assume responsibility for decommissioning obligations.

The Government will continue to discuss whether any changes to the tax regime are necessary in respect of these issues in a working group on technical issues as part of the consultation process.

Questions for consultation

Question 8.4: Are there any matters aside from those listed in 8.11 where respondents believe that the availability of relief in respect of decommissioning expenditure under the existing tax regime is currently in doubt?

Question 8.5: Can respondents provide any evidence of additional changes to the fiscal regime in respect of decommissioning relief that they believe would be beneficial to meet the Government's objectives as set out in Chapter 3?

A Summary of consultation questions

The Government's objectives and proposed approach (Chapter 3)

Question 3.1: Do respondents believe that providing greater certainty on decommissioning tax relief will enable the achievement of the outcomes set out at Paragraph 3.10?

The reference amount in the Deed (Chapter 4)

Question 4.1: Do the proposed reference amounts in respect of Ring Fence Corporation Tax (RFCT), Supplementary Charge (SC) and Petroleum Revenue Tax (PRT) achieve the objectives as set out in Chapter 3?

Question 4.2: Do respondents have views on how the certification process for PRT history should work in practice, and how frequently it should occur?

Question 4.3: Do respondents have views on how commercial arrangements such as Sale and Purchase Agreements (SPAs) could be used to complement the approach being taken in the Deed in the event of a default in a PRT field?

Deed eligibility and definitions (Chapter 5)

Question 5.1: Does the Government's approach to eligibility for the Deed achieve the objectives as set out in Chapter 3?

Question 5.2: Do the proposed definitions of decommissioning expenditure achieve the objectives as set out in Chapter 3?

Protecting the taxpayer (Chapter 6)

Question 6.1: Do respondents have views on how the Government should seek to define the exclusions within the reference amount for those situations where the potential to secure more beneficial treatment under the Deed than would be available under the tax regime has been a factor in an insolvency or default?

Question 6.2: Do respondents have views on how to ensure that the Deed cannot be used to gain a timing advantage in comparison with relief achieved through the tax code?

Question 6.3: Can respondents suggest further ways to prevent inappropriate claims under the Deed so the taxpayer is protected?

Question 6.4: Can respondents suggest further ways to prevent abuse of the Decommissioning Relief Deeds and ensure that they remain effective?

The Taxation of decommissioning security agreement trusts (Chapter 7)

Question 7.1: The Government has not seen strong evidence that Income Tax is a consideration in determining securitisation requirements. Can respondents provide evidence on what effect, if any, the potential Income Tax liability has on securitisation in DSA trusts, including any evidence on the domicile of DSA trusts?

Technical amendments and other considerations (Chapter 8)

Question 8.1: Do respondents agree that switching off the subsidy rules in the targeted instances listed in 8.4 is necessary to enable companies to accept security on a post-tax basis?

Question 8.2: Do respondents have views on how the tax rules in respect of Petroleum Revenue Tax (PRT) relief could be amended in relation to offsetting provisions and Unrelieved Field Losses (UFL) rules to provide greater accessibility to relief in a default scenario?

Question 8.3: Can respondents provide any evidence that the current operation of the field allowance legislation could run counter to the aim of providing certainty in respect of decommissioning relief?

Question 8.4: Are there any matters aside from those listed in 8.11 where respondents believe that the availability of relief in respect of decommissioning expenditure under the existing tax regime is currently in doubt?

Question 8.5: Can respondents provide any evidence of additional changes to the fiscal regime in respect of decommissioning relief that they believe would be beneficial to meet the Government's objectives as set out in Chapter 3?

B

Consultation process

Closing date and how to respond

B.1 This is the first part of a two-part consultation process. This consultation will last for twelve weeks. A further consultation period will commence with the publication of a draft Deed and relevant legislation in the autumn.

B.2 The closing date for this part of the consultation is **1 October 2012**.

B.3 Responses to the consultation should be sent to:

Stuart Gregory and Rachel Joseph,
Oil and Gas Decommissioning Consultation,
Business and International Tax,
HM Treasury,
1 Horse Guards Road,
London,
SW1A 2HQ.

Email: decommissioning.certainty@hmtreasury.gsi.gov.uk

Phone: 020 7270 6029

B.4 This document can be found on the HM Treasury website (www.hm-treasury.gov.uk). When responding, please state whether you are responding as an individual or as part of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents and, where applicable, how the members' views were assembled.

Working Groups with industry

B.5 As part of the consultation process, the Government will establish four working groups for: Commercial Aspects, Legal Design, Reference Amounts and Technical and Anti-Avoidance. These working groups will operate with officials during the consultation period and meet when necessary to discuss issues raised by the consultation. If you would like to be a working group member, please send a nomination, identifying which group you would like to be a member of and your current position, using the correspondence details above.

Confidentiality Disclosure

B.6 All written responses may be made public on the Treasury's website unless the author specifically requests otherwise in writing.

B.7 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regime. These are primarily the Freedom of Information Act (FOIA), the Data Protection Act (DPA) and the Environmental Information Regulations 2004.

B.8 If you would like the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as being confidential. If we receive a request for disclosure of information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

B.9 In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of emails will be disregarded for the purpose of publishing responses unless an explicit request for confidentiality is made in the body of the response.

B.10 Subject to the previous two paragraphs, if you wish part (but not all) of your response to remain confidential, please supply two versions – one for publication on the website with the confidential information deleted, and another confidential version for use by the Treasury.

B.11 Any FOIA queries should be sent by email to:

Public.enquiries@hmtreasury.gsi.gov.uk

Or by post to:

Correspondence and Enquiry Unit
Freedom of Information Section
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

Next steps

B.12 As stated above, this part of the consultation began with the publication of this document and will last for a period of twelve weeks, closing on 1 October 2012. The Government will then consider all responses in advance of the publication of a draft Deed and relevant legislation in the autumn, at which point there will be a further period of consultation.

B.13 In line with the Code of Practice for written consultations the Government will publish a summary of responses to the consultation.



Code of Practice for consultations

C.1 This consultation is being conducted in line with the Code of Practice for written consultation, which sets down the following criteria:

- Formal consultation should take place at a stage when there is scope to influence the policy outcome;
- Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
- Consultation document should be clear about the consultation process, what is being proposed, the scope of influence and the expected costs and benefits of the proposals;
- Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;
- Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained;
- Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation; and
- Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

C.2 If you feel that this consultation does not fulfil these criteria, please contact:

Amy Burgess, Consultation Coordinator, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

D

Summary of impacts

D.1 The following is a consultation stage Tax Impact Assessment of the impact of providing further certainty on tax relief for decommissioning. We welcome any comments on our assessment of the impacts. These will feed into the Tax Information and Impact Note to be published alongside draft legislation in the autumn.

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17
	-115	+245	+385	+340	+290
	These figures were set out in Table 2.1 of Budget 2012 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget.				
Economic impact	The impact of further certainty is expected to be an increase in investment and production arising from increased incremental activity and improved market efficiency in the UKCS.				
Impact on individuals and households	As oil and gas are internationally-traded commodities, changes to the taxation of upstream production are unlikely to feed through to pump/domestic gas prices. However, any resulting increase in production could contribute to the UK's security of energy supply.				
Equalities impacts	This measure is opt-in for companies involved in the oil and gas industry in the UK or UKCS, and is considered to have no differential impact on any equality groups.				
Impact on businesses including civil society organisations	<p>There are around 350 companies involved in the UK or UKCS oil and gas industry.</p> <p>For those that opt-in this measure should remove the need for companies to provide security for the share of decommissioning expenditure that they would expect to get back in tax relief. This will release capital, improve market efficiency, and remove the incentive to bring forward decommissioning to ensure tax relief is accessed. There will be no adverse administrative impact on companies from these changes.</p>				
Operational impact (£m) – HMRC and other government departments	The changes will have a minimal operational impact for HM Revenue & Customs (HMRC).				
Other impacts	<p>Sustainable development, wider environment and health: While the changes proposed may increase activity, the industry is heavily regulated to seek to ensure its activities do not lead to pollution or disturbance to habitat or wildlife, and to seek to ensure the health and wellbeing of its workers. Small Firms Impact Test: The change is opt-in for all oil and gas production companies operating in the UK or UKCS.</p>				

HM Treasury contacts

This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Fax: 020 7270 4861

E-mail: public.enquiries@hm-treasury.gov.uk

ISBN 978-1-84532-989-1



9 781845 329891 >