

Allowance for mine rehabilitation expenditure. F(TPCM)A74 s8A(1) to (9); FA96 s34; FA97 s146(1) and Sch9 Ptl par7(2) 681.— (1) (a) In this section—

“integrated pollution control licence” means a licence granted under section 83 of the Environmental Protection Agency Act, 1992 ;

“mine rehabilitation fund”, in relation to a qualifying mine, means a fund—

(i) which consists of amounts paid by a person carrying on the trade of working a qualifying mine to another person (in this section referred to as “the fund holder”) not connected with the first-mentioned person,

(ii) which is obliged to be maintained under the terms—

(I) of a State mining facility, or

(II) of any other agreement in writing to which the Minister is a party and to which the State mining facility is subject,

(iii) the sole purpose of which is to have available at the time a qualifying mine ceases to be worked such amount as is specified in a certificate given by the Minister under subsection (2) as being the amount which in the Minister's opinion could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine, and

(iv) no part of which may be paid to the person, or a person connected with that person, who is working or has worked the qualifying mine except where—

(I) the fund holder has been authorised in writing by the Minister, and by either or both the relevant local authority and the Environmental Protection Agency, to make a payment to the person or the connected person, as the case may be, for the purposes of incurring rehabilitation expenditure in relation to the qualifying mine, or

(II) an amount may be paid to the person or the connected person, as the case may be, after a certificate of completion of rehabilitation in relation to the qualifying mine has been submitted to and approved by—

(A) the Minister, and

(B) either or both the relevant local authority and the Environmental Protection Agency;

“the Minister” means the Minister for the Marine and Natural Resources;

“qualifying mine” means a mine being worked for the purpose of obtaining scheduled minerals, dolomite

and dolomitic limestone, calcite and gypsum, or any of those minerals;

“rehabilitation expenditure” means expenditure incurred in connection with the rehabilitation of the site of a mine or part of a mine, being expenditure incurred by a person who has ceased to work the mine in order to comply with any condition—

(i) of a State mining facility,

(ii) subject to which planning permission for development consisting of the mining and working of minerals was granted, or

(iii) subject to which an integrated pollution control licence for an activity specified in the First Schedule to the Environmental Protection Agency Act, 1992, was granted;

“rehabilitation” includes landscaping and the carrying out of any activities which take place after the mine ceases to be worked and which are required by a condition subject to which planning permission for development consisting of the mining and working of minerals, or an integrated pollution control licence, was granted;

“relevant local authority”, in relation to a qualifying mine, means the council of a county or the corporation of a county or other borough or, where appropriate, the urban district council, in whose functional area the mine is situated;

“relevant payments” means payments specified in accordance with paragraph (b)(iii) of subsection (2) in a certificate given under that subsection and which are paid at or about the time specified in the certificate;

“State mining facility”, in relation to a mine, means a State mining lease, a State mining licence or a State mining permission granted by the Minister in relation to the mine.

(b) For the purposes of this section—

(i) any reference to the site of a mine includes a reference to land used in connection with the working of the mine, and

(ii) the net cost to any person of the rehabilitation of the site of a mine shall be the excess, if any, of rehabilitation expenditure over any receipts attributable to the rehabilitation (whether for spoil or other assets removed from the site or for tipping rights or otherwise).

(c) For the purposes of this section, subsections (2) and (3) of section 306 shall apply in determining the chargeable period (being a year of assessment) for which an allowance is to be made under this section.

(2) (a) Where in relation to a fund the Minister is of the opinion that—

(i) the matters set out in paragraphs (i), (ii) and (iv) of the definition of “mine rehabilitation fund”

are satisfied, and

(ii) the sole purpose of the fund is to have available at the time a qualifying mine ceases to be worked such amount as could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine,

the Minister may give a certificate to that effect.

(b) A certificate given under paragraph (a) shall, in addition to the information specified in that paragraph, specify—

(i) the number of years, being the Minister's opinion of the life (in this section referred to as “the estimated life”) of the mine remaining at the time the certificate is given,

(ii) the amount which in the Minister's opinion could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine, and

(iii) the amounts (in this section referred to as “the scheduled payments”) required to be paid to the fund holder, and the times at which such amounts are to be paid, so as to achieve the purpose specified in paragraph (a)(ii).

(c) The Minister may, by notice in writing given to a person to whom a certificate has been given under this section, amend the certificate.

(3) (a) An allowance equal to so much of any rehabilitation expenditure in relation to a qualifying mine as does not exceed the net cost of the rehabilitation of the site of the mine shall be made to a person under this section for the chargeable period related to the expenditure.

(b) Expenditure incurred by a person after the person ceases to carry on the trade of working a qualifying mine shall be treated as having been incurred on the last day on which the person carried on the trade.

(4) (a) Subject to paragraphs (b) and (c), where the Minister has issued a certificate under subsection (2) in respect of a mine rehabilitation fund related to a qualifying mine, an allowance shall be made to the person who—

(i) is working the qualifying mine, and

(ii) is obliged to make relevant payments to the fund holder in relation to the fund,

for any chargeable period which falls wholly or partly in the period (in this subsection referred to as “the funding period”) commencing on the date on which the Minister gives the certificate and ending at the end of the estimated life of the mine, and the amount of the allowance shall be an amount determined by the formula—

$$E \times N \div 12 \times 1 \div L$$

where—

E is the aggregate of the scheduled payments,

N is the number of months in the chargeable period, or the part of the chargeable period falling in the funding period, and

L is the number of years in the estimated life of the mine.

(b) The aggregate of the amounts of allowances under this subsection for a chargeable period and all preceding chargeable periods shall not exceed the aggregate of the amounts of relevant payments made in the chargeable period or its basis period and in all preceding chargeable periods or their basis periods.

(c) Where effect cannot be given to an allowance or part of an allowance under this subsection for a chargeable period by virtue of paragraph (b), the allowance or the part of the allowance, as the case may be, shall be added to the amount of an allowance under this subsection for the following chargeable period and, subject to paragraph (b), shall be deemed to be part of the allowance for that period or, if there is no such allowance for that period, shall be deemed to be the allowance for that period, and so on for succeeding periods.

(5) Where the Minister by notice in writing amends a certificate under subsection (2)(c) in a chargeable period or its basis period—

(a) if the aggregate of the amounts of allowances made under subsection (4) for the chargeable period and all preceding chargeable periods exceeds the aggregate of the amounts of allowances which would have been made under that subsection for those chargeable periods if the certificate had been amended in accordance with the notice at the time the certificate was given, an amount equal to the amount of the excess shall be treated as a trading receipt of the chargeable period in which, or in the basis period for which, the certificate was amended, and

(b) if the aggregate of the amounts of allowances which would have been made under subsection (4) for the chargeable period and all preceding chargeable periods if the certificate had been amended in accordance with the notice at the time the certificate was given exceeds the aggregate of the amounts of allowances made under that subsection for those chargeable periods, the allowance under subsection (4) for the chargeable period shall, subject to subsection (4)(b), be increased by an amount equal to the excess.

(6) (a) Subject to paragraph (b), an amount received by a person who is working or has worked a qualifying mine, or by a person connected with such a person, from the fund holder of a mine rehabilitation fund in relation to the qualifying mine, or otherwise in connection with the mine rehabilitation fund, shall be treated as trading income of the person in accordance with this section.

(b) The amount to be treated as trading income for a chargeable period shall not exceed the excess of the aggregate of the amounts of allowances made under subsections (4) and (5) in that chargeable period and

in any preceding chargeable periods over the aggregate amounts treated under this subsection or subsection (5) as trading income for all preceding chargeable periods.

(c) An amount to be treated under this subsection as trading income of a person shall be treated as income of—

(i) where the amount is received at any time when the person is working the qualifying mine, the chargeable period in which, or in the basis period for which, the amount is received, and

(ii) in any other case, the chargeable period in which the mine ceases to be worked.

(d) Notwithstanding paragraph (c), where an amount is to be treated as income of a chargeable period in accordance with subparagraph (ii) of that paragraph, the amount shall be assessed for the chargeable period in which, or in the basis period for which, the amount is received, and details of the receipt of the amount shall be included in the return required to be made by the person under section 951 for that chargeable period.

(7) Where a person (in this subsection referred to as “the first-mentioned person”) ceases to work a qualifying mine and any obligations of the first-mentioned person to rehabilitate the site of the mine are transferred to any other person, that other person shall be treated for the purposes of this section as if that other person had worked the qualifying mine and as if everything done to or by the first-mentioned person had been done to or by that other person.

(8) As respects any person who incurs rehabilitation expenditure in respect of which an allowance is made under subsection (3)—

(a) rehabilitation expenditure shall not otherwise be deductible in computing income of the person for any purpose of income tax or corporation tax,

(b) an allowance shall not be made in respect of the expenditure under any provision of the Tax Acts other than this section, and

(c) to the extent that any receipts are taken into account under subsection (1)(b)(ii) to determine the net cost of the rehabilitation of the site of a mine, those receipts shall not constitute income of the person for any purpose of income tax or corporation tax.

(9) An allowance under this section made to a person who is carrying on a trade of working a mine shall be made in taxing that trade, and section 304 (4) shall apply in relation to an allowance under subsection (4) as it applies in relation to allowances to be made under Part 9.