

SCHEDULES

SCHEDULE 6

TAXATION OF CAPITAL ELEMENT IN MINERAL ROYALTIES

PART II

TERMINAL LOSS RELIEF

- 3 (1) The provisions of this Part of this Schedule apply in a case where, at the time of the occurrence of a relevant event in relation to a mineral lease or agreement, the person who immediately before that event occurred was entitled to receive mineral royalties under the lease or agreement (in this Part of this Schedule referred to as "the taxpayer") has an interest in the land to which the mineral lease or agreement relates (in this Part of this Schedule referred to, in relation to the lease or agreement, as "the relevant interest").
- (2) For the purposes of this Part of this Schedule a relevant event occurs in relation to a mineral lease or agreement—
- (a) on the expiry or termination of the mineral lease or agreement ;
 - (b) if the relevant interest is disposed of, or is treated as having been disposed of by virtue of any provision of Part III of the Finance Act 1965 (capital gains).
- 4 (1) Subject to sub-paragraph (2) below, on the expiry or termination of a mineral lease or agreement the taxpayer shall, if he makes a claim in that behalf, be treated for purposes of capital gains tax, or as the case may be corporation tax on chargeable gains, as if he had disposed of and immediately re-acquired the relevant interest for a consideration equal to its market value, but without prejudice to the operation of section 33 of the Finance Act 1967 (amount of chargeable gain calculated by reference to current use value unless the taxpayer elects to the contrary).
- (2) A claim may not be made under this paragraph—
- (a) if the expiry or termination of the mineral lease or agreement is also a relevant event falling within paragraph 3(2)(b) above; nor
 - (b) unless, on the notional disposal referred to in sub-paragraph (1) above, an allowable loss would accrue to the taxpayer.
- (3) In the following provisions of this Part of this Schedule "the terminal loss", in relation to a relevant event in respect of which a claim is made under this paragraph, means the allowable loss which accrues to the taxpayer by virtue of the notional disposal occurring on that relevant event by virtue of sub-paragraph (1) above.
- 5 (1) On making a claim under paragraph 4 above, the taxpayer shall specify whether he requires the terminal loss to be dealt with in accordance with this paragraph or with paragraph 7 below.

Status: This is the original version (as it was originally enacted).

- (2) Where the taxpayer requires the loss to be dealt with in accordance with this paragraph it shall be treated as an allowable loss accruing to him in the year of assessment or accounting period in which the mineral lease or agreement expires.
- 6 (1) If on the occurrence of a relevant event falling within paragraph 3(2)(b) above, an allowable loss accrues to the taxpayer on the disposal or notional disposal which constitutes that relevant event, the taxpayer may make a claim under this paragraph requiring the loss to be dealt with in accordance with paragraph 1 below and not in any other way.
- (2) In the following provisions of this part of this Schedule " the terminal loss " in relation to a relevant event in respect of which a claim is made under this paragraph means the allowable loss which accrues to the taxpayer as mentioned in sub-paragraph (1) above.
- 7 (1) Where, as a result of a claim under paragraph 4 or paragraph 6 above, the terminal loss is to be dealt with in accordance with this paragraph, then, subject to sub-paragraph (2) below, it shall be deducted from or set off against the amount on which the taxpayer was chargeable to capital gains tax, or as the case may be corporation tax, for years of assessment or accounting periods preceding the year of assessment or accounting period in which occurred the relevant event giving rise to the terminal loss and falling wholly or partly within the period of fifteen years ending with the date of that event.
- (2) The amount of the terminal loss which, by virtue of sub-paragraph (1) above, is to be deducted from or set off against the amount on which the taxpayer was chargeable to capital gains tax, or as the case may be corporation tax, for any year of assessment or accounting period shall not exceed the amount of the gain which in that year or period was treated, by virtue of subsection (1)(b) of section 29 of this Act, as accruing to the taxpayer in respect of mineral royalties under the mineral lease or agreement in question ; and subject to this limit any relief given to the taxpayer by virtue of sub-paragraph (1) above shall be given as far as possible for a later rather than an earlier year of assessment or accounting period.
- (3) If in any case where relief has been given to the taxpayer in accordance with sub-paragraphs (1) and (2) above there remains an unexpended balance of the terminal loss which cannot be applied in accordance with those sub-paragraphs, there shall be treated as accruing to the taxpayer in the year of assessment or accounting period in which the relevant event occurs an allowable loss equal to that unexpended balance.
- 8 (1) No claim under paragraph 4 or paragraph 6 above shall be allowed unless it is made within six years from the date of the relevant event by virtue of which the taxpayer is entitled to make the claim.
- (2) All such repayments of tax shall be made as may be necessary to give effect to any such claim.
- 9 This Part of this Schedule shall be construed as one with Part III of the Finance Act 1965.