

**REDETERMINATION OF OIL FIELD BOUNDARIES ON ECONOMIC GROUNDS:
EXPLANATORY NOTE AND GUIDANCE FOR LICENSEES
Version 3 (13 March 2012)**

Introduction

1. Field determinations and dates of development consents together influence whether production from an area is liable to Petroleum Revenue Tax (PRT). Some 30–35 oil and gas fields given development consent before 16 March 1993 currently pay PRT and therefore face a marginal tax rate of 81 per cent, significantly higher than the 62 per cent marginal tax rate on production from other fields. PRT therefore reduces the materiality of the returns to investment in these fields and could, at the margin, suppress the incentive to invest in otherwise economic activity, for example to exploit a previously undeveloped part of a field subject to PRT.
2. Prior to May 2008, fields were determined only on the basis of geological criteria. In May 2008, the Department for Business, Enterprise & Regulatory Reform - now succeeded by the Department of Energy & Climate Change (DECC) - and HM Treasury (HMT) agreed that the Secretary of State for Energy and Climate Change may determine a currently unexploited part of a previously determined PRT-liable field to be a new, separate field which would be "[non-taxable](#)" i.e. exempt from PRT. Simultaneously, the boundaries of the existing PRT-liable field would be reduced correspondingly. In such cases there would, therefore, be more than one oil field determined covering a single petroleum geological structure. For the purposes of unitisations the combination of determined fields covering a single petroleum geological structure would be taken to be a single field.
3. It is up to the relevant licensees to make a case for a change of field determination on economic grounds. Any such case will be scrutinised by DECC, Treasury and HMRC officials to consider whether there is a case for change. The decision to make a change of field determination on economic grounds is at the discretion of the Secretary of State if he considers it expedient to do so for the purpose of facilitating or maintaining the development of the petroleum resources of the United Kingdom or if he considers that it is in the national interest in order to secure the maximum ultimate recovery of petroleum. Such a change would need to be approved by both DECC and Treasury Ministers.
4. Any (re)determinations of field boundaries would follow the usual consultative [procedures](#) described below.
5. Licensees should have regard to the [Guidance](#) annexed below and in particular the [Criteria](#) contained therein.

Background

Legislative framework

6. For the purposes of PRT, an oil field is "any area which the appropriate authority [i.e. the Secretary of State] may determine to be an oil field, being an area of which every part is, or is part of, a licensed area" (Schedule 1 to the Oil Taxation Act 1975). Parliamentary debate in early 1975 during the passage of this Act made clear that it was intended that these field areas would be determined only on the basis of geological criteria and that an oil field would be "a single petroleum geological structure".

7. A field determination is therefore a boundary that encompasses the maximum extent of the field within licensed acreage. This has been taken as the maximum extent of all the hydrocarbons present, whether moveable or not, and regardless of whether the entire accumulation is in phase and/or pressure communication. It follows that for a hydrocarbon accumulation to have been determined as a field it has to have been understood to be physically separated from any other accumulations that might be present. This separation may be by means of a structural low below the lowest known hydrocarbon ("blue water") or by non-permeable rock e.g. a shale-out of the reservoir. Both structural and stratigraphic traps have been determined as fields.

8. Where fields overlap vertically as separate structures they have to be defined as "volumes" with a base and/or top to the determination.

Non-taxable fields

9. Oil fields for which development consent ('Annex B approval') was granted on or after 16 March 1993 are "non-taxable fields" (Finance Act 1993 section 185(1)). Non-taxable fields are outside the scope of PRT.

Taxable fields

10. A "taxable field" is defined in Finance Act 1993 section 185(1) as a field which is not a non-taxable field. A field, any part of which has been subject to a development consent or in respect of which a programme of development has been served on a licensee or approved by the Secretary of State before 16 March 1993, remains a "taxable field" (Finance Act 1993 section 185(1)). As a field may have more than one development consent it will be "non-taxable" only if no part of the field had development consent before 16 March 1993. Thus, where a "taxable" field's boundary is extended on or after 16 March 1993 to take in a new area, that area will become part of the "taxable" field (Finance Act 1993 section 185(1)(a) and (b)).

Unrecognised future fields

11. A field that is determined after 16 March 1993 is not treated as "taxable" merely because a development decision for an earlier field also covered the then unrecognised future field (for example because it was below an earlier field determined in two dimensions) (Finance Act 1993 section 185(2)).

Field determination process

12. A field determination is generally initiated by the submission of a Field Development Programme. A proposed determination must have been issued before the Field Development Programme is approved.

13. The proposed field determination is issued by DECC to all licensees involved in the field together with any others whose interests appear to be affected. The recipients of the proposed determination have 60 days from the date of receipt to make any objections they may have to it in writing. Should objections be received by DECC the licensees concerned are given the opportunity to put their case in more detail. All representations are considered but the final decision on the determination rests with the Secretary of State. Once any objections have been considered, a final determination is issued. This must be in place before production commences from the field.

14. All fields may be considered for redetermination at any time at the request of any party should new geological and/or geophysical data indicate that the original determination is no longer appropriate. An identical procedure to that described above is followed.

15. As all fields are determined, i.e. defined, as areas of which every part is, or is part of, a licensed area it follows that when a licensed area is relinquished the field in question must be re-determined to exclude that area.

Contact for further information

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Annex: Guidance for Licensees

1. Introduction

1.1 This guidance seeks to make clear to licensees (a) what information they would be required to submit in support of an application for a change of field determination on economic grounds and (b) what criteria DECC and/or Treasury and HMRC would apply when deciding whether to support an application. While consideration of such applications is undertaken on a case by case basis, it is hoped that, by outlining the Government's information requirements and criteria, licensees will be encouraged to come forward with requests for redetermination of field boundaries where appropriate. Officials are happy to discuss individual cases with the licensees at any time. Licensees should in the first instance approach DECC - see above for [contact details](#). Officials in DECC would generally expect to have initial discussions with the operator on behalf of all the licensees in a field, although it is recognised that each licensee is likely to apply its own commercial criteria to the decisions about field development following any redetermination. All such discussions would be on a without-commitment basis, as any final decision would be for DECC and Treasury Ministers.

1.2 If DECC officials agree that there is a case for redetermination then they will raise the case with HMT/HMRC officials, who may ask for further information from or meetings with the relevant licensees. All cases will then be subject to DECC and HMT Ministerial approval.

1.3 A new field determined on economic grounds would, if it meets the relevant criteria, be eligible for a field allowance.

2. Criteria

2.1 The main criterion officials would consider when considering a case for determining a part of an existing PRT-paying field as a new, separate, field is whether, in that specific case, PRT is leading to a significant divergence between pre- and post-tax returns which will result in a failure to invest in a project which would be commercially attractive but for the requirement to pay PRT. In other words, **the Government's starting point in any discussion will be to try to ascertain whether PRT is making an economic project uncommercial and, if it is, to seek to eliminate the impact on the economic recovery of hydrocarbons.** Maximising economic recovery of hydrocarbons does *not* mean recovery at all costs: it means seeking to maximise the recovery of oil and gas the landed value of which exceeds its costs of recovery including an appropriate return on capital. **Currently unexploited parts of fields with projects which are expected to be either uneconomic pre-tax or highly profitable post-tax are, therefore, not likely to be considered.** It is recognised that returns need to reflect risk and uncertainty; they

will be seen against DECC's current stated benchmark of a 10% real discount rate for comparing options when considering Field Development Programmes.

2.2 In deciding whether and how to designate part of a previously determined field as a new, separate field, the Secretary of State would have regard to the geological and engineering evidence and the practicality of identifying separately costs associated with, and production from, that part.

2.3 Determination of a new field on economic grounds would be conditional on the licensees proceeding with an approved development programme in an agreed timeframe. If the licensees do not proceed with an approved development programme in that timeframe the new field determination would lapse and the whole field would revert to being subject to PRT.

2.4 To prevent tax leakage, Government is concerned to avoid making redeterminations in situations where a prospective licensee/investor would be willing to buy equity in/farm-in to a field even if PRT were to continue to apply to the whole of the field. It is therefore essential that any licensee in a field where a request for a redetermination on economic grounds is being considered notifies DECC if they are contemplating selling all or part of their field interest or farming-out an interest in that field.

3. Information requirements

3.1 The circumstances of each field are unique and officials therefore cannot be prescriptive in terms of the full range of information likely to be required in support of a particular case for a change of field determination on economic grounds. In all cases, however, it is expected that the licensees would provide - in spreadsheet format by e-mail - their own latest annual forecasts of prices (relevant to the hydrocarbons in question i.e. taking account of field-specific contract prices for gas or differentials against standard marker crudes), production (separately of oil, NGLs and gas) and expenditure (separating out operating and capital costs), identifying overall pre- and post-tax cash flows (with and without PRT). **Licensees will also need to provide details of relevant financial ratios and thresholds, together with an indication of their decision criteria.** These will, of course, be treated as commercially confidential. Applicants should identify the major uncertainties with regard to prices, production and costs and how they evaluate those in their decision-taking. Where there are investment alternatives these should be set out. Officials will be happy to discuss in individual cases any additional information likely to be required to enable a final decision to be taken as soon as possible.