



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 2

RECEIPTS FROM INTELLECTUAL PROPERTY

Introduction

578 Contents of Chapter

- (1) This Chapter imposes charges to income tax under—
 - (a) section 579 (royalties and other income from intellectual property),
 - (b) section 583 (income from disposals of know-how), and
 - (c) section 587 (income from sales of patent rights).
- (2) For [^{F1}an exemption] from the charge under section 579, see, in particular, [^{F2}section] 727 (certain annual payments by individuals) ^{F3}....
- (3) This Chapter also provides for relief from income tax on patent income (see section 600).

Textual Amendments

- F1** Words in s. 578(2) substituted (with effect in accordance with s. 34(8) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 34\(4\)\(b\)\(i\)](#)
- F2** Word in s. 578(2) substituted (with effect in accordance with s. 34(8) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 34\(4\)\(b\)\(ii\)](#)

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F3 Words in s. 578(2) omitted (with effect in accordance with s. 34(8) of the amending Act) by virtue of Finance Act 2021 (c. 26), s. 34(4)(b)(iii)

Charge to tax on non-trading income from intellectual property

579 Charge to tax on royalties and other income from intellectual property

- (1) Income tax is charged on royalties and other income from intellectual property.
- (2) In this section “intellectual property” means—
 - (a) any patent, trade mark, registered design, copyright, design right, performer's right or plant breeder's right,
 - (b) any rights under the law of any part of the United Kingdom which are similar to rights within paragraph (a),
 - (c) any rights under the law of any territory outside the United Kingdom which correspond or are similar to rights within paragraph (a), and
 - (d) any idea, information or technique not protected by a right within paragraph (a), (b) or (c).

580 Income charged under section 579

- (1) Tax is charged under section 579 on the full amount of the income arising in the tax year.
- (2) Subsection (1) is subject to Part 8 (foreign income: special rules).
- (3) See section 582 for provision about the calculation of the amount of income charged under section 579.
- (4) This section needs to be read with section 527 of ICTA (spreading of patent royalties etc. over several years).

581 Person liable for tax under section 579

The person liable for any tax charged under section 579 is the person receiving or entitled to the income.

582 Deductions in calculating certain income charged under section 579

- (1) This section applies for calculating the amount of income charged under section 579 other than annual payments.
- (2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.

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- (5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (6) The relief given under section 600 (relief for expenses: patent income) is additional to the relief under this section.
- (7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of subsection (1).

Disposals of know-how

583 Charge to tax on income from disposals of know-how

- (1) Income tax is charged on profits arising where consideration is received by a person—
 - (a) for the disposal of know-how, or
 - (b) for giving, or wholly or partly fulfilling, an undertaking which—
 - (i) is given in connection with a disposal of know-how, and
 - (ii) restricts or is designed to restrict any person's activities in any way.
- (2) For the purposes of subsection (1)(b), it does not matter whether or not the undertaking is legally enforceable.
- (3) Subsection (1) is subject to the exceptions in section 584.
- (4) In this Chapter “know-how” means any industrial information or techniques likely to assist in—
 - (a) manufacturing or processing goods or materials,
 - (b) working a source of mineral deposits (including searching for, discovering or testing mineral deposits or obtaining access to them), or
 - (c) carrying out any agricultural, forestry or fishing operations.
- (5) In subsection (4)—
 - (a) “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and for this purpose geothermal energy is treated as a natural deposit, and
 - (b) “source of mineral deposits” includes a mine, an oil well and a source of geothermal energy.

584 Exceptions to charge under section 583

- (1) Section 583 does not apply in the following cases.
- (2) Case A is if the consideration is brought into account under—
 - (a) section 579 (charge to tax on royalties etc.), or
 - (b) section 462 of CAA 2001 (disposal values).
- (3) Case B is if the consideration is dealt with in relation to the person receiving it as a capital receipt for goodwill under section 194(2) (disposal of know-how as part of disposal of all or part of a trade).
- (4) Case C is if the disposal of the know-how is by way of a sale and—
 - (a) the buyer is a body of persons over which the seller has control,

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- (b) the seller is a body of persons over which the buyer has control, or
- (c) the buyer and the seller are both bodies of persons and another person has control over both of them.

- (5) In subsection (4) “body of persons” includes a firm.
- (6) See also Chapter 14 of Part 2 and section 575 (disposals of know-how used in a trade dealt with by Part 2).

585 Income charged under section 583

- (1) Tax is charged under section 583 on the full amount of the profits arising in the tax year.
- (2) The profits charged under section 583 are—
 - (a) the amount of the consideration, less
 - (b) any expenditure incurred by the recipient wholly and exclusively in the acquisition or disposal of the know-how.
- (3) Such expenditure may not be taken into account more than once, whether under this section or otherwise.
- (4) This section needs to be read with section 603 (contributions to expenditure).

586 Person liable for tax under section 583

The person liable for any tax charged under section 583 is the person receiving the consideration.

Sales of patent rights

587 Charge to tax on income from sales of patent rights

- (1) Income tax is charged on profits from sales of the whole or part of any patent rights.
- (2) The tax is charged if—
 - (a) the seller is a UK resident, or
 - (b) the seller is a non-UK resident and the patent is granted under the laws of the United Kingdom.
- (3) Where the seller is a non-UK resident company, tax is not charged if the seller is chargeable to corporation tax in respect of the proceeds of the sale.
- (4) In this Chapter “patent rights” means the right to do or authorise the doing of anything which, but for the right, would be an infringement of a patent.

588 Income charged under section 587

- (1) A seller's profits from the sale of the whole or part of patent rights are—
 - (a) any capital sum comprised in the proceeds of the sale, less
 - (b) the deductible costs.
- (2) The deductible costs are—
 - (a) the capital cost (if any) of the rights sold, and

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- (b) any incidental expenses incurred by the seller in connection with the sale.
- (3) If—
- (a) the seller acquired the rights sold, or the rights out of which they were granted, by purchase,
 - (b) the seller has previously sold part of the purchased rights, and
 - (c) the proceeds of that sale, after deducting any incidental expenses, consisted wholly or partly of a capital sum,
- the capital cost is reduced by that capital sum.
- (4) References in this Chapter to the capital cost of patent rights are to any capital sum included in any price paid by the seller to purchase—
- (a) the rights, or
 - (b) the rights out of which they were granted.
- (5) This section needs to be read with sections 600 (relief for expenses: patent income) and 603 (contributions to expenditure).

589 Person liable for tax under section 587

The person liable for any tax charged under section 587 is the seller of the patent rights.

590 UK resident sellers: spreading rules

- (1) This section applies if the person liable under section 587 is a UK resident.
- (2) If the person does not receive the proceeds of sale in instalments, one-sixth of the amount chargeable is taxed in the tax year in which the person receives the proceeds of the sale and in each of the next 5 tax years.
- (3) The person may elect to be taxed instead on the whole of the amount chargeable under section 587 in the tax year in which the person receives the proceeds of sale.
- (4) If the person receives the proceeds of sale in instalments, one-sixth of the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment and in each of the next 5 tax years.
- (5) The person may elect to be taxed instead on the whole of any instalment in the tax year in which the person receives it.
- (6) An election under subsection (3) or (5) must be made on or before the first anniversary of the normal self-assessment filing date for that tax year.

591 Non-UK resident sellers: election for spreading

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) does not receive the proceeds of sale in instalments,the whole amount chargeable is taxed in the tax year in which the person receives the proceeds.

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- (2) The person may elect to be taxed instead on one-sixth of the amount chargeable in the tax year in which the person receives the proceeds of sale and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the proceeds of sale are received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

592 Further provision about elections for spreading: instalments

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) receives the proceeds of sale in instalments,
 the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment.
- (2) The person may, for any instalment, elect to be taxed instead on one-sixth of the amount chargeable in respect of the instalment in the tax year in which the person receives it and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the instalment is received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

593 Death of seller

- (1) If a seller who is liable to income tax under section 587 dies, any amounts which would have been chargeable in later tax years under—
 - (a) section 590(2) or (4) (UK resident sellers: spreading rules), or
 - (b) section 591(2) or 592(2) (non-UK resident sellers: elections for spreading),
 are taxed in the tax year in which the seller dies.
- (2) The personal representatives may elect that the tax payable by reason of subsection (1) be reduced to the total amount of income tax that the seller and the estate would have been liable to pay if the amounts chargeable by reason of that subsection had been taxed in equal parts in each of the lifetime tax years.
- (3) In subsection (2) “the lifetime tax years” means—
 - (a) the tax year in which the seller received the proceeds or, as the case may be, the instalment, and
 - (b) each of the next tax years up to and including that in which the seller died.

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- (4) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the death occurs.

594 Winding up of a body corporate

- (1) If a body corporate which is liable to income tax under section 587 commences to be wound up, any amounts falling within subsection (2) are taxed in the year in which the winding up commences.
- (2) The amounts are—
- any amounts which would have been chargeable in later tax years under section 591(2) or 592(2), and
 - any amounts (arising to the body in a fiduciary or representative capacity) which would have been chargeable in later tax years under section 590(2) or (4).

595 Deduction of tax from payments to non-UK residents

- (1) This section applies if a person who is a non-UK resident is liable to tax under section 587 on profits from the sale of the whole or part of any patent rights.
- (2) The rules in section 588 allowing the capital cost (if any) of the rights sold to be deducted in calculating the profits from the sale do not affect the amount of income tax which [^{F4}is to be deducted under section 910 of ITA 2007]
- (3) No election made by the seller under section 591(2) or 592(2) (election for spreading) in relation to the proceeds of sale or any instalment affects the amount of income tax which [^{F5}is to be deducted under section 910 of ITA 2007]
- deducted from the proceeds of sale or instalment under section 349(1) of ICTA, and
 - assessed under section 350 of that Act.

Textual Amendments

- F4** Words in s. 595(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 546\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F5** Words in s. 595(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 546\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

596 Adjustments where tax has been deducted

- (1) Where any sum has been deducted from a payment by virtue of section 595(2), any adjustment necessary—
- because of section 595(2), or
 - because of an election under section 591(2) or 592(2),
- must be made by way of repayment of tax.

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- (2) Adjustments necessary to give effect to an election under section 591(2) or 592(2) must be made year by year, treating one-sixth of the sum deducted from the proceeds of sale or instalment as income tax paid for each of the 6 years.
- (3) No repayment is to be made of any tax treated under subsection (2) as income tax paid for a particular year unless and until it is ascertained that the income tax ultimately falling to be paid for that year is less than the amount which was paid for that year.

597 Licences connected with patents

- (1) The acquisition of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a purchase of patent rights.
- (2) The grant of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a sale of part of patent rights.
- (3) But the grant by a person entitled to patent rights of an exclusive licence is treated for the purposes of sections 587 to 596 as a sale of the whole of those rights.
- (4) In subsection (3) “exclusive licence” means a licence to exercise the rights to the exclusion of the grantor and all other persons for the period remaining until the rights come to an end.

Modifications etc. (not altering text)

- C1** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
- Ss. 597-599 applied (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

598 Rights to acquire future patent rights

- (1) If a sum is paid to obtain a right to acquire future patent rights, then for the purposes of sections 587 to 596—
 - (a) the payer is treated as purchasing patent rights for that sum, and
 - (b) the recipient is treated as selling patent rights for that sum.
- (2) If a person—
 - (a) pays a sum to obtain a right to acquire future patent rights, and
 - (b) subsequently acquires those rights,
 the expenditure is to be treated for the purposes of sections 587 to 596 as having been expenditure on the purchase of those rights.
- (3) In this section “a right to acquire future patent rights” means a right to acquire in the future patent rights relating to an invention in respect of which the patent has not yet been granted.

Modifications etc. (not altering text)

- C2** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))

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Ss. 597-599 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

599 Sums paid for Crown use etc. treated as paid under licence

- (1) This section applies if an invention which is the subject of a patent is used by or for the service of—
 - (a) the Crown under sections 55 to 59 of the Patents Act 1977 (c. 37), or
 - (b) the government of a country outside the United Kingdom under corresponding provisions of the law of that country.
- (2) The use is treated for the purposes of sections 587 to 596 as having taken place under a licence.
- (3) Sums paid in respect of the use are treated for the purposes of sections 587 to 596 as having been paid under a licence.

Modifications etc. (not altering text)

- C3** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [ss. 882](#), 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
- Ss. 597-599 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

Relief from income tax on patent income

600 Relief for expenses: patent income

- (1) Relief may be claimed under this section for—
 - (a) inventor's expenses, and
 - (b) patent application and maintenance expenses.
- (2) In this section “inventor's expenses” means expenses which—
 - (a) have been incurred by an individual who, alone or jointly, devised an invention for which a patent has been granted, and
 - (b) are attributable to devising it.
- (3) In this section “patent application and maintenance expenses” means expenses incurred by a person in connection with—
 - (a) the grant or maintenance of a patent,
 - (b) the extension of the term of a patent, or
 - (c) a rejected or abandoned application for a patent,but not incurred for the purposes of any trade carried on by the person.
- (4) Relief may not be claimed under this section for patent application and maintenance expenses unless they are expenses which would, if incurred for the purposes of a trade, have been allowable as a deduction in calculating the profits of the trade.
- (5) Relief may not be claimed under this section for any expenses if relief for them is given under—

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- (a) section 582 (calculation of income for the purposes of the charge to tax on royalties etc.), or
 - (b) any other provision of the Tax Acts.
- (6) This section needs to be read with section 603 (contributions to expenditure).

601 How relief is given under section 600

- (1) This section sets out how relief for expenses is given where a person makes a claim under section 600.
- (2) The amount of the expenses must be deducted from or set off against the person's income from patents for the tax year in which the expenses were incurred.
- [^{F6}(2A) The deduction or set-off is given effect at Step 2 of the calculation in section 23 of ITA 2007.]
- (3) If the amount to be allowed is greater than the amount of the person's income from patents for that tax year, the excess must be deducted from or set off against the person's income from patents for the next tax year, and so on for subsequent tax years, without the need for a further claim.
- (4) In this section “income from patents” means—
- (a) royalties or other sums paid in respect of the use of a patent (whether chargeable under this Chapter or otherwise),
 - (b) amounts on which tax is payable under section 587, 593 or 594, and
 - (c) amounts on which tax is payable under—
 - (i) section 472(5) of CAA 2001 (patent allowances: balancing charges), or
 - (ii) paragraph 100 of Schedule 3 to that Act (balancing charges in respect of pre-1st April 1986 expenditure on the purchase of patent rights).
- (5) In this section references to a person's income from patents are to the income after any allowance has been deducted from or set off against it under section 479 of CAA 2001 (certain allowances against income from patents).

Textual Amendments

- F6** S. 601(2A) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 547](#) (with transitional provisions and savings in [Sch. 2](#))

Payments received after deduction of tax

602 Payments received after deduction of tax

[^{F7}In accordance with section 848 of ITA 2007, a sum representing income tax deducted under either of the following Chapters] from a payment of royalties or other income within this Chapter is treated as income tax paid by the recipient [^{F8}—

Chapter 6 of Part 15 of ITA 2007 (deduction from annual payments and patent royalties), and

Chapter 7 of that Part (deduction from other payments connected with intellectual property).]

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Textual Amendments

- F7** Words in s. 602 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 548\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F8** Words in s. 602 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 548\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

Supplementary

603 Contributions to expenditure

- (1) For the purposes of sections 585, 588 and 600, the general rule is that a person (“A”) is to be regarded as not having incurred expenditure so far as it has been, or is to be, met (directly or indirectly) by—
 - (a) a public body, or
 - (b) a person other than A.
- (2) In this Chapter “public body” means the Crown or any government, local authority or other public authority (whether in the United Kingdom or elsewhere).
- (3) The general rule does not apply to the expenses mentioned in section 588(2)(b) (incidental expenses incurred by a seller of patent rights).
- (4) The general rule is subject to the exception in section 604.

604 Contributions not made by public bodies nor eligible for tax relief

- (1) A person (“A”) is to be regarded as having incurred expenditure (despite section 603(1)) so far as the requirements in subsections (2) and (3) are met in relation to the expenditure.
- (2) The first requirement is that the person meeting A's expenditure (“B”) is not a public body.
- (3) The second requirement is that—
 - (a) no allowance can be made under Chapter 2 of Part 11 of CAA 2001 (contribution allowances) in respect of B's expenditure, and
 - (b) the expenditure is not allowed to be deducted in calculating the profits of a trade, profession or vocation carried on by B.
- (4) When determining for the purposes of subsection (3)(a) whether such an allowance can be made, assume that B is within the charge to tax.

605 Exchanges

- (1) In this Chapter references to the sale of property include the exchange of property.
- (2) In this section—

references to property include know-how, and

references to the sale of property include the disposal of know-how.

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- (3) For the purposes of subsection (1), any provision of this Chapter referring to a sale has effect with the necessary modifications, including, in particular, those in subsections (4) and (5).
- (4) References to the proceeds of sale and to the price include the consideration for the exchange.
- (5) References to capital sums included in the proceeds of sale include references to so much of the consideration for the exchange as would have been a capital sum if it had been a money payment.

606 Apportionment where property sold together

- (1) Any reference in this Chapter to the sale of property includes the sale of that property together with other property.
- (2) In this section—
 - references to property include know-how, and
 - references to the sale of property include the disposal of know-how.
- (3) For the purposes of subsection (1), all property sold as a result of one bargain is to be treated as sold together even though—
 - (a) separate prices are, or purport to be, agreed for separate items of that property, or
 - (b) there are, or purport to be, separate sales of separate items of that property.
- (4) If an item of property is sold together with other property, then, for the purposes of the charges under sections 583 and 587—
 - (a) the net proceeds of the sale of that item are treated as being so much of the net proceeds of the sale of all the property as, on a just and reasonable apportionment, is attributable to that item, and
 - (b) the expenditure incurred on the provision or purchase of that item is treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item.

607 Questions about apportionments affecting two or more persons

- (1) Any question about the way in which a sum is to be apportioned under section 606 must be determined in accordance with section 563(2) to (6) of CAA 2001 (procedure for determining certain questions affecting two or more persons) if it materially affects two or more taxpayers.
- (2) For the purposes of subsection (1) a question materially affects two or more taxpayers if at the time when the question falls to be determined it appears that the determination is material to the liability to tax (for whatever period) of two or more persons.

608 Meaning of “capital sums” etc.

Section 4 of CAA 2001 (meaning of “capital sums” etc.) applies in relation to this Chapter as it applies in relation to that Act.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)