



Development Land Tax Act 1976

CHAPTER 24

LONDON
HER MAJESTY'S STATIONERY OFFICE

Development Land Tax Act 1976

CHAPTER 24

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Development Land Tax Act 1976

1976 CHAPTER 24

An Act to impose a new tax on the realisation of the development value of land; to provide for the termination of the charges on capital gains from land imposed by Chapters I and II of Part III of the Finance Act 1974; and for connected purposes. [22nd July 1976]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the new tax hereinafter mentioned and to make such other provision as is hereinafter contained; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The charge to tax

1.—(1) A tax, to be called development land tax, shall be charged in accordance with the provisions of this Act in respect of the realisation of the development value of land in the United Kingdom.

(2) Subject to the provisions of this Act, a person shall be chargeable to development land tax on the realised development value, determined in accordance with this Act, which accrues to him on the disposal by him on or after the appointed day

of an interest in land in the United Kingdom, and shall be so chargeable whether or not he is resident (for purposes of income tax or otherwise) in the United Kingdom.

(3) Subject to section 13 below, the rate of development land tax shall be 80 per cent.

Deemed
disposals at
start of
material
development.

2.—(1) Immediately before a project of material development is begun on any land, every major interest then subsisting in that land shall be deemed for the purposes of this Act to be disposed of for a consideration equal to its market value at that time and to be immediately reacquired at that value.

(2) Part I of Schedule 1 to this Act shall have effect for determining what is a project of material development, what land is comprised in such a project and at what time such a project is to be treated for the purposes of this Act as begun, and Part II of that Schedule shall have effect with respect to deemed disposals and reacquisitions.

(3) Subject to section 28(6) below, for the purposes of this Act an interest in land comprised in a project of material development is a major interest unless—

(a) as to all the land in which it subsists, it is in reversion (at law or in equity) on one or more long leases or (in Northern Ireland) it is the interest of a person entitled for the time being to the rent payable under a grant in fee farm, and the rent or the aggregate of the rents and of any premium or premiums to which, under or by virtue thereof, the owner of the interest is entitled does not, and cannot be made to, reflect the value or any part of the value of the development concerned ;
or

(b) its market value on the date on which the project is begun is less than £5,000 and—

(i) if the land is in England, Wales or Northern Ireland, the interest does not confer, either absolutely or conditionally, and whether on that date or at any later time, a right to possession, as defined in section 205(1) of the Law of Property Act 1925 ;
and

(ii) if the land is in Scotland, the interest is not the estate or interest of the proprietor of the *dominium utile*, or, in the case of property other than feudal property, of the owner, or an interest under a lease.

(4) For the purposes of paragraph (a) of subsection (3) above, a lease is a long lease unless, on the date on which the project referred to in that subsection is begun, the unexpired term of

the lease does not exceed thirty-five years ; and in the application of that subsection to Scotland, that paragraph shall have effect with the omission of the words “ (at law or in equity) ”.

(5) For the purposes of this section, the following leases shall be treated as granted for terms not exceeding thirty-five years, namely,—

- (a) a lease of land in Northern Ireland which is a lease for life or lives or for any terms of years determinable with life or lives and is not a lease in perpetuity, within the meaning of section 1 of the Renewable Leasehold Conversion Act 1849, or a lease to which section 37 of that Act applies ; and
- (b) a lease of land in England and Wales which is, or takes effect as if, granted for a term exceeding thirty-five years and which is determinable by notice (whether by the lessor or otherwise) at a time after the death of the lessor or any other person or of the survivor of two or more persons ; and
- (c) a lease of land in Scotland which is determinable on the death of any person.

(6) The provisions of Part III of Schedule 1 to this Act (being provisions corresponding to subsections (1)(b), (c) and (d) and (2) to (3A) of section 84 of the Income and Corporation Taxes Act 1970) shall have effect in ascertaining for the purposes of this section when the term of a lease will expire.

3.—(1) Subject to section 8 below, references in this Act Part to a disposal of an interest in land include references to a part disposals. disposal thereof, and for the purposes of this Act there is a part disposal of an interest in land—

- (a) where the owner of that interest grants a lease or other interest in land out of, or by virtue of his ownership of, his interest ; or
- (b) where the owner of that interest grants to another his interest in some but not all of the land in which that interest subsisted before the grant.

(2) Without prejudice to subsection (1) above, there is for the purposes of this Act a part disposal of an interest in land by the owner thereof where any sum is derived from his ownership of that interest and that sum is neither rent payable under a lease nor otherwise attributable to the acquisition (at any time) by the person paying that sum of an interest in that land, and this subsection applies in particular to—

- (a) sums received by way of compensation for any kind of damage to land in which that interest subsists or for

any depreciation or risk of depreciation of that interest ;

(b) sums received in return for forfeiture or surrender of, or refraining from exercising, rights which are vested in the owner of the interest by virtue of his ownership thereof ; and

(c) sums received as consideration for use or exploitation of the land in which that interest subsists or of any assets, other than minerals, in, on or under that land ;

and for the purposes of this Act such a part disposal shall be deemed to take place, subject to subsection (3) below, at the time at which the sum in question is received.

(3) In any case where—

(a) there is a part disposal of an interest in land falling within subsection (2) above, and

(b) before the sum in question is received but after the right to receive it has accrued, there is a disposal, other than a deemed disposal, of that interest or of an interest of which it is a part for the purposes of Part I of Schedule 2 to this Act,

the part disposal shall be deemed for the purposes of this Act to take place immediately before the disposal referred to in paragraph (b) above.

(4) In subsection (2) above “ sum ” means money or money’s worth.

(5) In relation to a part disposal of an interest in land,—

(a) references in this Act to the retained interest are references to that interest in land which, by virtue of his previous ownership of the interest disposed of, the chargeable person has immediately after the disposal ; and

(b) references in this Act to the granted interest apply only in the case of a disposal falling within subsection (1) above and, in such a case, are references to the interest granted as mentioned in paragraph (a) or paragraph (b) of that subsection.

Realised
development
value.

4.—(1) Subject to the following provisions of this Act, the realised development value accruing to a person on the disposal by him of an interest in land shall be the amount (if any) by which the net proceeds of the disposal exceed the relevant base value of that interest.

(2) In this Act, in relation to a disposal of an interest in land, “ the chargeable person ” means the person making the disposal.

(3) References in this Act to the net proceeds of the disposal of an interest in land are references to the consideration for the disposal, less the incidental costs to the chargeable person of making the disposal.

(4) The provisions of Schedule 2 to this Act shall have effect for supplementing this section and sections 5 to 7 below and, for the purpose of determining the realised development value accruing on a disposal occurring on or after the appointed day, those provisions shall be taken to have had effect in relation to events before, as well as on or after, that day.

(5) Subject to any express provision contained in this Act, for the purpose of determining the realised development value accruing to a person on the disposal of an interest in land, any necessary apportionment shall be made of any consideration, expenditure or value and the method of apportionment adopted shall be such as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(6) In determining the amount of any realised development value for the purposes of this Act, no deduction shall be allowable under any provision of this Act more than once from any amount or from more than one amount.

5.—(1) Subject to the provisions of this section, on the disposal of an interest in land the relevant base value of that interest is that one of the following which gives the highest figure, namely,—

(a) the aggregate of—

(i) the cost of the chargeable person's acquisition of the interest, and

(ii) any expenditure on relevant improvements, and

(iii) the amount by which the current use value of the interest at the time of the disposal exceeds the current use value of the interest at the time of its acquisition or on 6th April 1965, whichever is the later, and

(iv) where section 6 below applies, the special addition provided for by subsection (2) of that section, and

(v) where subsection (5) below applies, the amount of the further addition referred to in that subsection ;

(b) the aggregate of 110 per cent. of the current use value of the interest at the time of the disposal and of any expenditure on relevant improvements ;

(c) 110 per cent. of the aggregate of the cost of the chargeable person's acquisition of the interest and of any expenditure on improvements ;

and in this Act the three bases specified in paragraphs (a) to (c) above are referred to as "base A", "base B" and "base C" respectively.

(2) For the purposes of this Act, the cost of a person's acquisition of an interest in land means, subject to subsection (4) below, the amount or value of the consideration given by him or on his behalf wholly and exclusively for the acquisition of the interest, together with the incidental costs to him of the acquisition.

(3) Part I of Schedule 3 to this Act shall have effect—

(a) for determining, in relation to a disposal by any person of an interest in land, the amount of any expenditure on improvements and of any expenditure on relevant improvements; and

(b) with respect to matters consequential upon that determination.

(4) For the purposes of this section there shall be deducted from the amount which on the disposal of an interest in land would, apart from this subsection, be the amount of any consideration falling within subsection (2) above or of any expenditure on improvements or relevant improvements, so much of that consideration or expenditure as has been or is to be provided or met, directly or indirectly, by the Crown or a government or public or local authority, whether in the United Kingdom or elsewhere.

(5) If in the aggregate amount which constitutes base A of an interest in land an amount is included by virtue of both sub-paragraph (ii) and sub-paragraph (iv) of paragraph (a) of subsection (1) above, a further addition determined in accordance with Part II of Schedule 3 to this Act shall be included in that aggregate by virtue of sub-paragraph (v) of that paragraph.

(6) Subject to subsection (7) below, on the disposal of an interest in land which the chargeable person acquired—

(a) within the period of twelve months ending on the date of the disposal, and

(b) as a result of a disposal made by a person who, at the time of that disposal, was connected with him for the purposes of Part III of the Finance Act 1965 (capital gains tax),

1965 c. 25.

subsection (1) above shall have effect for determining the relevant base value of that interest as if—

(i) in paragraph (a), sub-paragraph (iv) were omitted; and

(ii) in paragraph (c), the words "110 per cent. of" were transferred from the beginning of the paragraph to follow the word "and" and the word "of", in the last place where it occurs were omitted.

(7) Subsection (6) above does not apply to the disposal of an interest in land where—

- (a) the disposal is made by personal representatives in the course of administering the deceased's estate, or
- (b) on the death of any person the interest is treated for the purposes of this Act as being disposed of by the deceased to the person becoming entitled to it on his death.

6.—(1) Subject to subsection (4) below, the provisions of this section apply for the purpose of determining base A on the disposal of an interest in land (in this section referred to as “the relevant interest”) where the chargeable person acquired that interest before 1st May 1977. Special addition to base A.

(2) Subject to subsection (5) below, where this section applies, there shall be included in the calculation of the base value of the relevant interest a special addition of an amount equal to $D \times E$ per cent. of the cost of the chargeable person's acquisition of the relevant interest, where—

D is the number of years, subject to a maximum of four, in the period beginning at the time of the chargeable person's acquisition of the relevant interest and ending at the time of the disposal ; and

E is 15, if the chargeable person acquired the relevant interest before 13th September 1974, and 10 in any other case.

(3) For the purposes of subsection (2) above a year is a period of twelve months beginning on, or on an anniversary of, the date of acquisition of the relevant interest by the chargeable person and if, apart from this subsection, D referred to in subsection (2) above would consist of either a part of a year or one or more whole years and a part of a year, that part shall be treated for the purposes of this section as a whole year.

(4) Subject to subsection (5) below, where there is a deemed disposal and reacquisition of an interest in land, this section shall not apply to a disposal which occurs after the deemed reacquisition if—

(a) that later disposal is either a disposal of the interest which was the relevant interest in relation to the deemed disposal or would be such a disposal if there had been no previous disposal of that interest since the time of the deemed disposal ; and

(b) the cost of acquisition of the interest which is the relevant interest in relation to that later disposal is the cost established on the occasion of the deemed reacquisition or, by virtue of any provision of Part II

of Schedule 2 to this Act, is in any way derived from the cost so established.

(5) Subject to subsection (8) below, where there is a deemed disposal and reacquisition of an interest in land and on that disposal (in the following provisions of this section referred to as "the deemed disposal") the amount which is base A of the relevant interest exceeds the net proceeds of the disposal, this section shall apply on the occasion of a disposal—

- (a) which occurs after the deemed disposal, and
- (b) which is a disposal of the interest which was the relevant interest in relation to the deemed disposal, and
- (c) in relation to which paragraph (b) of subsection (4) above applies,

subject to the modifications specified in subsection (6) below; and in subsection (6) below the disposal which falls within paragraphs (a) to (c) above is referred to, in relation to the deemed disposal, as "the subsequent disposal".

(6) In the application of this section to the subsequent disposal in accordance with subsection (5) above—

- (a) references to the time at which the chargeable person acquired the relevant interest shall be construed as references to the time (prior to the deemed disposal) at which he acquired that interest, otherwise than on the occasion of a deemed disposal and reacquisition;
- (b) the reference in subsection (2) above to the cost of the chargeable person's acquisition of the relevant interest shall be construed as a reference to the relevant fraction of the amount which would have been that cost on a notional disposal by him of the relevant interest occurring immediately after the time at which he acquired that interest as mentioned in paragraph (a) above; and
- (c) D referred to in subsection (2) above shall be treated as reduced by the number of years (ascertained in accordance with subsection (3) above) in the period beginning at the time at which the chargeable person acquired the interest as mentioned in paragraph (a) above and ending at the time of the deemed disposal.

(7) Subject to subsection (8) below, the relevant fraction referred to in subsection (6) (b) above is—

$$\frac{BV - PD}{BV}$$

BV

where—

"PD" is the net proceeds of the deemed disposal; and
 "BV", subject to subsection (8) below, is the amount which is base A of the relevant interest on the deemed disposal.

(8) In a case where paragraph 11 of Schedule 1 to this Act applies in determining the market value of the relevant interest for the purposes of the deemed disposal, references in subsections (5) and (7) above to the amount which is base A of that interest on the deemed disposal shall be construed as references to what that amount would be if paragraph 18(1) of Schedule 2 to this Act did not apply.

(9) In any case where—

- (a) this section has applied in relation to a disposal of an interest in land subject to the modifications in subsection (6) above, and
- (b) that disposal was itself a deemed disposal, and
- (c) on that deemed disposal the amount which was base A of the relevant interest exceeded the net proceeds of the disposal,

then, in the application of subsections (5) to (7) above on the occasion of a disposal which, in relation to that deemed disposal, is the subsequent disposal for the purposes of subsection (6) above, the relevant fraction referred to in paragraph (b) of that subsection shall be whichever is the less of the fraction determined under subsection (7) above and the fraction which was the relevant fraction in the application of that paragraph on the occasion of that deemed disposal.

7.—(1) For the purposes of this Act, the market value at any time of an interest in land is the consideration which that interest might reasonably be expected to fetch on a sale at that time in the open market; but that consideration shall not be assumed to be reduced on the ground that the interest in all of the land in question is to be placed on the market at one and the same time.

Market value
current use
value and
material
development.

(2) Subject to the following provisions of this section, for the purposes of this Act, the current use value of an interest in land at any time is the market value of that interest at that time calculated on the assumption—

- (a) that, subject to Part I of Schedule 4 to this Act, planning permission would be granted for any development of the land which is development of a class specified in the relevant planning Schedule; and
- (b) that it is at that time and will continue to be unlawful to carry out any material development of the land other than development which—
 - (i) is development for which, by virtue of paragraph (a) above, it is assumed at that time that planning permission would be granted; or
 - (ii) was comprised in a project of material development begun before that time.

(3) In subsection (2)(a) above “the relevant planning Schedule” means—

- 1971 c. 78. (a) in relation to England and Wales, Schedule 8 to the Town and Country Planning Act 1971;
- 1972 c. 52. (b) in relation to Scotland, Schedule 6 to the Town and Country Planning (Scotland) Act 1972; and
- 1965 c. 23 (N.I.). (c) in relation to Northern Ireland, Schedule 1 to the Land Development Values (Compensation) Act (Northern Ireland) 1965.

(4) In determining the realised development value accruing to the chargeable person on the disposal of an interest in land which is a part disposal resulting from the receipt of any such sum as is referred to in section 3(2) above, the current use value of that interest at the time of that disposal shall be taken to be what it would have been at that time if the circumstances which caused the sum to be received had not arisen.

(5) In determining the market value or current use value of an interest in land at any time, the interest shall be treated as being sold free from any interest or right which exists by way of security in or over the land concerned.

(6) In determining the current use value of an interest in land at the time of a disposal thereof where—

- (a) the disposal is to an authority possessing compulsory powers, and
- (b) immediately before the disposal the land concerned, or any part of it, had an unexpended balance of established development value for the purposes of Part VII of the Town and Country Planning Act 1971 or, as the case may require, the Town and Country Planning (Scotland) Act 1972,

no account shall be taken of the operation, in relation to the acquisition or sale to which the disposal gives effect, of any provision of that Part providing for the reduction or extinguishment of such a balance on the acquisition of land under compulsory powers.

(7) For the purposes of this Act “material development” means any development other than —

- (a) development for which planning permission—
 - (i) is granted by a general development order for the time being in force, or
 - (ii) would be so granted but for a direction given under the order or a condition imposed in any planning permission granted or deemed to be granted otherwise than by such an order,

and which is carried out so as to comply with any condition or limitation subject to which planning permission is or would be so granted ; and

- (b) development which is excluded from being material development by Part II of Schedule 4 to this Act ;

and in paragraph (a) above " general development order " means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in England and Wales, to all land in Scotland or to all land in Northern Ireland, as the case may be.

8.—(1) Notwithstanding anything in section 3(1) above, for the purposes of this Act the grant of an option to acquire an interest in land, including an interest which is not in existence at the time of the grant,—

Options to acquire interests in land etc.

- (a) shall be treated as the disposal of a newly created interest in land, namely the option, and
- (b) shall not be treated as a part disposal of any other interest in land, and
- (c) where no consideration is given for the grant, shall be treated for the purposes of section 10 below as an interest acquired in circumstances where consideration was given for the acquisition,

and in the following provisions of this section any reference to the option is a reference to such an option as is referred to above and any reference to the grantor is a reference to the person by whom the option was granted or the person who is for the time being obliged to give effect to the option if it is exercised.

(2) In relation to the person who is for the time being the owner of an option, the exercise or abandonment of the option shall not be treated for the purposes of this Act as the disposal of an interest in land by that person.

(3) If an option is exercised, then, in relation to the grantor of the option, the grant of the option and the disposal made by him in fulfilment of his obligations under the option shall be treated for the purposes of this Act as a single transaction taking place at the time the option is exercised and, accordingly,—

- (a) the consideration for the option shall be treated as part of the consideration for the disposal of the interest acquired in pursuance of the option ; and
- (b) any development land tax paid in respect of realised development value which accrued on the grant of the option shall be treated as paid on account of any development land tax which is chargeable on the disposal.

(4) If, after an option is exercised, the person by whom it was exercised disposes of the interest acquired in pursuance of the option (in this subsection referred to as “the substantive interest”) or of any interest of which the substantive interest is a part for the purposes of Part I of Schedule 2 to this Act, then,—

(a) for the purpose of determining the cost of acquisition of the interest disposed of, and

(b) for the purpose of the application of paragraph 7 or paragraph 8 of that Schedule,

the option and the substantive interest shall be treated for the purposes of that Part as two separate interests together making up the substantive interest.

(5) Without prejudice to subsection (1) above but subject to subsection (6) below, a disposal consisting of the grant of a lease containing an option shall be treated for the purposes of this Act as the disposal of two separate interests (namely the lease and the option) and if no part of the consideration for the disposal is separately attributable to the option, the option shall be treated for the purposes of this Act as having been acquired for a consideration of £1.

(6) Nothing in subsection (1) or subsection (5) above shall apply in relation to an option to renew a lease where the obligation under the option touches and concerns the land or, in accordance with section 142 of the Law of Property Act 1925 or (in Northern Ireland) section 11 of the Conveyancing Act 1881, is annexed and incident to the reversionary estate, and such an option shall not be treated for the purposes of this Act as an interest in land separate from the lease itself.

In the application of this subsection to Scotland, the words from “in accordance” to “1881” shall be omitted.

(7) This section shall apply in relation to—

(a) a forfeited deposit of money for the purchase of an interest in land, or

(b) other money paid by way of consideration for a prospective purchase of an interest in land which is abandoned,

as if that deposit or other money were consideration given for the grant of an option to acquire that interest.

(8) This section shall not apply in relation to options granted for a lease solely relating to the carrying out of material development consisting of the winning or working of minerals.

1925 c. 20.

1881 c. 41.

Devolution
on death.

9.—(1) For the purposes of this Act, the devolution of an interest in land on the personal representatives of the person by whom it was held immediately before his death shall be treated neither as a disposal by the deceased nor as an acquisition by the personal representatives but, for the purposes of this Act, anything done by the deceased shall be treated as having

been done (at the time it was in fact done) by the personal representatives and, accordingly,—

(a) the acquisition by the deceased shall be treated as if it had been the acquisition by the personal representatives; and

(b) any expenditure incurred by the deceased shall be treated as having been incurred by the personal representatives.

(2) For the purposes of this Act, the personal representatives of a deceased person shall be treated as being a single and continuing body of persons distinct from the persons who may from time to time be the personal representatives.

(3) In any case where, on the death of any person, an interest in land held by him devolves, otherwise than by virtue of any beneficial entitlement thereto, on a person other than his personal representatives, any reference in this Act to his personal representatives shall be construed, in relation to that interest, as being or, as the case may require, as including a reference to that person.

10.—(1) Subsection (2) below shall apply in determining the realised development value accruing to the chargeable person on the disposal of an interest in land (in this section referred to as “the relevant interest”) in any case where no consideration was given for the chargeable person’s acquisition of that interest; and in the following provisions of this section—

Interests in land acquired by gift or, in certain cases, at an under value.

(a) “the material disposal” means the disposal of the relevant interest referred to above;

(b) “the previous disposal” means the disposal as a result of which the chargeable person acquired the relevant interest; and

(c) “the donor’s interest” means the interest disposed of by the previous disposal (that is to say, except where that disposal was a part disposal, the relevant interest).

(2) For the purpose of determining the relevant base value of the relevant interest on the material disposal—

(a) the chargeable person’s cost of acquisition of the relevant interest shall be taken to consist of an amount equal to that which was taken as the cost of acquisition of the donor’s interest in determining the relevant base value of that interest on the previous disposal, together with any incidental costs to the chargeable person of the acquisition of the relevant interest;

(b) to the amount which, apart from this section, would be the amount of expenditure on improvements or on

relevant improvements there shall be added an amount equal to that which was taken as the amount of expenditure on improvements or, as the case may be, on relevant improvements for the purpose of determining the relevant base value of the donor's interest on the previous disposal ;

- (c) the current use value of the relevant interest at the time of its acquisition or on 6th April 1965 shall be taken to be equal to the value which, for the purpose of determining the relevant base value of the donor's interest on the previous disposal, was taken as the current use value of that interest at the time of its acquisition or on 6th April 1965, whichever was the later ; and
- (d) section 6 above shall not apply but—
 - (i) if that section applied for the purpose of determining base A of the donor's interest on the previous disposal, sub-paragraph (iv) of paragraph (a) of section 5(1) above shall have effect in relation to the material disposal as if it referred to the amount which, for that purpose, was the special addition provided for in relation to the previous disposal ; and
 - (ii) if in relation to the previous disposal sub-paragraph (iv) of paragraph (a) of section 5(1) above had effect as referring to the amount specified in sub-paragraph (i) above, it shall have effect as referring to the like amount in relation to the material disposal ;

and if the previous disposal occurred before the appointed day it shall be assumed for the purposes of this subsection that that day fell (and this Act was in force) before the previous disposal occurred.

(3) For the purposes of the application of this Act in Scotland,—

- (a) where, on the death of an heir of entail in possession, the entailed estate devolves on a person as the succeeding heir of entail, the estate shall be treated as being disposed of by the deceased on his death to that person, and
- (b) where, on the death of a person, an interest in land, of which the deceased was not at the time of his death competent to dispose, devolves on another person in accordance with the terms of a special destination contained in a deed, the interest in land shall be treated as being disposed of by the deceased on his death to that person,

and accordingly, where an interest is treated as being disposed of to any person by virtue of paragraph (a) or paragraph (b) above, that person's acquisition shall be treated as a case where no consideration is given for the acquisition of the interest in question.

(4) For the purposes of the application of this Act in Northern Ireland, where immediately before his death a person holds an interest in land which, on his death, vests in a person other than his personal representatives, that interest shall be treated as having been disposed of by the deceased on his death to the person beneficially entitled thereto and accordingly that person's acquisition of the interest shall be treated as a case where no consideration was given for the acquisition.

(5) For the purpose of determining the realised development value accruing to the chargeable person on the disposal of an interest in land where—

- (a) the chargeable person is either a charity or a body specified in paragraph 12 of Schedule 6 to the Finance 1975 c. 7. Act 1975 (for purposes of capital transfer tax, transfers of value to certain bodies to be exempt transfers), and
- (b) the chargeable person did not acquire that interest otherwise than for value, but acquired it for a consideration less than that which it might reasonably have been expected to fetch in the open market, and
- (c) the application of subsection (2) above would give a higher relevant base value of the interest disposed of than would be available if that subsection were not applied,

this Act shall apply as if no consideration were given for the chargeable person's acquisition of that interest.

(6) Subject to subsection (7) below, if—

- (a) the incidental costs of the disposal of an interest in land are borne by the person acquiring the interest or by any other person (other than the chargeable person), and
- (b) no other consideration is given for the acquisition of that interest,

this Act shall apply as if no consideration were given for the acquisition of that interest.

(7) In any case where by virtue of any provision of this Act an amount falls to be added to the amount which, apart from that provision, would be the cost of acquisition of an interest in land then, notwithstanding that no consideration is in fact given for the acquisition of that interest, the acquisition shall not be

treated for the purposes of this Act as being an acquisition for which no consideration was given.

Exemptions, reduced rate and deferrals

Bodies totally exempt from development land tax.

1975 c. 77.

1973 c. 65.

1964 c. 48.

1967 c. 77.

1947 c. 41.

11.—(1) On the disposal of an interest in land, development land tax shall not be chargeable on any realised development value accruing to—

(a) an authority, as defined in relation to England, Scotland or Wales by section 1(1) of the Community Land Act 1975 or a joint board established under section 2 of that Act ; or

(b) a body corporate established under section 50 of that Act (bodies to exercise reserve powers) ; or

(c) the council of a district in Scotland which is within the district of a general planning authority, within the meaning of Part IX of the Local Government (Scotland) Act 1973 ; or

(d) the council of a county or district in Wales ; or

(e) a parish council, parish meeting or the trustees of a parish or, in Wales, a community council ; or

(f) any combined police authority constituted as mentioned in section 3 of the Police Act 1964 or a joint police committee constituted in accordance with a scheme under sections 19 to 21A of the Police (Scotland) Act 1967 ; or

(g) a joint committee constituted in accordance with an administration scheme, as defined in subsection (3) of section 36 of the Fire Services Act 1947 (schemes for providing in Scotland fire services in certain combined areas) ; or

(h) any of the bodies specified in subsection (2) below ; or

(i) a relevant Northern Ireland authority, as defined in subsection (3) below.

(2) The bodies referred to in subsection (1)(h) above are :—

(a) the Commission for the New Towns ;

(b) the Highlands and Islands Development Board ;

(c) the Lee Valley Regional Park Authority ;

(d) the Letchworth Garden City Corporation ;

(e) the North Eastern Housing Association ;

(f) the Scottish Development Agency ;

(g) the Scottish Special Housing Association ; and

(h) the Welsh Development Agency.

(3) The relevant Northern Ireland authorities referred to in subsection (1)(i) above are :—

1965 c. 13
(N.I.).

(a) a new town commission established under the New Towns Act (Northern Ireland) 1965 ;

- (b) the Police Authority for Northern Ireland established under the Police Act (Northern Ireland) 1970 ; 1970 c. 9 (N.I.).
- (c) the Northern Ireland Housing Executive established under the Housing Executive Act (Northern Ireland) 1971 ; 1971 c. 5 (N.I.).
- (d) a district council established under the Local Government Act (Northern Ireland) 1972 ; 1972 c. 9 (N.I.).
- (e) an Education and Library Board established under the Education and Libraries (Northern Ireland) Order 1972 ; and S.I. 1972/1263 (N.I. 12).
- (f) the Fire Authority for Northern Ireland established under the Fire Services (Northern Ireland) Order 1973. S.I. 1973/601 (N.I. 9).

12.—(1) Subject to the provisions of this section, if the total amount of realised development value which accrues to any person in a financial year and on which, apart from this section, that person would be chargeable to development land tax does not exceed £10,000, development land tax shall not be chargeable on any of that realised development value. Exemption for first £10,000 of development value.

(2) If subsection (1) above does not apply to any person in respect of a financial year, then, subject to the following provisions of this section, the sum of £10,000 shall be deducted from the amount of realised development value on which, apart from this subsection, that person would be chargeable to development land tax in that financial year.

(3) If, in a case where subsection (2) above applies in relation to any person in respect of a particular financial year, the realised development value accruing to that person in that year is made up of two or more separate amounts accruing on two or more separate disposals, the sum of £10,000 referred to in that subsection shall be set against those separate amounts in the order of the disposals on which they accrued until the whole sum is exhausted.

(4) If in a financial year realised development value accrues to any person on a disposal to which, by virtue of subsection (5) or subsection (6) below, this subsection applies, then, subject to subsection (7) below,—

- (a) development land tax shall be chargeable on that realised development value as if subsections (1) to (3) above had not been enacted ; but
- (b) no account shall be taken of that realised development value in determining, for the purposes of subsections (1) to (3) above, the total amount of realised development value which accrues to that person in any financial year.

(5) Subsection (4) above applies to a disposal to which subsection (6) of section 5 above applies and to any other disposal

of an interest in land which, subject to subsection (10) below, is made otherwise than by an individual where the chargeable person acquired that interest—

- (a) after 12th September 1974 and within the period of six years ending on the date of the disposal ; and
- (b) for a consideration less than it might reasonably have been expected to fetch in the open market ; and
- (c) as a result of a disposal made by a person who, at the time of that disposal, was connected with him for the purposes of Part III of the Finance Act 1965 (capital gains tax).

1965 c. 25.

(6) If in a financial year realised development value accrues to any person on the disposal of an interest in land (in this subsection and subsection (7) below referred to as “ the relevant interest ”) and the circumstances are such that—

- (a) the disposal is one to which Part I of Schedule 2 to this Act applies, and
- (b) if, in place of the disposal of the relevant interest, there were a separate disposal of each part of the relevant interest, within the meaning of that Part, subsection (4) above would apply by virtue of subsection (5) above to the realised development value which accrued on the disposal of one of those parts (in this subsection and subsection (7) below referred to as “ the material part ”),

subsection (4) above shall apply to the disposal of the relevant interest subject to the modifications in subsection (7) below.

(7) Where subsection (4) above applies to the disposal of the relevant interest by virtue of subsection (6) above, the references in paragraphs (a) and (b) of subsection (4) above to the realised development value which accrues on the disposal shall be construed as references to so much only of that realised development value as is equal to the amount of realised development value which would accrue to the chargeable person if—

- (a) the material part existed as a separate entity ; and
- (b) in place of the disposal of the relevant interest there were a disposal at market value of the material part ; and
- (c) on that disposal the relevant base value of the material part were derived from that one of the three bases specified in section 5(1) above which in fact gives the relevant base value of the relevant interest ;

and if there is more than one part of the relevant interest, within the meaning of Part I of Schedule 2 to this Act, which is capable of being the material part, paragraphs (a) to (c) above shall have effect as if any reference therein to the material part were a reference to each of those parts and the reference in paragraph

(c) above to the disposal of the material part were a reference to the several disposals of those parts.

(8) In any case where, by virtue of any provision of this Act, any liability to development land tax in respect of the realised development value accruing to any person on a deemed disposal of an interest in land is deferred until the occasion of a subsequent actual disposal or other event, the realised development value shall nevertheless be regarded for the purposes of this section as accruing at the end of the financial year in which the earlier deemed disposal occurred.

(9) Subject to subsection (10) below, where two or more persons carry on a trade or business in partnership, then, for the purposes of the preceding provisions of this section,—

(a) notwithstanding anything in section 31 below, the firm shall be treated as a single individual and all disposals by the firm of interests in land forming part of the assets of the partnership shall be treated as made by that individual; and

(b) a change in the persons carrying on the trade or business shall be disregarded if, assuming an election under section 154(2) of the Income and Corporation Taxes Act 1970 to have been duly made, the trade or business would not by virtue of section 154(1) of that Act be treated as discontinued by reason of the change.

(10) Notwithstanding anything in subsection (9) above, a disposal falling within paragraph (a) of that subsection shall be treated for the purposes of subsection (5) above as made otherwise than by an individual.

13.—(1) The provisions of this section shall have effect with respect to chargeable realised development value accruing to any person on the disposal of an interest in land on or before 31st March 1979; and in this Act any financial year which ends on or before that date is referred to as an “interim financial year”. Reduced rate during interim financial years.

(2) If the total amount of chargeable realised development value which accrues to any person in an interim financial year does not exceed £150,000, the rate of development land tax applicable to that chargeable realised development value shall be $66\frac{2}{3}$ per cent.

(3) If the total amount of chargeable realised development value which accrues to any person in an interim financial year exceeds £150,000, development land tax shall be charged at the rate of $66\frac{2}{3}$ per cent. on the first £150,000 of chargeable realised development value which accrues to him in that year.

(4) If in an interim financial year development land tax is, by virtue of subsection (4) of section 12 above, chargeable on any realised development value as mentioned in paragraph (a) of that subsection, it shall be so chargeable as if subsections (2) and (3) above had not been enacted.

(5) Subsection (8) of section 12 above shall apply for the purposes of this section as it applies for the purposes of that.

(6) Where two or more persons carry on a trade or business in partnership, then, for the purposes of subsections (1) to (3) above,—

(a) notwithstanding anything in section 31 below, the firm shall be treated as a single individual and all disposals by the firm of interests in land forming part of the assets of the partnership shall be treated as made by that individual ; and

(b) a change in the persons carrying on the trade or business shall be disregarded if, assuming an election under section 154(2) of the Income and Corporation Taxes Act 1970 to have been duly made, the trade or business would not by virtue of section 154(1) of that Act be treated as discontinued by reason of the change.

1970 c. 10.

Private residences.

14.—(1) Subject to the provisions of this section, where realised development value accrues to an individual on the disposal of an interest in land which is or includes the whole or any part of his private residence, development land tax shall not be chargeable on that realised development value except to the extent (if any) that that value is attributable to land which does not form part of his private residence.

(2) For the purposes of this section an individual's " private residence " means—

(a) land comprising a dwelling-house which, at the time of the disposal in question, is that individual's only or main residence ; and

(b) land which at that time he has for his own occupation and enjoyment with that dwelling-house as its garden or grounds up to an area which, when aggregated with the area of the site of that dwelling-house, does not exceed one acre or such larger area as the Commissioners concerned may in any particular case determine on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it as a residence ;

and where part of the land occupied with a dwelling-house forms part of an individual's private residence and part does not, then

(up to the permitted area) the part which is to be taken as included in his private residence is that which, if the remainder were separately occupied, would be most suitable for occupation and enjoyment with the dwelling-house.

(3) At the time of the disposal by an individual of an interest in land, a dwelling-house shall be regarded as that individual's only or main residence if and only if his period of ownership of it is not less than six months and it has been his only or main residence—

- (a) where his period of ownership is two years or more, throughout at least twelve of the twenty-four months ending at the time of the disposal ; and
- (b) where his period of ownership is less than two years, throughout at least half that period or throughout a period of six months, whichever is the greater.

(4) If realised development value accrues to an individual on the disposal of an interest in land which comprises a dwelling-house which is or forms part of his private residence but which is used in part exclusively for the purposes of a trade or business or of a profession, vocation, office or employment, the realised development value shall be apportioned and subsection (1) above shall apply in relation to the part of that value apportioned to the part which is not exclusively used for those purposes.

(5) If at any time—

- (a) within the period of ownership, and
- (b) within the period of twenty-four months ending at the time of the disposal,

there is a change in what is occupied as the individual's residence, whether on account of a reconstruction or conversion of a building or for any other reason, or there have been changes as regards the use of part of his private residence for the purpose of a trade or business or of a profession, vocation, office or employment, or for any other purpose, the relief given by this section may be adjusted in such manner as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(6) Subject to subsection (10) below, this section shall also apply in relation to realised development value accruing to trustees on the disposal of an interest in land which is a disposal of settled property (or which is treated as such by virtue of section 30(4) below) if—

- (a) the land in which that interest subsists includes the whole or any part of an individual's private residence ; and
- (b) that individual is entitled under the terms of the settlement either to occupy the dwelling-house concerned or

to the whole of the income derived from, or from the proceeds of sale of, that interest ;
and in this section as so applied, except in relation to the occupation of a dwelling-house, references to the individual shall be taken as references to the trustees.

(7) In any case where—

- (a) realised development value accrues to the personal representatives of a deceased person on the disposal, within the period of two years beginning on the date of the deceased's death, of an interest in land forming part of his estate, and
- (b) if the deceased had disposed of that interest immediately before his death the preceding provisions of this section would have applied to the whole or any part of the realised development value accruing to him on that disposal,

this section shall apply to the like extent to the realised development value referred to in paragraph (a) above as it would have applied to the realised development value referred to in paragraph (b) above.

(8) In determining whether, and to what extent, any provisions of this section would have applied in the circumstances specified in subsection (7)(b) above—

- (a) subsection (3) above shall have effect with the omission of the words "his period of ownership of it is not less than six months and" and, in paragraph (b) of that subsection, with the omission of the words from "or throughout" to the end of the paragraph ; and
- (b) if the deceased died before the appointed day, it shall be assumed that that day fell (and this Act was in force) before his death.

(9) If an individual makes a claim with respect to realised development value which accrues to him on the disposal of an interest in land which is or includes the whole or any part of the private residence of a dependent relative of the claimant, provided rent-free and without any other consideration, such relief shall be given under this section in respect of that dwelling-house as would be so given if it had been the claimant's only or main residence during the period it was his dependent relative's private residence : and where such a claim is made—

- (a) any such relief shall be given in addition to any relief available under this section apart from this subsection ; and
- (b) for the purpose of determining any such relief, not more than one dwelling-house shall be assumed by virtue of

this subsection to be the claimant's only or main residence at any one time.

(10) The preceding provisions of this section shall not apply in relation to realised development value accruing to any person on the disposal of an interest in land if that interest or an interest which is a part of that interest for the purposes of Part I of Schedule 2 to this Act was acquired wholly or partly for the purpose of realising any of that development value by the disposal.

(11) In this section "dwelling-house" includes a part of a dwelling-house and "period of ownership", in relation to the disposal by an individual of an interest in land, means the period—

(a) beginning at the time at which that individual acquired that interest or any other interest conferring on him a right to immediate possession of, or of any part of, that land; and

(b) ending at the time of the disposal;

and for the purpose of paragraph (a) above any acquisition on the occasion of a deemed disposal and reacquisition shall be disregarded.

15.—(1) Subject to the provisions of this section, on the deemed disposal of an interest in land (in this section referred to as "the relevant interest") development land tax shall not be chargeable on any realised development value accruing to the person (in this section referred to as "the owner") who is the owner of the relevant interest at the time of the disposal if—

Exemption for certain dwelling-houses built for owner occupation, etc.

(a) on 12th September 1974 the owner owned the relevant interest or an interest which, in relation to the deemed disposal, is a part of the relevant interest, within the meaning of Part I of Schedule 2 to this Act; and

(b) the material development comprised in the project, the beginning of which is the occasion of the deemed disposal, consists exclusively of the building of a single dwelling-house, with or without any related development; and

(c) at the time of the deemed disposal, the owner or a dependent relative of his or a person who, though not a dependent relative, is an adult member of his family intends to occupy the dwelling-house as his sole or main residence.

(2) No individual shall be entitled to exemption under subsection (1) above in respect of more than two projects of material development to which paragraph (b) of that subsection applies; and the exemption under that subsection shall apply to two such

projects if, and only if, the dwelling-house concerned in one of those projects is built on land in the curtilage of a dwelling-house owned and occupied by the individual on 12th September 1974.

(3) For the purposes of this section a person is an adult member of the owner's family at any time if, at that time, that person—

- (a) is the owner's wife or husband ; or
- (b) is a son or daughter of the owner or of the owner's wife or husband, and has attained the age of eighteen at the time of the deemed disposal ; or
- (c) is the father or mother of the owner or of the owner's wife or husband.

(4) In subsection (3) above—

- (a) any reference to the owner's wife or husband includes a reference to any divorced wife or husband of the owner ;
- (b) any reference to a person's son or daughter includes a reference to any stepson or stepdaughter, any adopted son or daughter and any illegitimate son or daughter of that person ; and
- (c) any reference to a person's father or mother includes a reference to any stepfather or stepmother, any adoptive father or mother and (if that person is illegitimate) the natural father or mother of that person.

(5) In subsection (1)(b) above, in relation to development consisting of the building of a single dwelling-house, "related development" means the construction or laying out of any garage, outbuilding, garden, yard, court, forecourt or other appurtenance for occupation with, and for the purposes of, the dwelling-house.

Land held
as stock in
trade.

16.—(1) If realised development value accrues to any person on the disposal of an interest in land (in this section referred to as "the relevant disposal") and—

- (a) that interest was acquired by him on or before 12th September 1974 (disregarding for this purpose any acquisition on the occasion of a deemed disposal and reacquisition) and on that date was held by him as stock in trade, and
- (b) on that date there was in force planning permission authorising any development (in this section referred to as "authorised development") of the whole or any part of that land,

he shall not be chargeable to development land tax on so much of that realised development value as, in accordance with this section, is determined to be attributable to the authorised development.

(2) The realised development value attributable to any authorised development is that amount of realised development value which would have accrued to the chargeable person on the relevant disposal if—

- (a) it was at the time of the disposal and would continue to be unlawful to carry out any material development of the land other than authorised development ; and
- (b) where the relevant disposal was a deemed disposal occurring immediately before a project of material development was begun, so much of the material development comprised in the project as was not authorised development were not so comprised ; and
- (c) where paragraph (b) above does not apply, the consideration for the disposal were the market value (on the basis set out in paragraph (a) above) of the interest which is the subject-matter of the disposal or, in the case of a part disposal, of the granted interest.

(3) In any case where—

- (a) a person (in this subsection referred to as “ the donee ”) acquires an interest in land for no consideration, and
- (b) the circumstances are such that if the person from whom the donee acquired that interest (in this subsection referred to as “ the donor ”) had disposed of it at market value immediately before he disposed of it to the donee, subsections (1) and (2) above would have had effect in relation to any realised development value accruing to the donor on that disposal,

that donee shall be treated for the purposes of this section and paragraph 7 of Schedule 2 to this Act as if he and the donor were one and the same person (and, accordingly, as if the disposal by the donor and the acquisition by the donee had not occurred).

(4) In any case where—

- (a) on the death of any person, an interest in land held by him devolves on his personal representatives, and
- (b) the circumstances are such that if the deceased had disposed of that interest at market value immediately before his death, subsections (1) and (2) above would have had effect in relation to any realised development value accruing to him on that disposal,

the personal representatives shall be treated for the purposes of this section and paragraph 7 of Schedule 2 to this Act as if they and the deceased were one and the same person.

(5) In any case where the time of the hypothetical disposal referred to in paragraph (b) of subsection (3) or subsection (4)

above falls before the appointed day, it shall be assumed, in determining whether the circumstances are such as fall within that paragraph, that the appointed day fell (and this Act was in force) before that time.

(6) For the purposes of this section an interest in land was held by a person as stock in trade on 12th September 1974 if, had he sold that interest on that date, the proceeds of sale would have been taken into account in computing the profits or gains of a trade carried on by him.

(7) For the purposes of the application of this section to Northern Ireland, planning permission shall be treated as in force on 12th September 1974 if—

(a) it was in force on 31st August 1974 ; and

(b) it would have been in force on 12th September 1974 but for the operation of paragraph 6 of Schedule 5 to the Planning (Northern Ireland) Order 1972.

S.I. 1972/1634
(N.I. 17).

(8) For the purposes of this section—

(a) notwithstanding anything in section 45(2)(a) below, an interest in land acquired by any person under a conditional contract entered into on or before 12th September 1974 shall be treated as held by him on that date ; and

(b) the provisions of Schedule 5 to this Act shall have effect for determining the nature and extent of any planning permission and the development authorised by it.

Minerals.

17.—(1) If realised development value accrues to any person on the deemed disposal of an interest in land comprised in a project of material development and that material development consists of or includes the winning or working of minerals, development land tax shall not be chargeable on so much of that realised development value as, in accordance with subsection (2) below, is determined to be attributable to the winning or working of minerals.

(2) In a case where subsection (1) above applies, the realised development value attributable to the winning or working of minerals is the amount by which the realised development value which accrues to the chargeable person on the deemed disposal exceeds the realised development value (if any) which would have accrued to him on that disposal if there were excluded from the project of material development concerned any development which—

(a) consists of the winning or working of minerals ; and

(b) is authorised by planning permission in force at the time of the disposal.

(3) Subject to subsection (6) below, for the purpose of determining—

- (a) the amount of realised development value which accrues on the disposal, other than a deemed disposal, of an interest in land at a time when there is in force, as regards that land or any part of it, planning permission authorising material development consisting of the winning or working of minerals, and
- (b) in relation to the person to whom that disposal is made, the cost of acquisition on that disposal of the interest disposed of or, in the case of a part disposal, of the granted interest,

the amount which, apart from this section, would be the consideration for the disposal (in this section referred to as “the gross consideration”) shall be deemed to be reduced to the sum determined under subsection (4) below.

(4) Subject to subsection (5) below, the sum referred to in subsection (3) above is the aggregate of the following amounts, namely—

- (a) the market value, immediately after the disposal, of the interest which is the subject matter of the disposal or, in the case of a part disposal, of the granted interest, determined on the assumption that it was at that time, and would continue to be, unlawful to carry out material development consisting of the winning or working of minerals on any of the land in which that interest subsists ; and
- (b) one half of the amount by which the gross consideration exceeds the market value referred to in paragraph (a) above.

(5) If the disposal referred to in subsection (3) above is a part disposal consisting of the grant of a lease, any reference in subsection (4) above to the market value of the granted interest shall be construed as a reference to the consideration which, at the time of the disposal, might reasonably have been obtained in the open market for the grant of a lease—

- (a) which does not permit the carrying out of any material development consisting of the winning or working of minerals but permits the land in question to be used for any other purpose which is authorised by planning permission for the time being in force, or for which planning permission might reasonably be expected to be obtained ; and
- (b) which (except as to rent and any other consideration given or agreed to be given) is in other respects similar, so far as the nature of the case allows, to the lease which was in fact granted.

1970 c. 24.

(6) Notwithstanding anything in subsection (3) above, in the case of a disposal of an interest in land which consists of the grant of a mineral lease or agreement, within the meaning of section 29 of the Finance Act 1970 (taxation of mineral royalties),—

- (a) if any part of the gross consideration is not mineral royalties, within the meaning of that section, the amount which, apart from this subsection, would by virtue of subsection (3) above be the amount of realised development value which accrues on the disposal shall be taken to be reduced by multiplying it by the fraction of which the denominator is the gross consideration and the numerator is so much of that consideration as does not consist of mineral royalties (within the meaning of that section); and
- (b) in any other case, no realised development value shall be taken to accrue on the disposal.

(7) In the preceding provisions of this section the expression “winning or working”, in relation to minerals, includes—

- (a) the grading, washing, grinding and crushing of minerals; and
- (b) the carrying out of any operations ancillary to the winning or working of minerals or to any of the activities specified in paragraph (a) above.

Exemption
for projects
begun within
three years of
acquisition
of land.

18.—(1) On the deemed disposal of an interest in land (in this section referred to as “the relevant interest”) development land tax shall not be chargeable on any realised development value accruing to the person (in this section referred to as “the owner”) who is the owner of the relevant interest at the time of the disposal if the Board are satisfied that the conditions in subsection (2) below are fulfilled.

(2) The conditions referred to in subsection (1) above are—

- (a) that the owner acquired the relevant interest within the period of three years ending on the date of the deemed disposal (disregarding for this purpose any acquisition on the occasion of an earlier deemed disposal and reacquisition); and
- (b) that if the project, the beginning of which is the occasion of the deemed disposal, had been begun immediately after the relevant interest was so acquired, no significant amount of realised development value would have accrued to the owner on the deemed disposal occurring immediately before the project began;

and, for the purposes of paragraph (b) above, in any case where the owner acquired the relevant interest before the appointed day,

it shall be assumed that the appointed day fell (and this Act was in force) before the time of his acquisition.

(3) In any case where—

- (a) it is proposed that a project of material development should be begun on any land, and
- (b) before that project is begun, the owner of an interest in that land makes an application to the Board in that behalf and furnishes to the Board such information as they may require with respect to the proposed project and to such other matters as may be material to the exercise of the Board's functions under this section,

the Board shall notify the owner whether, if the project were to be begun forthwith, they would or would not be satisfied that the conditions in subsection (2) above would be fulfilled with respect to that interest and that project.

(4) A notification under subsection (3) above that the Board would be satisfied as mentioned in that subsection shall specify—

- (a) the name of the person to whom the notification is given ;
- (b) the interest to which the notification relates and the date on which the person concerned acquired that interest ; and
- (c) the project to which the notification relates.

(5) Where—

- (a) such a notification as is referred to in subsection (4) above has been given, and
- (b) the project to which the notification relates is begun within the period of three years beginning on the date specified in accordance with subsection (4)(b) above, and
- (c) immediately before the beginning of that project, there is a deemed disposal of the interest to which the notification relates,

then, subject to subsection (6) below, development land tax shall not be chargeable on any realised development value accruing to the person specified in the notice or to his personal representatives on the deemed disposal referred to in paragraph (c) above.

(6) If any of the information furnished to the Board under subsection (3)(b) above was not such as to make full and accurate disclosure of all facts and considerations which were material to enable the Board properly to exercise their functions under this section with respect to the interest and project concerned, any such notification as is referred to in subsection (4) above

which has been given with respect to that interest and project shall be of no effect for the purposes of subsection (5) above.

Development
for industrial
use.

19.—(1) Subject to section 20 below if, in a case where realised development accrues to the chargeable person on the deemed disposal of an interest in land (in this section referred to as “the relevant interest”),—

- (a) the chargeable person carries on a trade, and
- (b) the project of material development, the beginning of which is the occasion of the deemed disposal, relates to a building or other land to be used, in whole or in part, for the industrial purposes of that trade,

then, subject to the following provisions of this section, liability for development land tax on such proportion of that realised development value as is properly attributable to property to be used for the industrial purposes of a trade carried on by the chargeable person shall be deferred until the occasion of the first subsequent disposal of the relevant interest which is neither—

- (i) a deemed disposal ; nor
- (ii) a disposal to which either section 20(1) below or subsection (1) or subsection (4) of section 22 below applies ; nor
- (iii) a disposal which forms part of a sale and lease-back transaction.

(2) For the purposes of this section, a building or other land constitutes property used for the industrial purposes of a trade carried on by any person if and to the extent that—

- (a) it is used in the course of such a trade for the carrying on of any process for or incidental to any of the purposes specified in paragraph (a) of Class E in paragraph 7 of Schedule 4 to this Act or for or incidental to the generation of electricity, or
- (b) it is used, otherwise than as a dwelling-house, for the welfare of workers employed in such a trade,

and any reference to property to be used for such purposes shall be construed accordingly.

(3) For the purposes of this section, premises which—

- (a) are used or designed for use for providing services or facilities ancillary to the use of other premises which, in accordance with subsection (2) above, constitute property used for the industrial purposes of a trade, and
- (b) are or are to be comprised in the same building or the same curtilage as those other premises,

shall themselves be treated as falling within paragraph (a) or paragraph (b) of subsection (2) above.

(4) In any case where it appears to the Board or, on an appeal, to the Commissioners concerned that a project of material development falling within paragraph (b) of subsection (1) above relates exclusively to property to be used for the industrial purposes of a trade carried on by the chargeable person, the proportion of realised development value referred to in that subsection shall be 100 per cent., but, in any other case—

(a) the proportion properly attributable to the property to be used for the industrial purposes of such a trade, and

(b) the method of apportionment adopted,

shall be such as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(5) Subject to subsection (6) and section 20 below, if—

(a) the whole or any part of a building or other land to which a project of material development falling within subsection (1)(b) above relates ceases at any time, otherwise than on the occasion of a disposal of the relevant interest, to constitute property used by the chargeable person referred to in subsection (1)(a) above for the industrial purposes of a trade for the time being carried on by him, and

(b) at that time or at a subsequent time either that person ceases to carry on any trade at all or a non-qualifying use is established for the building or other land or part thereof to which paragraph (a) above applies,

the relevant interest or, if paragraph (a) above applies to part only of the building or other land, so much of the relevant interest as subsists in that part shall be treated for the purposes only of subsection (1) above and section 27 below as having been disposed of at the time when the condition in paragraph (b) above is fulfilled.

(6) Subject to section 20 below, for the purposes of subsection (5) above, a non-qualifying use is established for any building or other land or part thereof if, for at least half of any continuous period of twenty-four months, it is used in such circumstances that it does not constitute property used for the industrial purposes of a trade carried on by the chargeable person; and accordingly the non-qualifying use shall be taken to be established at the expiry of the 365th day in that period on which the building or other land or part thereof is so used.

(7) For the purposes of this section a disposal of the relevant interest (in the following provisions of this section referred to as “the primary disposal”) forms part of a sale and lease-back transaction if—

(a) it is either a disposal of the whole of the relevant interest or a part disposal of that interest which falls

within paragraph (b) of subsection (1) of section 3 above; and

- (b) it forms part of a transaction whereby, at or immediately after the time at which the relevant interest or, in the case of a part disposal, the granted interest is acquired as a result of the primary disposal, the person by whom that interest is so acquired grants a lease to the person who was the chargeable person in relation to the primary disposal; and
- (c) the lease subsists in the whole or any part of the land in which the relevant interest or, as the case may be, the granted interest subsists.

(8) If, after the primary disposal, there is a disposal of the lease referred to in paragraph (c) of subsection (7) above, subsection (5) above shall have effect as if, at the time of that disposal, the conditions in paragraphs (a) and (b) of that subsection were fulfilled with respect to so much of any building or other land as is the subject matter of the lease.

(9) If, in a case where the primary disposal is such a part disposal as is referred to in subsection (7)(a) above, there is a subsequent disposal of the interest which is the retained interest in relation to that part disposal, subsection (1) above and section 27 below shall apply as if in place of, but to the like effect as, that subsequent disposal there were a part disposal of the relevant interest.

(10) For the purposes of subsections (1) and (5)(a) above, a disposal shall be treated as a disposal of the relevant interest if it is a disposal of an interest in land of which the relevant interest is a part for the purposes of Part I of Schedule 2 to this Act.

Groups of companies.

20.—(1) Subject to the provisions of this section, every disposal of an interest in land (whether before, on or after the appointed day) by a member of a group of companies to another member of the group shall be treated for the purposes of this Act as a disposal (and acquisition) for which no consideration is given.

(2) Subsection (1) above does not apply—

- (a) to a disposal to a non-resident member of a group of companies by a resident member of the group, or
- (b) to a disposal to a body which is exempt from development land tax by virtue of section 11 above by a company which is a member of the same group of companies as that body but which is not so exempt,

but a disposal shall not be regarded as one to which that subsection does not apply by reason only that it is in fact a disposal for which no consideration is given.

(3) Where section 10 above has effect in a case where the previous disposal is one to which subsection (1) above applies,—

- (a) the chargeable person shall be treated for the purposes of section 5(6) and, subject to paragraph (c) below, section 6 above as having acquired the relevant interest at the time which was the date of acquisition of the donor's interest for the purposes of the previous disposal, and
- (b) paragraph (d) of subsection (2) of section 10 above shall not apply, and
- (c) section 6 above shall not apply where the material disposal is itself a disposal to which subsection (1) above applies,

and expressions to which a meaning is assigned by subsection (1) of section 10 above have in this subsection the meaning assigned by that subsection.

(4) For the purposes of section 18 above—

- (a) where the person who is defined as the owner in subsection (1) of that section is a member of a group of companies, any reference in subsection (2) of that section to the owner shall be construed as a reference to the owner or any other member of the group ; and
- (b) where the person making an application under subsection (3) of that section is a member of a group of companies, the reference in subsection (4)(b) of that section to the person concerned and the reference in subsection (5) of that section to the person specified in the notice shall be construed as a reference to that person or any other member of the group.

(5) For the purposes of section 19 above, where the chargeable person is a member of a group of companies—

- (a) paragraph (a) of subsection (1) of that section shall have effect as if the reference to the chargeable person were a reference to any member of the group ;
- (b) any reference in paragraph (a) of subsection (5) of that section to the chargeable person referred to in subsection (1)(a) thereof shall be construed as a reference to any member of the group ;
- (c) the reference in paragraph (b) of subsection (5) of that section to the chargeable person ceasing to carry on any trade at all at a particular time shall be construed as a reference to the members of the group ceasing to carry on their trades, and for the purposes of that subsection the time at which the members of the group cease to carry on their trades is the time at which the last of the members to do so ceases to carry on its trade ; and

- (d) the reference in subsection (6) of that section to the chargeable person shall be construed as a reference to any member of the group.

**Company
ceasing to
be a member
of a group.**

21.—(1) The provisions of this section apply where a company (in this section referred to as “the chargeable company”) ceases on or after the appointed day to be a member of a group of companies and, at the time when it so ceases (in this section referred to as “the time of severance”), it holds an interest in land (in this section referred to as “the relevant interest”); and references in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved.

(2) Subject to subsection (3) below, if after 12th September 1974 and within the period of six years ending at the time of severance, the chargeable company acquired the relevant interest or a part thereof from another company which, at the time of the acquisition, was a member of the group, the chargeable company shall be treated for the purposes of this Act as having sold and immediately reacquired the relevant interest immediately after the time of severance for a consideration equal to that which the relevant interest might reasonably have been expected to fetch on a sale at that time in the open market.

(3) In any case where—

- (a) the chargeable company is one of two or more associated companies which cease to be members of a group at the same time, and
- (b) the relevant interest or part thereof acquired by the chargeable company as mentioned in subsection (2) above was acquired from one of the other associated companies,

subsection (2) above shall not apply unless, after 12th September 1974 and within the period referred to in that subsection, one of those associated companies acquired the relevant interest or, as the case may be, that part from a company which is not one of those associated companies but which at the time of the acquisition was a member of the group.

(4) For the purposes only of section 19(1) above and section 27 below the sale provided for by subsection (2) above shall constitute a disposal of every part of the relevant interest as well as a disposal of the relevant interest itself.

(5) If, in a case where subsection (2) above applies in relation the relevant interest,—

- (a) there has been a deemed disposal and reacquisition of an interest in land (in the following provisions of this section referred to as “the material interest”), and

- (b) at the time of the deemed disposal and reacquisition of the material interest it was held by the chargeable company or another company which at that time was a member of the group, and
- (c) section 19(1) above applied in relation to the whole or any part of the realised development value which accrued on that deemed disposal, and
- (d) the material interest is neither the relevant interest nor a part of it (so that subsection (2) above does not apply in relation to the material interest) but the relevant interest subsists in the whole or part of the building or other land (with or without additional land) in which the material interest subsisted, and
- (e) at the time of severance liability for all or any of the development land tax accruing on the deemed disposal of the material interest has not yet arisen,

then, subject to subsection (6) below, for the purposes only of section 19(1) above and section 27 below, the chargeable company shall be treated as owning the material interest at the time of severance and as disposing of it at that time by the grant of an interest in land corresponding, as near as may be, to the relevant interest, so far as that interest subsists in the building or other land referred to in paragraph (d) above.

(6) If, before the time of severance, there has been a part disposal of the material interest or of an interest of which the material interest was a part for the purposes of Part I of Schedule 2 to this Act and that disposal is the operative disposal for the purposes of section 27 below, the disposal which is treated as occurring at the time of severance by virtue of subsection (5) above shall be deemed for the purposes of that section to be a further disposal falling within subsection (5) thereof.

(7) For the purposes of this section—

- (a) two or more companies are associated companies if, by themselves, they would form a group of companies; and
- (b) a “part”, in relation to the relevant interest, means an interest in land which, on the sale of the relevant interest provided for by subsection (2) above, constitutes a part thereof for the purposes of Part I of Schedule 2 to this Act.

22.—(1) Subject to subsection (2) below, where—

- (a) any scheme of reconstruction or amalgamation involves the transfer of the whole or part of the business of a company (in this section referred to as “the first company”) to another company (in this section referred to as “the second company”), and Amalgamations and reconstructions, etc.

- (b) the first company receives no part of the consideration for the transfer (otherwise than by the second company taking over the whole or part of the liabilities of the business), and
- (c) as part of the transfer the first company disposes of an interest in land to the second company,

the disposal referred to in paragraph (c) above shall be treated for the purposes of this Act as a disposal (and acquisition) for which no consideration is given.

(2) Subsection (1) above does not apply—

- (a) if the first company is resident in the United Kingdom and the second company is not; or
- (b) if the second company is a body which is exempt from development land tax by virtue of section 11 above and the first company is not.

(3) In subsection (1) above “scheme of reconstruction or amalgamation” means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies.

(4) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an interest in land by one society (in this section referred to as “the first society”) to another (in this section referred to as “the second society”), that disposal shall be treated for the purposes of this Act as a disposal (and acquisition) for which no consideration is given.

(5) Any reference in subsection (4) above to a registered industrial and provident society includes a reference to a body which—

- (a) is a co-operative association for the purposes of section 340 of the Income and Corporation Taxes Act 1970; and
- (b) is established and resident in the United Kingdom; and
- (c) has as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shell-fish.

(6) In this section “registered industrial and provident society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969.

1970 c. 10.

1965 c. 12.
1969 c. 24
(N.I.).

(7) Where section 10 above has effect in a case where the previous disposal is one to which either subsection (1) or subsection (4) above applies,—

- (a) the chargeable person shall be treated for the purposes of section 5(6) and, subject to paragraph (c) below, section 6 above as having acquired the relevant interest at the time which was the date of acquisition of the donor's interest for the purposes of the previous disposal, and
- (b) paragraph (d) of subsection (2) of section 10 above shall not apply, and
- (c) section 6 above shall not apply where the material disposal is itself a disposal to which subsection (1) above applies,

and expressions to which a meaning is assigned by subsection (1) of section 10 above have in this subsection the meaning assigned by that subsection.

(8) For the purposes of section 18 above—

- (a) where the person who is defined as the owner in subsection (1) of that section is the second company or the second society, any reference in subsection (2) of that section to the owner shall be construed as a reference to the owner or, as the case may require, the first company or the first society ; and
- (b) where the person making an application under subsection (3) of that section is the second company or the second society, the reference in subsection (4)(b) of that section to the person concerned shall be construed as a reference to either the first company or the second company or, as the case may require, either the first society or the second society ; and
- (c) where a notification under subsection (3) of that section is given to the first company or the first society, the reference in subsection (5) of that section to the person specified in the notice shall be construed as a reference to either the first company or the second company or, as the case may require, either the first society or the second society.

23.—(1) If, on the deemed disposal of an interest in land held Statutory by statutory undertakers (in this section referred to as “the undertakers. relevant interest ”)—

- (a) realised development value accrues to the statutory undertakers, and
- (b) the project of material development, the start of which is the occasion of the deemed disposal, relates to a

building or other land to be used in whole or in part for the purpose of a statutory undertaking,

then, subject to the following provisions of this section, liability for development land tax on such proportion of that realised development value as is properly attributable to property to be used by statutory undertakers shall be deferred until the occasion of the first subsequent disposal of the relevant interest which is neither—

- (i) a deemed disposal, nor
- (ii) a disposal to which either section 20(1) or section 22(1) above applies, nor
- (iii) a disposal which forms part of a sale and lease-back transaction.

(2) For the purposes of subsection (1) above a disposal shall be treated as a disposal of the relevant interest if it is a disposal of an interest in land of which the relevant interest is a part for the purposes of Part I of Schedule 2 to this Act.

(3) For the purposes of this section, a building or other land constitutes property used by statutory undertakers if and to the extent that—

- (a) it is used solely by statutory undertakers for the purpose of carrying on the statutory undertaking, and
- (b) the use by the statutory undertakers is not for a purpose which, in the area in which the building or other land is situated, is more akin to the purpose for which other persons use buildings or other land in that area than the purpose, or one of the purposes, for which the statutory undertaking exists,

or if and to the extent that it is used, otherwise than as a dwelling-house, for the welfare of persons employed by statutory undertakers; and any reference to property to be used by statutory undertakers shall be construed accordingly.

(4) Any question arising under this section as to whether or to what extent a building or other land is or is to be used as mentioned in paragraphs (a) and (b) of subsection (3) above shall be determined by the appropriate Minister.

(5) In any case where it appears to the Board or, on an appeal, to the Commissioners concerned that a project of material development falling within paragraph (b) of subsection (1) above relates exclusively to property to be used by statutory undertakers, the proportion of realised development value referred to in that subsection shall be 100 per cent., but in any other case—

- (a) the proportion properly attributable to the property to be used by statutory undertakers, and

(b) the method of apportionment adopted, shall be such as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(6) No account shall be taken for the purposes of subsection (1) above or any provision of section 27 below of a disposal by statutory undertakers of an interest in land which—

(a) is a part disposal falling within paragraph (a) of section 3(1) above ; and

(b) is made to such a person and for such a purpose as in the opinion of the appropriate Minister is consistent with furthering the purposes of the statutory undertaking.

(7) In any case where—

(a) it appears to the appropriate Minister that the whole or any part of a building or other land to which a project of material development falling within paragraph (b) of subsection (1) above relates has ceased at any time, otherwise than on the occasion of such a disposal as is referred to in that subsection, to constitute property used or to be used by statutory undertakers, and

(b) the appropriate Minister certifies that, with effect from such date as may be specified in the certificate, this subsection is to have effect in relation to the whole, or such part as may be specified in the certificate, of that building or other land,

the relevant interest or, if only part of the building or other land is specified in the certificate, so much of the relevant interest as subsists in that part shall be treated for the purposes of subsection (1) above and section 27 below as having been disposed of on the date specified in the certificate.

(8) Subsections (7) and (9) of section 19 above shall apply for the purposes of this section as they apply for the purposes of that section, except that, in the application of those subsections for the purposes of this section,—

(a) any reference to the relevant interest shall be construed in accordance with subsection (1) of this section ; and

(b) the reference to subsection (1) of that section shall be construed as a reference to subsection (1) of this section.

(9) If after the primary disposal, within the meaning of subsection (7) of section 19 above, as that subsection has effect by virtue of subsection (8) above, there is a disposal of the lease referred to in subsection (7)(c) of that section, so much of the relevant interest as subsists in the building or other land which is the subject matter of the lease shall be treated for the purposes

of subsection (1) above and section 27 below as having been disposed of on the date of the disposal of the lease.

(10) In this section “statutory undertakers” means—

- 1975 c. 77.
- (a) the persons and bodies specified in paragraphs (a) and (b) of subsection (1) of section 5 of the Community Land Act 1975 ;
 - (b) the British Broadcasting Corporation ;
 - (c) the British Steel Corporation ;
 - (d) the Independent Broadcasting Authority ;
 - (e) the United Kingdom Atomic Energy Authority ; and
 - (f) any regional water authority to the extent that it does not fall within paragraph (a) above ;

and “statutory undertaking” shall be construed accordingly.

(11) In this section “the appropriate Minister”—

- 1971 c. 78.
1972 c. 52.
- (a) in relation to the British Airports Authority, means the Secretary of State for Trade ; and
 - (b) in relation to any other statutory undertakers who are also statutory undertakers for the purposes of any provision of Part XI of the Town and Country Planning Act 1971 or of the Town and Country Planning (Scotland) Act 1972, has the same meaning as in that Part ; and
 - (c) in relation to any other statutory undertakers, means such Minister (including, in relation to statutory undertakers in Northern Ireland, the head of a Northern Ireland Department) as may be determined for the purposes of this section by the Treasury.

(12) In the application of this section to Northern Ireland, the provisions of section 5 of the Community Land Act 1975 referred to in subsection (10)(a) above shall have effect as if—

- (a) any reference therein to an enactment included a reference to an enactment of the Parliament of Northern Ireland or of the Northern Ireland Assembly ; and
- (b) the reference therein to the Town and Country Planning Act 1971 included a reference to the Planning (Northern Ireland) Order 1972.

S.I. 1972/1634
(N.I. 17).

Charities:
interests in
land held on
12th September
1974.

24.—(1) Development land tax shall not be chargeable on any realised development value accruing to a charity on the disposal of an interest in land which—

- (a) was held by the charity on 12th September 1974 ; or
- (b) was held by another charity on that date and has at no time between that date and the time of the disposal been held otherwise than by a charity ; or

- (c) is the retained interest or the granted interest in relation to a previous disposal of an interest in land which, immediately before that disposal, fell within paragraph (a) or paragraph (b) above or this paragraph and which has at no time between the time of its acquisition and the time at which it is disposed of been held otherwise than by a charity;

and for the purposes of this section an interest in land shall be treated as held by a charity on 12th September 1974 if, under the will of a person who died before that date, the charity would on that date have been absolutely entitled to that interest if the administration of the deceased's estate had been completed.

- (2) Subject to subsection (3) below, in any case where—

- (a) on 12th September 1974 a lease was held by a charity, and
 (b) subsequent to that date, but without its ever having been held otherwise than by a charity, the lease became merged in another interest (in this subsection and subsection (3) below referred to as "the greater interest"), and
 (c) after the merger the greater interest was acquired by another charity, without its ever having been held otherwise than by a charity,

paragraph 8 of Schedule 2 to this Act shall have effect on a disposal of the greater interest by a charity which acquired it as mentioned in paragraph (c) above as if, immediately before the acquisition of the greater interest by the charity,—

- (i) the lease continued to exist as a separate entity, and
 (ii) the charity acquired the lease for an appropriate proportion of the consideration given by it for the acquisition of the greater interest,

so that the lease constitutes a part of the relevant interest for the purposes of the said paragraph 8.

(3) Subsection (2) above shall cease to apply in relation to a lease at such time as the lease would have come to an end had it not become merged in another interest and, for the purposes of that subsection, references (other than in paragraph (b) thereof) to the greater interest include references to an interest in land of which, on a disposal thereof by a charity, the greater interest was a part for the purposes of Part I of Schedule 2 to this Act.

- (4) In any case where—

- (a) on 12th September 1974 a charity held an option falling within section 8(1) above, and
 (b) the option was subsequently exercised, without it ever having been held otherwise than by a charity, and

- (c) the interest acquired by virtue of the exercise of the option (in this subsection and subsection (5) below referred to as "the substantive interest") was subsequently acquired by another charity, without its ever having been held otherwise than by a charity,

paragraph 8 of Schedule 2 to this Act shall have effect on a disposal of the substantive interest by a charity which acquired it as mentioned in paragraph (c) above as if—

- (i) the option had not been exercised at the time of that acquisition and the charity had acquired the option instead of the substantive interest, and
- (ii) immediately after its acquisition of the option the charity had acquired the substantive interest in exercise of the option,

so that the option constitutes a part of the relevant interest for the purposes of the said paragraph 8.

(5) References in subsection (4) above to the substantive interest include references to an interest in land of which, on a disposal thereof by a charity, the substantive interest was a part for the purposes of Part I of Schedule 2 to this Act.

(6) If, at any time after the disposal of an interest in land falling within any of paragraphs (a) to (c) of subsection (1) above, the body which made the disposal ceases to be a charity, then, immediately after it so ceases, an amount of realised development value equal, subject to subsection (7) below, to that in respect of which the exemption in subsection (1) above applied on the disposal shall be treated for the purposes of this Act as accruing to that body, as on the disposal of an interest in land.

(7) The amount of realised development value which is treated as accruing to a body under subsection (6) above shall not exceed the market value of the property (if any) which—

- (a) is held by that body immediately before the time at which it ceases to be a charity, and
- (b) is not immediately after that time held for charitable purposes by another body,

and for the purposes of this subsection section 7(1) above shall apply in relation to the market value of any property other than an interest in land as it applies in relation to the market value of an interest in land.

(8) Notwithstanding anything in section 45(2)(a) below, an interest in land acquired by a charity under a conditional contract entered into on or before 12th September 1974 shall be treated for the purposes of this section as held by the charity on that date.

25.—(1) If, on the deemed disposal of an interest in land to Charities: which subsection (1) of section 24 above does not apply (in this development on land section referred to as “the relevant interest”),— acquired after 12th September 1974.

- (a) realised development value accrues to a charity, and
- (b) the project of material development, the beginning of which is the occasion of the deemed disposal, relates to a building or other land to be used in whole or in part for the purposes of the charity,

then, subject to the following provisions of this section, liability for development land tax on such proportion of that realised development value as is properly attributable to property to be used by the charity shall be deferred until the occasion of the first subsequent disposal of the relevant interest which is neither—

- (i) a deemed disposal, nor
- (ii) if the relevant interest is a lease, a disposal which forms part of a transaction by which one lease is surrendered and a new lease is granted of the whole, or substantially the whole, of the land in which the relevant interest subsisted.

(2) For the purposes of this section, a building or other land constitutes property used by a charity if and to the extent that—

- (a) it is occupied solely by the charity for its own use ; or
- (b) it is otherwise used solely for carrying out the charitable purposes of the charity ;

and any reference to property to be used by a charity shall be construed accordingly.

(3) In any case where it appears to the Board or, on an appeal, to the Commissioners concerned that a project of material development falling within paragraph (b) of subsection (1) above relates exclusively to property to be used by a charity, the proportion of realised development value referred to in that subsection shall be 100 per cent., but, in any other case,—

- (a) the proportion properly attributable to the property to be used by the charity, and
- (b) the method of apportionment adopted,

shall be such as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(4) If both subsection (1) above and subsection (2) or subsection (4) of section 24 above apply in relation to the realised development value which accrues to a charity on the deemed disposal of an interest in land, then,—

- (a) in the first instance subsection (3) above shall apply, without regard to section 24 above, to determine the proportion of that realised development value which

is properly attributable to the property to be used by the charity ; and

- (b) for the purpose of determining the amount of realised development value on which liability for development land tax is deferred in accordance with this section, the proportion determined as mentioned in paragraph (a) above shall be applied only to so much of the realised development value which accrues to the charity as remains after deducting therefrom the amount on which, by virtue of section 24 above, the charity is not chargeable to development land tax.

(5) Immediately after a disposal of the relevant interest which forms part of a transaction falling within paragraph (ii) of subsection (1) above, that subsection, this subsection and section 27 below shall have effect as if the new lease were itself the relevant interest.

(6) Subject to subsection (7) below, if—

- (a) the whole or any part of a building or other land to which a project of material development falling within subsection (1)(b) above relates ceases at any time, otherwise than on the occasion of a disposal of the relevant interest, to constitute property used by a charity, and
- (b) at that time or at a subsequent time either the relevant interest ceases to be held by a charity or a non-qualifying use is established for the building or other land or part thereof to which paragraph (a) above applies,

the relevant interest or, if paragraph (a) above applies to part only of the building or other land, so much of the relevant interest as subsists in that part shall be treated for the purposes only of subsection (1) above and section 27 below as having been disposed of at the time when the condition in paragraph (b) above is fulfilled.

(7) For the purposes of subsection (6) above, a non-qualifying use is established for any building or other land or part thereof if, for at least half of any continuous period of twenty-four months, it is used in such circumstances that it does not constitute property used by a charity ; and accordingly the non-qualifying use shall be taken to be established at the expiry of the 365th day in that period on which the building or other land or part thereof is so used.

(8) No account shall be taken for the purposes of subsection (1) above or any provision of section 27 below of a disposal of an interest in land which—

- (a) is a part disposal falling within paragraph (a) of section 3(1) above ; and

(b) is made on such terms as to secure that the land is used for the charitable purposes of the charity.

(9) For the purposes of subsections (1) and (6)(a) above, a disposal shall be treated as a disposal of the relevant interest if it is a disposal of an interest in land of which the relevant interest is a part for the purposes of Part I of Schedule 2 to this Act.

26.—(1) Development land tax shall not be chargeable on any realised development value accruing to—

- (a) an approved co-operative housing association, or
- (b) a self-build society,

The Housing Corporation and certain housing associations.

on the deemed disposal of an interest in land by that association or society.

(2) If, on the deemed disposal of an interest in land by—

- (a) the Housing Corporation, or
- (b) a registered housing association which is neither an approved co-operative housing association nor a self-build society,

realised development value accrues to the Corporation or that association, liability to development land tax on that realised development value shall be deferred until the occasion of the first subsequent disposal of that interest which is neither a disposal to which subsection (3) below applies nor a deemed disposal; and for the purposes of this subsection a disposal shall be treated as a disposal of that interest if it is a disposal of an interest in land of which that interest is a part for the purposes of Part I of Schedule 2 to this Act.

(3) Subject to subsections (4) and (5) below, every disposal of an interest in land by a body specified in subsection (1) or subsection (2) above to a body so specified shall be treated for the purposes of this Act as a disposal (and acquisition) for which no consideration is given.

(4) Subsection (3) above does not apply—

- (a) to a deemed disposal, or
- (b) to a disposal occurring before the appointed day, or
- (c) to a disposal to an unregistered self-build society,

but a disposal shall not be regarded as one to which that subsection does not apply by reason only that it is in fact a disposal for which no consideration is given.

(5) Where section 10 above has effect in a case where the previous disposal is one to which subsection (3) above applies, paragraph (d) of subsection (2) of that section shall not apply but—

- (a) the chargeable person shall be treated as having acquired the relevant interest at the time which was the time of

acquisition of the donor's interest for the purposes of the previous disposal, and

- (b) section 6 above shall not apply where the material disposal is itself a disposal to which subsection (3) above applies,

and expressions to which a meaning is assigned by subsection (1) of section 10 above have in this subsection the meaning assigned by that subsection.

(6) Any reference in this section to a registered housing association includes a reference to a charity—

- 1960 c. 58. (a) which is an exempt charity, within the meaning of the Charities Act 1960 ; and
- (b) which is a housing association ; and
- 1974 c. 44. (c) which satisfies any criteria for the time being established as mentioned in section 13(4) of the Housing Act 1974 for housing associations seeking registration.

(7) In this section—

- 1970 c. 10. “ approved co-operative housing association ” means an association which is for the time being approved for the purposes of, and in accordance with, section 341 of the Income and Corporation Taxes Act 1970 ;
- 1957 c. 56.
1966 c. 49. “ housing association ” has, in England and Wales, the meaning assigned to it by section 189(1) of the Housing Act 1957 and, in Scotland, the same meaning as in section 208(1) of the Housing (Scotland) Act 1966 and, in Northern Ireland, the same meaning as in section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946 ;
- 1946 c. 4 (N.I.). “ registered ”, “ registration ” and “ unregistered ” have, except in Northern Ireland, the same meaning as in the Housing Act 1974 ;
- “ self-build society ” means a housing association whose object is to provide, for sale to or occupation by its members, dwellings built or improved principally by the use of its members' own labour, and for this purpose “ dwelling ” has, in England and Wales and in Northern Ireland, the meaning assigned to it by subsection (1) of section 129 of the Housing Act 1974 and, in Scotland, means a house within the meaning of section 208(1) of the Housing (Scotland) Act 1966 ; and
- “ unregistered self-build society ” means a self-build society which is not a registered housing association.

(8) In the application of this section to Northern Ireland, “registered”, in relation to a housing association, means a housing association approved for the purposes of this section by the Department of the Environment for Northern Ireland and “unregistered” shall be construed accordingly.

27.—(1) The provisions of this section shall have effect in any case where, by virtue of any provision of this Act, liability for development land tax on any realised development value (in this section referred to as “the accrued development value”) which accrued to any person on the deemed disposal of an interest in land (in this section referred to as “the deemed disposal”) is deferred until the occasion of a subsequent disposal (in this section referred to as “the operative disposal”) of the interest which was the subject matter of the deemed disposal. Deferred liability for development land tax.

(2) In a case where the provisions of this section have effect,—

(a) no liability for development land tax on the accrued development value shall be taken to arise on the deemed disposal; and

(b) at the time of the operative disposal, the person who is the chargeable person in relation to that disposal (in this section referred to as “the relevant person”) shall become liable in accordance with this section for development land tax on the accrued development value (in addition to being liable for development land tax on any realised development value which accrues to him on the operative disposal).

(3) Subject to subsection (4) below, the development land tax for which the relevant person becomes liable as mentioned in subsection (2) above in respect of the accrued development value is the amount by which—

(a) the development land tax for which, if that liability had not been deferred, the person who was the chargeable person in relation to the deemed disposal would have been liable in the financial year in which the deemed disposal occurred

exceeds

(b) the development land tax for which that person was in fact liable in that financial year, disregarding (if the operative disposal also occurred in that financial year) any development land tax in respect of the accrued development value.

(4) If the operative disposal is only a part disposal of the interest which was the subject matter of the deemed disposal, the relevant person shall become liable as mentioned in subsection (2) above for only such proportion of the amount of development land tax determined under subsection (3) above as

appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

(5) Where subsection (4) above has had effect in relation to a part disposal of the interest which was the subject matter of the deemed disposal and there is a further disposal which is neither a deemed disposal nor a disposal to which section 20(1) above applies but which is a disposal of an interest—

- (a) in the whole or any part of the land which was comprised in the project of material development the beginning of which was the occasion of the deemed disposal, and
- (b) which is, or is derived through any one or more disposals from, the interest which was the subject matter of the deemed disposal,

then, subject to subsection (6) below, the person who is the chargeable person in relation to that further disposal shall, at the time of that disposal, become liable for such further proportion (if any) of the amount of development land tax determined under subsection (3) above as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable (in addition to being liable for development land tax on any realised development value which accrues to him on that further disposal).

(6) The aggregate of the development land tax apportioned under subsections (4) and (5) above shall not exceed the total of the amount of development land tax determined under subsection (3) above.

(7) Any reference in this section to a disposal of the interest which was the subject matter of the deemed disposal includes a reference to a disposal to which Part I of Schedule 2 to this Act applies and in relation to which that interest is a part of the relevant interest for the purposes of that Part.

Trusts, settled property, partnerships, mortgagees and liquidators

Property held
on a bare
trust.

28.—(1) At any time when an interest in land is held on trust—

- (a) for a person absolutely entitled as against the trustees, or
- (b) for a person who would be so entitled but for being an infant or other person under disability,

this Act shall apply as if the interest were vested in, and the acts of the trustees in relation to the interest were the acts of, the person referred to in paragraph (a) or paragraph (b)

above (acquisitions from or disposals to the trustees by that person being disregarded accordingly).

(2) If at any time—

(a) an interest in land becomes held on trust as mentioned in subsection (1) above, and

(b) immediately before it came to be so held the interest in land was settled property,

then, for the purposes of this Act, the interest shall at that time be deemed to have been disposed of by the trustees as settled property and immediately reacquired by them as an interest held on trust as mentioned in subsection (1) above; and for those purposes the disposal and reacquisition by the trustees shall be assumed to have been made for no consideration (so that section 10 above applies).

(3) For the purposes of this section, an interest in land is held on trust for a person absolutely entitled as against the trustees where that person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees to resort to the interest for payment of duty, taxes, costs or other outgoings, to direct how that interest shall be dealt with.

In the application of this subsection to Scotland, the words from “subject” to “outgoings” shall be omitted.

(4) Any reference in this section to a person absolutely entitled as against the trustees or to a person who would be so entitled but for being an infant or other person under disability includes a reference to two or more persons who are or would be so entitled jointly; and in this subsection the expression “entitled jointly”,—

(a) except in the application of this subsection to Scotland, means entitled as joint tenants, tenants in common or as coparceners; and

(b) in the application of this subsection to Scotland, means entitled as joint owners or owners in common.

(5) In this Act—

(a) an interest in land which is held on trust as mentioned in subsection (1) above is referred to as being held on a bare trust; and

(b) in relation to an interest so held, any reference to the beneficiary or the beneficiaries is a reference to the person or persons for whom the interest is for the time being so held; and

(c) in relation to an interest in land (in Northern Ireland) which is settled land for the purposes of the Settled Land Act 1882 by virtue of section 59 of that Act

(infant absolutely entitled to be as tenant for life) any reference to the trustees includes a reference to any person entitled to exercise the powers of a tenant for life by virtue of an order under section 60 of that Act (powers of infant tenant for life to be exercised by trustees of the settlement or persons ordered by the court).

(6) If, immediately before a project of material development is begun on any land, an interest in that land which is held on a bare trust is a major interest, the interest of a beneficiary in that land is not a major interest for the purposes of this Act.

Disposal of
beneficial
interests under
bare trusts.

29.—(1) The provisions of this section apply if, where an interest in land is held on a bare trust, the beneficiary or one of the beneficiaries disposes of his interest in the property held on trust.

(2) For the purposes of this Act, in any case where the interest in land held on a bare trust forms part only of the property which is held on trust as mentioned in subsection (1) of section 28 above,—

- (a) the interest of a beneficiary in that property shall be treated as an interest in land only ; but
- (b) any consideration for the disposal of that interest shall be treated as reduced to such amount as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable, having regard to the value of that portion of the trust property which consists of property other than an interest in land.

(3) In the following provisions of this section the interest in land held on a bare trust is referred to as “ the legal interest ” and the interest disposed of as mentioned in subsection (1) above is referred to as “ the beneficial interest ”.

(4) Without prejudice to section 28(1) above, if there is only one beneficiary for whom the legal interest is held on trust, then, for the purposes of this Act,—

- (a) the disposal by the beneficiary of the beneficial interest shall be treated as a corresponding disposal by him of the legal interest ; and
- (b) the interest acquired by the person to whom the disposal is made shall be treated as the legal interest or, in the case of a part disposal, as the interest which would be the granted interest in relation to that corresponding disposal of the legal interest.

(5) Subject to subsections (6) and (7) below, where there is more than one beneficiary for whom the legal interest is held

on trust then, in the application of the provisions of this Act in relation to the disposal of the beneficial interest,—

- (a) the cost of acquisition, the market value and the current use value of the beneficial interest at any time, and
- (b) the expenditure on improvements or on relevant improvements, in relation to the beneficial interest,

shall (before taking account, where the disposal is a part disposal, of any provision of this Act applicable to part disposals) be taken to be the relevant fraction of the amounts which would be that cost, value or expenditure in relation to a disposal (not being a part disposal) of the legal interest occurring at the same time as the disposal of the beneficial interest.

(6) The relevant fraction referred to in subsection (5) above is that of which the numerator is the market value of the beneficial interest at the time of the disposal and the denominator is the aggregate of that market value and the market value at that time of the interest or interests of the other beneficiary or beneficiaries ; and subsection (5) above shall not have effect to determine the market value of any interest for the purposes of this subsection.

(7) In any case where the beneficiary acquired the whole or any part of the beneficial interest from a person who was a beneficiary at the time of the acquisition, subsection (5) above shall not apply to determine the cost of acquisition of the beneficial interest or, as the case may be, the part so acquired ; and for the purposes of this subsection any reference to a part of the beneficial interest is a reference to an interest which, in relation to the disposal of the beneficial interest, is such a part for the purposes of Part I of Schedule 2 to this Act.

(8) In any case where—

- (a) there is a disposal of an interest in land held on a bare trust (in this subsection referred to as “the relevant interest”), and
- (b) one of the beneficiaries acquired the whole or part of his interest in the land as mentioned in subsection (7) above, and
- (c) that beneficiary makes a claim in that behalf,

then, for the purposes of determining the amount of realised development value which accrues on the disposal and the liability of each beneficiary in respect of that realised development value, the disposal (but not the acquisition) of the relevant interest shall be treated as a contemporaneous disposal of each of the beneficial interests and the consideration for the disposal shall be apportioned accordingly ; but nothing in this subsection shall affect the operation of section 12 of this Act in relation to the disposal.

Settled
property.

30.—(1) Subject to subsection (8) below, in this Act “settled property” means an interest in land which is held on trust for any person or persons in such circumstances that it is not held on a bare trust, and, subject to the following provisions of this section, in relation to settled property, the trustees of the settlement shall for the purposes of this Act be treated as a single and continuing body of persons, distinct from the persons who may from time to time be the trustees.

(2) In relation to settled property which, in England and Wales or in Northern Ireland, is settled land,—

(a) the tenant for life or statutory owner for the time being, and

(b) the trustees of the settlement (so far as not comprised in the expression “statutory owner”),

shall be treated for the purposes of this Act as constituting and, in so far as they act separately, as acting on behalf of a single and continuing body of trustees distinct from the persons of whom that body is for the time being composed.

(3) In subsection (2) above—

(a) in its application in England and Wales, “settled land” and other expressions to which a meaning is assigned by the Settled Land Act 1925 have the same meaning as in that Act; and

(b) in its application in Northern Ireland “settled land” and other expressions to which a meaning is assigned by the Settled Land Act 1882 have the same meaning as in that Act and references to a statutory owner shall be construed as references to any person having under section 58 of that Act the powers of a tenant for life.

(4) For the purposes of this Act, in any case where land in Northern Ireland is settled land within the meaning of the Settled Land Act 1882 but, under the settlement, any estate or interest in land stands for the time being limited to any persons by way of succession without the interposition of any trust (and, accordingly, without being settled property, within the meaning of this Act),—

(a) the tenant for life and the trustees of the settlement (if any) shall nevertheless be treated as constituting a single and continuing body of trustees; and

(b) any disposal of an interest in land which is effected in exercise of the powers conferred by that Act or of any such additional or larger powers as are referred to in section 57 of that Act or which is otherwise effected by the tenant for life and could have been effected in exercise of those powers shall be treated as a disposal of settled property by that body of trustees; and

- (c) any realised development value which accrues on such a disposal shall be treated as accruing to that body of trustees ;

and expressions used in this subsection to which a meaning is assigned by section 2 of the Settled Land Act 1882 have the same meaning in this subsection as in that Act. 1882 c. 38.

(5) In the case of a settlement falling within subsection (4) above, the settled property which is treated as being the subject of a disposal falling within paragraph (b) of that subsection shall be deemed for the purposes of this Act to be the legal estate in fee simple or other interest which, by virtue of the settlement referred to in that subsection, stands limited to any persons by way of succession.

(6) Subject to subsection (7) below, if and so long as any land in Northern Ireland remains settled land, within the meaning of the Settled Land Act 1882, and subject to a settlement falling within subsection (4) above, neither—

- (a) the beneficial interest of the tenant for life referred to in subsection (4) above, nor
(b) any estate or interest in reversion or remainder which is comprised in the subject of the settlement for the purposes of that Act, nor
(c) any other interest arising under the settlement,

shall be treated for the purposes of this Act as an interest in land.

(7) In any case where, by virtue of the disposal to him of one or more interests falling within subsection (6) above and not by virtue of a disposal effected under the powers conferred by the Settled Land Act 1882, a person becomes entitled to an interest in land (in this subsection referred to as “the relevant interest”) which, in his hands, is not settled land, within the meaning of the Settled Land Act 1882, then,—

- (a) if he acquired the relevant interest or any part of it otherwise than for value, he shall be treated for the purposes of this Act as having so acquired the interest or part from the settlor by the disposal of an interest in land ; and
(b) if he acquired the whole or any part of the relevant interest for value, the disposal by virtue of which he acquired that interest or part shall be treated for the purposes of this Act as the disposal of an interest in land, notwithstanding that, immediately before the disposal, the interest disposed of was an interest falling within subsection (6) above ;

and for the purposes of this subsection a part of the relevant interest means an interest which, disregarding the provisions of

subsection (6) above, would be such a part for the purposes of the application of Part I of Schedule 2 to this Act to a disposal of the relevant interest.

(8) In this Act “settled property” does not include an interest in land held by a person as trustee or assignee in bankruptcy or under a deed of arrangement or, as respects Scotland, as trustee on a sequestrated estate or as a judicial factor who has powers or duties corresponding to those possessed by such a trustee, or as trustee for behoof of creditors.

(9) Subsections (2) and (3) above do not extend to Scotland and subsections (4) to (7) above extend to Northern Ireland only.

Partnerships.

31. Where two or more persons carry on a trade or business in partnership—

- (a) any partnership dealings shall be treated as dealings by the partners and not by the firm as such; and
- (b) development land tax in respect of realised development value accruing to the partners on the disposal of an interest in land or for which the partners otherwise become liable at any time shall, in Scotland as well as elsewhere in the United Kingdom, be charged on them separately.

Enforcement of security by mortgagees and other creditors.

32.—(1) Subject to subsection (3) below, where a person entitled to a security in any land or to the benefit of a charge or incumbrance affecting any land deals with an interest in that land for the purpose of enforcing or giving effect to his security, charge or incumbrance, his dealings with the interest in land shall be treated for the purposes of this Act as if they were done by him as bare trustee for the person entitled to that interest in land subject to the security, charge or incumbrance.

(2) Subsection (1) above shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance referred to in that subsection, whether as receiver and manager or judicial factor, as it applies to the dealings of the person entitled as mentioned in that subsection.

(3) Where, as a result of an order for foreclosure, or, in Scotland, of the recording of an extract of a decree of foreclosure, an interest in land becomes vested beneficially in a creditor, that interest shall be treated as having been disposed of by the borrower and acquired by the creditor for a consideration equal to the amount of principal, interest and costs, payment of which in due time would have prevented the foreclosure becoming absolute, or, in Scotland, the granting of the decree of foreclosure.

(4) If a foreclosure is reopened after an order absolute, such adjustments, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as may be required in consequence.

(5) Any reference in this section to a security in any land is a reference to an interest falling within paragraph (a) or paragraph (b) of subsection (2) of section 46 below.

(6) In relation to Scotland, in subsection (3) above "decree of foreclosure" includes a decree granted under section 8 of the Heritable Securities (Scotland) Act 1894 and subsection (4) above 1894 c. 44. does not apply.

(7) Subsections (3) and (4) above do not apply to Northern Ireland.

33.—(1) Where any property belonging to a company or held by trustees on behalf of a company is vested in a liquidator under section 244 of the Companies Act 1948 or section 226 of the Companies Act (Northern Ireland) 1960 or otherwise, this Act shall have effect as if any interest in land comprised in that property were vested in, and the acts of the liquidator in relation to that interest were the acts of, the company (acquisitions from or disposals to the liquidator by the company being disregarded accordingly). Liquidators and trustees in bankruptcy, etc.
1948 c. 38.
1960 c. 22 (N.I.).

(2) Subject to subsections (3) and (4) below, at any time when an interest in land is held by a person as trustee or assignee in bankruptcy or under a deed of arrangement or, as respects Scotland, by a trustee for behoof of creditors, the provisions of this Act shall apply as if the interest were vested in, and the acts of the trustee or assignee in relation to the interest were the acts of, the bankrupt or debtor (acquisitions from or disposals to him by the bankrupt or debtor being disregarded accordingly), and development land tax in respect of any realised development value which accrues to any such trustee or assignee shall be assessable on and recoverable from the trustee or assignee.

(3) If, at the death of a bankrupt or debtor, an interest in land is held by a trustee or assignee in bankruptcy or under a deed of arrangement or, as respects Scotland, by a trustee for behoof of creditors, then, in relation to events after the death, subsection (2) above shall not apply and the provisions of this Act shall have effect as if—

- (a) the interest had been held by the bankrupt or debtor immediately before his death and had devolved on his death upon the trustee or assignee; and
- (b) the trustee or assignee were a personal representative of the deceased.

(4) Where an interest in land is acquired by a trustee in bankruptcy after the death of the bankrupt or debtor, subsection (2) above shall not apply and the provisions of this Act shall have effect as if the trustee were a personal representative of the deceased.

(5) In the application of this section to Scotland, "trustee in bankruptcy" means a trustee on a sequestrated estate and includes a judicial factor who has powers and duties corresponding to those possessed by a trustee on a sequestrated estate.

Other taxes

Interaction of
development
land tax with
other taxes.

34.—(1) The provisions of Schedule 6 to this Act shall have effect where development land tax falls to be charged on the realisation of development value which is also brought into account, in whole or in part, for the purposes of—

- (a) tax on chargeable gains ;
- (b) tax on profits or gains of a trade ;
- (c) estate duty ;
- (d) capital transfer tax ;
- (e) section 80 or section 82 of the Income and Corporation Taxes Act 1970 (certain capital sums to be taxable as rent) ; or
- (f) Chapter I of Part III of the Finance Act 1974 (development gains from land).

1970 c. 10.

1974 c. 30.

(2) Without prejudice to subsection (1) above, payments of development land tax shall not be available as a deduction in computing the amount of the profits or gains of a trade or the amount of a chargeable gain.

(3) In Schedule 6 to this Act—

- (a) a "CGT disposal" means a disposal, for the purposes of tax on chargeable gains, of an asset consisting of an interest in land ;
- (b) a "DLT disposal" means a disposal (within the meaning of this Act) of an interest in land, other than a disposal for which no consideration is given ;
- (c) a "trading disposal" means a disposal of an interest in land where the proceeds of the disposal or the market value of the interest disposed of fell or falls to be included in the computation of the profits or gains of a trade carried on by any person ; and
- (d) a "CTT transfer" means a transfer of value, for the purposes of capital transfer tax,—
 - (i) on the occasion of which an interest in land is acquired by any person, and

(ii) which, subject to subsection (5) below, gives rise to liability for capital transfer tax, or a capital distribution, as defined in section 51(1) of the Finance Act 1975, made on the occasion of a 1975 c. 7. transaction on which an interest in land is acquired by any person.

(4) If, by virtue of any provision of this Act, liability for development land tax on any realised development value which accrues on a deemed disposal is deferred until a subsequent disposal or other event, then, without prejudice to the operation of section 12(8) of this Act, for the purposes of Schedule 6 to this Act and, in particular, for the purpose of determining whether any chargeable realised development value accrues on that deemed disposal and, if so, the amount of that chargeable realised development value, the liability shall be assumed not to have been deferred.

(5) In any case where the whole or any part of the land in which the interest referred to in sub-paragraph (i) of paragraph (d) of subsection (3) above subsists is designated as property to which section 34 of the Finance Act 1975 applies (conditional exemption for certain buildings etc., on death) it shall be assumed for the purpose only of determining whether the condition in sub-paragraph (ii) of that paragraph is fulfilled that tax has become chargeable with respect to that land or part thereof in accordance with subsection (7) of that section.

(6) Subsections (2) and (2A) of section 51 of the Finance Act 1975 (construction of references to transfer of value and the value transferred by chargeable transfers) shall have effect in relation to the provisions of subsection (3)(d) above and paragraphs 18 to 24 of Schedule 6 to this Act as if those provisions were included in Part III of the Finance Act 1975.

(7) For the purposes of Schedule 6 to this Act, a person (in this subsection referred to as "A") who makes a disposal of an interest in land (in this subsection referred to as "the relevant interest") claims for DLT purposes through another person (in this subsection referred to as "B") if—

- (a) no consideration was given for A's acquisition of the relevant interest, and
- (b) B has made a disposal of an interest in land for which no consideration was given, and
- (c) in the application of subsection (2) of section 10 above for the purpose of determining the relevant base value of the relevant interest on the disposal in question, the disposal referred to in paragraph (b) above is the previous disposal,

and in any case where, by virtue of the preceding provisions of this subsection, B himself claimed for DLT purposes through another person in relation to the making of the disposal referred

to in paragraph (b) above, A also claims for DLT purposes through that other person.

Termination
of tax on
development
gains.

1974 c. 30.

35.—(1) Subject to subsection (2) and sections 36 and 37 below, no part of a chargeable gain which accrues to any person on the disposal of an interest in land on or after the appointed day shall be a development gain by virtue of Chapter I of Part III of the Finance Act 1974 (in this section referred to as “the enactment relating to development gains”).

(2) Nothing in section 45 below shall be taken as affecting the time at which an interest in land is disposed of for the purposes of tax on chargeable gains (or the enactment relating to development gains) and in any case where the disposal of an interest in land occurs—

- (a) before the appointed day for the purposes of liability to development land tax, and
- (b) on or after that day for the purposes of tax on chargeable gains,

subsection (1) above shall not affect the application of the enactment relating to development gains in relation to that disposal.

(3) In the following provisions of Schedule 3 to the Finance Act 1974, namely,—

- (a) sub-paragraphs (1) and (6) of paragraph 11 (computation of development gain in respect of disposal of interest in land after material development has been carried out),
- (b) sub-paragraphs (1) and (4) of paragraph 12 (computation of development gain in respect of disposal of interest in land reflecting expenditure on enhancement), and
- (c) sub-paragraphs (1) and (2) of paragraph 13 (provisions supplementary to paragraphs 11 and 12),

after the words “17th December 1973”, in each place where they occur, there shall be inserted the word “and” and after the words “acquired the interest”, in each place where they occur, there shall be added or, as the case may require, inserted the words “but before the appointed day, within the meaning of the Development Land Tax Act 1976”.

(4) In this section “disposal” has the same meaning as it has for the purposes of tax on chargeable gains.

Exclusion of
s. 35 in
certain cases
where
development
began before
appointed
day.

36.—(1) In any case where,—

- (a) after 17th December 1973 and before the appointed day, material development was begun on any land, and
- (b) in the period beginning immediately before the date on which that development was begun and ending

immediately before the appointed day any material interest in the land comprised in the development was not subject to a disposal excluding, for this purpose, a no gain/no loss disposal,

section 35(1) above shall not affect the application of the enactment relating to development gains in relation to the first disposal of that material interest which occurs on or after the appointed day and is not a no gain/no loss disposal.

(2) Part I of Schedule 3 to the Finance Act 1974 shall have 1974 c. 30. effect to determine for the purposes of this section what is material development and the date on which any such development is to be taken to be begun, and for the purposes of this section—

- (a) “material interest”, in relation to the land comprised in any material development, means any interest which was in existence immediately before the development began or which came into existence in the period referred to in subsection (1)(b) above; and
- (b) on the occasion of a disposal within that period of part of a material interest, only the interest which is acquired by the person to whom the disposal is made shall be taken to have been subject to a disposal.

(3) If, on or after the appointed day,—

- (a) there is a no gain/no loss disposal of a material interest which has not previously been the subject of a chargeable disposal, and
- (b) as a result of that disposal an interest in land comes into being which, apart from this subsection, would not be a material interest,

the interest referred to in paragraph (b) above shall be treated for the purposes of subsections (1) and (2) above and subsection (4) below as if it were itself a material interest falling within subsection (1)(b) above.

(4) In any case where—

- (a) a material interest was not the subject of a chargeable disposal before the appointed day, and
- (b) the first disposal of that interest which occurs on or after the appointed day and is not a no gain/no loss disposal is a disposal of part only of that interest,

the part of the interest which remains after the disposal shall be treated for the purposes of subsections (1) to (3) above as if it were itself a material interest falling within subsection (1)(b) above.

(5) For the purposes of the enactment relating to development gains, in any case where—

- (a) by virtue of the preceding provisions of this section that enactment applies in relation to the disposal of an interest in land on or after the appointed day, and
- (b) the amount which for the purposes of that enactment is the net proceeds of the disposal would, apart from this subsection, be greater than the amount which for those purposes is the current use value of the interest disposed of at the time of the disposal,

the net proceeds of the disposal shall be taken to be an amount equal to that current use value.

(6) For the purposes of this section—

- (a) “chargeable disposal”, in relation to an interest in land on which material development was begun as mentioned in subsection (1)(a) above, means a disposal which occurs on or after the date on which that development was begun and is a disposal to which the enactment relating to development gains applies;
- (b) “disposal” has the meaning which it has for the purposes of tax on chargeable gains;
- (c) “the enactment relating to development gains” has the meaning assigned to it by section 35(1) above; and
- (d) a “no gain/no loss disposal” of an interest in land means a disposal on which, by virtue of any enactment, the person making the disposal and the person to whom the disposal is made fall to be treated for the purposes of tax on chargeable gains as if the latter’s acquisition were for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss would accrue to the person making the disposal.

Exclusion of s. 35 in case of certain interests acquired before appointed day.

37.—(1) In any case where—

- (a) after 17th December 1973 and before the appointed day, a person acquired an interest in land (in this subsection and subsections (2) to (4) below referred to as “the relevant interest”) on the occasion of a no gain/no loss disposal, and
- (b) that no gain/no loss disposal was not a disposal to which section 20(1) above applied, and
- (c) in the period beginning immediately after that acquisition and ending immediately before the appointed day,

there has been no disposal of the relevant interest, other than a no gain/no loss disposal,

section 35(1) above shall not affect the application of the enactment relating to development gains in relation to the first disposal of the relevant interest which occurs on or after the appointed day and is not a no gain/no loss disposal.

(2) If, in a case where subsection (1) above applies, there occurs within the period specified in paragraph (c) of that subsection a disposal of part of the relevant interest, then,—

- (a) this section shall have effect as if the part which remains were itself the relevant interest ; and
- (b) if that disposal is a no gain/no loss disposal, this section shall also have effect as if the interest acquired as a result of the disposal were itself another interest to which paragraphs (a) to (c) of subsection (1) above apply.

(3) If, on or after the appointed day,—

- (a) there is a no gain/no loss disposal of the relevant interest, and
- (b) that disposal is a disposal of part only of the relevant interest, and
- (c) there has not previously (but on or after the appointed day) been a disposal of the relevant interest to which the enactment relating to development gains applies,

not only the part of the relevant interest which remains after the disposal but also the interest acquired as a result of the disposal shall be treated for the purposes of this section as an interest to which paragraphs (a) to (c) of subsection (1) above apply.

(4) If, in a case where subsection (1) above applies, the first disposal of the relevant interest which occurs on or after the appointed day and is not a no gain/no loss disposal is a disposal of part only of the relevant interest, this section shall have effect in relation to the part which remains as if it were a separate interest to which paragraphs (a) to (c) of subsection (1) above apply.

(5) In any case where—

- (a) a lease was granted after 17th December 1973 and before the appointed day, and
- (b) in the period beginning immediately after the grant of the lease and ending immediately before the appointed day there has been no disposal, other than a no gain/no loss disposal, of the interest in land out of which the lease was granted (in this subsection and

the following provisions of this section referred to as “the reversion”),

section 35(1) above shall not affect the application of the enactment relating to development gains in relation to the first disposal of the reversion which occurs on or after the appointed day and is not a no gain/no loss disposal.

(6) If, in a case where subsection (5) above applies, there occurs within the period specified in paragraph (b) of that subsection a disposal of part of the reversion, then,—

- (a) this section shall have effect as if the part which remains were itself the reversion ; and
- (b) if that disposal is a no gain/no loss disposal, this section shall also have effect as if the interest acquired as a result of the disposal were itself an interest in land out of which a lease falling within paragraph (a) of subsection (5) above was granted.

(7) If, on or after the appointed day,—

- (a) there is a no gain/no loss disposal of the reversion, and
- (b) that disposal is a disposal of part only of the reversion, and
- (c) there has not previously (but on or after the appointed day) been a disposal of the reversion to which the enactment relating to development gains applies,

not only the part of the reversion which remains after the disposal but also the interest acquired as a result of the disposal shall be treated for the purposes of this section as an interest in land out of which a lease falling within paragraph (a) of subsection (5) above was granted.

(8) If, in a case where subsection (5) above applies, the first disposal of the reversion which occurs on or after the appointed day and is not a no gain/no loss disposal is a disposal of part only of the reversion, this section shall have effect in relation to the part which remains as if it were a separate interest in land out of which a lease falling within paragraph (a) of subsection (5) above was granted.

(9) For the purposes of this section,—

- (a) “disposal” has, except in subsection (1)(b) above, the meaning which it has for the purposes of tax on chargeable gains ;
- (b) “the enactment relating to development gains” has the meaning assigned to it by section 35(1) above ; and
- (c) a “no gain/no loss disposal” of an interest in land means a disposal on which, by virtue of any enactment, the person making the disposal and the person

to whom the disposal is made fall to be treated for the purposes of tax on chargeable gains as if the latter's acquisition were for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss would accrue to the person making the disposal.

38.—(1) On and after the appointed day, no interest in land shall be deemed to be disposed of and immediately reacquired by virtue of, and for the purposes of the provisions specified in, section 45(1) of the Finance Act 1974 (first letting charge) unless the relevant development relating to the chargeable building in question was begun before 18th May 1976. Termination of first letting charge. 1974 c. 30.

(2) In subsection (1) above the expressions "chargeable building" and "the relevant development" have the meaning assigned to them by section 46 of the Finance Act 1974, and paragraph 9 of Schedule 3 to that Act shall have effect to determine the date on which the relevant development is to be taken to be begun.

(3) In any case where, on or after the appointed day, an interest in land is deemed to be disposed of and immediately reacquired as mentioned in subsection (1) above, nothing in section 35(1) above shall affect the operation of Chapter I of Part III of the Finance Act 1974 (development gains) in relation to the disposal.

*Deduction, administration and collection
of development land tax*

39.—(1) Subject to subsection (2) below, on the disposal of an interest in land to— Deduction of development land tax from consideration in case of certain disposals to exempt bodies.

- (a) a body specified in any of paragraphs (a) to (d) of subsection (1) of section 11 above, or
- (b) any other exempt body which, in relation to the disposal of that interest, is an authority possessing compulsory powers,

the body shall, on paying any amount by way of consideration for the disposal, make a deduction in accordance with this section on account of any development land tax for which the chargeable person may be liable on the disposal.

(2) Subsection (1) above does not apply to a disposal of an interest in land by a body which is itself an exempt body.

(3) In this section and in Schedule 7 to this Act—

- (a) a "material disposal" means a disposal falling within subsection (1) above; and
- (b) in relation to a payment of consideration and in relation to a material disposal in respect of which there is

only one payment of consideration, the "DLT deduction" means the amount of the deduction made from that payment in accordance with subsection (1) above, and in relation to a material disposal in respect of which there is more than one payment of consideration the "DLT deduction" means the aggregate of the DLT deductions made in respect of each of those payments.

(4) Where, in connection with a material disposal, an exempt body makes a payment of consideration from which it deducts a DLT deduction, the body shall furnish to the chargeable person a statement in writing showing—

- (a) what the amount of that payment would be if no deduction were made in accordance with this section ;
- (b) the amount of the DLT deduction ; and
- (c) the amount actually paid by way of consideration ;

and a statement under this subsection shall be either in a form prescribed by the Board or in a form authorised by them for use in substitution for the form prescribed and containing a statement that it has been so authorised.

(5) Where, in connection with a material disposal, the chargeable person is furnished with a statement under subsection (4) above, he shall be treated for all purposes—

- (a) as having received (in addition to any consideration actually paid) an amount by way of consideration for the disposal equal to the DLT deduction shown in the statement ; and
- (b) as having paid to the Board, in respect of the disposal, an amount of development land tax equal to that DLT deduction.

(6) If an amount of development land tax, in addition to that represented by the DLT deduction, is payable by the chargeable person in respect of the realised development value which accrues on a material disposal, the amount of any development land tax so paid shall be payable by the Board to the exempt body to whom the disposal is made.

(7) Any amount which is treated as having been paid to the Board by virtue of subsection (5)(b) above or which is payable by the Board to an exempt body by virtue of subsection (6) above shall be regarded—

- (a) as not forming part of the gross revenues which the Board are required, under section 10 of the Exchequer and Audit Departments Act 1866 (gross revenues to be paid to Exchequer), to pay to the account referred to in that section ; and

- (b) as not being included in the money and securities collected or received as mentioned in section 1(2) of the Public Accounts and Charges Act 1891 (money ^{1891 c. 24.} collected by the Board to be paid or remitted to a special account at the Bank).

(8) The provisions of Schedule 7 to this Act shall have effect for supplementing the provisions of this section and, in particular, with respect to—

- (a) the notices and information to be given to and by the Board ;
- (b) the determination of the amount of the DLT deduction in any case ;
- (c) the procedure for making the DLT deduction and accounting for it to the Board ;
- (d) interest on sums deducted ;
- (e) the inspection of books, accounts and other documents and records on behalf of the Board ; and
- (f) the finalisation of the liability of the chargeable person for development land tax in respect of realised development value accruing on a material disposal.

(9) The Board may by regulations made by statutory instrument make further provision with respect to the matters specified in paragraphs (b), (c) and (f) of subsection (8) above, and in connection with any such provision may by such regulations make incidental or consequential amendments of Schedule 7 to this Act and—

- (a) no regulations containing provisions with respect to the matter specified in paragraph (b) of that subsection shall be made unless a draft of the regulations has been laid before and approved by a resolution of the Commons House of Parliament ; and
- (b) a statutory instrument containing any other regulations under this subsection shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(10) In this section and Schedule 7 to this Act “ exempt body ” means—

- (a) a body which, on the disposal by it of an interest in land, would not be chargeable to development land tax by virtue of section 11 above ; or
- (b) a Minister of the Crown or government department, including a department of the Government of Northern Ireland.

Deduction on account of development land tax from consideration for disposals by non-residents.

40.—(1) If at any time a person whose usual place of abode is outside the United Kingdom disposes of an interest in land in the United Kingdom which, at that time, is development land and the disposal is not a disposal falling within section 39(1) above, then, subject to and in accordance with this section, the person to whom the disposal is made shall, on paying the consideration or any part of the consideration for his acquisition of the interest disposed of or, as the case may be, the granted interest, make a deduction on account of any liability of the chargeable person for development land tax on the disposal.

(2) Subsection (1) above does not apply to a disposal if the consideration for the disposal, or so much of that consideration as is payable within the period of seven years beginning on the date of the disposal, does not exceed £10,000 ; and in the case of a disposal which consists of the grant of a lease, paragraphs 26 to 28 of Schedule 2 to this Act shall not apply to determine whether subsection (1) above applies to the disposal.

(3) No deduction shall be made by virtue of this section—

- (a) from any payment of rent, or
- (b) from any other instalment of consideration which falls to be paid after the expiry of the period of eight years beginning on the date of the disposal,

but the deduction to be made from any other payment of consideration for a disposal to which subsection (1) applies shall be one half of the amount which would be payable apart from this section.

(4) On making a payment from which a deduction is made by virtue of this section, the person making the payment shall forthwith remit the amount deducted to the Board and furnish to the Board and to the chargeable person a certificate in a form prescribed by the Board identifying the disposal and the person by whom it was made and showing—

- (a) what the payment would have been if no deduction had been made by virtue of this section ;
- (b) the amount deducted ; and
- (c) the amount actually paid.

(5) Where, in connection with a disposal to which subsection (1) above applies, a certificate is furnished to the chargeable person in accordance with subsection (4) above, he shall be treated for all purposes—

- (a) as having received (in addition to any payment actually made) a payment of consideration in respect of that disposal equal to the amount deducted, as stated in the certificate ; and

- (b) as having paid to the Board, in respect of any liability of his for development land tax on the disposal, an amount equal to the amount deducted, as stated in the certificate.

(6) If any person who is required to make a deduction from a payment by virtue of this section fails to remit to the Board the amount required to be so deducted or, if it is greater, the amount certified as being deducted in accordance with subsection (4) above, a sum of that amount shall be recoverable from him by the Board as if it were an amount of development land tax accruing due from him on the date on which he made the payment from which the deduction fell to be made.

(7) The Board may by regulations made by statutory instrument make provision for supplementing the provisions of this section and, in particular,—

- (a) make exceptions, in circumstances specified in the regulations, from the requirement to make a deduction under subsection (1) above ;
- (b) vary the amount required to be deducted by virtue of this section in particular cases ; and
- (c) make provision with respect to the interest to be allowed to the chargeable person where a deduction required to be made under subsection (1) above is made before the reckonable date ;

and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(8) For the purposes of subsection (1) above, land is development land at the time of a disposal of an interest in it if—

- (a) there is in force at that time planning permission authorising any material development of the whole or any part of the land ; and
- (b) the material development referred to in paragraph (a) above was not comprised in any project of material development begun before that time.

41.—(1) For the purposes of—

- (a) placing development land tax under the care and management of the Board, and

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of development
land tax.

- (b) the application of the provisions of the Taxes Management Act 1970 in relation to development land tax, 1970 c. 9.

that Act shall be amended in accordance with Part I of Schedule 8 to this Act.

(2) In Schedule 8 to this Act—

- (a) Part II shall have effect with respect to the notices and information to be given for the purposes of this Act and the penalties for failure to give such notices and information ;
- (b) Part III shall have effect with respect to the payment of development land tax ; and
- (c) Part IV shall have effect for supplementing the provisions of this section and the preceding provisions of that Schedule.

Supplementary

Priority of development land tax in bankruptcy and winding up.

42.—(1) In a bankruptcy or winding up under the law of any part of the United Kingdom development land tax shall have the same priority as income tax.

(2) In the application of this Act to Northern Ireland the reference in subsection (1) above to priority in bankruptcy includes a reference to any other priority given to income tax under the Bankruptcy Acts (Northern Ireland) 1857 to 1964.

(3) In the enactments relating to priority of debts, as those enactments have effect in relation to development land tax by virtue of subsection (1) above, the reference to one year's assessment shall be construed as a reference to the amount of development land tax the liability for which arose in one financial year.

(4) The enactments relating to priority of debts referred to in subsection (3) above are:—

1913 c. 20.
1914 c. 59.
1948 c. 38.
1960 c. 22
(N.I.).

- (a) section 118(1)(a) of the Bankruptcy (Scotland) Act 1913 ;
- (b) section 33(1)(a) of the Bankruptcy Act 1914 ;
- (c) section 319(1)(a)(ii) of the Companies Act 1948 ;
- (d) section 287(1)(a)(ii) of the Companies Act (Northern Ireland) 1960 ; and
- (e) section 1(1)(a)(ii) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.

1964 c. 32
(N.I.).

Use of capital money to pay development land tax.
1925 c. 18.
1925 c. 20.
1925 c. 24.

43.—(1) In relation to England and Wales,—

- (a) the purposes authorised for the application of capital money by section 73 of the Settled Land Act 1925, by that section as applied by section 28 of the Law of Property Act 1925 in relation to trusts for sale and by section 26 of the Universities and College Estates Act 1925, and
- (b) the purposes authorised by section 71 of the Settled Land Act 1925, by that section as applied by section

28 of the Law of Property Act 1925 in relation to trusts for sale and by section 30 of the Universities and College Estates Act 1925 as purposes for which money may be raised by mortgage,

shall include the discharge of any sum payable in respect of development land tax, other than a sum payable by way of interest under Schedule 8 to this Act.

(2) In relation to Scotland, for the purposes of discharging any sum payable in respect of development land tax, other than a sum payable by way of interest under Schedule 8 to this Act, a trustee, a proper liferenter or an heir of entail in possession shall have power to expend capital money and to sell, or to borrow money on the security of, the estate or any part thereof, heritable as well as moveable.

(3) In relation to Northern Ireland,—

(a) the purposes authorised for the application of capital money by section 21 of the Settled Land Act 1882, 1882 c. 38. and

(b) the purposes authorised by section 11 of the Settled Land Act 1890 as purposes for which money may be raised by mortgage, 1890 c. 69.

shall include the discharge of any sum payable in respect of development land tax, other than a sum payable by way of interest under Schedule 8 to this Act.

44.—(1) Where the terms of a lease include provision for the extension of the lease beyond a given date by notice given the tenant, it shall be assumed for the purposes of this Act, other than section 2 thereof, that the term of the lease will extend for as long as it can be extended by the tenant. Duration of leases: effect of extensions, terminations and variations.

(2) If a lease comes to an end on a day before its presumed expiry date (whether by agreement between the parties, by forfeiture or for any other reason) it shall be assumed for the purposes of this Act, other than this subsection, that the tenant has on that day surrendered the lease to the landlord.

(3) In subsection (2) above “presumed expiry date”, in relation to a lease, means the date on which the term of the lease will expire in accordance with the grant or, where subsection (1) above applies, by virtue of that subsection.

(4) Where there is a material variation of the terms and conditions of a lease, it shall be assumed for the purposes of this Act, other than this subsection,—

(a) that the tenant has surrendered the lease to the landlord immediately before the time at which the variation comes into force; and

(b) that the landlord, by a part disposal of his interest, has granted to the tenant a new lease taking effect immediately after that time and, so far as that assumption allows, on the terms and conditions of the lease then in force.

(5) For the purposes of subsection (4) above, there is a material variation of the terms and conditions of a lease where—

(a) there is a variation of any terms and conditions which, on a disposal, would be relevant to determine the duration of the lease for the purposes of this Act, other than section 2 above; or

(b) the terms and conditions are varied by the release or modification of a covenant or agreement restricting the material development of any of the land in which the lease subsists.

Time of disposal and acquisition of interests in land.

45.—(1) The provisions of this section shall have effect for determining the time at which, for the purposes of liability to development land tax, an interest in land is to be taken to be disposed of or acquired.

(2) Subject to subsections (2) and (3) of section 3 above and the following provisions of this section, where under a contract an interest in land is disposed of and that interest or, in the case of a part disposal, the granted interest is acquired, then,—

(a) if the contract is conditional (and, in particular, if it is conditional on the exercise of an option) the time at which the disposal and acquisition is made is the time when the condition is satisfied; and

(b) in any other case, the time at which the disposal and acquisition is made is the time the contract is made and not, if it is different, the time at which the interest is conveyed or transferred.

(3) For the purposes of this Act where, at the time a person holds an interest in land, there is a deemed disposal and reacquisition of that interest, then, except in so far as any provision of this Act otherwise provides, the time at which that person acquired that interest is the time of the reacquisition (or, if there is more than one deemed disposal and reacquisition of the interest, the time of the last such reacquisition).

(4) Subject to subsections (5) and (8) below, where an interest in land is acquired compulsorily by an authority possessing compulsory powers, the time at which the disposal and acquisition is made is the time at which the compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose) or, if earlier, the time when the authority enter on the land in pursuance of their powers.

(5) Subject to subsection (8) below, where an interest in land is acquired—

- (a) in England, Scotland or Wales by virtue of a general vesting declaration, within the meaning of Schedule 3 to the Town and Country Planning Act 1968 or, in 1968 c. 72. Scotland, Schedule 24 to the Town and Country Planning (Scotland) Act 1972, or 1972 c. 52.

(b) in Northern Ireland by way of a vesting order, the time at which the disposal and acquisition is made is the end of the period specified in the declaration or, in Northern Ireland, the time at which the vesting order becomes operative.

(6) Subject to subsection (9) below, if the disposal of an interest in land under a conditional contract entered into before 13th September 1974 is made for a consideration not depending wholly or mainly on the value of the interest at the time the condition is satisfied, then for the purposes of subsection (2) above the contract shall be treated (on the condition being satisfied) as if it had never been conditional.

(7) Subject to subsection (9) below, where an owner of an interest in land had before 13th September 1974 arranged (without entering into a binding contract) to dispose of that interest to another person and—

- (a) the arrangement was made in writing or is evidenced by a memorandum or note thereof so made before that date, and
- (b) he disposes of the interest to that other person under a contract which is entered into within the period of twelve months beginning on the appointed day and of which the terms do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the owner,

the contract, if not conditional, shall be treated for the purposes of subsection (2)(b) above as made before the appointed day and, if conditional, shall be treated for the purposes of subsection (6) above as entered into before 13th September 1974.

(8) Subject to subsection (9) below, where an interest in land is disposed of on or after the appointed day to an authority possessing compulsory powers then, if notice to treat in respect of that interest was (or is by virtue of any enactment deemed to have been) served before 13th September 1974 on the person making the disposal, the disposal shall be treated for the purposes of this Act as having been made before the appointed day.

(9) Nothing in subsections (6) to (8) above shall apply to determine the time at which an interest in land is to be taken to be acquired.

Interests in
land.

46.—(1) Subject to subsection (2) below, except where the context otherwise requires, in this Act the expression “interest in land” means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on the other’s ability to grant the estate, interest or right in question.

(2) Notwithstanding anything in subsection (1) above, the expression “interest in land” does not in this Act include—

- (a) the interest of a creditor (other than a creditor in respect of a rent charge) whose debt is secured by way of a mortgage or charge of any kind over land or an agreement for any such mortgage or charge ; or
- (b) in Scotland, the interest of a creditor in a charge or security of any kind over land (other than a creditor in a contract of ground annual) ; or
- (c) the interest of a beneficiary in any settled property.

(3) Without prejudice to paragraphs (a) and (b) of subsection (2) above, the conveyance or transfer by way of security of an interest in land (including a re-conveyance or re-transfer on redemption of the security) shall not be treated for the purposes of this Act as constituting a disposal or acquisition of that interest.

(4) For the avoidance of doubt, it is hereby declared that, in a case where an interest in land is held on a bare trust, the interest of a beneficiary in the proceeds of sale of that interest (as well as the interest of a beneficiary in the land itself) is for the purposes of this Act an interest in land.

(5) In this Act the expression “lease” does not include any interest which, by virtue of subsection (2) above, is not an interest in land, but, subject to that, that expression—

- (a) comprehends any leasehold tenancy, whether in the nature of a head lease, sub-lease or underlease, and
- (b) includes an agreement to grant any such leasehold tenancy,

and, in their application to a lease which consists of such an agreement as is referred to in paragraph (b) above, expressions appropriate to a lease which has been granted (such as “landlord”, “reversion”, “tenant” and “term”) shall be construed accordingly.

Interpretation.

47.—(1) In this Act, unless the context otherwise requires,—
“appointed day” means such day as the Treasury may by order made by statutory instrument appoint ;
“authority possessing compulsory powers” means, in relation to a disposal of an interest in land, a person

- acquiring the interest compulsorily, or who has been or could be authorised to acquire it compulsorily for the purposes for which it is acquired, or for whom another person has been or could be authorised so to acquire it ;
- “ beneficiary ”, in relation to an interest in land held on a bare trust, shall be construed in accordance with section 28(5) of this Act ;
- “ the Board ” means the Commissioners of Inland Revenue ;
- “ building ” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building ;
- “ chargeable gain ” has the same meaning as in Part III of the Finance Act 1965 ; 1965 c. 25.
- “ chargeable person ” has the meaning assigned to it by section 4(2) of this Act ;
- “ chargeable realised development value ” means realised development value on which development land tax is in fact chargeable ;
- “ charity ” has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970 ; 1970 c. 10.
- “ company ” means any body corporate or unincorporated association, other than a partnership ;
- “ consideration ” means consideration in money or money’s worth ;
- “ cost ”, in relation to a person’s acquisition of an interest in land, shall be construed in accordance with section 5(2) of this Act ;
- “ current use value ” shall be construed in accordance with section 7 of this Act ;
- “ deed of arrangement ” means a deed of arrangement to which the Deeds of Arrangement Act 1914 or any corresponding enactment forming part of the law of Northern Ireland applies ; 1914 c. 47.
- “ deemed disposal ”, in relation to an interest in land, means a disposal of that interest which is deemed to occur by virtue of section 2 of this Act and “ deemed reacquisition ”, in relation to an interest of which there has been a deemed disposal, means the reacquisition of that interest which is provided for by that section ;
- “ dependent relative ”, in relation to an individual, means—
- (a) a relative of the individual, or of his or her wife or husband, who is incapacitated by old age or infirmity from maintaining himself, or

- (b) the mother of the individual or of his or her wife or husband, if the mother is widowed or living apart from her husband or, in consequence of dissolution or annulment of marriage, a single woman ;
- “development” and “development order” have the meaning assigned to them by the relevant planning enactment ;
- “easement”, in relation to Scotland, means servitude ;
- “enactment” includes an enactment of the Parliament of Northern Ireland or of the Northern Ireland Assembly ;
- “expenditure on improvements” and “expenditure on relevant improvements” shall be construed in accordance with Schedule 3 to this Act ;
- “granted interest” shall be construed in accordance with section 3(5)(b) of this Act ;
- “incidental costs” shall be construed in accordance with Part VI of Schedule 2 to this Act ;
- “infant”, in relation to Scotland, means a person under the age of eighteen ;
- “interest in land” shall be construed in accordance with section 46 of this Act ;
- “interim financial year” has the meaning assigned to it by section 13(1) of this Act ;
- “land”, except in relation to Scotland, means any corporeal hereditament, including a building, and in relation to Scotland includes land covered with water and any building ;
- “lease” shall be construed in accordance with section 46(5) of this Act ;
- “major interest” has the meaning assigned to it by section 2(3) of this Act ;
- “market value” has the meaning assigned to it by section 7(1) of this Act ;
- “material development” has the meaning assigned to it by section 7(7) of this Act ;
- “minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working ;
- “net proceeds” in relation to the disposal of an interest in land, shall be construed in accordance with section 4(3) of this Act ;
- “part disposal” shall be construed in accordance with section 3 of this Act ;

“personal representatives” means, in relation to the estate of a deceased person—

(a) in relation to England and Wales, his personal representatives as defined by section 55 of the Administration of Estates Act 1925; and 1925 c. 22.

(b) in relation to Scotland, the executor of that person or the judicial factor on his estate; and

(c) in relation to Northern Ireland, his personal representatives as defined by section 45(1) of the Administration of Estates Act (Northern Ireland) 1955 c. 24 (N.I.); and

(d) in relation to any other country, the persons having in relation to the deceased under the law of that country any functions corresponding to the functions for administration purposes under the law of England and Wales of personal representatives as so defined;

“planning permission” has the meaning assigned to it by the relevant planning enactment;

“project of material development” has the meaning assigned to it by paragraph 1 of Schedule 1 to this Act;

“realised development value” shall be construed in accordance with section 4(1) of this Act;

“the reckonable date”, in relation to the liability of any person for an amount of development land tax, means the date on which expires the period of three months beginning with the date of the disposal or other event which gives rise to his liability or, in the case of a person who would not be liable but for his being assessed and charged, by virtue of any enactment, in the name or otherwise in the place or on the default of another person, to that other person’s liability;

“relevant base value”, “base A”, “base B” and “base C” shall be construed in accordance with section 5(1) of this Act;

“the relevant planning enactment” means—

(a) in relation to land in England and Wales, section 290(1) of the Town and Country Planning Act 1971; 1971 c. 78.

(b) in relation to land in Scotland, section 275(1) of the Town and Country Planning (Scotland) Act 1972; and 1972 c. 52.

(c) in relation to land in Northern Ireland, Article 2 of the Planning (Northern Ireland) Order 1972; S.I. 1972/1684 (N.I. 17).

“retained interest” shall be construed in accordance with section 3(5)(a) of this Act;

“reversion”, in relation to Scotland, means the interest of the landlord in land subject to a lease or, as the case may be, the interest of the lessee of land who is the landlord under a sub-lease;

“settled property” has the meaning assigned to it by section 30 of this Act;

“trade”, “profession”, “vocation”, “office” and “employment” have the same meaning as in the Income Tax Acts.

1970 c. 10.

(2) Section 272 of the Income and Corporation Taxes Act 1970 (groups of companies: definitions) shall have effect in relation to this Act with the omission of subsections (1)(a) and (2) (restriction to companies resident in the United Kingdom) but otherwise as if the provisions of this Act were included among the sections of Chapter II of Part XI of that Act (companies' capital gains) which follow that section.

(3) Unless the contrary intention appears, any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.

Short title
and extent.

48.—(1) This Act may be cited as the Development Land Tax Act 1976.

(2) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 2.

PROJECTS OF MATERIAL DEVELOPMENT

PART I

GENERAL PROVISIONS

1. For the purposes of this Act a "project of material development" is any project or scheme in pursuance of which any material development is, or is to be, carried out.

2.—(1) Subject to the following provisions of this Part of this Schedule, for the purposes of this Act a project of material development shall be taken to be begun at the earliest time at which any specified operation comprised in the project is begun.

(2) In this Schedule "specified operation" means any of the following, that is to say—

- (a) any work of construction in the course of the erection of a building ;
- (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building ;
- (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b) above ;
- (d) any operation in the course of laying out or constructing a road or part of a road ;
- (e) any operation in the course of winning or working minerals, within the meaning of section 17 of this Act ;
- (f) any change in the use of any land, where that change constitutes development.

(3) Notwithstanding anything in sub-paragraph (1) above, where an operative notice of a project of material development is given under paragraph 36(1) of Schedule 8 below specifying a date (in this sub-paragraph referred to as "the specified starting date") as the date on which the project is to be or has been begun, then for the purposes of this Act the project shall be taken to be begun on the specified starting date unless—

- (a) the Board are informed by or on behalf of the person by whom the notice was given that the project was not in fact started, or will not be started, on the specified starting date, or
- (b) the Board notify that person that they consider that the specified starting date is materially different from the date on which the project would be taken to be begun, having regard to sub-paragraphs (1) and (2) above, or

SCH. 1

(c) notice is given by the Board under paragraph 6(6) below with respect to the whole or any part of the material development specified in the notice of the project, and accordingly, in any case falling within paragraphs (a) to (c) above, the date on which for the purposes of this Act the project is to be taken to be begun shall be determined without regard to the date specified in the notice under paragraph 36(1) of Schedule 8 below.

(4) Notwithstanding anything in sub-paragraph (1) above, where, in relation to a project of material development, the Board determine the date on which the project should be taken to be begun and serve notice of their determination under paragraph 36(5) of Schedule 8 below, the project shall be taken for the purposes of this Act to be begun on that date.

3. Without prejudice to the preceding provisions of this Schedule, where—

- (a) any material development is carried out on land in accordance with planning permission granted after 12th September 1974 for a limited period, and
- (b) subsequently planning permission is granted for the retention on the land of any building or works authorised by the planning permission referred to in paragraph (a) above or, as the case may be, for the continuance of a use so authorised,

then, for the purposes of this Act, the retention or continued use referred to in paragraph (b) above shall be treated as constituting a project of material development consisting of a material change in the use of the land to which the planning permission referred to in that paragraph relates and that project shall be taken to be begun at the end of the period specified in the planning permission referred to in paragraph (a) above.

4.—(1) Subject to the following provisions of this Part of this Schedule, in determining for the purposes of this Act what is at any time comprised in a project of material development—

- (a) all the development (whether material development or not) which is to be, or has before that time been, carried out in pursuance of the project and all operations in the course of the clearing of the land which are to be, or have before that time been, so carried out shall be taken to be comprised in the project; and
- (b) all land which is to be, or has before that time been, developed or cleared in pursuance of the project (but no other land) shall be taken to be land comprised in the project.

(2) Notwithstanding anything in sub-paragraph (1) above, but subject to the following provisions of this Part of this Schedule, where—

- (a) notice relating to a project of material development has been given under paragraph 36 of Schedule 8 below, and

(b) that notice was either—

(i) an operative notice under sub-paragraph (1) of that paragraph, or

(ii) a notice given by the Board under sub-paragraph (5) of that paragraph, and

(c) in a case falling within paragraph (b)(i) above, no notice has been given under paragraph 6(6) below with respect to the whole or any part of the material development specified in the notice referred to in paragraph (a) above,

then, for the purposes of this Act, no development which does not fall within the nature and scope of the project as specified in the notice referred to in paragraph (a) above shall be taken to be development comprised in the project; and no land which does not form part of the land specified in that notice shall be taken to be land comprised in the project.

(3) Notwithstanding anything in sub-paragraph (1) above, but subject to the following provisions of this Part of this Schedule, where, in relation to a project of material development, an operative notice has been given under sub-paragraph (1) of paragraph 36 of Schedule 8 below or a notice has been given by the Board under sub-paragraph (5) of that paragraph and notice of the variation of that project has been given under sub-paragraph (7) of that paragraph, then, for the purposes of this Act,—

(a) no development which does not fall within the nature and scope of the project as specified in the notice of the variation shall be taken to be or to have been comprised in the project; and

(b) no land which does not form part of the land specified in the notice of the variation shall be taken to be or to have been comprised in the project;

and, if it appears to the Board to be appropriate, the amount of realised development value accruing to any person on the deemed disposal of an interest in land comprised in the project shall be redetermined accordingly and such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

(4) Where a project of material development consists of or includes the erection of one or more buildings, the land comprised in the project shall be taken to include (in so far as it would not do so apart from this sub-paragraph) the site of any garage, outbuilding, garden, yard, court, forecourt or other appurtenance which is to be, or has been, constructed or laid out for occupation with, and for the purposes of, that building or those buildings, as the case may be.

(5) In the case of a project of material development which does not include any development other than a material change in the use of the whole or part of a hereditament, the land comprised in the project shall for the purposes of this Act be taken to be that hereditament.

(6) In sub-paragraph (5) above “hereditament”, in relation to a project of material development, means the aggregate of the land which, at the date on which that project is begun, forms the subject of

SCH. I

SCH. 1 a single entry in the valuation list or, in Scotland, the valuation roll for the time being in force for a rating area.

(7) In the case of development comprising a material change of use of a building and alteration or improvement works to be carried out for the purpose of that change of use, the change of use together with the alteration and improvement works shall be taken to comprise a single project of material development.

5.—(1) Notwithstanding anything in paragraph 4(1) above, but subject to paragraph 6 below, in relation to a project of material development which is begun but not completed before the appointed day, no material development shall be taken to be comprised in the project unless it was on that day authorised by planning permission then in force.

(2) In determining for the purposes of sub-paragraph (1) above what material development of any land was authorised by planning permission in force on the appointed day, only such development of the land as on that day—

- (a) was authorised by that permission without any requirement as to subsequent approval, or
- (b) was not so authorised but had been approved in the manner applicable to that planning permission,

shall for those purposes be taken to have been authorised by that permission on that day.

(3) In a case where sub-paragraph (1) above applies to restrict the development comprised in a project, on the first occasion on or after the appointed day on which a specified operation is begun which is referable only to development not comprised in the project, a new project of material development shall be taken to be begun.

6.—(1) The provisions of this paragraph shall have effect where a project of material development (in this paragraph referred to as “the original project”) is carried out so as to include material development (in this paragraph referred to as “the additional development”) which is not comprised in the project in accordance with the preceding provisions of this Part of this Schedule.

(2) In any case where—

- (a) the Board receive an operative notice of the additional development under paragraph 37(1) of Schedule 8 below, and
- (b) it appears to the Board that the whole or any part of the additional development constitutes a separate project of material development, having regard to all relevant matters, including in particular the nature and scope of the original project, and
- (c) by notice given for the purposes of this sub-paragraph not later than sixty days after the date on which the Board receive the notice referred to in paragraph (a) above, the Board so direct with respect to development specified in the notice,

the provisions of this Act, other than this paragraph, shall have effect as if the development specified in the notice given by the Board were comprised in a separate project of material development.

(3) In any case where—

SCH. 1

- (a) in relation to the additional development the Board give notice under paragraph 37(5) of Schedule 8 below, and
- (b) it appears to the Board that the whole or any part of the additional development constitutes a separate project of material development, having regard to all relevant matters, including in particular the nature and scope of the original project, and
- (c) by the notice referred to in paragraph (a) above, the Board so direct with respect to the whole or such part as may be specified in the notice of the development to which that notice relates,

the provisions of this Act, other than this paragraph, shall have effect as if the development to which the direction relates were comprised in a separate project of material development.

(4) Where any additional development consists of development on land which was not comprised in the original project, then, to the extent that that development is not specified in a direction given by the Board under sub-paragraph (2) or sub-paragraph (3) above, it shall be taken for the purposes of this Act to constitute a separate project of material development.

(5) If any additional development is not comprised in a separate project of material development for the purposes of this Act, it shall be treated for those purposes as always having been comprised in the original project and, if it appears to the Board to be appropriate, the amount of realised development value accruing to any person on the deemed disposal of an interest in land comprised in the project shall be redetermined accordingly and such adjustment, whether by way of a further assessment to tax or otherwise, shall be made as is required in consequence.

(6) In any case where,—

- (a) after the date on which the original project is begun, an operative notice of another project of material development (in this sub-paragraph referred to as “the subsequent notice”) is given under paragraph 36(1) of Schedule 8 below, and
- (b) the date which is specified in the subsequent notice as the date on which the project referred to in the notice is to be or has been begun falls within the period of three years beginning with the date on which the original project began, and
- (c) it appears to the Board that the whole or any part of the material development specified in the subsequent notice constitutes a part of the original project, having regard to all relevant matters, including in particular the nature and scope of that project,

the Board may, by notice given for the purposes of this sub-paragraph not later than sixty days after the date on which the Board receive the subsequent notice, direct that the whole or such part

SCH. 1 as may be specified in the notice of the material development specified in the subsequent notice forms part of the original project.

(7) In any case where—

- (a) after the date on which the original project is begun, notice relating to another project of material development (in this sub-paragraph referred to as “the subsequent notice”) is given by the Board under paragraph 36(5) of Schedule 8 below, and
- (b) the date which is specified in the subsequent notice as the date on which the project referred to in the notice is to be taken to be begun falls within the period of three years beginning with the date on which the original project began, and
- (c) it appears to the Board that the whole or any part of the material development to which the subsequent notice relates constitutes a part of the original project, having regard to all relevant matters, including in particular the nature and scope of that project,

the Board may, by the subsequent notice referred to in paragraph (a) above, direct that the whole or such part as may be specified in the notice of the material development to which that notice relates forms part of the original project.

(8) Where a direction is given by the Board under sub-paragraph (6) or sub-paragraph (7) above, the material development to which the direction relates—

- (a) shall be treated for the purposes of this Act as additional development falling within sub-paragraph (5) above; and
- (b) shall be deemed not to be included in the project of material development to which the subsequent notice refers.

(9) On an appeal against an assessment to development land tax, the Special Commissioners shall have jurisdiction to review any decision taken by the Board under sub-paragraph (2)(b), sub-paragraph (3)(b), sub-paragraph (6)(c) or sub-paragraph (7)(c) above.

7. In the preceding provisions of this Schedule, any expression to which a meaning is assigned by the relevant planning enactment and which is not otherwise defined for the purposes of this Act has the same meaning as in that enactment.

PART II

SUPPLEMENTARY PROVISIONS RELATING TO DEEMED DISPOSALS AND REACQUISITIONS

8.—(1) In determining for the purposes of this Act the market value of an interest in land immediately before a project of material development is begun,—

- (a) it shall be assumed—
 - (i) that it is lawful for the project to be carried out, and

SCH. 1

- (ii) that planning permission would not be and has not been granted for any development of that land which constitutes material development, which is not comprised in the project and which has not been carried out or begun before the time at which the project is begun ;
- (b) account shall be taken of any conditions imposed on any grant of planning permission for all or any of the development comprised in the project ; and
- (c) to the extent that it would restrict the doing of anything comprised in the project, no account shall be taken of any other interest which is an incumbrance falling within sub-paragraph (2) below.

(2) The incumbrances referred to in sub-paragraph (1)(c) above are the following, so far as they subsist immediately before the project of material development is begun and affect any of the land comprised in the project, namely,—

- (a) any easement ;
- (b) any restrictive covenant ;
- (c) any covenant or agreement restrictive of the use or development of land which, having been made between a lessor and a lessee, forms part of the terms and conditions of an interest in that land ;
- (d) any land obligation within the meaning of section 1(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 c. 35. 1970 ; and
- (e) any mining lease.

(3) In determining, for the purposes of a deemed disposal and reacquisition, the market value or the current use value of an interest in land which is held on a bare trust, it shall be assumed that the interest can be sold in the open market free from the interests of the beneficiaries (whether or not the interest which is held on the bare trust is in fact capable of being so sold, by virtue of a trust for sale, a statutory power or otherwise).

9.—(1) Without prejudice to paragraph 8 above, where there is a deemed disposal of a major interest in land, the chargeable person shall be treated as having assumed, as part of the disposal, a contingent liability in respect of the incumbrances which fall within paragraph 8(2) above.

(2) If at any time after the project of material development in question is begun, a person who is treated as having assumed a contingent liability under sub-paragraph (1) above incurs any expenditure in consideration of a disposal of an incumbrance which falls within paragraph 8(2) above, that expenditure shall be treated for the purposes of this Act as incurred by him in pursuance of that contingent liability.

10.—(1) The provisions of this paragraph apply where, by virtue of the beginning of a project of material development,—

- (a) there is a deemed disposal of a major interest which is an interest falling within paragraph 8(2) above (in this paragraph referred to as “ the incumbrance ”) ; and

SCH. 1

(b) there is a deemed disposal of another major interest on which the chargeable person is treated, by virtue of paragraph 9(1) above, as having assumed a contingent liability in respect of the incumbrance.

(2) Where realised development value accrues to the holder of the incumbrance on the deemed disposal referred to in sub-paragraph (1)(a) above, liability for development land tax on that realised development value shall be deferred until the occasion of the first subsequent disposal of the incumbrance which is not a deemed disposal.

(3) In its application to a liability for development land tax which is deferred by virtue of this paragraph, section 27 of this Act shall have effect with the omission of subsections (4) to (6) and, in subsection (3), of the words "Subject to subsection (4) below".

11. Without prejudice to paragraph 8 above, where—

- (a) there is a deemed disposal of a major interest in land, and
- (b) the land in which the interest subsists includes both the land comprised in the project of material development in question (in this paragraph referred to as "the project land") and other land,

it shall be assumed for the purpose only of determining the market value of that interest immediately before the project is begun that that interest subsists only in the project land.

12. Where there is a deemed disposal and reacquisition of an interest in land, then, notwithstanding anything in section 2(1) of this Act, for the purpose of determining the current use value of that interest at the time of the deemed reacquisition, it shall be assumed that the reacquisition occurred immediately after the beginning of the project of material development which gave rise to the deemed disposal.

PART III

MAJOR INTERESTS: DURATION OF LEASES

13. This Part of this Schedule shall have effect in ascertaining whether, on the date on which a project of material development is begun, the unexpired term of a lease exceeds thirty-five years.

14.—(1) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiry of the term of the lease and any premium was not substantially greater than it would have been (on the assumptions required by paragraph 15 below) had the term been one expiring on that date, the lease shall not be treated as having been granted for a term longer than one ending on that date.

(2) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant,

account may be taken of any circumstances making it likely that the lease will be so extended. SCH. 1

(3) Where the tenant, or a person connected with him, within the meaning of section 533 of the Income and Corporation Taxes Act 1970 c. 10, 1970, is or may become entitled to a further lease or the grant of a further lease (whenever commencing) of the same premises or of premises including the whole or part of the same premises, the term of the lease may be treated as not expiring before the term of the further lease.

15.—(1) Paragraph 14 above shall be applied by reference to the facts which are known or ascertainable at the time at which the project of material development is begun.

(2) In applying paragraph 14 above, it shall be assumed that all parties concerned, whatever their relationship, act as they would act if they were at arm's length.

(3) Where, by the lease or in connection with the granting of it,—

(a) benefits were conferred other than vacant possession and beneficial occupation of the premises or the right to receive rent at a reasonable commercial rate in respect of them, or

(b) payments were made which would not be expected to be made by parties acting at arm's length if no other benefits had been so conferred,

then, unless it is shown that the benefits were not conferred or the payments made for the purpose of securing a tax advantage in the application of Part III of the Income and Corporation Taxes Act 1970 (Schedule A and associated charges), it shall be further assumed, in applying paragraph 14 above, that the benefits would not have been conferred nor the payments made had the lease been for a term ending at the date mentioned in sub-paragraph (1) of that paragraph.

16. Where the Board have reason to believe that a person has information relevant to the ascertainment of the duration of a lease in accordance with this Part of this Schedule, the Board may by notice in writing require him to give, within a time specified in the notice, such information on the matters specified in the notice as is in his possession; but a solicitor shall not be so required to do more, in relation to anything done by him on behalf of a client, than state that he is or was acting on behalf of a client and give the name and address of his client.

17.—(1) In this Part of this Schedule—

“premises” includes any land;

“premium” shall be construed in accordance with sub-paragraphs (5) and (6) below; and

“term”, in relation to Scotland, where referring to the duration of a lease, means “period”.

Sch. 1

(2) For the purposes of this Part of this Schedule any sum (other than rent) paid on or in connection with the granting of a lease shall be presumed to have been paid by way of premium, except in so far as other sufficient consideration for the payment is shown to have been given.

(3) Where sub-paragraph (3) of paragraph 14 above applies, the premium or an appropriate part of the premium payable for or in connection with either lease mentioned in that sub-paragraph may be treated as having been required under the other.

(4) References in this paragraph to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.

1970 c. 10.

(5) In this Part of this Schedule "premium" includes any like sum, whether payable to the immediate or a superior landlord or to a person connected, within the meaning of section 533 of the Income and Corporation Taxes Act 1970, with the immediate or a superior landlord.

(6) In the application of this Part of this Schedule to Scotland "premium" includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sub-lease; and in this sub-paragraph "intermediate landlord" means, where an occupying lessee is a sub-lessee, any person for the time being holding the interest of landlord under a sub-lease which comprises the property of which the occupying lessee is sub-lessee, but does not include the immediate landlord.

Section 4.

SCHEDULE 2

REALISED DEVELOPMENT VALUE: SUPPLEMENTARY PROVISIONS

PART I

DISPOSALS OUT OF ASSEMBLED LAND

The assembly and its parts

1.—(1) Subject to sub-paragraph (2) and paragraph 2 below, this Part of this Schedule applies in any case where there is a disposal of an interest in land (in this Part of this Schedule referred to as "the relevant interest") and the chargeable person did not acquire the whole of the rights which make up the relevant interest in a single transaction but acquired at different times two or more different interests (whether those interests were different in nature or were in different pieces of land or both) which together make up the relevant interest.

(2) Except in so far as it may be necessary, in accordance with any provision of paragraph 11 or paragraph 12 below, to establish, on a subsequent disposal of the retained interest referred to in that paragraph,—

(a) the expenditure on improvements referable to that interest, or

SCH. 2

(b) the current use value of that interest as at the time of its acquisition or on 6th April 1965, whichever is the later, this Part of this Schedule does not apply where the interest disposed of is the retained interest in relation to a previous part disposal of an interest in land.

(3) Any reference in this Part of this Schedule to a part of the relevant interest is a reference to an interest in land—

- (a) which was acquired by the chargeable person at a particular time, or
- (b) which is the retained interest in relation to a previous part disposal by him,

and which, taken together with one or more other interests falling within paragraph (a) or paragraph (b) above, makes up the relevant interest.

(4) If before the disposal of the relevant interest, the chargeable person acquired a lease which (at the time of its acquisition or otherwise) became merged in another part of the relevant interest, the lease shall continue to be regarded for the purposes of this Part of this Schedule as a part of the relevant interest until the date on which it would have expired if the merger had not occurred.

2.—(1) If and so far as a lease of any land is lawfully granted by a landlord who has a different interest in one part of the land as compared with another (as where he is the lessee under one lease of a part of the land and the lessee under a different lease of another part)—

- (a) the interests by virtue of which the landlord grants the lease shall not be treated as a single interest in land to which paragraph 1 above applies; and
- (b) the grant of the lease shall be treated for the purposes of this Act as being carried out by separate disposals of the landlord's interest in each part of the land.

(2) For the purposes of the operation of sub-paragraph (1)(b) above, an apportionment shall be made under section 4(5) of this Act of the consideration for the grant of the lease and of any other matters necessary to secure that the grant is treated as resulting from separate part disposals of the different interests of the landlord.

Time and cost of acquisition

3.—(1) For the purposes of this Act, the time of acquisition of the relevant interest shall be treated, subject to paragraph 5 below, as the time at which the chargeable person last acquired a part of the relevant interest and the cost of his acquisition of the relevant interest shall be the aggregate of the costs of his acquisition of the several parts of the relevant interest.

(2) If the chargeable person acquired a part of the relevant interest in such circumstances that, if that part continued to exist as a separate entity, section 10 of this Act would apply in determining

SCH. 2 the realised development value accruing to the chargeable person on a disposal of it, then, for the purposes of sub-paragraph (1) above, the cost of the chargeable person's acquisition of that part (in this Part of the Schedule referred to as "the material interest") shall be the amount which, if there were a separate disposal of the material interest, would be determined under paragraph (a) of subsection (2) of section 10 of this Act.

(3) Nothing in sub-paragraph (1) above shall affect the construction of any reference in the following provisions of this Part of this Schedule to the time of acquisition of any part of the relevant interest.

Expenditure on improvements

4.—(1) Notwithstanding anything in paragraph 3 above, for the purposes of determining the relevant base value of the relevant interest, the expenditure on improvements or, as the case may be, on relevant improvements shall be the aggregate of the amounts which, if there were a separate disposal of each part of the relevant interest, would be the amount of that expenditure in determining the relevant base value of each part.

(2) For the purpose of the determination referred to in sub-paragraph (1) above, the separate disposals shall be assumed to take place at the same time as the actual disposal of the relevant interest.

Determination of base A

5.—(1) Subject to sub-paragraphs (2) and (3) below, for the purpose of determining base A of the relevant interest,—

- (a) a separate current use value, as at the time of its acquisition or on 6th April 1965, whichever is the later, shall be established for each part of the relevant interest ; and
- (b) the aggregate of the current use values of the several parts established in accordance with paragraph (a) above shall be treated as the current use value of the relevant interest at the time of its acquisition or on 6th April 1965, whichever is the later ; and
- (c) if the chargeable person acquired any part of the relevant interest before 1st May 1977, section 6 of this Act shall apply, subject to paragraph (d) below, on the disposal of the relevant interest (whether or not the time of acquisition of that interest, as determined under paragraph 3 above, is before that date) ; and
- (d) where section 6 of this Act applies on the disposal of the relevant interest, it shall be applied separately with respect to each part of that interest (taking account of the time of acquisition of each part) and, in determining base A of the relevant interest, the special addition provided for by that section shall be taken to be the aggregate of the special additions determined for the several parts of the relevant interest in accordance with this sub-paragraph.

(2) In a case where paragraph 3(2) above applies to determine the cost of acquisition of the material interest—

SCH. 2

- (a) the separate current use value of the material interest required to be established under sub-paragraph (1)(a) above, shall be taken to be the value which, if there were a separate disposal of the material interest, would be determined under paragraph (c) of subsection (2) of section 10 of this Act ; and
- (b) if section 6 of this Act falls to be applied as mentioned in sub-paragraph (1)(d) above, it shall not be applied with respect to the material interest ; and
- (c) if, on a separate disposal of the material interest, paragraph (d) of subsection (2) of section 10 of this Act would apply, the amount of the special addition referred to in that paragraph shall be treated for the purposes of sub-paragraph (1)(d) above as the special addition determined for the material interest in accordance with that provision.

(3) In any case where—

- (a) section 6 of this Act falls to be applied as mentioned in sub-paragraph (1)(d) above, and
- (b) the chargeable person acquired a part of the relevant interest in such circumstances that, if that part continued to exist as a separate entity, subsection (1) of section 5 of this Act would have effect subject to subsection (6) of that section in determining the relevant base value of that part on a separate disposal of it,

section 6 of this Act shall not be applied with respect to that part.

(4) For the purposes of sub-paragraphs (2) and (3) above, the separate disposal of the material interest or, as the case may be, the part in question shall be assumed to take place at the same time as the actual disposal of the relevant interest.

*Determination of base C where section 5(6)
applies to a part*

6.—(1) For the purpose of determining base C of the relevant interest in a case where paragraph 5(3)(b) above applies in relation to a part thereof (in this paragraph referred to as “the material part”) there shall be determined the amount which would be base C of the material part on a separate disposal of that part taking place at the same time as the actual disposal of the relevant interest—

- (a) on the basis that subsection (1) of section 5 of this Act has effect subject to subsection (6) of that section ; and
- (b) on the basis that subsection (6) of that section does not apply.

(2) From the amount which, apart from this paragraph, would be base C of the relevant interest there shall be deducted an amount equal to the difference between base C of the material

SCH. 2 part determined as mentioned in paragraph (a) of sub-paragraph (1) above and base C of that part determined as mentioned in paragraph (b) of that sub-paragraph.

Part acquired as stock in trade

7.—(1) The provisions of this paragraph apply if the chargeable person acquired a part of the relevant interest (in this paragraph referred to as “the stock in trade interest”) in such circumstances that, if the stock in trade interest continued to exist as a separate entity, section 16 of this Act would have effect in relation to any realised development value which accrued on a disposal of it.

(2) Where this paragraph applies, there shall be ascertained the amount which, for the purposes of section 16 of this Act, would be the realised development value attributable to the authorised development (within the meaning of that section) if—

- (a) the stock in trade interest existed as a separate entity ; and
- (b) in place of the disposal of the relevant interest there were a disposal at market value of the stock in trade interest ; and
- (c) on that disposal the relevant base value of the stock in trade interest were derived from that one of the three bases specified in section 5(1) of this Act which in fact gives the relevant base value of the relevant interest.

(3) Subject to sub-paragraph (4) below, on the disposal of the relevant interest the chargeable person shall not be chargeable to development land tax on so much of the realised development value which accrues on that disposal as is equal to the amount ascertained under sub-paragraph (2) above.

(4) Where the disposal of the relevant interest is a deemed disposal and the amount ascertained under sub-paragraph (2) above exceeds the realised development value which accrues on the disposal,—

- (a) the amount so ascertained shall be treated for the purposes of sub-paragraph (3) above as equal to the amount of that realised development value ; and
- (b) the amount of the excess shall be carried forward to a subsequent disposal of the relevant interest in accordance with sub-paragraph (5) below.

(5) On the first disposal of the relevant interest occurring after the deemed disposal referred to in sub-paragraph (4) above, sub-paragraph (3) above shall have effect as if—

- (a) this Part of this Schedule applied on that disposal ; and
- (b) the condition in sub-paragraph (1) above applied ; and
- (c) for the reference to the amount ascertained under sub-paragraph (2) above there were substituted a reference to the amount of the excess referred to in sub-paragraph (4)(b) above.

(6) In any case where—

- (a) the disposal to which sub-paragraph (5) above applies is itself a deemed disposal, and

- (b) the amount of the excess referred to in paragraph (c) of that sub-paragraph exceeds the realised development value which accrues on that disposal, SCH. 2

then, in relation to a subsequent disposal of the relevant interest, sub-paragraph (5) above and, if it is a deemed disposal, this sub-paragraph shall apply in relation to the excess referred to in paragraph (b) above as if it were the excess referred to in sub-paragraph (4)(b) above, and so on, where there is a succession of deemed disposals, until the whole of the original excess referred to in sub-paragraph (4)(b) above is exhausted.

Charities : part acquired on or before 12th September 1974

8.—(1) The provisions of this paragraph apply if the chargeable person is a charity and acquired a part of the relevant interest (in this paragraph referred to as “the material interest”) in such circumstances that, if the material interest continued to exist as a separate entity, section 24(1) of this Act would have effect in relation to any realised development value which accrued on a disposal of it.

(2) Where this paragraph applies, there shall be ascertained the amount of realised development value which would accrue to the chargeable person if—

- (a) the material interest existed as a separate entity ; and
- (b) in place of the disposal of the relevant interest there were a disposal at market value of the material interest ; and
- (c) on that disposal the relevant base value of the material interest were derived from that one of the three bases specified in section 5(1) of this Act which in fact gives the relevant base value of the relevant interest.

(3) Subject to sub-paragraph (4) below, on the disposal of the relevant interest the chargeable person shall not be chargeable to development land tax on so much of the realised development value which accrues on that disposal as is equal to the amount ascertained under sub-paragraph (2) above.

(4) Sub-paragraphs (4) to (6) of paragraph 7 above shall apply in relation to this paragraph as they apply in relation to that.

PART II

PART DISPOSALS

9. The provisions of this Part of this Schedule shall have effect where there is a part disposal of an interest in land (in this Part of this Schedule referred to as “the relevant interest”); and in the following provisions of this Part of this Schedule—

- (a) any reference to the disposal is a reference to the part disposal of the relevant interest ; and
- (b) any reference to relevant base value is a reference to that value of the relevant interest for the purposes of the disposal ; and

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- (c) any reference to the base values is a reference to base A, base B and base C of the relevant interest for the purposes of the disposal (regardless of which of those bases gives the relevant base value); and
- (d) any reference to chargeable realised development value is a reference to the chargeable realised development value which accrues on the disposal.

10.—(1) Subject to paragraph 11 below, for the purpose of determining the base values and the amount of chargeable realised development value, the amounts which, apart from this sub-paragraph, would be—

- (a) the cost of the chargeable person's acquisition of the relevant interest (in this paragraph referred to as "A"), and
- (b) the expenditure on relevant improvements or, in relation to base C, on improvements (in this paragraph referred to as "RI" and "I" respectively), and
- (c) where section 6 of this Act applies on the disposal, the amount of the special addition (in this paragraph referred to as "S") provided for by subsection (2) of that section, and
- (d) the realised development value (if any) on which, by virtue of any exempting provision, the chargeable person is not chargeable to development land tax (in this paragraph referred to as "E").

shall each be reduced by applying to them the fraction—

$$\frac{PD}{PD + MR}$$

where—

PD is, subject to sub-paragraph (2) below, the net proceeds of the disposal; and

MR is the market value of the retained interest immediately after the disposal.

(2) Where the disposal is a disposal—

- (a) otherwise than for value, or
- (b) for a consideration less than that which might reasonably have been obtained in the open market,

the net proceeds of the disposal shall be determined for the purposes of sub-paragraph (1) above as if the consideration for the disposal were the consideration that might reasonably have been obtained in the open market.

(3) Where sub-paragraph (1) above applies on the disposal, then, for the purposes of this Act,—

- (a) so much of A as remains after deducting the amount which, by virtue of that sub-paragraph, was the cost of the chargeable person's acquisition of the relevant interest shall be taken to be the cost of acquisition of the retained interest; and

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- (b) the time of acquisition of the retained interest shall be taken, subject to sub-paragraph (5) below, to be the time of acquisition of the relevant interest, but if section 6 of this Act did not apply on the disposal of the relevant interest it shall not apply on a subsequent disposal of the retained interest ; and
- (c) on a subsequent disposal of the retained interest, development land tax shall not be chargeable on an amount of realised development value equal to the difference between E and the amount on which, by virtue of sub-paragraph (1) above and any exempting provision, the chargeable person was not chargeable to development land tax on the disposal.

(4) If, having regard to sub-paragraph (3)(b) above, section 6 of this Act applies in relation to a subsequent disposal of the retained interest, then, for the purposes of this Act,—

- (a) in the application of that section, D referred to in subsection (2) of that section shall be treated as reduced by the number of years (ascertained in accordance with subsection (3) of that section) in the period beginning at the time of the acquisition of the relevant interest and ending at the time of the disposal ; and
- (b) to the amount (if any) of the special addition determined in accordance with paragraph (a) above in relation to the subsequent disposal of the retained interest there shall be added so much of S as remains after deducting the amount which, by virtue of sub-paragraph (1) above, was the amount, for the purpose specified in that sub-paragraph, of the special addition so provided for.

(5) Subject to sub-paragraphs (6) and (7) below, where sub-paragraph (1) above applies on the disposal, then, for the purposes of determining the amount of any expenditure on improvements or, as the case may be, on relevant improvements in relation to a subsequent disposal of the retained interest, the time of acquisition of that interest shall be taken to be the time of the disposal of the relevant interest.

(6) To the amount which, by virtue of sub-paragraph (5) above, is the amount of expenditure on improvements in relation to a subsequent disposal of the retained interest there shall be added a sum equal to so much of I as remains after deducting the amount which, by virtue of sub-paragraph (1) above, was the expenditure on improvements for the purpose specified in that sub-paragraph.

(7) To the amount which, by virtue of sub-paragraph (5) above, is the amount of expenditure on relevant improvements in relation to a subsequent disposal of the retained interest there shall be added a sum equal to so much of RI as remains after deducting the amount which, by virtue of sub-paragraph (1) above, was the expenditure on relevant improvements for the purpose specified in that sub-paragraph.

(8) In this paragraph “exempting provision” means paragraph 7 or paragraph 8 above or sub-paragraph (3)(c) above.

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11.—(1) In any case where—

- (a) the disposal of the relevant interest falls within section 3(1)(b) of this Act, and
- (b) the relevant interest is an interest to which paragraph 1 above applies, and
- (c) the granted interest is part of the relevant interest for the purposes of the application of Part I above to the disposal or is the aggregate of two or more such parts,

paragraph 10 above shall have effect with the omission of paragraphs (a) and (c) of sub-paragraph (1), paragraphs (a) and (b) of sub-paragraph (3) and sub-paragraph (4).

(2) Subject to paragraph 10(5) above, where sub-paragraph (1) above applies,—

- (a) the cost and time of acquisition of the relevant interest shall be taken to be the cost and time of acquisition of the granted interest ; and
- (b) if section 6 of this Act applies on the disposal, the amount of the special addition shall be determined by reference to the cost and time of acquisition of the granted interest.

(3) If, in a case where sub-paragraph (1) above applies, the granted interest consists of more than one such part as is referred to in paragraph (c) of that sub-paragraph, Part I above shall have effect for the purpose of determining—

- (a) the cost and time referred to in sub-paragraph (2)(a) above, and
- (b) where appropriate, the special addition referred to in sub-paragraph (2)(b) above,

as if the granted interest were “the relevant interest” within the meaning of that Part.

(4) If, in a case where sub-paragraph (1) above applies, the retained interest consists of more than one such part of the relevant interest as is referred to in paragraph (c) of that sub-paragraph, Part I above shall have effect for the purpose of determining, in relation to a subsequent disposal of the retained interest,—

- (a) the cost and time of acquisition of that interest, and
- (b) the special addition (if any) applicable under section 6 of this Act,

as if the retained interest were “the relevant interest”, within the meaning of that Part, and not a retained interest.

(5) If in a case where the disposal falls within section 3(1)(b) of this Act, the expenditure on improvements referable to the land in which the granted interest subsists is, without reference to sub-paragraphs (1)(b) and (5) to (7) of paragraph 10 above, identifiable separately from the expenditure on improvements referable to the rest of the land in which the relevant interest subsists immediately

before the disposal, those sub-paragraphs shall not have effect in relation to the disposal and, for the purposes of this Act,— SCH. 2

- (a) the expenditure referable to the land in which the granted interest subsists shall be treated as the expenditure on improvements to be taken into account in determining the relevant base value referred to in paragraph 9(b) above; and
- (b) the expenditure on improvements referable to the retained interest shall be separately determined on a subsequent disposal of that interest.

12.—(1) Subject to sub-paragraph (4) below, for the purpose of determining the relevant base value, the amount (in this paragraph referred to as “CW”) which, apart from this paragraph, would be the current use value of the relevant interest at the time of the disposal shall be reduced by deducting therefrom an amount (in this paragraph referred to as “CR”) equal to the current use value immediately after that time of the retained interest.

(2) Subject to sub-paragraph (5) below, for the purpose of determining base A of the relevant interest the amount which, apart from this paragraph, would be the current use value of the relevant interest at the time of its acquisition by the chargeable person or on 6th April 1965, whichever is the later, shall be reduced by applying to it the fraction $\frac{CW-CR}{CW}$.

(3) Where sub-paragraph (2) above applies on the disposal, then, in relation to a subsequent disposal of the retained interest, so much of the amount referred to in that sub-paragraph as remains after deducting from it the fraction thereof referred to in that sub-paragraph shall be deemed for the purposes of this Act to be the current use value of the retained interest at the time of its acquisition by the chargeable person or on 6th April 1965, whichever is the later.

(4) If the current use value, as at the time of the disposal, of the granted interest is identifiable without reference to sub-paragraph (1) above, that sub-paragraph shall not apply and, for the purposes of the disposal, that current use value shall be treated as the current use value of the relevant interest at that time.

(5) In a case where sub-paragraph (1) of paragraph 11 above applies sub-paragraphs (2) and (3) above shall not apply and—

- (a) for the purpose of the disposal the current use value of the relevant interest as at the time of its acquisition or on 6th April 1965, whichever is the later, shall be taken to be the current use value of the granted interest as at the time of its acquisition or on 6th April 1965, whichever is the later; and
- (b) if sub-paragraph (3) of paragraph 11 above applies for the purpose of determining the cost and time of acquisition of the granted interest, Part I above shall have effect as

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- mentioned in that sub-paragraph for the purpose of determining the current use value referred to in paragraph (a) above ; and
- (c) on a subsequent disposal of the retained interest, a separate current use value shall be established for that interest as at the time of its acquisition or on 6th April 1965, whichever is the later ; and
- (d) if sub-paragraph (4) of paragraph 11 above applies for the purposes of determining the cost and time of acquisition of the retained interest (in relation to a subsequent disposal of that interest) Part I above shall have effect as mentioned in that sub-paragraph for the purpose of determining the current use value referred to in paragraph (c) above.

PART III

ADDITIONAL PROVISIONS APPLICABLE TO
LEASES AND REVERSIONS ON LEASES

13.—(1) In determining the realised development value accruing to the chargeable person on the part disposal of an interest in land which consists of the grant of a lease out of that interest, from the amounts which, apart from this sub-paragraph, would be the market value and the current use value of the retained interest there shall be deducted an amount equal to the value immediately after the grant of the landlord's rights under the lease.

(2) Any reference in this Part of this Schedule to the value at any time of the landlord's rights under a lease is a reference to the value at that time of the rights of the landlord under the lease exclusive of the right to recover possession at the expiry of the term.

14.—(1) The provisions of this paragraph shall have effect where there is a part disposal of a lease and, where that part disposal consists of the grant of another lease out of that lease, shall have effect in addition to paragraph 13(1) above.

(2) To the amounts which, apart from this sub-paragraph, would be the market value and the current use value of the retained interest, there shall be added a sum equal to the value of the landlord's rights under the lease immediately after the part disposal.

(3) In determining the current use value of the lease at the time of the part disposal or of its acquisition or on 6th April 1965, no account shall be taken of any liability of the tenant under the lease other than the obligation to deliver up possession on the expiry of the term.

(4) If, at the time of the part disposal, the unexpired term of the lease does not exceed 50 years,—

- (a) base C shall not be available as the relevant base value of the lease, and
- (b) paragraph (a) of section 5(1) of this Act shall have effect as if, from the aggregate of the items specified in that paragraph, there were required to be deducted the amount (if

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any) by which the current use value of the lease at the time of its acquisition or on 6th April 1965, whichever is the later, exceeds the current use value of the lease at the time of the part disposal.

15.—(1) Subject to sub-paragraphs (2) and (3) below, for the purposes of this Act, in the case of the disposal of an interest in land which, immediately before the disposal, consists of the reversion on a lease, an amount equal to the value immediately before the disposal of the landlord's rights under the lease shall be deducted—

- (a) from the amount which, apart from this paragraph, would be the net proceeds of the disposal; and
- (b) from the amount which, apart from this paragraph, would be the current use value of that interest at the time of the disposal; and
- (c) from the amount which apart from this paragraph would, in relation to the person acquiring that interest, be his cost of acquisition on the occasion of the disposal.

(2) In the application of sub-paragraph (1) above to a part disposal which falls within section 3(1)(b) of this Act—

- (a) paragraph (c) of that sub-paragraph shall have effect with the substitution of a reference to the cost of acquisition of the granted interest for the reference to the cost of acquisition of the interest disposed of; and
- (b) the deduction from the amounts referred to in paragraphs (a) and (c) of that sub-paragraph shall be limited to so much of the value of the landlord's rights under the lease as, immediately after the part disposal, is attributable to the granted interest.

(3) In the application of sub-paragraph (1) above to a part disposal falling within section 3(2) of this Act, paragraphs (a) and (c) of that sub-paragraph shall be omitted.

(4) Where there is a part disposal of a reversion on a lease, from the amounts which, apart from this sub-paragraph, would be the market value and the current use value of the retained interest there shall be deducted an amount equal to the value of the landlord's rights under the lease immediately after the part disposal, so far as those rights are attributable to the retained interest.

(5) If, in the case of such a disposal as is referred to in sub-paragraph (1) above, the interest disposed of was also a reversion on a lease at the time of its acquisition or on 6th April 1965, whichever is the later, then, for the purpose of determining base A of that interest on the disposal, an amount equal to what was then the value of the landlord's rights under the lease shall be deducted from the amount which, apart from this paragraph, would then be the current use value of that interest.

16.—(1) References in this paragraph to a disposal of a lease do not include references to a part disposal thereof but, subject to that, this paragraph shall have effect in determining—

- (a) the realised development value accruing to the chargeable person on the disposal of a lease, and

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(b) in relation to the person acquiring the lease, his cost of acquisition on the occasion of the disposal,

and, where that lease is itself the reversion on another lease, shall have effect in addition to paragraph 15 above.

(2) To the amounts which, apart from this sub-paragraph, would be—

(a) the net proceeds of the disposal of a lease, and

(b) in relation to the person acquiring the lease, his cost of acquisition on the occasion of the disposal,

there shall be added a sum equal to the value immediately before the disposal of the landlord's rights under the lease.

(3) In determining the current use value of a lease at the time of its disposal or of its acquisition or on 6th April 1965, no account shall be taken of any liability of the tenant under the lease, other than the obligation to deliver up possession at the expiry of the term.

(4) Where, at the time of the disposal, the unexpired term of the lease does not exceed 50 years, paragraphs (a) and (b) of sub-paragraph (4) of paragraph 14 above shall apply as they apply where there is a part disposal of a lease to which that sub-paragraph applies.

17.—(1) The provisions of this paragraph apply where there is a material variation, for the purpose of subsection (4) of section 44 of this Act, of the terms and conditions of a lease; and in this paragraph—

“the disposal of the original lease” means the surrender of the lease which, by virtue of paragraph (a) of that subsection is assumed to occur;

“the grant of the new lease” means the part disposal of the landlord's interest which, by virtue of paragraph (b) of that subsection is assumed to occur; and

“the cost of acquisition of the new lease” means the amount which, for the purpose of determining the realised development value accruing on an assignment by the tenant referred to in that subsection of the new lease referred to in paragraph (b) thereof, would be the cost of his acquisition.

(2) If, apart from this sub-paragraph, realised development value would accrue to the chargeable person on the disposal of the original lease, then, for the purposes of this Act, other than this sub-paragraph,—

(a) if the amount which, apart from this paragraph, would be the cost of acquisition of the new lease equals or exceeds the amount of that realised development value, the cost of acquisition of the new lease shall be treated as reduced or, as the case may be, as extinguished by deducting therefrom the amount of that realised development value and, accordingly, no realised development value shall be taken to accrue on the disposal of the original lease; and

(b) if the amount of that realised development value exceeds the amount which, apart from this paragraph, would be the cost of acquisition of the new lease, only the excess

shall be treated as realised development value accruing on the disposal of the original lease and the cost of acquisition of the new lease shall be treated, except for the purposes of section 10 of this Act, as nil.

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(3) Any consideration given by the tenant for the variation referred to in sub-paragraph (1) above shall be treated for the purposes of this Act as referable to the grant of the new lease and not to the disposal of the original lease and any consideration given by the landlord for that variation shall be treated for the purposes of this Act as referable to his acquisition on the disposal of the original lease.

(4) Subject to sub-paragraph (5) below if, on the disposal of the original lease, the amount which is base A of the interest disposed of exceeds the net proceeds of the disposal, then, to the amount which, apart from this sub-paragraph, would be the cost of acquisition of the new lease there shall be added an amount equal to that excess.

(5) In any case where, for the purpose of determining base A on the disposal of an interest in land, subsection (2) of section 6 of this Act applies to determine the amount of a special addition by reference to the whole or any part of the cost of acquisition of the new lease, sub-paragraph (4) above shall not have effect in relation to that cost for the purposes of that determination.

PART IV

PROJECTS OF MATERIAL DEVELOPMENT

18.—(1) Where paragraph 11 of Schedule 1 to this Act applies in determining the market value of an interest in land immediately before a project of material development is begun, then, for the purpose of determining the relevant base value of that interest on the deemed disposal thereof which occurs at that time, it shall be assumed that that interest subsists only in the project land (within the meaning of that paragraph) and all necessary apportionments shall be made under section 4(5) of this Act of—

- (a) the cost of the chargeable person's acquisition of that interest,
- (b) the amount of any expenditure on improvements or on relevant improvements,
- (c) the current use value of that interest at the time of its acquisition or on 6th April 1965 and at the time of the disposal, and
- (d) where any provision of Part III of this Schedule applies, the value which, for the purposes of that Part, is the value at any time of the landlord's rights under the lease concerned.

(2) In a case where sub-paragraph (1) above applies there shall also be determined the amount which, if that sub-paragraph did not apply, would be base A of the interest concerned on the deemed disposal referred to in that sub-paragraph, and to the amount which, apart from this sub-paragraph, would be the market value of that interest for the purposes of the immediately following deemed reacquisition there shall be added an amount equal to that by which base A of that interest determined in accordance with this

SCH. 2 sub-paragraph exceeds base A of that interest determined on the assumption and in accordance with the apportionments provided for by sub-paragraph (1) above.

19. In any case where, on the deemed disposal of an interest in land, the amount which is base A of that interest exceeds the net proceeds of that disposal, to the amount which, apart from this paragraph, would be the market value of that interest for the purposes of the immediately following deemed reacquisition there shall be added an amount equal to that excess.

PART V

CONSIDERATION

Preliminary

20. This Part of this Schedule shall have effect with respect to the determination of the consideration both for the disposal and for the acquisition of an interest in land; and, except where the context otherwise requires, any reference in the following provisions of this Part of this Schedule to the consideration for the disposal of an interest in land shall be construed, in relation to the person to whom the disposal is made, as a reference to the consideration given for the acquisition.

General rules

21.—(1) Subject to the following provisions of this Part of this Schedule, for the purposes of this Act, the consideration for a disposal shall be brought into account—

- (a) without any discount for postponement of the right to receive any part of it, and
- (b) in the first instance, without regard to a risk of any part of the consideration being irrecoverable.

(2) If any part of the consideration brought into account in accordance with sub-paragraph (1) above is subsequently shown to the satisfaction of the Board to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

(3) Where the relief obtainable under sub-paragraph (2) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

22.—(1) In determining for the purposes of this Act the consideration for the disposal of an interest in land, no account shall be taken, in the first instance, of any contingent liability assumed by the chargeable person, by the person acquiring the interest or by any other person.

(2) If it is subsequently shown to the satisfaction of the Board that a contingent liability which was not taken into account in determining the consideration for a disposal has become enforceable and is being or has been enforced, such adjustment, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as is required in consequence.

(3) Where the relief obtainable under sub-paragraph (2) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

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23.—(1) From the amount which, apart from this paragraph, would be the consideration for the disposal of an interest in land there shall be deducted an amount equal to any tax which is chargeable on that disposal under the law of a country outside the United Kingdom and which is borne by the chargeable person.

(2) Notwithstanding anything in paragraph 20 above, the deduction in sub-paragraph (1) above shall not apply in determining the amount of the consideration for the acquisition of the interest disposed of.

24.—(1) For the purposes of this Act, other than this paragraph, where—

- (a) an interest in land is disposed of subject to a mortgage or charge, and
- (b) the consideration for the disposal is less than it would be if the mortgage or charge were not continuing after the disposal, and
- (c) by virtue of section 7(5) of this Act the mortgage or charge is not taken into account in determining the current use value of that interest at the time of the disposal,

to the amount which, apart from this paragraph, would be the consideration for the disposal there shall be added an amount equal to the principal which, at the time of the disposal, is outstanding under the mortgage or charge.

(2) In this paragraph “mortgage or charge” means an interest falling within paragraph (a) or paragraph (b) of subsection (2) of section 46 of this Act.

25. Notwithstanding that, by virtue of his ownership of any such interest as falls within any of paragraphs (a) to (c) of subsection (2) of section 46 of this Act, a person becomes entitled to an interest in land, no part of any consideration given for the first-mentioned interest shall be treated for the purposes of this Act as consideration given as mentioned in section 5(2) of this Act for the acquisition of the interest in land.

Rents and other income payments

26. For the purposes of this Act, in the case of a disposal consisting of the grant of a lease, the consideration for the disposal shall be taken to be the aggregate of the market values at the time of the disposal of—

- (a) the right to receive the rent (if any) which, in accordance with the terms of the grant, is payable in respect of the lease; and
- (b) any other consideration which in accordance with those terms is given or agreed to be given for the grant of the lease, whether to the grantor or to any other person.

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27. In calculating for the purposes of this Act the market value at any time of a right to receive rent payable in respect of a lease and the market value of any such consideration as is referred to in paragraph 26(b) above,—

(a) paragraph 21(1)(a) above shall not apply ; and

(b) it shall be assumed that the lessee under the lease will always pay the rent when it falls due and will perform his other obligations under the lease.

28. Without prejudice to paragraphs 26 and 27 above, if the whole or any part of the consideration for the disposal of an interest in land consists of a rent-charge, ground annual or any other series of payments in the nature of income, then, for the purposes of this Act, that consideration or part thereof shall be taken to be the market value at the time of the disposal of the right to receive that rent-charge, ground annual or other series of payments ; and for this purpose paragraph 21(1)(a) above shall not apply.

Compulsory acquisition : deduction for disturbance element

29.—(1) In the case of a disposal of an interest in land to an authority possessing compulsory powers, the amount which, apart from this paragraph, would be the consideration for the disposal shall be treated for the purposes of this Act as reduced by the amount which, in accordance with this paragraph, is determined to be the disturbance element.

(2) In the case of a disposal falling within sub-paragraph (1) above, there shall be determined the amount of compensation which would have been payable by the authority concerned in respect of the acquisition of the interest acquired on the disposal if—

(a) no planning permission for the carrying out of any material development of the land in question were in force at the time of the disposal, and

(b) it were to be assumed that no such planning permission would be granted,

and the disturbance element referred to in sub-paragraph (1) above is so much of that compensation as would have been attributable to disturbance.

(3) If the disposal referred to in sub-paragraph (1) above is a disposal in pursuance of an agreement and not in pursuance of a notice to treat, sub-paragraph (2) above shall have effect as if the acquisition referred to in that sub-paragraph were in pursuance of a notice to treat served at the time of the agreement.

(4) In the application of this paragraph to Northern Ireland, sub-paragraph (3) above shall have effect as if—

(a) for the words “notice to treat”, in each place where they occur, there were substituted the words “vesting order” ; and

(b) for the word “served” there were substituted the word “made”.

Insurance money

SCH. 2

30. If, in the case of a disposal of an interest in land which is a part disposal falling within subsection (2) of section 3 of this Act,—

(a) the sum which is derived as mentioned in that subsection is a sum—

(i) received under a policy of insurance of the risk of any kind of damage to, or the loss of, a building, or

(ii) obtained under the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971, or under any enactment repealed by that Act, as compensation in respect of damage to, or the loss of, a building, or

(iii) obtained under any enactment or the common law as compensation in respect of damage to or the loss of land or building as a result of a riot or an unlawful assembly, and

(b) that sum exceeds the amount which, for the purpose of determining the relevant base value of the interest disposed of, is by virtue of paragraph 12(1) above the current use value of that interest,

then, for the purposes of this Act, the consideration for the part disposal shall be taken to be reduced to a sum equal to the amount of the current use value referred to in paragraph (b) above.

Distribution in kind

31. Where there is a disposal of an interest in land by way of distribution from a company in respect of shares in the company, the consideration for the disposal shall be taken for the purposes of this Act to be an amount equal to the consideration which, at the time of that disposal, that interest might reasonably have been expected to fetch on a sale in the open market.

PART VI

INCIDENTAL COSTS

32.—(1) For the purposes of this Act, the incidental costs to a chargeable person of the acquisition of an interest in land or of its disposal shall consist of expenditure falling within sub-paragraph (2) below and wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal.

(2) The expenditure referred to in sub-paragraph (1) above is expenditure on fees, commission or remuneration paid for the professional services of any legal adviser, surveyor, valuer, auctioneer, accountant or agent, and any other costs of conveyance or transfer (including stamp duty) together—

(a) in the case of the acquisition of an interest in land, with costs of advertising to find a seller, and

(b) in the case of the disposal of an interest in land, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of determining the realised development value accruing to the chargeable person on the disposal, including in particular expenses reasonably incurred in ascertaining market value where required for the purposes of that determination.

Section 5.

SCHEDULE 3

PART I

IMPROVEMENTS

1.—(1) For the purposes of this Act, in relation to a disposal by any person of an interest in land (in this Part of this Schedule referred to as “the relevant interest”), expenditure on improvements means, subject to the following provisions of this Part of this Schedule, any expenditure incurred by that person or on his behalf—

(a) in enhancing the value of the relevant interest, being expenditure reflected in the state of the land in which that interest subsists or the market value of that interest at the time of the disposal ; or

(b) in establishing, preserving or defending his title to that interest or his enjoyment of the land by virtue of that interest.

(2) Notwithstanding anything in sub-paragraph (1) above, expenditure incurred in, or in respect of, the carrying out of any work of maintenance, repair or decoration or any similar work of a recurrent nature is not expenditure on improvements.

(3) Where any expenditure incurred as mentioned in sub-paragraph (1) above did not relate exclusively to the land in which the relevant interest subsists, only that proportion of that expenditure which inured for the benefit of that land shall be treated as expenditure on improvements.

(4) Notwithstanding anything in sub-paragraph (1) above, if—

(a) there is a deemed disposal and reacquisition of an interest in land, and

(b) the time of acquisition—

(i) of the relevant interest, or

(ii) of an interest which, on the disposal of the relevant interest, is a part of the relevant interest for the purposes of Part I of Schedule 2 to this Act,

is the time of that reacquisition,

expenditure which, on the deemed disposal referred to in paragraph (a) above or on an earlier deemed disposal of an interest in land, was reflected in the relevant base value of the interest disposed of is not expenditure on improvements in relation to the disposal of the relevant interest.

2. For the purposes of this Act, in relation to the disposal of the relevant interest, expenditure on relevant improvements is that part of the expenditure on improvements which remains after deducting therefrom a sum equal to the amount by which, at the time of the disposal, the current use value of the relevant interest has increased as a result of the expenditure on improvements.

3.—(1) Subject to paragraph 5 below, this paragraph applies where, after the time of acquisition of the relevant interest or of an interest which is a part of the relevant interest for the purposes of

Part I of Schedule 2 to this Act, planning permission for the development of the land in which that interest subsists or subsisted has been granted subject to a condition regulating the development or use of other land in which, at the time of the grant, the chargeable person held an interest (in this paragraph referred to as "the affected interest").

SCH. 3

(2) In this paragraph "the material time" means whichever is the earlier of—

- (a) the time of the disposal of the relevant interest; and
- (b) the earliest time after the grant of the planning permission concerned at which there is a disposal, other than a deemed disposal, of the affected interest or of an interest of which the affected interest is a part for the purposes of Part I of Schedule 2 to this Act.

(3) Where this paragraph applies—

- (a) there shall be ascertained the amount that would have been the current use value of the affected interest at the material time if the condition referred to in sub-paragraph (1) above had not been imposed; and
- (b) on the disposal of the relevant interest the amount (if any) by which the current use value determined under paragraph (a) above exceeds or exceeded the actual current use value of the affected interest at the material time shall be treated for the purposes of this Act as expenditure incurred as mentioned in paragraph 1(1) above.

(4) In any case where the material time is the time of a part disposal of the affected interest any reference in sub-paragraph (3) above to a current use value of the affected interest at that time is a reference to what that current use value would have been had the disposal been an outright disposal of the affected interest.

4.—(1) Where paragraph 3 above applies, the amount which, apart from this paragraph, would be taken as the cost of acquisition of the affected interest on a disposal of that interest (or of an interest of which it is a part for the purposes of Part I of Schedule 2 to this Act) shall be reduced for the purposes of this Act by whichever is the smaller of the following amounts, namely,—

- (a) the amount which, by virtue of paragraph 3(3)(b) above, was or will be treated as mentioned in that paragraph on the disposal of the relevant interest; and
- (b) the amount (if any) by which the current use value of the affected interest at the time of its acquisition or on 6 April 1965, whichever is the later, exceeds the current use value of that interest at the time of the disposal.

(2) In this paragraph "the affected interest" has the same meaning as in paragraph 3 above.

5.—(1) If, in a case where paragraph 3 above applies, the condition referred to in sub-paragraph (1) of that paragraph is varied at any time before the expiry of the period of six years beginning at

SCH. 3 the time of the disposal of the relevant interest, that paragraph shall be taken always to have applied with the condition in the form in which it is as varied.

(2) If, in a case where paragraph 3 above applies, the condition referred to in sub-paragraph (1) of that paragraph is removed at any such time as is mentioned in sub-paragraph (1) above, paragraph 3 above shall be taken never to have applied in the case in question.

(3) All such adjustments with respect to liability to development land tax shall be made as may be necessary in consequence of the provisions of sub-paragraphs (1) and (2) above.

6.—(1) Where, after the time of acquisition of the relevant interest or of an interest which is a part of the relevant interest for the purposes of Part I of Schedule 2 to this Act,—

- (a) planning permission was granted for the development of any of the land in which that interest subsists or subsisted, and
- (b) as part of an arrangement relating to the grant of that permission, the chargeable person enters into an agreement falling within sub-paragraph (2) below which contains a condition restricting or otherwise regulating the development or use of other land in which, at the time of the making of the agreement, the chargeable person held an interest,

paragraphs 3 to 5 above shall apply as if the condition referred to in paragraph (b) above were a condition subject to which the planning permission referred to in paragraph (a) above was granted and, accordingly, as if the interest referred to in paragraph (b) above were the affected interest, as defined in paragraph 3 above.

(2) An agreement is one to which sub-paragraph (1) above applies if—

- (a) a public body is a party to it, and
- (b) it does not result in the receipt of any such sum as is referred to in section 3(2) of this Act and does not otherwise form part of the consideration for the disposal of an interest in land, and
- (c) it is enforceable, by or under any enactment, by the public body referred to in paragraph (a) above against persons deriving title under the chargeable person in respect of the land to which the agreement relates.

(3) In this paragraph “ public body ” means—

- (a) a body specified in any of paragraphs (a) to (d) of subsection (1) of section 11 of this Act ; or
- (b) a Minister of the Crown or government department, including a department of the Government of Northern Ireland ; or
- (c) a statutory undertaker, within the meaning of section 23 of this Act.

7.—(1) Sub-paragraph (2) below shall apply if, in the case of the acquisition of an interest in land (in this paragraph referred to as “the acquired interest”) by an authority possessing compulsory powers,—

SCH. 3

- (a) a deduction falls to be made in calculating the compensation or purchase price on account of betterment of an interest in other land (in this paragraph referred to as “the bettered interest”); and
- (b) a sum equal to 110 per cent. of the current use value of the acquired interest exceeds the amount of the compensation or purchase price.

(2) Where this sub-paragraph applies, an amount equal to the excess referred to in sub-paragraph (1)(b) above shall be treated for the purposes of this Act as expenditure on improvements which—

- (a) is incurred immediately after the acquisition of the acquired interest; and
- (b) relates exclusively to the bettered interest; and
- (c) consists of expenditure on relevant improvements.

(3) In sub-paragraph (1)(a) above “betterment” means any increase in the value of an interest in other land which,—

- (a) for the purpose of assessing compensation in respect of a compulsory acquisition falls to be taken into account by virtue of—

- (i) section 7 of the Land Compensation Act 1961 or 1961 c. 33. section 14 of the Land Compensation (Scotland) Act 1963 c. 51. 1963 (effect of certain actual or prospective development of adjacent land in same ownership), or

- (ii) any such local enactment as is mentioned in subsection (5) or any such enactment as is specified in subsection (7) of section 8 of the said Act of 1961 or, as the case may require, of section 15 of the said Act of 1963 (special cases where the enactments in paragraph (i) above do not apply), or

- (iii) any enactment which, in relation to land in Northern Ireland, provides (in whatever terms) that, in assessing compensation in respect of compulsory acquisition thereunder, account shall be taken of any increase in the value of an interest in contiguous or adjacent land; or

- (b) in the case of a sale which is not a compulsory acquisition, is an increase which would have fallen to be so taken into account if the sale had been a compulsory acquisition.

(4) For the purpose of sub-paragraph (1)(b) above, the current use value of the acquired interest means the amount which, for the purpose of determining the relevant base value of the interest disposed of, was taken as its current use value for the purpose of the disposal by which the authority acquired the acquired interest.

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PART II

FURTHER ADDITION TO BASE A

8.—(1) In determining base A of an interest in land in a case where subsection (5) of section 5 of this Act applies, the further amount referred to in that subsection is that given by the formula—

$$\text{RI} \times \frac{\text{A}}{\text{C}}$$

where “RI”, “A”, and “C” have the meanings assigned to them by sub-paragraph (2) below.

(2) The constituents of the formula in sub-paragraph (1) above are derived from the several amounts which, in accordance with paragraph (a) of subsection (1) of section 5 of this Act, are included in the aggregate referred to in that paragraph, so that—

- “C” is the amount so included by virtue of sub-paragraph (i) of that paragraph ;
- “RI” is the amount so included by virtue of sub-paragraph (ii) of that paragraph ; and
- “A” is the amount so included by virtue of sub-paragraph (iv) of that paragraph.

Section 7.

SCHEDULE 4

CURRENT USE VALUE AND MATERIAL DEVELOPMENT

PART I

LIMITATIONS ON ASSUMPTIONS AS TO PLANNING PERMISSION IN DETERMINING CURRENT USE VALUE

1. The provisions of this Part of this Schedule shall have effect notwithstanding anything in paragraph (a) of subsection (2) of section 7 of this Act (in this Schedule referred to as “the relevant planning provision”) and in this Part of this Schedule—

- (a) “the relevant land” means the land in which subsists the interest of which the current use value falls to be determined ;
- (b) “the relevant planning Schedule” has the meaning assigned to it by section 7(3) of this Act ; and
- (c) “the operative time” means the time at which the current use value referred to in paragraph (a) above falls to be determined.

2. It shall not be assumed by virtue of the relevant planning provision that planning permission would be granted, in respect of the relevant land, for development of any class specified in Part II or, in Northern Ireland, any provision of the relevant planning Schedule, if it is development for which planning permission was refused before the operative time and compensation became payable in respect of that refusal under—

- (a) section 169 of the Town and Country Planning Act 1971 ; or SCH. 4
- (b) section 158 of the Town and Country Planning (Scotland) 1971 c. 78.
Act 1972 ; or 1972 c. 52.
- (c) section 29 of the Land Development Values (Compensation) 1965 c. 23 (N.I.).
Act (Northern Ireland) 1965.

3. Where, before the operative time, planning permission was granted in respect of the relevant land for development of any class specified in Part II or, in Northern Ireland, any provision of the relevant planning Schedule, but was so granted subject to conditions, and compensation became payable in respect of the imposition of the conditions under any of the enactments specified in subparagraphs (a) to (c) of paragraph 2 above, it shall not be assumed by virtue of the relevant planning provision that planning permission for that development, in respect of the relevant land, would be granted otherwise than subject to those conditions.

4. Where, before the operative time, an order was made in respect of the relevant land under—

- (a) section 51 of the Town and Country Planning Act 1971, or
- (b) section 49 of the Town and Country Planning (Scotland) Act 1972,

requiring the removal of any building or the discontinuance of any use, and compensation became payable in respect of that order under section 170 of the said Act of 1971 or, as the case may require, section 159 of the said Act of 1972, it shall not be assumed by virtue of the relevant planning provision that planning permission would be granted, in respect of the relevant land, for the rebuilding of that building or the resumption of that use.

PART II

DEVELOPMENT EXCLUDED FROM MATERIAL DEVELOPMENT

5.—(1) To the extent that any of the following activities constitutes development, they do not constitute material development for the purposes of this Act, namely,—

- (a) the carrying out of works for the maintenance, improvement, enlargement or other alteration of any building, so long as the cubic content of the original building is not exceeded by more than one-tenth ;
- (b) the carrying out of works for the rebuilding, as often as occasion may require, of any building which was in existence at the relevant time, or of any building which was in existence in the period of ten years immediately preceding the day on which that time falls but was destroyed or demolished before the relevant time, so long as (in either case) the cubic content of the original building is not exceeded by more than one-tenth ;
- (c) the carrying out on any land used for the purposes of agriculture or forestry of any building or other operations required for the purposes of that use ;

SCH. 4

- (d) the carrying out of operations on land for, or the use of land for, the display of an advertisement ;
 - (e) the carrying out of operations for, or the use of land for, car parking, provided that such use shall not exceed six years ;
 - (f) in the case of a building or other land which at the relevant time was used for a purpose falling within any class specified in paragraph 7 below or which, being unoccupied at that time, was last used for any such purpose, the use of that building or other land for any other purpose falling within the same class ;
 - (g) in the case of a building or other land which at the relevant time was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose at the relevant time or, as the case may be, one-tenth of the area of the land so used at that time ;
 - (h) in the case of land which at the relevant time was being temporarily used for a purpose other than the purpose for which it was normally used, the resumption of the use of the land for the last-mentioned purpose ; and
 - (i) in the case of land which was unoccupied at the relevant time, the use of the land for the purpose for which it was last used before that time.
- (2) Any reference in sub-paragraph (1) above to the relevant time shall be construed as follows:—
- (a) in any case where the question whether development is or is not material development is relevant in determining whether a project of material development is begun on any land, any such reference is a reference to the time at which any specified operation, within the meaning of Schedule 1 to this Act, is begun on that land or any part of it ; and
 - (b) in any case where that question is relevant to the determination of any matter on the occasion of a disposal, acquisition, variation of the terms and conditions of a lease or other event, any such reference is a reference to the time of that disposal, acquisition, variation or other event.
- (3) For the purposes of paragraphs (a) and (b) of sub-paragraph (1) above,—
- (a) where any development extends to two or more buildings within the same curtilage, those buildings may be regarded as a single building ; and
 - (b) where two or more buildings within the same curtilage result from the carrying out of development of a single building, the new buildings may together be regarded as a single building.
- 6.—(1) In determining for the purposes of sub-paragraph (1)(a) or sub-paragraph (1)(b) of paragraph 5 above whether or not the cubic content of the original building has been exceeded by more than

one-tenth, the cubic content of the building after the carrying out of the work in question shall be treated as reduced by the amount (if any) by which so much of that cubic content as is attributable to one or more of the matters mentioned in sub-paragraph (2) below exceeds so much of the cubic content of the original building as was attributable to one or more of the matters so mentioned.

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(2) The matters referred to in sub-paragraph (1) above are the following, that is to say,—

- (a) means of escape in case of fire ;
- (b) car-parking or garage space ;
- (c) accommodation for plant providing heating, air-conditioning or similar facilities ; and
- (d) lifts and staircases.

(3) In relation to a building erected after 12th September 1974, being a building resulting from the carrying out of any such works as are described in sub-paragraph (1)(a) or sub-paragraph (1)(b) of paragraph 5 above, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

7. The classes of purposes mentioned in paragraph 5(1)(f) above are the following:—

Class A—Use as a dwelling-house or for the purpose of any activities which are wholly or mainly carried on otherwise than for profit, except use for a purpose falling within Class B, C or E:

Class B—Use as an office or retail shop:

Class C—Use as a hotel, boarding-house or guest-house, or as premises licensed for the sale of intoxicating liquors for consumption on the premises:

Class D—Use for the purpose of any activities wholly or mainly carried on for profit, except—

- (a) use as a dwelling-house or for the purposes of agriculture or forestry ; and
 - (b) use for a purpose falling within Class B, C or E:
- and

Class E—Use for any of the following purposes, namely,—

- (a) the carrying on of any process for or incidental to any of the following purposes, namely—
 - (i) the making of any article or of any part of any article, or the production of any substance,
 - (ii) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolishing of any article, or
 - (iii) without prejudice to sub-paragraphs (i) and (ii) above, the getting, dressing or treatment of minerals,

SCH. 4

being a process carried on in the course of a trade or business other than agriculture or forestry, but excluding any process carried on at a dwelling-house or retail shop ;

(b) storage purposes (whether or not involving use as a warehouse or repository) other than storage purposes ancillary to a purpose falling within Class B or C.

8. In determining for the purposes of sub-paragraph (1)(g) of paragraph 5 above what part of a building or other land was used by a person for a particular purpose at any time, there shall be disregarded any part of that building or land which was not used for that purpose on 12th September 1974 or the date on which any part of that building or land first began to be used for that purpose, whichever is the later.

9.—(1) In this Part of this Schedule, unless the context otherwise requires—

“ article ” means an article of any description ;

“ forestry ” includes afforestation ;

“ retail shop ” includes any premises of a similar character where retail trade or business (including repair work) is carried on ;

“ substance ” means any natural or artificial substance or material, whether in solid or liquid form or in the form of a gas or vapour.

(2) Any reference in this Part of this Schedule to the cubic content of a building is a reference to that content as ascertained by external measurement.

(3) In this part of this Schedule, any expression to which a meaning is assigned by the relevant planning enactment and which—

(a) is not defined in sub-paragraph (1) above, and

(b) is not otherwise defined for the purposes of this Act,

has the same meaning as in that enactment.

Section 16.

SCHEDULE 5

AUTHORISED DEVELOPMENT ETC.

1.—(1) For the purpose of determining what planning permission was in force on 12th September 1974 with respect to any land in England, Scotland or Wales, a determination made by the Secretary of State before the time of the relevant disposal and after 12th September 1974—

(a) on an application referred to him on or before that date by virtue of a direction under the calling-in provision, or

(b) on an appeal under the appeals provision against a decision of a planning authority made (or, for the purpose of the appeal, treated as made) on or before that date,

shall be treated for the purposes of the principal section as having been made immediately before that date.

(2) For the purpose of determining what planning permission was in force on 12th September 1974 with respect to any land in Northern Ireland—

SCH. 5

- (a) a determination made by the Department of the Environment for Northern Ireland before the time of the relevant disposal and after 12th September 1974 on an application in relation to which a notice was served on or before that date under the calling-in provision, and
- (b) a determination made by the Planning Appeals Commission before the time of the relevant disposal and after 12th September 1974 on an appeal under the appeals provision against a decision of the Department of the Environment for Northern Ireland made (or, for the purpose of the appeal, treated as made) on or before that date,

shall be treated for the purposes of the principal section as having been made immediately before that date.

(3) For the purpose of determining what planning permission was in force on 12th September 1974 in a case where—

- (a) by virtue of the default provision, the appeals provision applies in relation to an application as if the permission or approval to which the application relates had been refused on or before that date, and
- (b) the applicant does not exercise the right of appeal given to him by virtue of the default provision but makes a further application which does not differ in any significant respect from the application referred to in paragraph (a) above,

a decision of a planning authority or, in Northern Ireland, of the Department of the Environment for Northern Ireland made after that date on the application referred to in paragraph (b) above shall be treated for the purposes of the principal section and the preceding provisions of this paragraph as having been made immediately before that date.

(4) In the application of the preceding provisions of this paragraph in England and Wales, any reference to a planning authority shall be construed as a reference to a local planning authority and as if this paragraph were included in the Town and Country Planning 1971 c. 78. Act 1971.

(5) In sub-paragraphs (1) to (3) above “the calling-in provision”, “the appeals provision” and “the default provision” mean—

- (a) in England and Wales, sections 35, 36, and 37 respectively of the Town and Country Planning Act 1971 ;
- (b) in Scotland, sections 32, 33 and 34 respectively of the Town and Country Planning (Scotland) Act 1972 ; and
- (c) in Northern Ireland, Articles 22, 23 and 24 respectively of the Planning (Northern Ireland) Order 1972.

S.I. 1972/1634
(N.I. 17).

2.—(1) Where planning permission in force on 12th September 1974 was outline planning permission only, then, for the purposes of

SCH. 5 the principal section, the development of the land concerned which is to be treated as authorised by that permission is any development which—

(a) on that date was authorised by that permission without any requirement as to subsequent approval, or

(b) was not so authorised on that date but was either—

(i) development for which, at the time of the relevant disposal, approval had been granted in the manner applicable to that planning permission, or

(ii) development for which, on 12th September 1974, approval might reasonably have been expected to be granted in that manner, not being development for which, at the time of disposal, approval had been refused in that manner.

(2) In sub-paragraph (1) above “outline planning permission” has,—

1971 c. 78.

(a) in England and Wales, the meaning assigned to it by section 42 of the Town and Country Planning Act 1971;

1972 c. 52.

(b) in Scotland, the meaning assigned to it by section 39 of the Town and Country Planning (Scotland) Act 1972; and

S.I. 1972/1634
(N.I. 17).

(c) in Northern Ireland, the meaning assigned to it by Article 26 of the Planning (Northern Ireland) Order 1972.

3.—(1) On the disposal of an interest in land for which planning permission granted for a limited period was in force on 12th September 1974, that permission shall be treated, for the purposes of the principal section, as having ceased to be in force before that date unless it was also in force at the time of disposal.

(2) In sub-paragraph (1) above “planning permission granted for a limited period” has the meaning assigned to it by the relevant planning enactment.

4. In this Schedule—

“the principal section” means section 16 of this Act; and

“the relevant disposal” has the same meaning as in the principal section.

Section 34.

SCHEDULE 6

INTERACTION OF DEVELOPMENT LAND TAX WITH OTHER TAXES

PART I

DLT DISPOSAL PRECEDES OR IS CONTEMPORANEOUS WITH CGT DISPOSAL OR TRADING DISPOSAL

Reduction of chargeable gain on contemporaneous disposal

1.—(1) If chargeable realised development value accrues to any person on a DLT disposal and that disposal is also a CGT disposal then, subject to the provisions of this Part of this Schedule, a sum

equal to the amount of that chargeable realised development value shall be available as a deduction in accordance with sub-paragraph (2) below.

SCH. 6

(2) If a chargeable gain accrues (or would but for this Part of this Schedule accrue) on the CGT disposal referred to in sub-paragraph (1) above, then, for the purposes of capital gains tax or, as the case may require, corporation tax on chargeable gains, the sum available as a deduction by virtue of that sub-paragraph shall be deducted from the amount which, apart from this Part of this Schedule, would be the amount of the chargeable gain.

(3) Where chargeable realised development value accrues to any person on a DLT disposal and, by virtue of Part II of this Schedule, the amount of development land tax chargeable in respect of that value is reduced by an amount which is the credit for other tax paid, within the meaning of that Part, then, for the purposes of this Part of this Schedule, the amount of chargeable realised development value which accrues on that DLT disposal shall be taken to be reduced by an amount equal, subject to sub-paragraph (4) below, to the amount of the notional reduction in liability, within the meaning of that Part, relevant to the calculation of that credit.

(4) Where sub-paragraph (1) of paragraph 14 below applies to the DLT disposal referred to in sub-paragraph (3) above and the case is one to which sub-paragraph (2) of that paragraph applies, the reference in sub-paragraph (3) above to the amount of the notional reduction in liability relevant to the calculation of the credit for other tax paid shall be construed as follows—

(a) except where paragraph 15 below applies, the reference shall be construed as a reference to the aggregate of the amounts of the notional reductions in liability determined in relation to each of the relevant CGT disposals, as defined in paragraph 14(2) below; and

(b) where paragraph 15 below applies, the reference shall be construed as a reference to the relevant proportion of the amount which was the notional reduction in liability for the purpose of determining, in accordance with sub-paragraph (2) of that paragraph, the amount of the gross credit referred to in sub-paragraph (1) of that paragraph;

and, for the purposes of paragraph (b) above, the relevant proportion is the proportion which the credit for other tax paid appropriate to the DLT disposal referred to in sub-paragraph (3) above bears to the total of the gross credit referred to in paragraph (b) above.

(5) The deduction from the amount of a chargeable gain which is provided for by sub-paragraph (2) above shall be applied to the amount of that gain—

(a) before making any reduction under section 34 of the Finance Act 1965 (transfer of business on retirement) or under any other enactment providing for relief by reference to the aggregate of a loss and a gain or of two or more gains or losses, and

- SCH. 6
1970 c. 10.
1970 c. 24.
1972 c. 41.
- (b) before making any adjustment under section 38(2) of that Act (unit trusts: in certain cases only one-tenth of gains to be chargeable gains), under the proviso to section 208(2) of the Income and Corporation Taxes Act 1970 (partially approved superannuation funds: part of gain not to be chargeable gain) or under section 21(7) of the Finance Act 1970 (investments held partially for purposes of certain retirement benefit schemes: part of gain not to be chargeable gain), and
- (c) before making any reduction under section 93 of the Finance Act 1972 (reduction in amount of chargeable gains to be included in company's total profits),

but after taking account of any other provision affecting the determination of the amount of any chargeable gain.

(6) Subject to the following provisions of this Part of this Schedule, in any case where, apart from this sub-paragraph, the sum available as a deduction as mentioned in sub-paragraph (1) above would be greater than the amount from which, by virtue of sub-paragraph (2) above, it falls to be deducted, that sum shall be treated for the purposes of those sub-paragraphs as equal to that amount.

Reduction where DLT disposal precedes CGT disposal

2.—(1) Subject to sub-paragraph (2) below, if chargeable realised development value accrues to any person on a DLT disposal which is a deemed disposal and, accordingly, does not constitute a CGT disposal of the interest in question and that deemed disposal is followed by a CGT disposal (in this paragraph referred to as "the subsequent disposal") of that interest or any part of it, then,—

- (a) if the subsequent disposal is not also a DLT disposal, it shall be treated as such for the purposes of paragraph 1 above; and
- (b) whether or not paragraph (a) above applies, the chargeable realised development value which accrued on the earlier deemed DLT disposal shall be treated for the purposes of paragraph 1 above as accruing on the subsequent DLT disposal (in addition to any chargeable realised development value which in fact accrues or is otherwise treated as accruing on that disposal).

- 1965 c. 25.
- (2) Sub-paragraph (1) above does not apply if, in the period between the earlier deemed DLT disposal and the subsequent disposal, the interest which is the subject matter of the subsequent disposal was acquired in circumstances falling within section 24(1) of the Finance Act 1965 (for capital gains tax purposes, personal representatives acquire deceased's assets at market value but without there being a CGT disposal).

Part disposals

3.—(1) The provisions of this paragraph apply if, in a case where paragraph 1(1) above applies,—

- (a) chargeable realised development value accrues to any person on a DLT disposal which is a part disposal consisting of the grant of a lease; or

- (b) if paragraph 2 above also applies, the subsequent disposal referred to in that paragraph is a part disposal; SCH. 6

and in the following provisions of this paragraph the part disposal referred to in paragraph (a) or, as the case may be, paragraph (b) above is referred to as "the principal disposal" (and references to the principal DLT disposal and the principal CGT disposal shall be construed accordingly) and the interest of which the principal disposal is a part disposal is referred to as "the relevant interest".

(2) If, in a case where this paragraph applies, the principal disposal consists of the grant of a lease and, apart from this sub-paragraph, paragraph 2 of Schedule 8 to the Finance Act 1965 (premiums for leases) would not apply to the principal disposal by reason only that no premium is required as mentioned in sub-paragraph (1) of that paragraph, it shall be assumed for the purposes of the application of this Part of this Schedule that the payment of a premium of £1 was required under the lease and, accordingly, that the principal disposal is such a CGT disposal as is referred to in the said paragraph 2. 1965 c. 25.

(3) Where this paragraph applies in a case falling within sub-paragraph (1)(b) above, then, for the purposes of the following provisions of this paragraph, the consideration for the principal DLT disposal shall be taken to be the aggregate of—

- (a) the consideration for the earlier deemed DLT disposal referred to in paragraph 2 above; and
- (b) the amount which would be the amount of expenditure on improvements for the purposes of a DLT disposal of the relevant interest, assuming that DLT disposal to occur contemporaneously with the principal disposal.

(4) If, in a case where this paragraph applies, the consideration for the principal DLT disposal (in this paragraph referred to as "CD") exceeds the consideration for the principal CGT disposal, as determined for the purposes of tax on chargeable gains, paragraph 1(1) above shall have effect as if the reference therein to a sum equal to the amount of the chargeable realised development value which accrues on the DLT disposal were a reference to a sum equal to that fraction of that value of which the numerator is the consideration for the CGT disposal, as so determined, and the denominator, subject to sub-paragraph (5) below, is CD.

(5) If, in a case where paragraph 1(1) above has effect in accordance with sub-paragraph (4) above,—

- (a) the relevant interest is itself a lease, and
- (b) the principal disposal is the grant of a sub-lease,

the denominator in the fraction referred to in that sub-paragraph shall be $CD - (HR \times F)$ where—

"HR" is the amount which, for the purposes of Part III of Schedule 2 to this Act, is the value at the time of the principal disposal of the rights of the landlord under the relevant interest; and

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“ F ” is the fraction which, under sub-paragraph (1) of paragraph 10 of that Schedule is applied (or would but for paragraph 11 of that Schedule be applied) to the matters specified in paragraphs (a) to (d) of that sub-paragraph for the purpose of determining the amount of chargeable realised development value which accrues on the principal DLT disposal.

(6) Subject to sub-paragraph (9) below,—

- (a) where paragraph 1(1) above has had effect in accordance with sub-paragraph (4) above in relation to the principal disposal, and
- (b) there is a subsequent disposal (in this paragraph referred to as “ the later disposal ”) of the balance of the relevant interest which is either a CGT disposal alone or both a DLT disposal and a CGT disposal,

then, if the later disposal is not also a DLT disposal, it shall be treated as such for the purposes of this paragraph and paragraph 1 above and (in every case) there shall be treated, for the purposes of paragraph 1 above, as accruing on the later disposal, in addition to any chargeable realised development value which in fact accrues on that disposal, such part of the chargeable realised development value which accrued on the principal disposal as is represented by the difference between the fraction of that value appropriate to the later disposal and the fraction of that value appropriate to the last preceding disposal of the relevant interest (whether that is the principal disposal or a subsequent disposal of the balance of the relevant interest).

(7) For the purposes of this paragraph a disposal of the balance of the relevant interest means—

- (a) a disposal of the interest which was the retained interest in relation to the principal disposal, or
- (b) a disposal which would fall within paragraph (a) above if, in the period beginning immediately after the principal disposal and ending immediately before the disposal in question, no disposal had occurred which falls within either paragraph (a) above or this paragraph.

(8) For the purposes of this paragraph, in relation to the chargeable realised development value which accrued on the principal disposal, the fraction appropriate to that disposal is the fraction applied under sub-paragraph (4) above, and the fraction appropriate to any subsequent disposal of the balance of the relevant interest is the fraction of which the denominator is the amount which is the denominator in the fraction appropriate to the principal disposal and the numerator is CA, where “ CA ” is the aggregate of the following, as determined for the purposes of tax on chargeable gains, namely,—

- (a) the consideration for the principal disposal ;
- (b) the consideration for the subsequent disposal ; and

- (c) the consideration for any disposal of the balance of the relevant interest which occurred between the principal disposal and the subsequent disposal. SCH. 6

(9) On the occasion of the first disposal of the balance of the relevant interest where the fraction which, in accordance with sub-paragraph (8) above, is appropriate to the disposal is or exceeds unity, sub-paragraph (6) above shall have effect in relation to the disposal as if for the words "as is represented by the difference between the fraction of that value appropriate to the later disposal and" there were substituted the words "as remains after deducting therefrom"; and thereafter the preceding provisions of this paragraph shall no longer apply in relation to any part of the chargeable realised development value which accrued on the principal disposal.

(10) In determining for the purposes of this paragraph the consideration for a CGT disposal, no account shall be taken of the exclusion of any amount from any consideration by virtue of sub-paragraph (1) or sub-paragraph (4) of paragraph 5 of Schedule 8 to the Finance Act 1965 (where, by reference to any premium, 1965 c. 25. income tax becomes chargeable under section 80 or section 82 of the Income and Corporation Taxes Act 1970 on any amount, that 1970 c. 10. amount is to be excluded from the consideration brought into account for the purpose of computing any chargeable gain).

Modifications where part of premium, etc. taxable as income

4.—(1) If, in a case where paragraph 1(1) above applies on the disposal of an interest in land,—

- (a) the CGT disposal is such that, by virtue of any provision of paragraph 5 of Schedule 8 to the Finance Act 1965, an amount (in this paragraph referred to as "the income element") falls to be excluded either from the consideration brought into account in making a computation under Schedule 6 to that Act or from any gain accruing on the disposal, and
- (b) by virtue of section 80 or section 82 of the Income and Corporation Taxes Act 1970, the income element falls to be taxable as rent or is chargeable to tax under Case VI of Schedule D,

paragraph 1(2) above shall have effect in accordance with sub-paragraph (2) below.

(2) Where sub-paragraph (1) above applies, paragraph 1(2) above shall have effect as if—

- (a) the reference to the amount of the chargeable gain were a reference to the aggregate of the income element and the amount of the chargeable gain; and
- (b) the reference to capital gains tax included a reference to income tax; and

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(c) in the phrase "corporation tax on chargeable gains" the words "on chargeable gains" were omitted.

(3) If, in a case where sub-paragraph (1) above applies, the sum available as a deduction as mentioned in paragraph 1(1) above is less than the aggregate referred to in sub-paragraph (2)(a) above, the deduction provided for by paragraph 1(2) above shall be made in the first instance from the amount which, apart from this Part of this Schedule, would be the income element, so that only if the sum so available exceeds that amount will the balance of that sum fall to be deducted from the amount which, apart from this Part of this Schedule, would be the amount of the chargeable gain.

(4) In determining in any case—

(a) the amount excluded from any consideration or chargeable gain by virtue of any provision of paragraph 5 of Schedule 8 to the Finance Act 1965, or

1965 c. 25.

(b) the amount of any deduction under section 83 or section 134 of the Income and Corporation Taxes Act 1970 (deduction for other tax purposes where tax has become chargeable under any provision of sections 80 to 82 of that Act),

1970 c. 10.

no account shall be taken of any deduction made by virtue of any provision of this Schedule on account of any chargeable realised development value.

(5) If, in a case where sub-paragraph (1) above applies, the DLT disposal (in this paragraph referred to as "the material disposal") which gives rise to the sum available as a deduction as mentioned in paragraph 1(1) above occurs in an interim financial year, it shall be ascertained whether the person who is the chargeable person in relation to the material disposal has, within the meaning of this paragraph, a deficiency of tax for the year of assessment in which the income element is brought into account as mentioned in sub-paragraph (1)(b) above, or would be so brought into account apart from the provisions of this Part of this Schedule.

(6) A person has, within the meaning of this paragraph, a deficiency of tax for a year of assessment if—

(a) had the sum referred to in sub-paragraph (5) above not been deducted in accordance with paragraph 1(2) and sub-paragraph (3) above, the amount of income tax which would be payable by him in respect of his total income for that and each preceding material year of assessment

exceeds

(b) the aggregate of—

(i) the income tax payable in respect of his total income for that and each preceding material year of assessment, having regard to the operation of paragraph 1 and sub-paragraphs (2) and (3) above, and

(ii) the appropriate proportion of the development land tax payable in respect of the chargeable realised development value which accrued on the material disposal ;

and in the following provisions of this paragraph a year of assessment in which there is such an excess is referred to as an "affected year" and the amount of that excess is referred to as "the deficiency" for that year.

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(7) For the purposes of this paragraph a year of assessment is a material year of assessment if it is, or begins after, a year of assessment in which account is taken (for the purposes of income tax) of the deduction referred to in sub-paragraph (3) above, either directly or by virtue of the making of any claim.

(8) The appropriate proportion referred to in sub-paragraph (6)(b)(ii) above shall be determined as follows:—

- (a) if the amount which, apart from this Part of this Schedule, would be the income element equals or exceeds the sum referred to in sub-paragraph (5) above, the appropriate proportion is 100 per cent. ; and
- (b) in any other case, the appropriate proportion is that which the amount which, apart from this Part of this Schedule, would be the income element bears to the sum referred to in sub-paragraph (5) above.

(9) Where a person has a deficiency of tax for an affected year—

- (a) he shall be treated as having received in that year a payment chargeable under Case VI of Schedule D of an amount such that income tax thereon at the basic rate for that year is equal to the deficiency for that year ; and
- (b) any payment which a person is treated by virtue of paragraph (a) above as having received in any year shall not on that account constitute income of his for any of the purposes of the Income Tax Acts other than the charge to tax by virtue of that paragraph and, in particular, no part of any such payment shall constitute profits or gains brought into charge for income tax for the purposes of section 52 of the Income and Corporation Taxes Act 1970 (payments out of 1970 c. 10. profits or gains brought into charge to income tax).

Modifications where roll-over relief applies on CGT disposal

5.—(1) If, in a case where paragraph 1(1) above applies on the disposal of an interest in land,—

- (a) section 33 of the Finance Act 1965 (replacement of business assets) applies in relation to the CGT disposal in such circumstances that the interest disposed of constitutes or is included among the old assets, and
- (b) the chargeable realised development value referred to in that paragraph is greater than the chargeable gain, if any, which, apart from this Schedule, would accrue on the disposal, paragraph 1(6) above shall not apply and, subject to sub-paragraph (2) below, the amount by which that chargeable realised development value exceeds that chargeable gain (in this paragraph referred to as "the unapplied balance of chargeable development value") shall be carried forward from the disposal and applied in accordance with the provisions of this paragraph.

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1965 c. 25.

(2) If, in a case falling within sub-paragraph (1) above, the chargeable realised development value referred to in paragraph 1(1) above exceeds what would be the amount of the chargeable gain accruing on the disposal in question if section 33 of the Finance Act 1965 did not apply, the chargeable realised development value shall be treated for the purposes of sub-paragraph (1) above and the following provisions of this paragraph as equal to that amount.

(3) Subject to sub-paragraph (4) below, the unapplied balance of chargeable development value shall be set off against the amount of any chargeable gain which (apart from this paragraph) would accrue on a subsequent CGT disposal of the new assets and, if the unapplied balance is greater than the amount of any such chargeable gain, the remainder shall again be carried forward to set off against subsequent chargeable gains accruing on the disposal of further replacement assets, and so on until the whole of the balance is exhausted.

1969 c. 32.

(4) If, in a case falling within sub-paragraph (1) above, section 33 of the Finance Act 1965 has effect subject to the provisions of paragraph 16 of Schedule 19 to the Finance Act 1969 (depreciating assets) in such circumstances that the whole or any part of the chargeable gain referred to in sub-paragraph (2) of that paragraph accrues in accordance with that sub-paragraph,—

- (a) the unapplied balance of chargeable development value shall be set off against the amount of any chargeable gain which accrues as mentioned in that sub-paragraph ; and
- (b) if the unapplied balance is greater than the amount of any such chargeable gain and part of the postponed gain is carried forward to asset No. 3 under sub-paragraph (3) of that paragraph, the remainder of the unapplied balance shall be dealt with under sub-paragraph (3) above.

(5) In any case where, by virtue of sub-paragraph (3) or sub-paragraph (4) above, the unapplied balance of chargeable development value or any part of it falls to be set off against the amount of a chargeable gain, a sum equal to that unapplied balance or part thereof shall be deducted from the amount which, apart from this paragraph, would be the amount of the chargeable gain and, if the unapplied balance or part thereof exceeds that amount, the chargeable gain shall be extinguished.

(6) In this paragraph “the old assets” and “the new assets” have the same meaning as in section 33 of the Finance Act 1965 and “asset No. 3” has the same meaning as in paragraph 16 of Schedule 19 to the Finance Act 1969.

Reduction of profits or gains on contemporaneous disposal

6.—(1) If chargeable realised development value accrues to any person on a DLT disposal and that disposal is also a trading disposal, then, subject to the following provisions of this paragraph, a sum equal to the amount of that chargeable realised development value shall be allowable as a deduction in accordance with sub-paragraph (2) below in computing the profits or gains of the trade in question.

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(2) For the purpose of determining the year of assessment or accounting period in which account is to be taken of the deduction referred to in sub-paragraph (1) above, that deduction shall be treated as if it were a trading expense incurred on the date on which occurred the trading disposal referred to in that sub-paragraph.

(3) If the DLT disposal (in this paragraph referred to as "the material disposal") which gives rise to the deduction referred to in sub-paragraph (1) above occurs in an interim financial year and income tax is chargeable in respect of the profits or gains of the trade in question for a year of assessment in which account is taken of the deduction by virtue of sub-paragraph (2) above, it shall be ascertained whether the person who is the chargeable person in relation to the material disposal has, within the meaning of this paragraph, a deficiency of tax for that year of assessment.

(4) If sub-paragraph (3) above does not apply in relation to a year of assessment by reason only that a loss is sustained in the trade in question, it shall be ascertained whether, as a result of relief given under any provision of the Income Tax Acts in respect of the whole or any part of that loss, the person referred to in sub-paragraph (3) above has, within the meaning of this paragraph, a deficiency of tax for that or any other year of assessment.

(5) A person has, within the meaning of this paragraph, a deficiency of tax for a year of assessment if—

(a) had the sum referred to in sub-paragraph (1) above not been allowable as a deduction as mentioned in that sub-paragraph, the amount of income tax which would be payable by him in respect of his total income for that and each preceding material year of assessment

exceeds

(b) the aggregate of—

(i) the income tax payable in respect of his total income for that and each preceding material year of assessment, having regard to the operation of sub-paragraph (1) above ; and

(ii) the development land tax payable in respect of the chargeable realised development value which accrued on the material disposal ;

and in the following provisions of this paragraph a year of assessment in which there is such an excess is referred to as an "affected year" and the amount of that excess is referred to as "the deficiency" for that year.

(6) For the purposes of this paragraph a year of assessment is a material year of assessment if it is, or begins after, a year of assessment in which account is taken of the deduction referred to in sub-paragraph (3) above, either directly or by virtue of the making of any claim.

(7) A person who has a deficiency of tax for an affected year shall be treated as having received in respect of that year a payment chargeable under Case VI of Schedule D of an amount such that income tax thereon at the basic rate for the year of assessment in

SCH. 6 which, by virtue of sub-paragraph (8) below, the payment is treated as being received is equal to the deficiency for that affected year.

(8) Where, by virtue of any provision of the Income Tax Acts, income tax under Schedule D in respect of the profits or gains of a trade for any year of assessment is to be computed by reference to the amount of the profits or gains of some other period and, as a result, more than one year of assessment is, by virtue of the preceding provisions of this paragraph, an affected year by reason of the same deduction under sub-paragraph (1) above, the payments which are treated as having been received as mentioned in sub-paragraph (7) above in respect of each of those affected years shall be treated as all being received in the last of those affected years; but in any other case a payment so treated as having been received in respect of an affected year shall be treated as having been received in that year.

1970 c. 10.

(9) Any payment which a person is treated by virtue of sub-paragraphs (7) and (8) above as having received in any year shall not on that account constitute income of his for any of the purposes of the Income Tax Acts other than the charge to tax by virtue of those sub-paragraphs and, in particular, no part of any such payment shall constitute profits or gains brought into charge for income tax for the purposes of section 52 of the Income and Corporation Taxes Act 1970 (payments out of profits or gains brought into charge to income tax).

Reduction where DLT disposal precedes trading disposal

7. If chargeable realised development value accrues to any person on a DLT disposal which is a deemed disposal and, accordingly, does not constitute a trading disposal of the interest in question and that deemed DLT disposal is followed by a trading disposal (in this paragraph referred to as "the subsequent disposal") of that interest or any part of it, then,—

- (a) if the subsequent disposal is not also a DLT disposal, it shall be treated as such for the purposes of paragraph 6 above; and
- (b) whether or not paragraph (a) above applies, the chargeable realised development value which accrued on the earlier deemed DLT disposal shall be treated for the purposes of paragraph 6 above as accruing on the subsequent DLT disposal (in addition to any chargeable realised development value which in fact accrues or is otherwise treated as accruing on that disposal).

Part disposals

8.—(1) The provisions of this paragraph apply if, in a case where paragraph 6(1) applies,—

- (a) chargeable realised development value accrues to any person on a DLT disposal which is a part disposal consisting of the grant of a lease; or
 - (b) if paragraph 7 above also applies, the subsequent DLT disposal referred to in that paragraph is a part disposal,
- and in the following provisions of this paragraph the part disposal referred to in paragraph (a) or, as the case may be, paragraph (b)

above is referred to as "the principal disposal" (and references to the principal DLT disposal and the principal trading disposal shall be construed accordingly) and the interest of which the principal DLT disposal is a part disposal is referred to as "the relevant interest".

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(2) If in a case where this paragraph applies, the principal disposal consists of the grant of a lease and, apart from this sub-paragraph, the principal disposal would not be a trading disposal by reason only that no part of the consideration would fall to be included in the computation of the profits or gains of the trade in question, then, for the purposes of this paragraph and paragraphs 6 and 7 above, the disposal shall be treated as a trading disposal and the sum of £1 shall be taken to be the consideration for the disposal which falls to be included in the computation of those profits or gains.

(3) Where this paragraph applies in a case falling within sub-paragraph (1)(b) above, then, for the purposes of the following provisions of this paragraph, the consideration for the principal DLT disposal shall be taken to be the aggregate of—

- (a) the consideration for the earlier deemed disposal referred to in paragraph 7 above; and
- (b) the amount which would be the amount of expenditure on improvements for the purposes of a DLT disposal of the relevant interest, assuming that DLT disposal to occur contemporaneously with the principal disposal.

(4) If, in a case where this paragraph applies, the consideration for the principal DLT disposal (in this paragraph referred to as "CD") exceeds the consideration for the principal trading disposal (in this paragraph referred to as "CT") as brought into account in computing the profits or gains of the trade in question, paragraph 6(1) above shall have effect as if the reference therein to a sum equal to the amount of the chargeable realised development value which accrues on the DLT disposal were a reference to a sum equal to that fraction of that value of which the numerator is CT and the denominator, subject to sub-paragraph (5) below, is CD.

(5) Sub-paragraphs (5) to (9) of paragraph 3 above shall have effect in relation to the preceding provisions of this paragraph as if, in those sub-paragraphs,—

- (a) any reference to paragraph 1 or paragraph 1(1) above were a reference to paragraph 6 or paragraph 6(1) above;
- (b) any expression to which a meaning is assigned by the preceding provisions of this paragraph had that meaning;
- (c) any reference to sub-paragraph (4) of paragraph 3 above were a reference to sub-paragraph (4) of this paragraph; and
- (d) any reference to a CGT disposal were a reference to a trading disposal;

and as if, in sub-paragraph (8) of paragraph 3 above, for the words "as determined for the purposes of tax on chargeable gains" there were substituted the words "as brought into account in computing the profits or gains of the trade in question."

SCH. 6 *Realised development value charged at 66 $\frac{2}{3}$ per cent.: effect on apportionment of income of close companies*

9.—(1) In this paragraph “development value charged at the lower rate” means so much of the chargeable realised development value which—

- (a) accrues on a DLT disposal in relation to which paragraph 1(2) above has effect in accordance with paragraph 4(2) above, or
- (b) accrues on a DLT disposal to which paragraph 6(1) above applies,

as, by virtue of section 13 of this Act, is chargeable to development land tax at the rate of 66 $\frac{2}{3}$ per cent.

(2) Subject to sub-paragraph (4) below, where any sum—

- (a) which is available as a deduction in accordance with paragraph 1(2) above, as that paragraph has effect by virtue of paragraph 4(2) above, or
- (b) which is allowable as a deduction in accordance with paragraph 6(2) above,

is derived, in whole or in part, from an amount of chargeable realised development value which accrued on a particular disposal and is or includes development value charged at the lower rate, then, in relation to that sum, the related development value charged at the lower rate is—

- (i) in a case where that sum is equal to the whole of, or to an aggregate which includes the whole of, the chargeable realised development value which accrued on that disposal, all the development value charged at the lower rate which accrued on that disposal; and
- (ii) where that sum is equal to part only of, or to an aggregate amount which includes part only of, the chargeable realised development value which accrued on that disposal, the relevant fraction of the development value charged at the lower rate which accrued on that disposal.

(3) In relation to a particular disposal, the relevant fraction referred to in paragraph (ii) of sub-paragraph (2) above is that of which the numerator is the sum referred to in that paragraph and the denominator is the total amount of chargeable realised development value which accrued on that disposal.

(4) In any case where the sum which is available as a deduction as mentioned in sub-paragraph (2)(a) above exceeds the amount of the income element, as defined in paragraph 4 above, the amount which, apart from this sub-paragraph, would be the related development value charged at the lower rate shall be reduced by multiplying it by the fraction of which the numerator is the income element, as so defined, and the denominator is that sum.

(5) In the following provisions of this paragraph the expression “net”, in relation to any development value charged at the lower rate refers to the amount of that development value less the development land tax charged on it.

(6) For the purposes of Schedule 16 to the Finance Act 1972 (apportionment of income, etc. of close companies) for any accounting period of a company in which—

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1972 c. 41.

(a) account is taken of the income element, as defined in paragraph 4 above, and by virtue of paragraphs 1 and 4 above a sum falls to be deducted from the aggregate referred to in paragraph 4(2)(a) above, or

(b) by virtue of paragraph 6 above a sum allowable as a deduction is treated as a trading expense,

and in relation to that sum there is related development value charged at the lower rate, sub-paragraph (1) of paragraph 9 of that Schedule (maximum amount of "relevant income") shall have effect as if, to the amount which by virtue of that sub-paragraph is the limit of the company's relevant income, there were added, subject to sub-paragraph (8) below, 30 per cent. of the net related development value charged at the lower rate.

(7) In any case where, for any accounting period of a company, sub-paragraph (1) of paragraph 9 of Schedule 16 to the Finance Act 1972 has effect in accordance with sub-paragraph (6) above,—

(a) any reference in paragraph 8(1) (determination of "relevant income") or paragraph 9(2) (adjustment of amounts of estate or trading income by reference to certain maximum and minimum amounts) of that Schedule to the estate or trading income of the company for that accounting period shall be construed as a reference to the aggregate of that income and the net related development value charged at the lower rate which is referred to in sub-paragraph (6) above; and

(b) an amount equal to that net related development value shall be added to the aggregate of the amounts specified in sub-paragraphs (i) to (iii) of paragraph 10(2)(a) of that Schedule (definition of "distributable profits").

(8) In any case where—

(a) for any accounting period of a company, paragraph 9(1) of Schedule 16 to the Finance Act 1972 has effect in accordance with sub-paragraph (6) above, and

(b) the relevant income (within the meaning of that Schedule) of the company for that accounting period falls to be calculated in accordance with paragraph 13 of that Schedule (company ceasing to trade, etc.),

sub-paragraph (6) above shall have effect in relation to that accounting period as if for the words "30 per cent." there were substituted the words "60 per cent."

PART II

CGT DISPOSAL OR TRADING DISPOSAL PRECEDES DLT DISPOSAL

Set-off of tax on chargeable gains against liability to development land tax

10.—(1) In any case where—

(a) before, on or after the appointed day, a chargeable gain accrues to any person on a CGT disposal (in this Part of this Schedule referred to as "the primary CGT disposal") which does not constitute a DLT disposal, and

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- (b) within the period of twelve years beginning on the date of the primary CGT disposal the person who made that disposal or a person claiming through him for DLT purposes makes a DLT disposal (in this Part of this Schedule referred to as "the subsequent disposal") of the interest in land which was the subject-matter of the primary CGT disposal, and
- (c) chargeable realised development value accrues on the subsequent disposal, and
- (d) the person making the subsequent disposal makes a claim in that behalf to the Board,

then, subject to paragraph 13 below, the amount of development land tax to which, apart from this Part of this Schedule, he would be chargeable in respect of the chargeable realised development value referred to in paragraph (c) above shall be reduced by an amount (in this Part of this Schedule referred to as "the credit for other tax paid") determined in accordance with the following provisions of this Part of this Schedule.

(2) If the primary CGT disposal occurred before the appointed day it shall be assumed for the purposes of—

- (a) determining whether that disposal also constitutes a DLT disposal, and
- (b) making any determination required by the following provisions of this Part of this Schedule in relation to a DLT disposal occurring at the same time as the primary CGT disposal,

that the appointed day fell (and this Act was in force) before the primary CGT disposal occurred.

(3) In a case where a CGT disposal is, for the purposes of tax on chargeable gains, a part disposal only, any reference in this Part of this Schedule to the interest in land which was the subject matter of that CGT disposal is a reference to the interest which is acquired by the person to whom that disposal is made.

11.—(1) Where paragraph 10 above applies there shall be determined the amount of chargeable realised development value which, subject to sub-paragraph (2) below, would have accrued on the primary CGT disposal if that disposal had also been a DLT disposal for a consideration equal to that which, for the purposes of tax on chargeable gains, was the consideration for the primary CGT disposal.

(2) For the purposes of the determination referred to sub-paragraph (1) above, it shall be assumed that section 12 of this Act had not been enacted.

(3) Where paragraph 10 above applies there shall also be determined, subject to the following provisions of this Part of this Schedule, the amount of capital gains tax or, as the case may be, corporation tax for which the person who made the primary CGT disposal would have been liable for the material year of assessment or financial year if the amount of the chargeable gain which accrued on that disposal had been reduced by an amount equal to—

- (a) the chargeable realised development value determined under sub-paragraph (1) above, or

(b) the chargeable realised development value which accrues on the subsequent disposal,

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whichever is the less, and in this Part of this Schedule the reduction provided for by this sub-paragraph is referred to as "the notional reduction in liability".

(4) Sub-paragraph (5) of paragraph 1 above shall have effect in relation to the notional reduction in liability as it has effect in relation to the deduction provided for by sub-paragraph (2) of that paragraph.

(5) In any case where, apart from this sub-paragraph, the amount of the notional reduction in liability would be greater than the amount of the chargeable gain to which the reduction is to be applied, it shall be treated for the purposes of sub-paragraph (3) above as equal to the amount of that chargeable gain.

(6) In this paragraph and paragraph 12 below, in relation to the person who made the primary CGT disposal,—

- (a) the material year of assessment means the year of assessment in which that disposal occurred, and
- (b) the material financial year means the financial year or years in which falls the whole or any part of the accounting period in which that disposal occurred.

The credit for other tax paid

12.—(1) Subject to the following provisions of this Part of this Schedule, where paragraph 10 above applies the credit for other tax paid which is allowable by reference to the primary CGT disposal is the amount determined under sub-paragraph (2) below.

(2) The amount referred to in sub-paragraph (1) above is that by which the capital gains tax or, as the case may be, corporation tax for which the person who made the primary CGT disposal was actually liable for the material year of assessment or accounting period exceeds the amount determined under paragraph 11(3) above.

Application of credit to later DLT disposals

13.—(1) Subject to the following provision of this paragraph, where the preceding provisions of this Part of this Schedule have had effect in relation to a DLT disposal falling within paragraph 10(1)(b) above (in the following provisions of this Part of this Schedule referred to as "the first relevant DLT disposal") no credit for other tax paid shall be allowable by reference to the primary CGT disposal on any later disposal of the interest which was the subject-matter of that CGT disposal.

- (2) Subject to paragraph 15 below, in any case where—
 - (a) the first relevant DLT disposal was a part disposal only, and
 - (b) in relation to the first relevant DLT disposal, the amount of the nominal reduction in liability was that specified in paragraph 11(3)(b) above, and
 - (c) within the period of twelve years beginning on the date of the primary CGT disposal, the person who made the first

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relevant DLT disposal or a person claiming through him for DLT purposes makes a later material DLT disposal, and

- (d) paragraph 10 above applies in relation to the later material DLT disposal referred to in paragraph (c) above,

sub-paragraph (1) above shall not apply but paragraphs 11 and 12 above shall have effect in relation to that later material DLT disposal (in this paragraph referred to as the "later relevant DLT disposal") subject to the following provisions of this paragraph.

(3) For the purposes of this paragraph and paragraph 15 below, a DLT disposal is a material disposal if it is—

- (a) a disposal of the interest which was the retained interest in relation to the first relevant DLT disposal, or
- (b) a disposal which would fall within paragraph (a) above if, in the period beginning immediately after the first relevant DLT disposal and ending immediately before the disposal in question, no DLT disposal had occurred which falls within either paragraph (a) above or this paragraph.

(4) Subject to sub-paragraph (5) below, where sub-paragraph (2) above applies in relation to a later relevant DLT disposal,—

- (a) paragraph 11(3)(b) above shall have effect as if it referred to the aggregate of the chargeable realised development value which accrued on the first relevant DLT disposal and the chargeable realised development value which accrues on the later relevant DLT disposal ; and
- (b) sub-paragraph (2) of paragraph 12 above shall have effect as if from the excess referred to in that sub-paragraph there were required to be deducted the amount which was the credit for other tax paid in relation to the first relevant DLT disposal.

(5) Where sub-paragraph (2) above has applied in relation to a later relevant DLT disposal and again falls to be applied in relation to such a disposal,—

- (a) to the aggregate referred to in sub-paragraph (4)(a) above there shall be added the chargeable realised development value which accrued on the later relevant DLT disposal or disposals in relation to which sub-paragraph (2) above has already applied ; and
- (b) the amount to be deducted in accordance with sub-paragraph (4)(b) above shall be the aggregate of the credit for other tax paid in relation to the first relevant DLT disposal and the credit or credits for other tax paid in relation to the later relevant DLT disposal or disposals in relation to which sub-paragraph (2) above has already applied.

(6) If, in relation to a later relevant DLT disposal, the amount of the notional reduction in liability is, by virtue of the preceding provisions of this paragraph, that specified in paragraph 11(3)(a) above, sub-paragraph (2) above shall not again apply in relation to any later relevant DLT disposal.

Assembly of interests after primary CGT disposal

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14.—(1) In any case where—

- (a) there is a CGT disposal which falls within paragraph (a) of sub-paragraph (1) of paragraph 10 above, and
- (b) within the period of twelve years beginning on the date of that CGT disposal there is a DLT disposal which is one to which Part I of Schedule 2 to this Act applies, and
- (c) the interest which was the subject matter of the CGT disposal referred to in paragraph (a) above is, in relation to the DLT disposal referred to in paragraph (b) above, a part of the relevant interest for the purposes of Part I of Schedule 2 to this Act,

the DLT disposal shall be treated as falling within paragraph (b) of sub-paragraph (1) of paragraph 10 above, notwithstanding that it is a disposal of a greater interest than that which was the subject matter of the primary CGT disposal.

(2) If, in a case where paragraph 10 above applies by virtue of sub-paragraph (1) above, there is more than one CGT disposal which—

- (a) is of an interest which, in relation to the subsequent disposal, is a part of the relevant interest for the purposes of Part I of Schedule 2 to this Act, and
- (b) is capable of constituting the primary CGT disposal in relation to the subsequent disposal,

paragraphs 11 and 12 above shall have effect subject to the following provisions of this paragraph; and in those provisions and paragraph 15 below the CGT disposals falling within paragraphs (a) and (b) above are referred to as "the relevant CGT disposals".

(3) Where sub-paragraph (2) applies, sub-paragraph (1) of paragraph 11 above shall be applied separately in relation to each of the relevant CGT disposals and, subject to sub-paragraph (4) below,—

- (a) sub-paragraphs (3) to (6) of paragraph 11 and paragraph 12(2) above shall also be applied separately in relation to each of the relevant CGT disposals; and
- (b) sub-paragraph (1) of paragraph 12 above shall have effect as if the reference therein to the amount determined under sub-paragraph (2) of that paragraph were a reference to the aggregate of the amounts so determined.

(4) If the aggregate of the amounts of chargeable realised development value determined under paragraph 11(1) above in relation to each of the relevant CGT disposals is greater than the chargeable realised development value which accrues on the subsequent disposal then, for the purposes of sub-paragraphs (3) to (6) of paragraph 11 and paragraph 12 above (as applied by paragraphs (a) and (b) of sub-paragraph (3) above), each of those amounts of chargeable realised development value shall be treated as reduced proportionately so that the aggregate of them is equal to the chargeable realised development value which accrues on the subsequent disposal.

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1974 c. 30.

(5) In any case where—

(a) a CGT disposal is a disposal which is deemed to occur by virtue of subsection (1) of section 45 of the Finance Act 1974 (first letting charge), and

(b) by virtue of any provision of sub-paragraph (2) of paragraph 2 of Schedule 9 to that Act, that subsection does not apply to a person's interest in so much of the land occupied by him as is referred to in that sub-paragraph,

any reference in the preceding provisions of this paragraph to the interest which was the subject matter of the CGT disposal shall be construed as a reference to what that interest would have been but for the operation of the provision referred to in paragraph (b) above.

Part disposals out of assemblies

15.—(1) In a case falling within sub-paragraph (2) of paragraph 14 above, sub-paragraphs (2) and (4) to (6) of paragraph 13 above shall not apply, but if, in such a case,—

(a) the subsequent disposal was a part disposal only, and

(b) sub-paragraph (4) of paragraph 14 above also applies, and

(c) within the period of twelve years beginning on the date of the first of the relevant CGT disposals, the person who made the first relevant DLT disposal or a person claiming through him for DLT purposes makes a later material DLT disposal, and

(d) paragraph 10 above applies in relation to the later material DLT disposal referred to in paragraph (c) above,

there shall be determined the amount (in this paragraph referred to as “the credit carried forward”) by which the gross credit determined under sub-paragraph (2) below exceeds the amount which was the credit for other tax paid in relation to the first relevant DLT disposal.

(2) The gross credit referred to in sub-paragraph (1) above is the amount which would have been the credit for other tax paid in relation to the first relevant DLT disposal if, in paragraph 14 above, sub-paragraph (4) (and the reference thereto in sub-paragraph (3)) were omitted.

(3) Where sub-paragraph (1) above applies, paragraphs 11 and 12 above shall not apply to the later DLT disposal referred to in paragraph (c) of that sub-paragraph (in this paragraph referred to as the “later relevant DLT disposal”) but, subject to sub-paragraph (5) below, the credit for other tax paid which is appropriate to the later relevant DLT disposal shall be determined by the formula—

$$A \times \frac{B}{C-D}$$

where, subject to sub-paragraph (4) below,—

“A” is the credit carried forward ;

“B” is the chargeable realised development value which accrues on the later relevant DLT disposal;

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“C” is the aggregate of the amounts of chargeable realised development value referred to in paragraph 14(4) above; and

“D” is the chargeable realised development value which accrued on the first relevant DLT disposal.

(4) Where sub-paragraph (1) above has applied in relation to a later relevant DLT disposal and again falls to be applied in relation to such a disposal, then, in the formula set out in sub-paragraph (3) above, —

“A” is the credit carried forward less the amount of the credit or credits for other tax paid appropriate to the later relevant DLT disposal or disposals in relation to which sub-paragraph (1) above has already applied; and

“D” is the aggregate of the chargeable realised development value which accrued on the first relevant DLT disposal and the chargeable realised development value which accrued on that later disposal or, as the case may be, those later disposals.

(5) If, in relation to any later relevant DLT disposal, the fraction $\frac{B}{C-D}$ in the formula set out in sub-paragraph (3) above, would (apart from this sub-paragraph) be greater than unity, it shall be treated for the purposes of this paragraph as unity.

(6) If, in relation to any later relevant DLT disposal, the fraction referred to in sub-paragraph (5) above is unity (whether by virtue of that sub-paragraph or otherwise) sub-paragraph (3) above shall not thereafter have effect in relation to any further DLT disposal which falls within sub-paragraph (1)(c) above.

Set-off of tax on development gains against liability to development land tax

16.—(1) The provisions of this paragraph apply if, in a case where paragraph 10 above applies, a development gain as well as a chargeable gain accrues on the primary CGT disposal or, where paragraph 14(2) above applies, on any of the relevant CGT disposals as defined in that paragraph.

(2) Where this paragraph applies, sub-paragraph (3) of paragraph 11 above shall have effect in relation to a CGT disposal on which a development gain accrues—

(a) as if the reference to the amount of capital gains tax were a reference to the aggregate of capital gains tax and income tax; and

(b) as if the reference to the amount of the chargeable gain were a reference to the aggregate of the chargeable gain and the development gain; and

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(c) as if the notional reduction in liability were applied, in the first instance, exclusively to the development gain, so that only if the amount of the reduction exceeds the amount of the development gain is the balance of the reduction applied to the amount of the chargeable gain.

(3) Where sub-paragraph (3) of paragraph 11 above has effect in relation to a CGT disposal in accordance with sub-paragraph (2) above, then, in relation to that CGT disposal—

(a) sub-paragraphs (4) and (5) of that paragraph shall have effect as if the reference to the notional reduction in liability were a reference to the balance of that reduction referred to in sub-paragraph (2)(c) above ; and

(b) sub-paragraph (2) of paragraph 12 above shall have effect as if the reference to capital gains tax were a reference to the aggregate of capital gains tax and income tax.

(4) In a case where sub-paragraph (2) of paragraph 14 above applies, the modifications provided for by sub-paragraphs (2) and (3) above shall have effect in addition to those provided for by sub-paragraphs (3) and (4) of that paragraph.

(5) In this paragraph “development gain” has the same meaning as in Part III of the Finance Act 1974.

1974 c. 30.

*Set-off of tax on profits or gains against liability
to development land tax*

17. Paragraphs 10 to 15 above shall apply in relation to trading disposals as they apply in relation to CGT disposals subject to the following modifications:—

(a) for “CGT”, wherever occurring, there shall be substituted “trading”;

(b) for the words “capital gains tax”, wherever occurring, there shall be substituted the words “income tax”;

(c) in paragraph 10(1)(a) for the words “a chargeable gain accrues to any person on a CGT disposal” there shall be substituted the words “there is a trading disposal”;

(d) sub-paragraph (3) of paragraph 10, sub-paragraph (4) of paragraph 11 and sub-paragraph (5) of paragraph 14 shall be omitted ;

(e) in sub-paragraph (1) of paragraph 11 for the words from “consideration equal to” to the end of the sub-paragraph there shall be substituted the words “consideration equal to the amount (in this paragraph referred to as ‘the proceeds of the disposal’) which was brought into account in respect of the trading disposal in computing the profits or gains of the trade in question” ; and

(f) in sub-paragraph (3) of paragraph 11 for the words “amount of the chargeable gain which accrued on that disposal” and in sub-paragraph (5) of that paragraph for the words “amount of the chargeable gain” there shall be substituted the words “proceeds of the disposal”.

PART III

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LIABILITY FOR CAPITAL TRANSFER TAX OR ESTATE DUTY
PRECEDES CHARGE TO DEVELOPMENT LAND TAX*Set-off of capital transfer tax against chargeable realised development value*

18.—(1) Subject to sub-paragraphs (2) and (3) below, in any case where—

- (a) before, on or after the appointed day, an interest in land (in this Part of this Schedule referred to as “the relevant interest”) is acquired by any person on the occasion of a CTT transfer (in this Part of this Schedule referred to as “the primary CTT transfer”), and
- (b) the disposal as a result of which the relevant interest is acquired as mentioned in paragraph (a) above is not a DLT disposal, and
- (c) within the period of twelve years beginning on the date of the primary CTT transfer, the person who acquired the relevant interest as mentioned in paragraph (a) above or a person claiming through him for DLT purposes makes a DLT disposal (in this paragraph and paragraphs 19 to 23 below referred to as “the subsequent disposal”) of the relevant interest, and
- (d) chargeable realised development value accrues, or would but for this Part of this Schedule accrue, on the subsequent disposal, and
- (e) the person making the subsequent disposal makes a claim in that behalf to the Board,

then, subject to paragraph 21 below, the amount which, apart from this Part of this Schedule, would be the chargeable realised development value accruing on the subsequent disposal shall be reduced by an amount (in this Part of this Schedule referred to as “the capital transfer tax deduction”) determined in accordance with the following provisions of this Part of this Schedule.

(2) In any case where the primary CTT transfer arises by virtue of section 22 of the Finance Act 1975 (transfer on death) and the whole or any part of the land in which the relevant interest subsists is designated as property to which section 34 of that Act applies (conditional exemption for certain buildings etc. on death), then,—

- (a) where the whole of that land is so designated and capital transfer tax becomes chargeable at any time in accordance with subsection (7) or subsection (8) of section 34 of the Finance Act 1975 with respect to that land (or any of it), sub-paragraph (1) above shall have effect as if the period referred to in paragraph (c) thereof began immediately before that time; and
- (b) where part only of that land is so designated and capital transfer tax becomes chargeable at any time as mentioned in paragraph (a) above with respect to the part of the land which is so designated (or any of it) sub-paragraph (1) above

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shall have effect in relation to that capital transfer tax as if the period referred to in paragraph (c) thereof began immediately before that time ;

but nothing in paragraph (b) above shall affect the operation of this Part of this Schedule in relation to any capital transfer tax paid in respect of the value of the part of the land which is not so designated.

(3) In any case where the disposal as a result of which the relevant interest was acquired as mentioned in sub-paragraph (1)(a) above is a DLT disposal so that the condition in sub-paragraph (1)(b) above is not fulfilled but—

(a) the consideration for that acquisition was less than that which the relevant interest might reasonably have been expected to fetch in the open market, and

(b) the person by whom the relevant interest was acquired bore some or all of the capital transfer tax chargeable on the value transferred by the primary CTT transfer,

then, for the purposes of this Part of this Schedule (other than this sub-paragraph), the condition in sub-paragraph (1)(b) above shall be taken to be fulfilled.

(4) If the primary CTT transfer occurred before the appointed day it shall be assumed for the purpose of—

(a) determining whether that transfer also constitutes a DLT disposal, and

(b) making any determination required by the following provisions of this Part of this Schedule in relation to a DLT disposal occurring at the same time as the primary CTT transfer,

that the appointed day fell (and this Act was in force) before the primary CTT transfer occurred.

(5) If, after the amount of chargeable realised development value accruing on a DLT disposal has been ascertained, having regard to the amount of the capital transfer tax deduction applicable under this Part of this Schedule, the amount of capital transfer tax which is payable by any person by virtue of a CTT transfer taken into account in determining that deduction is varied, such adjustment, whether by way of a further assessment to development land tax or the discharge or repayment of development land tax or otherwise, shall be made as is required in consequence.

19.—(1) Where paragraph 18 above applies there shall be determined the amount of chargeable realised development value which, subject to sub-paragraph (2) below, would have accrued on the primary CTT transfer if that transfer had also been a DLT disposal of the relevant interest for a consideration equal to the price which the relevant interest might have been expected to fetch if sold in the open market at the time of the primary CTT transfer.

(2) For the purposes of the determination referred to in sub-paragraph (1) above, it shall be assumed that section 12 of this Act had not been enacted.

(3) Where paragraph 18 above applies, there shall be determined the amount of the capital transfer tax chargeable on the value transferred by the primary CTT transfer which is attributable to the value of the relevant interest as ascertained for the purposes of capital transfer tax, and, subject to sub-paragraph (5) below, in this Part of this Schedule "the relevant amount of tax" means the amount of tax so attributable.

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(4) For the purpose of sub-paragraph (3) above, the amount of tax chargeable as mentioned in that sub-paragraph which is attributable to the value of the relevant interest shall not include tax chargeable on any part of the value transferred which is represented by any such liability for capital transfer tax as is mentioned in paragraph 1(2) of Schedule 10 to the Finance Act 1975 (value transferred to include transferor's liability for tax on the value transferred).

(5) If, in a case where this Part of this Schedule applies by virtue of sub-paragraph (3) of paragraph 18 above, the person referred to in paragraph (b) of that sub-paragraph did not bear the whole of the amount of capital transfer tax which is attributable, as mentioned in sub-paragraph (3) above, to the value of the relevant interest, the amount which, apart from this sub-paragraph, would be the relevant amount of tax shall be reduced to the amount of the capital transfer tax so attributable which was borne by that person.

The capital transfer tax deduction

20.—(1) Subject to the following provisions of this Part of this Schedule, where paragraph 18 applies the capital transfer tax deduction which is allowable by reference to the primary CTT transfer is the amount determined under sub-paragraph (2) below.

(2) The amount referred to in sub-paragraph (1) above is that given by the formula—

$$\frac{A \times C}{B}$$

where—

"A" is the chargeable realised development value determined under paragraph 19(1) above or the chargeable realised development value which accrues on the subsequent disposal, whichever is the less;

"B" is the amount taken as the consideration for the DLT disposal referred to in paragraph 19(1) above; and

"C" is the relevant amount of tax.

Application of deduction to later DLT disposals

21.—(1) Subject to the provisions of this paragraph, where the preceding provisions of this Part of this Schedule have had effect in relation to a DLT disposal falling within paragraph 18(1)(c) above (in this paragraph and paragraphs 22 and 23 below referred to as "the first relevant DLT disposal") no capital transfer tax deduction shall be allowable by reference to the primary CTT transfer on any later disposal of the relevant interest.

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(2) Subject to paragraph 23 below, in any case where—

- (a) the first relevant DLT disposal was a part disposal only, and
- (b) in relation to the first relevant DLT disposal, “A” in the formula specified in paragraph 20(2) above was the chargeable realised development value which accrued on that disposal, and
- (c) within the period of twelve years referred to in paragraph 18(1)(c) above, the person who made the first relevant DLT disposal or a person claiming through him for DLT purposes makes a later material DLT disposal, and
- (d) paragraph 18 above applies in relation to the later material disposal referred to in paragraph (c) above,

sub-paragraph (1) above shall not apply but paragraphs 19 and 20 above shall have effect in relation to that later material DLT disposal (in this paragraph referred to as the “later relevant DLT disposal”) subject to the following provisions of this paragraph.

(3) For the purposes of this paragraph a DLT disposal is a material disposal if it is—

- (a) a disposal of the interest which was the retained interest in relation to the first relevant DLT disposal, or
- (b) a disposal which would fall within paragraph (a) above if, in the period beginning immediately after the first relevant DLT disposal and ending immediately before the disposal in question, no DLT disposal had occurred which falls within paragraph (a) above or this paragraph.

(4) Subject to sub-paragraph (5) below, where sub-paragraph (2) above applies in relation to a later relevant DLT disposal,—

- (a) in the definition of “A” in paragraph 20(2) above the reference to the chargeable realised development value which accrues on the subsequent disposal shall have effect as a reference to the aggregate of the chargeable realised development value which accrued on the first relevant DLT disposal and the chargeable realised development value which accrues on the later relevant DLT disposal; and
- (b) from the amount which, apart from this sub-paragraph, would be the capital transfer tax deduction there shall be subtracted the amount which was the capital transfer tax deduction in relation to the first relevant DLT disposal.

(5) Where sub-paragraph (2) has applied in relation to a later relevant DLT disposal and again falls to be applied in relation to such a disposal,—

- (a) to the aggregate referred to in sub-paragraph (4)(a) above there shall be added the chargeable realised development value which accrued on the later relevant DLT disposal or disposals in relation to which sub-paragraph (2) above has already applied; and
- (b) the amount to be subtracted in accordance with sub-paragraph (4)(b) above shall be the aggregate of the

capital transfer tax deduction in relation to the first relevant DLT disposal and the capital transfer tax deduction or deductions in relation to the later relevant DLT disposal or disposals in relation to which sub-paragraph (2) above has already applied.

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(6) If, by virtue of the preceding provisions of this paragraph, in relation to a later relevant DLT disposal "A" in the formula specified in paragraph 20(2) above is the chargeable realised development value determined under paragraph 19(1) above, sub-paragraph (2) above shall not again apply in relation to any later disposal.

Assembly of interests after primary CTT transfer

22.—(1) In any case where—

- (a) there is a CTT transfer which falls within paragraphs (a) and (b) of sub-paragraph (1) of paragraph 18 above, and
- (b) within the period of twelve years referred to in paragraph (c) of that sub-paragraph there is a DLT disposal which is one to which Part I of Schedule 2 to this Act applies, and
- (c) for the purposes of Part I of Schedule 2 to this Act, the relevant interest is, in relation to the DLT disposal referred to in paragraph (b) above, a part of the interest which is the subject matter of that disposal,

the DLT disposal shall be treated as falling within paragraph (c) of sub-paragraph (1) of paragraph 18 above, notwithstanding that it is a disposal of an interest greater than the relevant interest.

(2) If, in a case where paragraph 18 above applies by virtue of sub-paragraph (1) above, there is more than one CTT transfer—

- (a) on the occasion of which a person acquires an interest in land which for the purposes of Part I of Schedule 2 to this Act is, in relation to the subsequent disposal, a part of the interest which is the subject matter of that disposal, and
- (b) which is capable of constituting the primary CTT transfer in relation to the subsequent disposal,

paragraphs 19 and 20 above shall have effect subject to the following provisions of this paragraph; and in those provisions and paragraph 23 below the CTT transfers falling within paragraphs (a) and (b) above are referred to as "the relevant CTT transfers".

(3) Subject to sub-paragraph (4) below, where sub-paragraph (2) above applies—

- (a) paragraphs 19 and 20(2) above shall be applied separately in relation to each of the relevant CTT transfers, and
- (b) sub-paragraph (1) of paragraph 20 above shall have effect as if the reference therein to the amount determined under sub-paragraph (2) of that paragraph were a reference to the aggregate of the amounts so determined.

(4) If the aggregate of the amounts of chargeable realised development value determined under paragraph 19(1) above in relation to

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Part disposals out of assemblies

23.—(1) In a case falling within sub-paragraph (2) of paragraph 22 above, sub-paragraphs (2) and (4) to (6) of paragraph 21 above shall not apply, but if, in such a case—

- (a) the subsequent disposal was a part disposal only, and
- (b) sub-paragraph (4) of paragraph 22 above applies, and
- (c) within the period of twelve years beginning on the date of the first of the relevant CTT transfers, the person who made the first relevant DLT disposal or a person claiming through him for DLT purposes makes a later DLT disposal which is a material disposal, as defined in paragraph 21(3) above, and
- (d) paragraph 18 above applies in relation to the later DLT disposal referred to in paragraph (c) above,

there shall be determined the amount (in this paragraph referred to as “the balance carried forward”) by which the gross deduction determined under sub-paragraph (2) below exceeds the amount which was the capital transfer tax deduction in relation to the first relevant DLT disposal.

(2) The gross deduction referred to in sub-paragraph (1) above is the amount which would have been the capital transfer tax deduction in relation to the first relevant DLT disposal if, in paragraph 22 above, sub-paragraph (4) (and the reference thereto in sub-paragraph (3)) were omitted.

(3) Where sub-paragraph (1) applies, paragraphs 19 and 20 above shall not apply to the later DLT disposal referred to in paragraph (c) of that sub-paragraph (in this paragraph referred to as the “later relevant DLT disposal”) but, subject to sub-paragraph (5) below, the capital transfer tax deduction which is appropriate to the later relevant DLT disposal shall be determined by the formula—

$$A \times \frac{B}{C-D}$$

where, subject to sub-paragraph (4) below—

“A” is the balance carried forward ;

“B” is the chargeable realised development value which accrues on the later relevant DLT disposal ;

“C” is the aggregate of the amounts of chargeable realised development value referred to in paragraph 22(4) above ; and

“D” is the chargeable realised development value which accrued on the first relevant DLT disposal.

(4) Where sub-paragraph (1) above has applied in relation to a later relevant DLT disposal and again falls to be applied in relation to such a disposal, then, in the formula set out in sub-paragraph (3) above,—

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“A” is the balance carried forward less the amount of the capital transfer tax deduction or deductions appropriate to the later relevant DLT disposal or disposals in relation to which sub-paragraph (1) above has already applied; and

“D” is the aggregate of the chargeable realised development value which accrued on the first relevant DLT disposal and the chargeable realised development value which accrued on that later disposal or, as the case may be, those later disposals.

(5) If, in relation to any later relevant DLT disposal, the fraction $\frac{B}{C-D}$

—in the formula set out in sub-paragraph (3) above would

(apart from this sub-paragraph) be greater than unity, it shall be treated for the purposes of this paragraph as unity.

(6) If, in relation to any later relevant DLT disposal, the fraction referred to in sub-paragraph (5) above is unity (whether by virtue of that sub-paragraph or otherwise) sub-paragraph (3) above shall not thereafter have effect in relation to any further DLT disposal referred to in paragraph (c) above,

Capital transfer tax charged at higher rate because of death of transferor

24.—(1) In any case where—

- (a) account has been taken under any of the preceding provisions of this Schedule of an amount of capital transfer tax chargeable on the value transferred by a CTT transfer, and
- (b) that amount was in fact charged at a rate or rates applicable under the Second Table set out in subsection (3) of section 37 of the Finance Act 1975 (the Table applicable to gifts inter vivos etc.), and
- (c) as a result of the death of the transferor within three years of the CTT transfer, the amount of capital transfer tax chargeable on the value transferred by that transfer falls to be recalculated by reference to a rate or rates applicable under the First Table set out in the said subsection (3),

any deduction for capital transfer tax paid which, in whole or in part, is derived from the amount of capital transfer tax chargeable on the value transferred by the CTT transfer shall be redetermined accordingly and such adjustment, whether by way of repayment of development land tax or otherwise, shall be made as is required in consequence.

(2) If, in a case where the disposal as a result of which the relevant interest was acquired as mentioned in paragraph 18(1)(a) above was a DLT disposal,—

- (a) account has not been taken as mentioned in sub-paragraph (1)(a) above of an amount of capital transfer tax chargeable

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on the value transferred by a CTT transfer by reason only that the condition in paragraph 18(3)(b) above was not fulfilled, and

- (b) the conditions in paragraphs (b) and (c) of sub-paragraph (1) above are fulfilled with respect to the amount of capital transfer tax referred to in paragraph (a) above, and
- (c) the additional capital transfer tax falling to be paid as a result of the recalculation referred to in sub-paragraph (1)(c) above is borne by the person by whom the relevant interest was acquired as mentioned in paragraph 18(1)(a) above,

sub-paragraph (1) above shall apply on the basis that the condition in paragraph (b) of sub-paragraph (3) of paragraph 18 above was fulfilled with respect to £1 of the capital transfer tax referred to in that paragraph.

Set-off of estate duty against chargeable realised development value

25.—(1) In any case where—

- (a) before the appointed day a person acquired an interest in land (in this Part of this Schedule referred to as “the material interest”) either on the death of a person (in this Part of this Schedule referred to as “the deceased”) or by a disposition made before the deceased’s death but at such time and in such circumstances that the interest fell to be included in the property passing on the deceased’s death for the purposes of estate duty, and
- (b) an amount of estate duty was payable on the material interest (as part of the property comprised in the deceased’s estate), and
- (c) within the period of six years beginning on the date of the relevant event the person who acquired the material interest as mentioned in paragraph (a) above or a person claiming through him for DLT purposes makes a DLT disposal (in the following provisions of this Part of this Schedule referred to as “the subsequent disposal”) of the material interest, and
- (d) chargeable realised development value accrues, or would but for this Part of this Schedule accrue, on the subsequent disposal, and
- (e) the person making the subsequent disposal makes a claim in that behalf to the Board,

then, subject to paragraph 28 below, the amount which, apart from this Part of this Schedule, would be the chargeable realised development value accruing on the subsequent disposal shall be reduced by an amount (in this Part of this Schedule referred to as “the estate duty deduction”) determined in accordance with the following provisions of this Part of this Schedule.

(2) In sub-paragraph (1)(c) above and the following provisions of this Part of this Schedule “the relevant event” means the death or disposition on the occasion of which the material interest was acquired as mentioned in sub-paragraph (1)(a) above.

(3) For the purpose of making any determination required by the following provisions of this Part of this Schedule in relation to a DLT disposal occurring at the same time as the relevant event, it shall be assumed that the appointed day fell (and this Act was in force) before the relevant event occurred.

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(4) If, after the amount of chargeable realised development value accruing on a DLT disposal has been ascertained, having regard to the amount of the estate duty deduction applicable under this Part of this Schedule, the amount of estate duty payable in respect of the material interest and taken into account in determining that deduction is varied, such adjustment, whether by way of a further assessment to development land tax or the discharge or repayment of development land tax or otherwise, shall be made as is required in consequence.

26.—(1) Where paragraph 25 above applies there shall be determined the amount of chargeable realised development value which, subject to sub-paragraphs (2) and (3) below, would have accrued if, at the time of the relevant event, there had been a DLT disposal by the deceased of the material interest for a consideration equal to the principal value for estate duty of the material interest on the deceased's death.

(2) Where the relevant event is such a disposition as is referred to in paragraph 25(1)(a) above and that disposition was made by a person other than the deceased, the reference in sub-paragraph (1) above to a DLT disposal by the deceased shall be construed as a reference to a DLT disposal by that other person.

(3) For the purposes of the determination referred to in sub-paragraph (1) above, it shall be assumed that section 12 of this Act had not been enacted.

The estate duty deduction

27.—(1) Subject to the following provisions of this Part of this Schedule, where paragraph 25 above applies, the estate duty deduction which is allowable by reference to the relevant event is the amount determined under sub-paragraph (2) below.

(2) The amount referred to in sub-paragraph (1) above is that given by the formula—

$$\frac{A \times C}{B}$$

where—

“ A ” is the chargeable realised development value determined under paragraph 26(1) above or the chargeable realised development value which accrues on the subsequent disposal, whichever is the less ;

“ B ” is the amount taken as the consideration for the DLT disposal referred to in paragraph 26(1) above ; and

“ C ” is the amount of estate duty levied on the principal value of the material interest at the estate rate applicable to the deceased's estate.

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Application of deduction to later DLT disposals

28.—(1) Subject to the provisions of this paragraph, where paragraphs 25 to 27 above have had effect in relation to a DLT disposal falling within paragraph 25(1)(c) above (in the following provisions of this Part of this Schedule referred to as “the first relevant DLT disposal”) no estate duty deduction shall be allowable by reference to the relevant event on any later disposal of the material interest.

(2) Subject to paragraph 30 below, in any case where—

- (a) the first relevant DLT disposal was a part disposal only, and
- (b) in relation to the first relevant DLT disposal, “A” in the formula specified in paragraph 27(2) above was the chargeable realised development value which accrued on that disposal, and
- (c) within the period of six years referred to in paragraph 25(1)(c) above, the person who made the first relevant DLT disposal or a person claiming through him for DLT purposes makes a later material DLT disposal, and

(d) paragraph 25 above applies in relation to the later material DLT disposal referred to in paragraph (c) above, sub-paragraph (1) above shall not apply but paragraphs 26 and 27 above shall have effect in relation to that later material DLT disposal subject to sub-paragraph (3) below.

(3) Sub-paragraphs (3) to (6) of paragraph 21 above shall have effect for the purposes of this paragraph as they have effect for the purposes of that, but subject to the following modifications:—

- (a) for any reference to paragraph 19(1) or paragraph 20(2) above there shall be substituted a reference to paragraph 26(1) or paragraph 27(2) above respectively, and
- (b) for any reference to capital transfer tax deduction there shall be substituted a reference to estate duty deduction, and
- (c) any reference to the later relevant DLT disposal shall be construed as a reference to the later material DLT disposal referred to in sub-paragraph (2) above, and
- (d) any reference to the subsequent disposal shall be construed in accordance with paragraph 25(1)(c) above.

Assembly of interests after relevant event

29.—(1) In any case where—

- (a) the conditions in paragraphs (a) and (b) of sub-paragraph (1) of paragraph 25 above are fulfilled, and
- (b) within the period of six years referred to in paragraph (c) of that sub-paragraph there is a DLT disposal which is one to which Part I of Schedule 2 to this Act applies, and
- (c) for the purposes of Part I of Schedule 2 to this Act, the material interest is, in relation to the DLT disposal referred to in paragraph (b) above, a part of the interest which is the subject matter of that disposal,

the DLT disposal shall be treated as falling within paragraph (c) of sub-paragraph (1) of paragraph 25 above, notwithstanding that it is a disposal of an interest greater than the material interest.

(2) If, in a case where paragraph 25 above applies by virtue of sub-paragraph (1) above, there is more than one event—

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- (a) on the occasion of which a person acquires an interest in land which for the purposes of Part I of Schedule 2 to this Act is, in relation to the subsequent disposal, a part of the interest which is the subject matter of that disposal, and
- (b) which is capable of constituting the relevant event in relation to the subsequent disposal,

paragraphs 26 and 27 above shall have effect subject to the following provisions of this paragraph; and in those provisions and paragraph 30 below the events falling within paragraphs (a) and (b) above are referred to as “the material events”.

(3) Subject to sub-paragraph (4) below, where sub-paragraph (2) above applies,—

- (a) paragraphs 26 and 27(2) above shall be applied separately in relation to each of the material events, and
- (b) sub-paragraph (1) of paragraph 27 above shall have effect as if the reference therein to the amount determined under sub-paragraph (2) of that paragraph were a reference to the aggregate of the amounts so determined.

(4) If the aggregate of the amounts of chargeable realised development value determined under paragraph 26(1) above in relation to each of the material events is greater than the chargeable realised development value which accrues on the subsequent disposal then, for the purpose of paragraph 27(2) above (as applied by sub-paragraph (3) above), each of those amounts of chargeable realised development value shall be treated as reduced proportionately so that the aggregate of them is equal to the chargeable realised development value which accrues on the subsequent disposal.

Part disposals out of assemblies

30.—(1) In a case falling within sub-paragraph (2) of paragraph 29 above, sub-paragraphs (2) and (3) of paragraph 28 above shall not apply, but if, in such a case—

- (a) the subsequent disposal was a part disposal only, and
- (b) sub-paragraph (4) of paragraph 29 above applies, and
- (c) within the period of six years beginning on the date of the first of the material events, the person who made the first relevant DLT disposal or a person claiming through him for DLT purposes makes a later DLT disposal, and
- (d) that later DLT disposal is a material disposal, as defined in paragraph 21(3) above, as that paragraph has effect by virtue of paragraph 28(3) above, and
- (e) paragraph 25 above applies in relation to that later DLT disposal,

there shall be determined the amount (in this paragraph referred to as “the balance carried forward”) by which the gross deduction determined under sub-paragraph (2) below exceeds the amount which was the estate duty deduction in relation to the first relevant DLT disposal.

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(2) The gross deduction referred to in sub-paragraph (1) above is the amount which would have been the estate duty deduction in relation to the first relevant DLT disposal if, in paragraph 29 above, sub-paragraph (4) (and the reference thereto in sub-paragraph (3)) were omitted.

(3) Sub-paragraphs (3) to (6) of paragraph 23 above shall have effect where sub-paragraph (1) above applies as they have effect where sub-paragraph (1) of that paragraph applies, but subject to the following modifications:—

- (a) any reference to sub-paragraph (1) of that paragraph shall be construed as a reference to sub-paragraph (1) of this paragraph;
- (b) for the reference to paragraphs 19 and 20 above there shall be substituted a reference to paragraphs 26 and 27 above and for the reference to paragraph 22(4) above there shall be substituted a reference to paragraph 29(4) above;
- (c) for any reference to capital transfer tax deduction there shall be substituted a reference to estate duty deduction; and
- (d) any reference to the first relevant DLT disposal or the balance carried forward shall be construed as if that reference were in this paragraph.

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SUPPLEMENTARY PROVISIONS RELATING TO DISPOSALS WHERE DEVELOPMENT LAND TAX DEDUCTED FROM CONSIDERATION

1.—(1) In any case where the consideration for the material disposal exceeds 110 per cent. of the acquiring authority's estimate of the value which, for the purposes of this Act, is the current use value of the relevant interest at the time of their acquisition, the acquiring authority shall give notice to the Board in the prescribed form (in this Schedule referred to as a "notice of acquisition"); and in this Schedule, in relation to the material disposal,—

- (a) "the acquiring authority" means the exempt body to whom the disposal is made;
- (b) "prescribed" means prescribed by the Board; and
- (c) "the relevant interest" means the interest in land which is acquired by that authority.

(2) Subject to sub-paragraphs (3) and (7) below, where a notice of acquisition is required to be given under sub-paragraph (1) above it shall be given at the time of the material disposal or, if—

- (a) the acquiring authority acquire the relevant interest compulsorily, and
- (b) the time of acquisition of the relevant interest precedes the time (in this sub-paragraph referred to as "the operative time") at which the compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose),

at the operative time.

(3) Subject to sub-paragraph (7) below, where a notice of acquisition is required to be given under sub-paragraph (1) above and the acquiring authority acquire the relevant interest— SCH. 7

(a) in England, Scotland or Wales by virtue of a general vesting declaration, within the meaning of Schedule 3 to the Town and Country Planning Act 1968 or, as the case may be, Schedule 24 to the Town and Country Planning (Scotland) Act 1972, or

(b) in Northern Ireland by way of a vesting order,

the notice shall be given at the time at which the compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose).

(4) Without prejudice to their obligation to give any other notice under this paragraph, in a case falling within sub-paragraph (1) above the acquiring authority—

(a) may give provisional notice to the Board in the prescribed form (in this Schedule referred to as a “provisional notice of acquisition”) at any time after the time at which the amount of the consideration for the material disposal is agreed but before that disposal takes place, and

(b) shall give a provisional notice of acquisition if requested to do so at any such time by the person by whom the material disposal is to be made.

(5) If,—

(a) in relation to their acquisition of the relevant interest, the acquiring authority are required by section 52 of the Land Compensation Act 1973, section 48 of the Land Compensation (Scotland) Act 1973 or Article 49 of the Land Acquisition and Compensation (Northern Ireland) Order 1973 (advance payment of compensation) to make a payment in respect of an amount determined in accordance with subsection (3) of that section or, as the case may be, paragraph (3) of that Article (agreement or estimation of amount of compensation payable), and

(b) the amount referred to in paragraph (a) above exceeds 110 per cent. of the acquiring authority's estimate of the value which, for the purposes of this Act, is the current use value of the relevant interest at the time of their acquisition,

the acquiring authority shall, at the time at which that amount is so determined, give notice to the Board in the prescribed form (in this Schedule referred to as a “notice of advance payment”).

(6) In any case where sub-paragraph (1) above does not apply on the material disposal of an interest in land but—

(a) subsection (2) of section 22 of the Community Land Act 1975 (value of land developed where planning permission suspended) applies in determining the value of that land for the purposes of compensation, or

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- (b) development has been carried out on that land without planning permission, and, on the date of the material disposal, planning permission covering that development has not been granted as mentioned in subsection (3) of that section,

the acquiring authority shall give a notice of acquisition and may give a provisional notice of acquisition as if sub-paragraph (1) above did apply.

(7) If the acquiring authority acquire the relevant interest compulsorily and, by reason only of the variation at any time of an amount which was previously agreed or determined to be the compensation for the acquisition, they would, apart from this sub-paragraph, be required to give notice of acquisition at an earlier time, sub-paragraphs (2) and (3) above shall not apply and the notice of acquisition shall be given at the time of the variation.

(8) If it comes to the attention of an acquiring authority that a notice which they have given under the preceding provisions of this paragraph was incorrect or should not have been given, the authority shall forthwith give notice in writing to the Board of the correction required or, as the case may be, of the withdrawal of the notice previously given.

(9) Where, in relation to a material disposal, an acquiring authority give a notice to the Board under the preceding provisions of this paragraph, the authority shall give a copy of the notice to the chargeable person.

(10) A notice of acquisition, provisional notice of acquisition or notice of advance payment shall contain such information as the Board may reasonably require for the purposes of this Act.

2.—(1) Subject to sub-paragraph (2) below, in any case where—

- (a) the Board receive a notice under paragraph 1 above relating to a material disposal, and
- (b) it appears to them that that disposal does not or will not give rise to any liability for development land tax, and
- (c) where the notice referred to in paragraph (a) above is a provisional notice of acquisition, the person by whom the material disposal is or is to be made agrees that the Board should act under this paragraph,

they shall, as soon as practicable, notify the acquiring authority by whom the notice was given that it appears to them that there is no such liability in respect of the disposal and, accordingly, that no DLT deduction should be made from the consideration for the disposal.

(2) If, after the Board have notified the acquiring authority as mentioned in sub-paragraph (1) above,—

- (a) the Board receive a further notice under paragraph 1 above relating to the same material disposal, and
- (b) the Board remain of the opinion that the material disposal does not give rise to any liability for development land tax,

the Board shall be under no obligation to send a further notification under sub-paragraph (1) above.

3.—(1) If, in a case where paragraph 2 above does not apply, the Board receive a notice of acquisition relating to a material disposal and (before or after the receipt of that notice) an assessment to development land tax is made in respect of that disposal, then, in accordance with sub-paragraph (3) below, the Board shall—

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- (a) furnish to the acquiring authority the particulars relating to that assessment which are specified in sub-paragraph (2) below ; and
- (b) where any provision of paragraph 4 below so requires notify the acquiring authority of the amount of the specific deduction which in accordance with that paragraph is applicable to the material disposal.

(2) The particulars relating to an assessment which are referred to in sub-paragraph (1)(a) above are—

- (a) the name and address of the person assessed ;
- (b) the amount of development land tax charged by the assessment ;
- (c) the date of issue of the notice of assessment ;
- (d) the date which is the reckonable date in relation to the liability for the development land tax charged by the assessment ; and
- (e) whether the amount referred to in paragraph (b) above has been agreed by the person assessed or the assessment has become final in the absence of an appeal and, if notice of appeal has been given, the amount (if any) which has become due and payable under the Taxes Management 1970 c. 9. Act 1970.

(3) The obligation under sub-paragraph (1) above to furnish particulars of an assessment and, where paragraph 4 below so requires, to notify the amount of a specific deduction shall be complied with—

- (a) in the case of an assessment of which notice was issued before the expiry of the period of twenty-one days beginning with the date of the receipt of the notice of acquisition, not later than the end of that period ; and
- (b) in the case of any other assessment, at the same time as the notice of assessment is issued.

(4) The preceding provisions of this paragraph shall have effect, with any necessary modifications, in relation to a variation under the Taxes Management Act 1970 in the amount of development land tax charged by an assessment to which sub-paragraph (1) above applies or in any such amount as is referred to in sub-paragraph (2)(e) above as they apply where such an assessment is made.

(5) If, in a case where paragraph 2 above does not apply,—

- (a) the Board receive a provisional notice of acquisition or notice of advance payment relating to a material disposal, or

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(b) the Board receive a notice of acquisition relating to a material disposal but no obligation arises or, as the case may be, has yet arisen under sub-paragraph (1)(b) above, the Board may, with the agreement of the person by whom the material disposal is or is to be made, notify the acquiring authority of the amount of the specific deduction which, in accordance with paragraph 4(5) below, is applicable to the material disposal.

Notification of specific deduction

4.—(1) If, by virtue of the receipt of a notice of acquisition and the making of an assessment to development land tax (in this paragraph referred to as “the relevant assessment”) the Board are under the obligation to furnish particulars of the relevant assessment as mentioned in paragraph (a) of sub-paragraph (1) of paragraph 3 above, the obligation to notify the acquiring authority as mentioned in paragraph (b) of that sub-paragraph shall arise in any case where, at the time the particulars of the relevant assessment are so furnished, any of the conditions in sub-paragraph (2) below is fulfilled.

(2) The conditions referred to in sub-paragraph (1) above are—

- (a) that the liability for development land tax in respect of the material disposal has been agreed or determined in the amount charged by the relevant assessment ;
- (b) that the period of thirty days beginning on the date of issue of the notice of the relevant assessment has expired without a notice of appeal having been given against the relevant assessment ;
- (c) that notice of appeal has been given against the relevant assessment and an amount of development land tax has become due and payable under the Taxes Management Act 1970 ; and
- (d) that notice of appeal has been given against the relevant assessment but no amount of development land tax has become due and payable under the Taxes Management Act 1970 and the amount of tax charged by the relevant assessment is less than the amount of the formula deduction, within the meaning of paragraph 5 below, which would be applicable to a payment of the whole of the consideration for the material disposal.

(3) Where the obligation of the Board to notify the acquiring authority of the amount of the specific deduction applicable to the material disposal arises by reason of the fulfilment of any condition in sub-paragraph (2) above, then—

- (a) if the condition fulfilled is that in paragraph (c) of that sub-paragraph, the amount of the specific deduction shall be equal to the amount of tax referred to in that paragraph ; and
- (b) in any other case, the amount of the specific deduction shall be equal to the amount of tax charged by the relevant assessment.

1970 c. 9.

(4) Where sub-paragraph (4) of paragraph 3 above applies, the Board shall be under the obligation specified in sub-paragraph (1)(b) of that paragraph and in such a case the amount of the specific deduction applicable to the material disposal shall be equal to the amount of development land tax which, taking account of the variation referred to in sub-paragraph (4) of that paragraph, is charged by the assessment concerned or, as the case may be, has become due and payable under the Taxes Management Act 1970.

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1970 c. 9.

(5) In relation to the exercise by the Board of their power to notify the acquiring authority as mentioned in sub-paragraph (5) of paragraph 3 above, the amount of the specific deduction applicable to the material disposal concerned shall be such as may be agreed between the Board and the person referred to in that sub-paragraph to represent—

- (a) the amount of his liability or prospective liability for development land tax in respect of that material disposal; or
- (b) so much of the development land tax for which he is or will be liable in respect of that material disposal as is not in dispute.

The formula deduction

5.—(1) Subject to paragraphs 7 and 8 below if, at a time when a payment of consideration falls to be made in respect of a material disposal to which paragraph 1(1) above applies, the acquiring authority have not received—

- (a) a notification under paragraph 2(1) above, or
- (b) a notification under paragraph 3 above stating the amount of the specific DLT deduction applicable to the disposal,

the acquiring authority shall deduct from that payment a DLT deduction of an amount determined in accordance with this paragraph (in the following provisions of this Schedule referred to as a “formula deduction”).

(2) In relation to a formula deduction “the relevant payment” means the payment of consideration from which the deduction falls to be made by virtue of sub-paragraph (1) above; and any reference in this paragraph to the amount of the relevant payment is a reference to the amount of that payment before the formula deduction is made, but exclusive of any interest payable by the acquiring authority.

(3) If the amount of the consideration for the material disposal does not exceed the aggregate of—

- (a) 110 per cent. of the acquiring authority’s estimate of the value which, for the purposes of this Act, is the current use value of the relevant interest at the time of their acquisition, and
- (b) £10,000,

the amount of the formula deduction shall be nil; and in relation to a material disposal the aggregate amount determined under this sub-paragraph is referred to as “the exempt amount”.

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(4) If sub-paragraph (3) above does not apply and the material disposal occurs in an interim financial year, then, subject to sub-paragraphs (5) and (8) and paragraph 7(3) below, the formula deduction shall be whichever is the less of the following amounts, namely,—

- (a) 50 per cent. of the amount of the relevant payment ; and
- (b) $66\frac{2}{3}$ per cent. of the amount by which the consideration for the disposal exceeds the exempt amount.

(5) If, in a case where sub-paragraph (4) above applies, the consideration for the material disposal exceeds the exempt amount by more than £150,000, that sub-paragraph and sub-paragraph (8) below shall have effect as if for paragraph (b) of sub-paragraph (4) above there were substituted the following paragraph:—

- “ (b) £100,000 plus 80 per cent. of the amount by which the consideration for the disposal exceeds the aggregate of the exempt amount and £150,000 ”.

(6) If sub-paragraph (3) above does not apply and the material disposal occurs after 31st March 1979, then, subject to sub-paragraph (8) and paragraph 7(3) below, the formula deduction shall be whichever is the less of the following amounts, namely,—

- (a) the appropriate percentage of the amount of the relevant payment ; and
- (b) 80 per cent. of the amount by which the consideration for the disposal exceeds the exempt amount.

(7) In sub-paragraph (6)(a) above “ the appropriate percentage ” means such percentage as may be specified by the Board by regulations made by statutory instrument ; but no such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of the Commons House of Parliament.

(8) If, before the time at which the relevant payment falls to be made in respect of a material disposal, a previous payment of consideration has been made in respect of that disposal, then, in calculating the formula deduction, the amount determined under sub-paragraph (4)(b) or, as the case may be, sub-paragraph (6)(b) above shall be reduced by the amount of the DLT deduction made from that previous payment or, if there has been more than one such payment, by the aggregate of the DLT deductions made from those payments.

Amount of DLT deduction where specific deduction notified

6.—(1) Subject to the provisions of this paragraph and paragraph 8 below, if a payment of consideration falls to be made in respect of a material disposal after the time at which an acquiring authority receive a notification under paragraph 3 above of the amount of the specific deduction applicable to that disposal, the acquiring authority shall deduct from that payment a DLT deduction equal to the specific deduction applicable to the disposal, less the amount of the DLT deduction deducted from any previous payment of consideration

made in respect of that disposal or, where there has been more than one such previous payment, less the aggregate amount of the DLT deductions made from those payments.

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(2) Subject to paragraphs 7 and 8 below, where a payment of consideration which falls to be made as mentioned in sub-paragraph (1) above is neither the only nor the last payment of consideration which falls to be made in respect of the material disposal concerned, there shall be determined, as at the time immediately before the payment is made,—

- (a) the total amount of consideration which remains to be paid in respect of the disposal, and
- (b) the amount of the specific deduction applicable to the disposal, less the amount of the DLT deduction deducted from any previous payment of consideration made in respect of that disposal or, where there has been more than one such previous payment, less the aggregate amount of the DLT deductions made from those payments,

and the amount of the DLT deduction to be made from that payment of consideration shall be equal to that proportion of the amount referred to in paragraph (b) above which the amount of that payment bears to the total amount referred to in paragraph (a) above.

(3) In any case where, apart from this sub-paragraph, the amount of the DLT deduction to be made by virtue of sub-paragraph (1) or sub-paragraph (2) above from a payment of consideration would exceed the amount of that payment, that DLT deduction shall be of an amount equal to the amount of that payment.

(4) Any reference in this paragraph to the amount of any consideration or of any payment of consideration is a reference to the amount of that consideration or payment before any DLT deduction is made from it, but exclusive of any interest payable by the acquiring authority.

(5) If an acquiring authority receive more than one notification under paragraph 3 above of the amount of the specific deduction applicable to a material disposal, the later or latest notification shall be taken to supersede any earlier notification; but the receipt of a second or subsequent notification shall not require the re-determination of the amount of the DLT deduction applicable to a payment of consideration made before the receipt of that notification.

Advance payments of compensation

7.—(1) In their application to a payment of consideration which consists of such a payment as is referred to in paragraph 1(5)(a) above (in this paragraph referred to as an “advance payment of compensation”) paragraphs 5 and 6 above shall have effect subject to the provisions of this paragraph.

(2) In relation to an advance payment of compensation made in connection with a material disposal, any reference in paragraph 5 above or in the following provisions of this paragraph to the consideration for that material disposal shall be construed as a reference to an amount equal to ten-ninths of the amount of that advance payment.

SCH. 7 (3) In a case where the relevant payment, within the meaning of paragraph 5 above, is an advance payment of compensation, the formula deduction applicable to that advance payment shall be calculated as if the reference in sub-paragraphs (4)(a) and (6)(a) of that paragraph to the amount of the relevant payment were a reference to the amount of the consideration for the material disposal.

(4) If, apart from this sub-paragraph, the DLT deduction to be made from an advance payment of compensation would, by virtue of paragraph 5(1) above, be a formula deduction, then—

(a) if the formula deduction applicable to the advance payment does not exceed 10 per cent. of the consideration for the material disposal concerned, no DLT deduction shall be made by virtue of that paragraph from that advance payment; and

(b) in any other case the DLT deduction to be made by virtue of paragraph 5(1) above from the advance payment shall be the amount by which the formula deduction applicable to that advance payment exceeds 10 per cent. of the consideration for the material disposal concerned.

(5) In its application to an advance payment of compensation, paragraph 6 above shall have effect with the omission of sub-paragraph (2).

DLT deduction not to exceed balance remaining after discharge of pre-12th May 1976 mortgage or charge

8.—(1) Subject to sub-paragraphs (3) and (4) below, in the case of a material disposal where—

(a) immediately before the time of the transfer of the relevant interest to the acquiring authority (in this paragraph referred to as “the material time”) a mortgage or charge entered into or before 11th May 1976 subsists in the relevant land; and

(b) by virtue of the material disposal the mortgage or charge is to be discharged at or before the material time and falls to be so discharged, in whole or in part, out of the consideration for that disposal; and

(c) the cost of redemption of the mortgage or charge exceeds the amount which would remain after deducting from the consideration for the disposal the amount which, apart from this paragraph, would be the DLT deduction,

the DLT deduction relevant to the material disposal shall be the amount (if any) by which the consideration for that disposal exceeds the cost of redemption of the mortgage or charge.

(2) In this paragraph “the relevant land” means the land in which the relevant interest subsists immediately after its transfer to the acquiring authority, and in any case where the mortgage or charge

referred to in paragraph (a) of sub-paragraph (1) above subsists in other land, as well as the relevant land,— SCH. 7

- (a) the references in paragraph (b) of that sub-paragraph to the discharge of the mortgage or charge shall be construed as references to the discharge of the mortgage or charge so far as it relates to the relevant land ; and
- (b) the reference in paragraph (c) of that sub-paragraph to the cost of redemption of the mortgage or charge shall be construed as a reference to that proportion of that cost which is properly attributable to the relevant land.

(3) No DLT deduction shall be made from the consideration for the material disposal if, by reference to a mortgage or charge entered into on or before 11th May 1976, that consideration is agreed or determined under any of the following enactments,—

- (a) section 15(1) of the Compulsory Purchase Act 1965, section 101 of the Lands Clauses Consolidation (Scotland) Act 1845 or, in Northern Ireland, section 110 of the Lands Clauses Consolidation Act 1845 (debt secured on land exceeds the value of the land) ; or
- (b) section 16(1) of the Compulsory Purchase Act 1965, section 103 of the Lands Clauses Consolidation (Scotland) Act 1845 or, in Northern Ireland, section 112 of the Lands Clauses Consolidation Act 1845 (acquisition of part of land subject to mortgage or charge).

(4) Nothing in this paragraph shall impose on an acquiring authority an obligation to make a DLT deduction limited to the amount referred to in sub-paragraph (1) above unless, before the material time, the creditor under the mortgage or charge informs the acquiring authority of the cost of redemption of the mortgage or charge and furnishes to them any other information which the authority might reasonably require from him for the purpose of determining the amount of that DLT deduction.

(5) In this paragraph “ mortgage or charge ” means an interest falling within paragraph (a) or paragraph (b) of subsection (2) of section 46 of this Act and for the purposes of this paragraph—

- (a) a mortgage or charge shall be taken to be entered into on or before 11th May 1976 if it was entered into after that date in pursuance of an offer which was accepted before that date ; and
- (b) the cost of redemption of a mortgage or charge means the amount required to discharge the mortgage or charge at the date of the material disposal, less the amount of the principal of any further advance made after 11th May 1976, otherwise than in pursuance of such an offer as is referred to in paragraph (a) above.

(6) Any question arising under sub-paragraph (2)(b) above as to the proportion of the cost of redemption of a mortgage or charge which is properly attributable to any land shall be determined by agreement between the chargeable person, the creditor under the

SCH. 7 mortgage or charge and the acquiring authority or, in default of agreement, by the Lands Tribunal, the Lands Tribunal for Scotland or the Lands Tribunal for Northern Ireland, according to the location of the land.

Compulsory purchase : sums paid into court or deposited

1965 c. 56.

9.—(1) In the application of section 9 of the Compulsory Purchase Act 1965 (refusal to convey, failure to make title, etc.) to a material disposal in connection with which the acquiring authority are required to make a deduction under section 39 of this Act,—

- (a) any reference in the said section 9 to the compensation agreed or awarded to be paid or the compensation payable in respect of the relevant interest shall be construed as a reference to the amount of the compensation so agreed or awarded less the amount of the deduction required to be made therefrom under section 39 of this Act ; and
- (b) the reference in subsection (1) of the said section 9 to the tender of the compensation shall be construed as including a reference to the giving of an undertaking to furnish an appropriate statement under subsection (4) of section 39 of this Act.

(2) Where sub-paragraph (1) above has effect in relation to an amount of compensation paid into court under section 9(1) of the Compulsory Purchase Act 1965, section 39 of this Act and the preceding provisions of this Schedule shall apply as if that amount were being paid direct to the chargeable person by way of consideration for the disposal.

(3) Sub-paragraphs (1) and (2) above shall apply in relation to Scotland subject to the following modifications:—

1845 c. 19.

- (a) for any reference to section 9 or subsection (1) of section 9 of the Compulsory Purchase Act 1965 there shall be substituted a reference to section 75 of the Lands Clauses Consolidation (Scotland) Act 1845 ; and
- (b) for any reference to compensation there shall be substituted a reference to purchase-money or compensation ; and
- (c) in sub-paragraph (2) above for the words “ paid into court ” there shall be substituted the word “ deposited ”.

(4) Sub-paragraphs (1) and (2) above shall apply in relation to Northern Ireland subject to the following modifications:—

1845 c. 18.

- (a) for any reference to section 9 or subsection (1) of section 9 of the Compulsory Purchase Act 1965 there shall be substituted a reference to section 76 of the Lands Clauses Consolidation Act 1845 ; and
- (b) for any reference to compensation there shall be substituted a reference to purchase money or compensation ; and
- (c) in sub-paragraph (2) above for the words “ paid into court ” there shall be substituted the word “ deposited ”.

(5) Without prejudice to the operation of subsection (5) of section 39 of this Act, in determining whether the condition of a bond given under the enactment permitting entry on the giving of security has been performed, nothing in that section shall authorise the making of a deduction from any amount required to be paid into court or deposited under that enactment. SCH. 7

(6) In sub-paragraph (5) above, "the enactment permitting entry on the giving of security" means—

- (a) In England and Wales, Schedule 3 to the Compulsory Purchase Act 1965 ;
- (b) in Scotland, section 84 of the Lands Clauses Consolidation (Scotland) Act 1845 ; and
- (c) in Northern Ireland, section 85 of the Lands Clauses Consolidation Act 1845.

Procedure subsequent to making of DLT deduction

10.—(1) Where, in connection with a material disposal, the acquiring authority makes a payment of consideration from which they deduct a DLT deduction, the authority shall forthwith furnish to the Board a certificate giving the particulars contained in the statement required to be furnished under section 39(4) of this Act and such other information as may be appropriate to identify the transaction concerned.

(2) If, after the receipt of a certificate under sub-paragraph (1) above, the Board notify the acquiring authority by whom the certificate was furnished that the amount of the DLT deduction in respect of the material disposal concerned exceeds the amount of development land tax for which the chargeable person is liable in respect of that disposal,—

- (a) the amount of the excess shall be payable by the acquiring authority to the Board ; and
- (b) the Board shall account to the chargeable person for the amount of the excess as an amount of development land tax paid in excess of his liability ; and
- (c) sections 65 to 68 and 70 of the Taxes Management Act 1970 c. 9. 1970 (proceedings for recovery of tax) shall have effect as if the amount of the excess were an amount of tax, within the meaning of that Act, due from the acquiring authority.

(3) In so far as the liability of the chargeable person for development land tax in respect of a material disposal exceeds the amount of the DLT deduction in respect of that disposal, the amount of the excess shall be due and payable to the Board in like manner as an amount of development land tax for which the chargeable person is liable in respect of a disposal which is not a material disposal.

(4) A certificate under sub-paragraph (1) above shall be either in a form prescribed by the Board or in a form authorised by them for use in substitution for the form prescribed and containing a statement that it has been so authorised.

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Interest on DLT deductions made before reckonable date

11.—(1) In any case where—

- (a) in connection with a material disposal the acquiring authority make a payment of consideration from which they deduct a DLT deduction, and
- (b) that payment is made before the date which is the reckonable date in relation to the chargeable person's liability for development land tax in respect of that disposal,

then, subject to sub-paragraph (2) below, the chargeable person shall be credited with interest on the amount of that DLT deduction for the period beginning on the date on which the payment is made and ending on the reckonable date.

(2) If a sum representing the whole or any part of a DLT deduction is paid to the chargeable person before the reckonable date, he shall not be credited with interest on that sum beyond the date of payment.

(3) Interest with which a person is credited under this paragraph—

- (a) shall be calculated at the rate which is for the time being the prescribed rate for the purposes of section 86A of the Taxes Management Act 1970 (interest on unpaid development land tax);
- (b) shall not be income of that person for any tax purposes; and
- (c) shall be treated for all purposes as an amount of development land tax paid by that person to the Board in respect of the material disposal referred to in sub-paragraph (1)(a) above;

1970 c. 9.

and subsection (7) of section 39 of this Act shall apply in relation to any amount treated as having been paid to the Board by virtue of paragraph (c) above as it applies to an amount so treated by virtue of subsection (5)(b) of that section.

Exclusion of provisions as to interest on unpaid tax

12. Notwithstanding that a payment of consideration from which a DLT deduction is deducted may be made after the reckonable date, section 86A of the Taxes Management Act 1970 (interest on unpaid development land tax) shall not apply to any development land tax which a person is treated as having paid to the Board by virtue of section 39(5)(b) of this Act.

Inspection of books, accounts, etc.

13. Whenever called upon to do so by an officer authorised in that behalf by the Board, an exempt body shall produce to that officer for inspection, at its principal office or place of business, all, or such as may be specified by that officer of, the books, accounts and other documents and records in the possession or under the control of that body and relating to—

- (a) amounts paid by way of consideration for material disposals by which interests in land were acquired by that body; and
- (b) any DLT deductions made in connection with such material disposals.

SCHEDULE 8

Section 41.

ADMINISTRATION OF DEVELOPMENT LAND TAX

PART I

AMENDMENTS OF THE TAXES MANAGEMENT ACT 1970

1970 c. 9.

1. In section 1 (taxes under the care and management of the Board), in subsection (1) after the words "corporation tax" there shall be inserted the words "development land tax".

2.—(1) In section 29 (assessing procedure) after subsection (1) there shall be inserted the following subsection:—

"(1A) All assessments to development land tax shall be made by the Board and,—

(a) if they are satisfied from a notice given or any information or documents furnished under Part II of Schedule 8 to the Development Land Tax Act 1976 or such an instrument as is referred to in paragraph 35(2) of that Schedule that they have been afforded correct and complete information concerning the profits which accrue to a person on the disposal of an interest in land or on which he is otherwise liable to development land tax, they shall make an assessment accordingly; and

(b) in any other case, they may make an assessment to the best of their judgment".

(2) In subsection (8) of that section (meaning of "profits") after paragraph (c) there shall be inserted the following paragraph:—

"(d) in relation to development land tax, means realised development value".

3.—(1) In section 31 (right of appeal), at the beginning of subsection (3) (certain appeals to lie to the Special Commissioners) there shall be inserted the words "Subject to subsection (3A) below".

(2) After the said subsection (3) there shall be inserted the following subsection:—

"(3A) Subsection (3) above shall not apply to an appeal if the only question in dispute on the appeal is whether any realised development value is excluded from the charge to development land tax by virtue of section 14 or section 15 of the Development Land Tax Act 1976."

4. In section 32 (relief for double assessment), in subsection (1) after the words "chargeable period" there shall be inserted the words "or, in the case of an assessment to development land tax, on the same amount of realised development value".

5.—(1) In section 33 (excessive assessment due to error or mistake) after subsection (4) there shall be inserted the following subsection:—

"(4A) In relation to an assessment to development land tax,—

(a) subsection (1) above shall have effect as if for the word 'return' there were substituted the words 'notice given or in any information or document furnished

SCH. 8

under Part II of Schedule 8 to the Development Land Tax Act 1976 or in such an instrument as is referred to in paragraph 35(2) of that Schedule ; and as if for the words 'year of assessment' there were substituted the words 'financial year' ;

- (b) subsection (2) above shall have effect as if for the words from 'return was in fact' to the end of that subsection there were substituted the words 'notice, information, document or instrument concerned was in fact given, furnished or made on the basis or in accordance with the practice generally prevailing at the time when it was so given, furnished or made' ; and
- (c) subsection (3) above shall have effect as if for the words 'chargeable periods other than that' there were substituted the words "profits other than those."

(2) At the end of subsection (5) of that section (meaning of "profits") there shall be added the following paragraph:—

"(d) in relation to development land tax, means realised development value".

6. In section 34 (ordinary time limit for assessments), at the end of subsection (1) there shall be added the words "or, if the assessment is to development land tax, after the end of the financial year in which occurred the disposal or other event giving rise to the liability for that tax".

7. At the end of section 37 (assessments to tax where there is fraud, wilful default or neglect) there shall be added the following subsection:—

"(10) In the application of the preceding provisions of this section in relation to development land tax—

- (a) references to an assessment to tax for any year are references to an assessment to development land tax the liability for which arose in any financial year ;
- (b) references to a year of assessment are references to a financial year ;
- (c) in subsection (5) above, for the words 'tax for a year' there shall be substituted the words 'development land tax the liability for which arose in a financial year' ;
- (d) in subsection (6) above, for the words 'years for which those assessments were made' there shall be substituted the words 'financial years in which arose the liabilities giving rise to those assessments' ;
- (e) in subsection (8) above the words 'for any year' and 'for that year' shall be omitted ; and
- (f) subsection (9) above shall be omitted".

8. In section 38 (modification of section 37 in relation to partnerships), in subsection (3) (assessment on person who was a partner and carried on the business in the year for which the assessment is

made) for the words " subsection (5) " there shall be substituted the words " subsections (3A) and (5) " and at the end of that subsection there shall be added the following subsection:—

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" (3A) In its application to an assessment to development land tax, subsection (3) above shall have effect as if—

- (a) for the words ' the profits or gains ' there were substituted the words ' realised development value accruing in the course ' ; and
- (b) for the words ' year for which the assessment is made ' there were substituted the words ' financial year in which arose the liability giving rise to the assessment ' ."

9.—(1) In section 40 (assessment on personal representatives) in subsection (3) (definition of " tax " for the purposes of the section) for the words " this section " there shall be substituted the words " subsections (1) and (2) above " .

(2) After the said subsection (3) there shall be inserted the following subsections:—

" (4) For the purpose of the charge of development land tax on the executors or administrators of a deceased person in respect of a liability to development land tax which arose before his death, the time allowed by section 34 or 36 above shall in no case extend beyond the end of the third year next following the financial year in which the deceased died.

(5) Subject to section 41 below, for the purpose of making good to the Crown any loss of development land tax attributable to the fraud, wilful default or neglect of a person who has died, an assessment on his personal representatives to development land tax where the liability for that tax arose in a financial year ending not earlier than six years before his death may be made at any time before the end of the third year next following the financial year in which he died."

10. At the end of section 41 (leave required for certain assessments) there shall be inserted the following subsection:—

" (3) In its application to an assessment to development land tax, paragraph (b) of subsection (1) above shall have effect as if for the words ' for a period ' there were substituted the words ' where the liability for the tax arose in a financial year ' ."

11. In section 42 (procedure for making claim), at the end of subsection (11) (meaning of " profits ") there shall be added the words—

" (d) in relation to development land tax, means realised development value " .

12.—(1) In section 43 (time limit for making claims) at the end of subsection (1) there shall be inserted the words " or, if it relates to an amount of development land tax, the end of the financial year in which the liability for that tax arose (or would arise but for the claim) " .

SCH. 8

(2) After subsection (2) of that section there shall be added the following subsection:—

“(3) A claim (including a supplementary claim) which could not have been allowed but for the making of an assessment to development land tax after the end of the financial year in which arose the liability for the tax to which the claim relates may be made at any time before the end of the financial year following that in which the assessment was made”.

13. After section 47 there shall be inserted the following section:—

“Special jurisdiction relating to development land tax.

47A. If and so far as the question in dispute on any appeal against an assessment to development land tax or against a decision on a claim relating to development land tax is a question of the value of an interest in land or of any other rights relating to land or an interest in it or a question as to how much of any expenditure on improvements is expenditure on relevant improvements in relation to an interest in land, then,—

- (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
- (b) if the land is in Scotland the question shall be determined on a reference to the Lands Tribunal for Scotland, and
- (c) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland”.

14. In section 55 (recovery of tax not postponed on appeal), at the end of subsection (1) there shall be added the words—

“(f) an assessment to development land tax”.

15. In subsection (9) of section 56 (statement of case for opinion of the High Court) and subsection (6) of section 59 (election for county court in Northern Ireland) after the word “inspector” where it appears in paragraph (b) of the proviso to each of those subsections there shall be added the words “or other officer of the Board”.

16. After section 57 there shall be inserted the following:—

“*Development land tax*

Regulations about appeals.

57A.—(1) The Board may make regulations—

- (a) as respects the conduct of appeals against assessments to development land tax and decisions on claims relating to development land tax,
- (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
- (c) regulating the time within which such appeals or claims may be brought or made,

- (d) where the consideration for a particular disposal or acquisition of an interest in land, or the market value or current use value of an interest in land on a particular date, or an apportionment or any other matter may affect the liability to development land tax of two or more persons, enabling any of those persons to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,
- (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act,—

SCH. 8

(i) to disclose to a person entitled to appear on such an appeal the consideration for the disposal or acquisition, the market value, or the current use value of an interest in land, as determined for the purposes of an assessment or decision on a claim ; or

(ii) to disclose to a person whose liability to development land tax may be affected by the determination of any such consideration, of any such value on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.

(2) Regulations under this section may contain such supplemental and incidental provisions as appear to the Board to be expedient, including in particular provisions authorising the giving of conditional decisions where, under section 47A of this Act, questions on an appeal against an assessment or decision on a claim may go partly to one tribunal and partly to another.

(3) Regulations under this section—

- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
- (b) shall have effect notwithstanding anything in this Act.”

17. At the end of section 62 (priority of claim for tax) there shall be added the following subsection:—

“(3) In their application to development land tax, the preceding provisions of this section shall have effect as if—

- (a) in subsection (1) for the words ‘which are payable for the year’ there were substituted the words ‘for which the liability arose in the financial year’;

G

SCH. 8

- (b) in the proviso to subsection (1) for the words 'for more than one year' there were substituted the words 'in respect of liabilities arising in more than one financial year'; and
- (c) in the proviso to subsection (1) and in subsection (2) for the words 'for one whole year' there were substituted the words 'in respect of liabilities which arose in any one financial year'."

18. At the end of section 64 (priority of claim for tax in Scotland) there shall be added the following subsection:—

"(3) In their application to development land tax, the preceding provisions of this section shall have effect as if—

- (a) in the proviso to subsection (1) for the words 'for more than one year' there were substituted the words 'in respect of liabilities arising in more than one financial year'; and
- (b) in the proviso to subsection (1) and in subsection (2) for the words 'for one whole year' there were substituted the words 'in respect of liabilities which arose in any one financial year'."

19. After section 77 there shall be inserted the following:—

"Development land tax"

Application of Part VII to development land tax.

77A.—(1) This Part of this Act (except section 76 above) shall apply in relation to development land tax as it applies in relation to income tax, and subject to any necessary modifications.

(2) This Part of this Act as applied by this section shall not affect the question of who is the person to whom realised development value accrues, or who is chargeable to development land tax, so far as that question is relevant for the purposes of determining the amount of development land tax which is chargeable."

20. After section 85 there shall be inserted the following:—

"Development land tax"

Non-residents chargeable to development land tax.

85A.—(1) Where a non-resident person is chargeable to an amount of development land tax, he shall be assessable and chargeable to that amount in the name of any such trustee, guardian, tutor, curator or committee as is mentioned in section 72 of this Act, or of any branch or agent, whether or not the branch or agent has the receipt of any consideration for the disposal of an interest in land which accrues to that person.

(2) The person in whose name the non-resident person is chargeable shall be answerable for all matters required to be done under the enactments relating to development land tax for the purpose of assessment and payment of that tax.

(3) A person who has been charged under this section in respect of any non-resident person may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the enactments relating to development land tax.

SCH. 8

(4) In this section 'non-resident person' means a person whose usual place of abode is outside the United Kingdom."

21. After section 86 there shall be inserted the following:—

"Development land tax

Interest on
development
land tax
unpaid on
reckonable
date.

86A.—(1) Where a person becomes liable for an amount of development land tax then, except as provided by paragraph 12 of Schedule 7 to the Development Land Tax Act 1976, that amount shall, until payment, carry interest at the prescribed rate calculated, subject to sub-paragraphs (2) and (3) below, from the reckonable date, within the meaning of that Act.

(2) If, after the disposal of an interest in land,—

(a) a contingent liability which was assumed by any person and was not taken into account in determining the consideration for the disposal becomes enforceable and is enforced on any date, and

(b) by virtue of the enforcement of that liability, the development land tax for which a person is liable on that disposal is increased by an amount, the amount referred to in paragraph (b) above shall carry interest only from the date referred to in paragraph (a) above.

(3) Where tax is payable by instalments under any of the provisions of paragraphs 44 to 49 of Schedule 8 to the Development Land Tax Act 1976, each instalment or other part of that tax which becomes payable in accordance with those provisions on a particular date shall carry interest only from that date.

(4) Development land tax shall carry interest from a date ascertained in accordance with this section even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

1882 c. 61.

(5) Where an amount of interest payable under this section on the development land tax for which a person is liable on the disposal of an interest in land or other event does not exceed £10, that amount of interest may, if the Board thinks fit, be remitted."

22.—(1) In section 88 (interest on tax recovered to make good loss due to taxpayer's fault), in subsection (3), after "86" there shall be inserted the words "or section 86A".

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(2) At the end of subsection (5) of that section (meaning of reference to date when tax ought to have been paid) there shall be added the following paragraph:—

“(f) in the case of development land tax, the date which, in relation to the liability of the person concerned for that tax, is the reckonable date, within the meaning of the Development Land Tax Act 1976”.

23. In section 89 (prescribed rate of interest), in subsection (1), after “86”, in both places where it occurs, there shall be inserted “86A”.

24. In section 91 (effect on interest of reliefs) in subsection (2) (relief by way of repayment may be applied in discharge of other tax) after the word “tax”, in the first place where it occurs, there shall be inserted the words “(other than development land tax)”.

25. After section 91 there shall be inserted the following:—

“*Development land tax*

Reliefs etc.:
effect on
interest on
development
land tax.

91A. In any case where—

(a) interest is payable under section 86A of this Act on an amount of development land tax to which a person is assessed, and

(b) all or any of the tax charged by the assessment is discharged by way of relief or other adjustment,

such adjustment shall be made of the amount of the interest referred to in paragraph (a) above, and such repayment shall be made of any amounts of interest previously paid under that section in relation to the tax referred to in that paragraph, as are necessary to secure that the total sum, if any, paid or payable under that section in relation to the amount of tax assessed is the same as it would have been if the tax discharged had never been charged”.

26.—(1) In section 100 (procedure for recovery of penalties) at the beginning of each of subsections (3) and (4) there shall be inserted the words “Subject to subsection (10) below”.

(2) At the end of that section there shall be added the following subsection:—

“(10) In the application of this section to proceedings for the recovery of any penalty relating to development land tax,—

(a) subsection (3) above shall have effect with the omission of the words ‘either’ and ‘General or’; and

(b) subsection (4) above shall be omitted”.

27. In section 101 (evidence of profits for purposes of provisions of Part X) after the words “chargeable gains” there shall be inserted the words “or realised development value” and after the words “were received” there shall be inserted the words “or accrued”.

Sch. 8

28.—(1) In section 103 (time limit for recovery of penalties) in subsection (3) (time limit for penalty determined by reference to tax charged in an assessment for a chargeable period) after the word “tax”, in the first place where it occurs, there shall be inserted the words “other than development land tax”.

(2) After the said subsection (3) there shall be inserted the following subsection:—

“(3A) Where the amount of any penalty to which a person is liable under the Taxes Acts is determined by reference to development land tax charged in an assessment made not later than six years after the end of the financial year in which the liability for that tax arose, proceedings for the recovery of the penalty may be commenced within three years of the final determination of the amount of that tax.”

(3) In subsection (4) of that section after the words “subsection (3)” there shall be inserted the words “or subsection (3A)”.

29. At the end of section 108 (responsibility of company officers) there shall be added the following subsection:—

“(4) Subsection (2) above shall apply in relation to development land tax as it applies in relation to corporation tax.”

30. In section 111 (valuation of assets: power to inspect) after subsection (1) there shall be inserted the following subsection:—

“(1A) If for the purposes of the Development Land Tax Act 1976 the Board authorise an officer of the Board to inspect any land for the purpose of ascertaining any value of an interest therein, any person in possession or occupation of the land shall permit the officer so authorised to inspect it at such reasonable times as the Board may consider necessary”.

31. In section 112 (loss, destruction or damage to assessments, etc.) after subsection (1) there shall be inserted the following subsection:—

“(1A) The proviso to subsection (1) above shall have effect, in its application to a charge to development land tax, as if for the words from ‘for the same chargeable period’ to ‘in respect of and on’ there were substituted the words ‘in respect of the realised development value on or in respect of’.”

32. In section 118(1) (interpretation)—

(a) at the end of the definition of “company” there shall be added the words “or, in relation to development land tax, the meaning given by section 47 of the Development Land Tax Act 1976”;

(b) after the definition of “the principal Act” there shall be inserted the following definition:—

“‘realised development value’ has the same meaning as in the Development Land Tax Act 1976”;

SCH. 8

(c) in the definition of "tax" after the words "corporation tax" there shall be inserted the words "nor development land tax"; and

(d) at the end of the definition of "the Taxes Acts" there shall be added the words "and

(c) the Development Land Tax Act 1976 and any other enactment relating to development land tax".

33. At the end of section 119 (commencement and construction) there shall be added the following subsection:—

"(5) This Act, so far as it relates to realised development value, shall be construed as one with the Development Land Tax Act 1976".

34. In Schedule 3 (rules for assigning proceedings to Commissioners), after Rule 5 there shall be inserted the following Rule:—

"5A. An appeal against an assessment to development land tax. The place where the land to which the assessment relates is situated".

PART II

NOTIFICATION

Notice of principal disposals

35.—(1) Subject to the provisions of this Part of this Schedule if, on the disposal, other than a deemed disposal, of an interest in land,—

(a) realised development value accrues to the chargeable person, and

(b) the consideration for the disposal exceeds £10,000 or, if the whole of that consideration is not payable before the expiry of the period of seven years beginning with the date of the disposal, so much of that consideration as is payable before the expiry of that period exceeds £10,000,

the chargeable person shall, not later than one year after the date of the disposal, give notice of the disposal to the Board.

(2) Sub-paragraph (1) above shall not apply in relation to a disposal if, not later than one year after the date of the disposal, an instrument to which the chargeable person is a party has been signed or executed for giving effect to the disposal and that instrument—

(a) is required to be produced to the Board in accordance with section 28 of the Finance Act 1931 or would be so required but for subsection (2) of that section (leases in same terms as agreements for leases already produced) or any regulations made under section 35(x) of that Act (exemption for certain instruments in Scotland where particulars are obtained through any register of sasines); or

(b) is required to be produced to the Board in accordance with section 9 of the Finance Act (Northern Ireland) 1936.

1931 c. 28.

1936 c. 33
(N.I.).

(3) Sub-paragraph (1) above shall not apply in relation to a disposal if— SCH. 8

(a) the disposal is a material disposal within the meaning of section 39 of this Act; and

(b) before the expiry of the period for giving notice of the disposal under sub-paragraph (1) above, the body to whom the disposal is made makes, in connection with the disposal, a payment of consideration from which it deducts a DLT deduction, within the meaning of that section.

(4) Notice of a disposal under sub-paragraph (1) above shall contain such information as the Board may reasonably require for the purposes of this Act and shall be in such form as they may prescribe.

(5) In the case of a disposal which consists of the grant of a lease, paragraphs 26 to 28 of Schedule 2 to this Act shall not apply to determine whether the condition in sub-paragraph (1)(b) above is fulfilled.

Notice of commencement of project

36.—(1) Subject to sub-paragraph (3) below, a person who, having a major interest in any land, begins or causes or permits any other person to begin to carry out a project of material development of that land or any part of it shall—

(a) not earlier than sixty days before the date on which the project is begun, and

(b) not later than thirty days after that date,

give notice of the project to the Board.

(2) Notice of a project under sub-paragraph (1) above shall contain such information as the Board may reasonably require for the purposes of this Act and shall be in such form as they may prescribe.

(3) A person shall not be required to give notice of a project under sub-paragraph (1) above if some other person falling within that sub-paragraph has previously given notice of the project in accordance with that sub-paragraph (and sub-paragraph (2) above).

(4) For the purposes of Part I of Schedule 1 to this Act, notice of a project under sub-paragraph (1) above is an operative notice if, in relation to the project,—

(a) it is the only notice given under that sub-paragraph, or

(b) it is the first such notice to be given and no subsequent notice differs from that first notice in its specification of the nature and scope of the project or of the land comprised in it.

(5) If, in relation to a project of material development, more than one notice is given under sub-paragraph (1) above and no such notice is an operative notice for the purposes of that Part, the

Sch. 8 Board shall, after consulting such persons as appear to them to be appropriate, determine what should be taken to be—

- (a) the nature and scope of the project, and
- (b) the land comprised in the project, and
- (c) the date on which the project is begun,

and shall serve notice of their determination on each person who, in relation to that project, gave notice under sub-paragraph (1) above.

(6) On an appeal against an assessment to development land tax, the Special Commissioners shall have jurisdiction to review a determination made by the Board under sub-paragraph (5) above.

(7) For the purposes of paragraph 4(3) of Schedule 1 to this Act a person who began or caused or permitted any other person to begin to carry out a project of material development may give notice to the Board that he no longer intends to carry out or to cause or permit any other person to carry out a part of the material development comprised in the project; but such a notice shall be of no effect for the purposes of that paragraph unless—

- (a) it contains such information relating to the variation as the Board may reasonably require for the purposes of this Act; and
- (b) it is in such form as the Board may prescribe for the purposes of this sub-paragraph.

Notice of additional development

37.—(1) Where a project of material development (in this paragraph referred to as “the original project”) is carried out so as to include material development (in this paragraph referred to as “the additional development”) which, disregarding paragraph 6 of Schedule 1 above, is not comprised in the project in accordance with Part I of that Schedule, then,—

- (a) in any case where, if the additional development were comprised in a separate project of material development, that project would be taken to be begun not less than three years after the time at which the original project began, this Part of this Schedule shall have effect as if the additional development were so comprised; and
- (b) in any other case, a person who has a major interest in any land comprised in the original project or in any other land to which the additional development relates and who carried out or caused or permitted any other person to carry out any of the additional development shall, subject to sub-paragraph (3) below, give notice in writing of the additional development to the Board.

(2) Notice of the additional development under sub-paragraph (1) above—

- (a) shall contain such information relating to the additional development as the Board may reasonably require for the purposes of this Act; and

- (b) shall be in such form as the Board may prescribe for the purposes of this sub-paragraph ; and
- (c) shall be given not more than thirty days after the date on which, if the additional development had been comprised in a separate project of material development, that separate project would have been taken to have been begun.

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(3) A person shall not be required to give notice of the additional development under sub-paragraph (1) above if some other person falling within paragraph (b) of that sub-paragraph has previously given notice of the additional development in accordance with that sub-paragraph (and sub-paragraph (2) above).

(4) For the purposes of Part I of Schedule 1 to this Act, notice of the additional development under sub-paragraph (1) above is an operative notice if—

- (a) in relation to that development, it is the only notice given under that sub-paragraph, or
- (b) it is the first such notice to be given and no subsequent notice differs from that first notice in its specification of the nature and scope of the additional development or of the land to which that development relates.

(5) If, in relation to the additional development, more than one notice is given under sub-paragraph (1) above and no such notice is an operative notice for the purposes of that Part, the Board shall, after consulting such persons as appear to them to be appropriate, determine what should be taken to be—

- (a) the nature and scope of the additional development, and
- (b) the land to which that development relates,
- and shall serve notice of their determination on each person who gave notice of the additional development under sub-paragraph (1) above.

(6) On an appeal against an assessment to development land tax, the Special Commissioners shall have jurisdiction to review a determination made by the Board under sub-paragraph (5) above.

Notice of other disposals and of events giving rise to a liability for development land tax

38.—(1) Subject to sub-paragraphs (2) and (3) below, if a person is chargeable to development land tax by virtue of the disposal of an interest in land and—

- (a) the disposal is neither one in respect of which notice has been given under sub-paragraph (1) of paragraph 35 above nor one in relation to which that sub-paragraph does not apply by reason of sub-paragraph (2) or sub-paragraph (3) of that paragraph, and
- (b) the disposal is not a deemed disposal occasioned by the start of a project of material development of which he has reasonable grounds for believing that notice has been given under paragraph 36 above,

the chargeable person shall, not later than the end of the financial year following that in which the disposal occurred, give notice of it to the Board.

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(2) Nothing in sub-paragraph (1) above shall require notice to be given of a disposal if—

- (a) it consists of the disposal of an interest in land which comprises a dwelling-house with or without land occupied with the dwelling-house ; and
- (b) the aggregate of the area of the site of the dwelling-house and of the land occupied together with it does not exceed one acre ; and
- (c) the disposal is not a part disposal ; and
- (d) the consideration for the disposal does not exceed £25,000.

(3) Nothing in sub-paragraph (1) above shall require a person to give notice of a disposal if—

- (a) in the financial year in which the disposal is made, no other disposal of an interest in land is made by that person ; and
- (b) so much of the consideration for the disposal as is payable before the expiry of the period of seven years beginning with the date of the disposal does not exceed £10,000.

(4) In the case of a disposal which consists of the grant of a lease, paragraphs 26 to 28 of Schedule 2 to this Act shall not apply to determine whether the condition in sub-paragraph (3)(b) above is fulfilled.

39.—(1) A person who becomes chargeable to development land tax by virtue of the occurrence of an event which is not a disposal of an interest in land but which, by virtue of any provision of this Act, is treated as such for the purposes of section 27 of this Act shall, not later than the end of the financial year following that in which that event occurs, give notice to the Board that he is so chargeable.

(2) Where, for the purposes of this Act, the consideration for the disposal of an interest in land—

- (a) is determined, in the first instance, on the basis that a contingent liability assumed by any person is left out of account, and
- (b) subsequently, by virtue of that liability being or having been enforced, falls to be determined on the basis that it is brought into account,

and the amount of the consideration determined on the basis referred to in paragraph (b) above would exceed that amount determined on the basis referred to in paragraph (a) above, the chargeable person shall, if he is chargeable to development land tax by virtue of the disposal, give notice of the enforcement of that liability to the Board.

(3) A notice under sub-paragraph (2) above shall be given not later than the end of the financial year following that in which the contingent liability is enforced.

(4) If at any time a body ceases to be a charity and, as a result, becomes chargeable to development land tax on an amount of realised development value which is treated as accruing to it by

virtue of section 24(6) of this Act, the body shall, not later than the end of the financial year following that in which it ceases to be a charity, give notice to the Board that it is so chargeable.

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Information as to interests in land and disposals etc.

40.—(1) If it appears to the Board that there has been a disposal of an interest in land on which realised development value has or may have accrued to any person, they may by notice in writing require any person who appears to them to hold or to have held an interest in that land to furnish to them within such time, being not less than thirty days, as may be specified in the notice—

- (a) a statement in writing as to the matters specified in sub-paragraph (2) below, or
- (b) such information and documents which are in his possession or power as may be specified in the notice and as may be required by the Board for the purpose of determining any of the matters specified in sub-paragraph (3) below,

or both such a statement and such information and documents.

(2) The matters about which the Board may by notice require a person to furnish a statement in writing under sub-paragraph (1)(a) above are—

- (a) whether he holds an interest in the land specified in the notice from the Board and, if so, the nature of that interest, and
- (b) the name and address of any other person known or believed by him to hold an interest in that land.

(3) The matters about which the Board may by notice require a person to furnish information and documents under paragraph (b) of sub-paragraph (1) above where it appears to them that there has been such a disposal of an interest in land as is referred to in that sub-paragraph are—

- (a) whether any interest in that land has been disposed of and whether any realised development value has accrued on the disposal ; and
- (b) whether any realised development value which has accrued on that disposal is chargeable to development land tax or whether any liability to tax on that value is deferred by virtue of any provision of this Act ; and
- (c) if any realised development value which has accrued on that disposal is chargeable to development land tax, the amount of that tax and the person or persons who may be liable for that tax ; and
- (d) whether any disposal or other event has occurred which might be the occasion of a charge to development land tax by virtue of section 27 of this Act or which might affect the amount or time of payment of any instalment of development land tax.

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Penalties

41.—(1) Subject to sub-paragraph (4) below, if any person—

- (a) fails to give a notice which he is required to give under paragraph 35(1) or paragraph 39 above, or
- (b) fails to comply with a notice under paragraph 40 above,

he shall be liable to a penalty not exceeding £50 and, if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.

(2) Subject to the following provisions of this paragraph, if any person fails to give a notice which he is required to give under sub-paragraph (1) of paragraph 36 or sub-paragraph (1)(b) of paragraph 37 above, he shall be liable—

- (a) to a penalty not exceeding £500 or the overriding maximum penalty, whichever is the less, or
- (b) if the failure continues after the end of the period of six months beginning on the last day on which the notice might have been given in accordance with that paragraph, to a penalty not exceeding £5,000 or the overriding maximum penalty, whichever is the less,

and, if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £50 for each day on which the failure so continues.

(3) Subject to sub-paragraph (4) below, if any person fails to give a notice which he is required to give under paragraph 38 above, he shall be liable to a penalty not exceeding £100.

(4) Except in a case falling within sub-paragraph (2)(b) above, a person shall not be liable to a penalty for any such failure as is mentioned in sub-paragraphs (1) to (3) above if the failure is remedied before proceedings for the recovery of the penalty are commenced.

(5) The overriding maximum penalty referred to in sub-paragraph (2) above is—

- (a) in the case of a person assessed to an amount of development land tax in respect of the material event, the aggregate of £50 and the amount of development land tax to which he is finally so assessed ; and
- (b) in the case of a person who is shown not to be liable for development land tax in respect of the material event, £50 ;

and in any case where proceedings for the recovery from any person of a penalty for a failure to give such a notice as is referred to in sub-paragraph (2) above are begun before the overriding maximum penalty is established in his case and that limit has still not been established when a penalty comes to be awarded in those proceedings, that sub-paragraph shall have effect with the omission of any reference to the overriding maximum penalty.

(6) If, after a penalty has been awarded against any person by virtue of paragraph (a) or paragraph (b) of sub-paragraph (2) above,—

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(a) an assessment on him to development land tax in respect of the material event becomes final or it is proved to the satisfaction of the Board that he has no liability for development land tax in respect of that event, and

(b) the penalty so awarded exceeds the aggregate of £50 and the amount of development land tax (if any) to which he is so assessed,

the penalty so awarded shall be treated as reduced to the aggregate referred to in paragraph (b) above and, if the penalty has already been paid, the amount of the excess shall be remitted to him by the Board.

(7) Any reference in sub-paragraph (5) or sub-paragraph (6) above to the material event shall be construed by reference to the nature of the failure which gives rise to the proceedings under sub-paragraph (2) above so that—

(a) if the failure is a failure to give notice of a project of material development, the material event is the deemed disposal of any interest in land which is occasioned by the beginning of that project ; and

(b) if the failure is a failure to give notice of the additional development, as defined in paragraph 37(1) above, the material event is the deemed disposal of any interest in land which is occasioned by the start of the project of material development in which the additional development is comprised.

(8) For the purposes of this paragraph, an assessment to development land tax becomes final when it can no longer be varied by any Commissioners on appeal or by order of any court.

42.—(1) If a person liable for development land tax on the disposal of an interest in land fraudulently or negligently gives, makes or furnishes any incorrect notice, statement, information or document which, by virtue of the preceding provisions of this Part of this Schedule, he is required or permitted to give, make or furnish in connection with that disposal or with any project of material development the start of which is the occasion of that disposal, he shall be liable,—

(a) in the case of fraud, to a penalty not exceeding £500 or the aggregate of £50 and twice the difference mentioned in sub-paragraph (2) below, whichever is the greater, and

(b) in the case of negligence, to a penalty not exceeding £250 or the aggregate of £50 and the difference mentioned in sub-paragraph (2) below, whichever is the greater.

(2) The difference referred to in sub-paragraph (1) above is the amount by which the tax for which the person concerned is liable as mentioned in that sub-paragraph exceeds what would be the amount of that tax if the facts were as shown in the notice, statement, information or document.

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(3) If a person who is not liable for development land tax as mentioned in sub-paragraph (1) above fraudulently or negligently gives, makes or furnishes any incorrect notice, statement, information or document which, by virtue of the preceding provisions of this Part of this Schedule, he is required to give, make or furnish, he shall be liable,—

- (a) in the case of fraud, to a penalty not exceeding £500, and
- (b) in the case of negligence, to a penalty not exceeding £250.

(4) If after any notice, statement, information or document has been given, made or furnished by any person (in pursuance of the preceding provisions of this Part of this Schedule) without fraud or negligence, it comes to his notice (or, if he has died, to the notice of his personal representatives) that it was incorrect in any material respect, it shall be treated for the purposes of this paragraph as having been negligently given, made or furnished by him unless the error is remedied without unreasonable delay.

(5) Any person who assists in or induces the giving, making or furnishing in pursuance of the preceding provisions of this Part of this Schedule of any notice, statement, information or document which he knows to be incorrect shall be liable to a penalty not exceeding £500.

PART III

PAYMENT

Date for payment of tax

43. Subject to the provisions of this Part of this Schedule, development land tax assessed on any person in respect of the disposal of an interest in land or other event shall be payable by that person not later than—

- (a) the reckonable date, or
- (b) the expiry of the period of thirty days beginning with the date of issue of the notice of assessment,

whichever is the later.

Right to elect to pay tax by instalments in certain cases

44.—(1) Where a person is liable to development land tax—

- (a) on the disposal of an interest in land to which, by virtue of sub-paragraph (2) below, this sub-paragraph applies, or
- (b) on the occurrence of an event to which, by virtue of sub-paragraph (3) below, this sub-paragraph applies,

the tax may, if he so elects, be paid by instalments which, according to his election, shall be yearly or half-yearly.

(2) Sub-paragraph (1) above applies to the disposal of an interest in land which is—

- (a) a deemed disposal, or
- (b) a part disposal consisting of the grant of a lease under which rent is payable and, on the first date on which it is payable, the rent does not exceed the commercial rent on that date.

(3) Sub-paragraph (1) above applies to an event—

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(a) which is not a disposal of an interest in land but which, by virtue of any provision of this Act, is treated as such for the purposes of section 27 of this Act; and

(b) where the project of material development the start of which was the occasion of the deemed disposal referred to in subsection (1) of that section comprised material development authorised by planning permission granted for a limited period, which occurs before the expiry of the relevant period.

(4) If, in a case where section 27 of this Act has effect, the operative disposal or, as the case may be, a further disposal falling within subsection (5) of that section is such a disposal as is mentioned in sub-paragraph (2)(b) above, this Part of this Schedule (other than this sub-paragraph) shall have effect as if—

(a) at the time of that disposal there occurred an event falling within paragraph (a) of sub-paragraph (3) above, and

(b) any liability arising at the time of that disposal for development land tax on any of the accrued development value arose on that event and not on that disposal,

and in this sub-paragraph “the operative disposal” and “the accrued development value” have the same meaning as in section 27 of this Act.

Dates and frequency of instalments : normal rules

45.—(1) Where the development land tax for which a person is liable on a disposal of an interest in land or on the occurrence of an event to which sub-paragraph (1) of paragraph 44 above applies is payable by instalments by virtue of an election under that sub-paragraph the provisions of this paragraph shall have effect, subject to paragraphs 47 and 48 below, to determine the number of the yearly or half-yearly instalments referred to in that sub-paragraph and the dates on which those instalments fall due.

(2) Subject to the following provisions of this paragraph—

(a) the first instalment shall fall due at the expiry of the period of twelve months beginning with the date of the disposal or, as the case may be, the event referred to in sub-paragraph (1) above; and

(b) the number of yearly instalments shall be eight and the number of half-yearly instalments shall be sixteen.

(3) In any case where—

(a) the liability referred to in sub-paragraph (1) above arises on the deemed disposal of an interest in land, and

(b) the relevant project comprises material development authorised by planning permission granted for a limited period, and

(c) the last day of the relevant period falls within the period of eight years beginning with the date on which the relevant project was begun,

the number of yearly or half-yearly instalments shall be such that they all fall due before the expiry of the relevant period.

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(4) In any case where—

- (a) the liability referred to in sub-paragraph (1) above arises on the occurrence of an event to which sub-paragraph (1) of paragraph 44 above applies, and
- (b) the condition in sub-paragraph (3)(b) of that paragraph is fulfilled,

the number of yearly or half-yearly instalments shall be such that they all fall due before the expiry of the relevant period referred to in sub-paragraph (3)(b) of that paragraph.

(5) If the liability referred to in sub-paragraph (1) above arises on a part disposal consisting of the grant of a lease and the presumed expiry date of the lease, for the purposes of section 44(2) of this Act, falls within the period of eight years beginning with the date of the disposal, the number of yearly or half-yearly instalments shall be such that they all fall due before the presumed expiry date.

(6) If the liability referred to in sub-paragraph (1) above arises on the deemed disposal of an interest in land, then, at the option of the person referred to in that sub-paragraph, sub-paragraph (7) below shall apply in any case where—

- (a) that interest is an interest in reversion on one or more leases, and
- (b) the relevant project was begun by a person other than the landlord, and
- (c) the rent or the aggregate of the rents and of any premium or premiums to which, under or by virtue of the lease or leases, the landlord is entitled does not reflect the value or any part of the value of the development comprised in the relevant project, and
- (d) the rent or the aggregate of the rents and of any premium or premiums to which, under or by virtue of the lease or any of the leases, the landlord is entitled can be made to reflect that value or part of it from a date on which the lease in question provides for a review of any rent or premium payable under it ;

and in this sub-paragraph “the landlord” means the person who was the chargeable person in relation to the deemed disposal.

(7) Where this sub-paragraph applies—

- (a) the first instalment shall fall due at the expiry of the period of twelve months beginning with the review date ; and
- (b) the number of yearly or half-yearly instalments of tax shall be such that they all fall due before the expiry of the period of eight years beginning with the review date ;

and in this sub-paragraph “the review date” means the date referred to in sub-paragraph (6)(d) above or, if there is more than one such date, the first of those dates.

(8) If, in a case where this paragraph applies, an instalment of tax would, apart from this sub-paragraph, fall due before the first date on which, if the tax were not payable by instalments, tax of an amount not less than the amount mentioned in sub-paragraph (9) below would become payable under paragraph 43 above, that instalment shall not fall due until that date; but nothing in this sub-paragraph shall affect—

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- (a) the determination of the number of any instalments of tax; or
- (b) the date on which falls due any instalment to which this sub-paragraph does not apply; or
- (c) the date on which any instalment is to be taken to fall due for the purposes of section 86A of the Taxes Management Act 1970 c. 9.

(9) The amount referred to in sub-paragraph (8) above in relation to an instalment of tax is the aggregate of—

- (a) the amount of the instalment, and
- (b) the amount of any instalment which has previously fallen due, and
- (c) the amount of any other instalment which, apart from sub-paragraph (8) above, would have fallen due before the instalment referred to in paragraph (a) above.

(10) In this Part of this Schedule, “the relevant project”, in relation to the deemed disposal of an interest in land, means the project of material development the start of which is the occasion of that disposal.

Amount of instalments

46.—(1) Where the development land tax for which a person is liable as mentioned in sub-paragraph (1) of paragraph 44 above (in this paragraph referred to as “the tax”) is payable by instalments by virtue of an election under that sub-paragraph, the provisions of this paragraph shall have effect, subject to paragraph 48(2) below, to determine the amount of the instalments referred to in that sub-paragraph; and in this Part of this Schedule references to the relevant tax at any time are references to the amount of the tax which, if the tax were not payable by instalments, would have become payable at or before that time.

(2) Subject to the following provisions of this paragraph—

- (a) the instalments shall be of equal amounts, and
- (b) in the first instance, the instalments shall be calculated by reference to the relevant tax immediately before the date on which the first instalment falls due.

(3) If, at any time after an instalment has fallen due, there is an alteration in the amount of the relevant tax,—

- (a) the amount of the instalments (including any instalments which have fallen due) shall be recalculated by reference to the relevant tax immediately after that time; and

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(b) if the recalculated amount of an instalment falling due before that time exceeds the amount which was previously calculated to be the amount of that instalment, then, the amount of the excess—

(i) shall be payable forthwith, and

1970 c. 9.

(ii) for the purposes only of section 86A of the Taxes Management Act 1970, shall be taken to have become payable on the date on which the instalment fell due.

(4) Where the liability for the tax arises on a part disposal consisting of the grant of a lease and, on a date before the whole of the tax has become payable, an amount is paid by way of premium in respect of the lease,—

(a) the relevant fraction of the relevant tax on that date shall be payable on that date, and

(b) the amount of any instalments becoming payable after that date shall be recalculated accordingly.

(5) The reference in sub-paragraph (4) above to the liability for the tax arising on a part disposal consisting of the grant of a lease includes a reference to the case where—

(a) by virtue of paragraph 44(4)(b) above, the liability for the tax is treated as arising on an event; and

(b) the disposal which under paragraph 44(4)(a) above determines the time of that event is a part disposal consisting of the grant of a lease.

(6) If, in a case where the liability referred to in sub-paragraph (1) above arises on a deemed disposal and sub-paragraph (7) of paragraph 45 above applies, an amount which reflects the value or any part of the value of the development comprised in the relevant project is paid—

(a) by way of premium in respect of a lease mentioned in sub-paragraph (6)(a) of that paragraph, and

(b) before the whole of the tax has become payable,

the relevant fraction of the relevant tax on that date shall be payable on that date and the amount of any instalments becoming payable after that date shall be recalculated accordingly.

(7) For the purposes of sub-paragraph (4) or sub-paragraph (6) above, the relevant fraction on any date is—

(a) that of which the numerator is the amount of the premium referred to in sub-paragraph (4) or, as the case may be, sub-paragraph (6) above and the denominator is the net proceeds of the disposal, or

(b) that fraction of the relevant tax on that date which has not become payable before that date,

whichever is the smaller.

Payment of balance in certain cases

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47.—(1) In any case where—

- (a) the development land tax for which a person is liable on the disposal of an interest in land or other event is payable by instalments by virtue of an election under paragraph 44(1) above, and
- (b) on any date after that disposal or event, this paragraph applies by virtue of any provision of sub-paragraphs (2) to (6) below,

so much of the relevant tax on that date as has not previously become payable shall be payable on that date ; and if, after that date, the relevant tax is increased by an amount, that amount shall be payable forthwith.

(2) Where the liability referred to in sub-paragraph (1)(a) above arises on a part disposal consisting of the grant of a lease, this paragraph applies on any date after that disposal on which—

- (a) rent payable under the lease exceeds the commercial rent on that date ; or
- (b) there is a further disposal for which consideration is given and as a result of which the rights of the landlord under the lease become vested, in whole or in part, in another person.

(3) Where the liability referred to in sub-paragraph (1)(a) above arises on the occurrence of an event to which paragraph 44(1) above applies and that event is connected with the grant of a lease, this paragraph applies on any date after that event on which—

- (a) rent payable under the lease exceeds the commercial rent on that date ; or
- (b) there is a material disposal of the interest which was the retained interest in relation to the part disposal consisting of the grant of that lease.

(4) Where the liability referred to in sub-paragraph (1)(a) above arises on the occurrence of an event to which paragraph 44(1) above applies and that event is not connected with the grant of a lease, this paragraph applies on any date after that event on which there is a material disposal of the interest which, for the purposes of section 27 of this Act, was treated as being disposed of on that event.

(5) For the purposes of this paragraph there is a material disposal of an interest in land if—

- (a) there is a disposal either of that interest or of an interest of which it is a part for the purposes of Part I of Schedule 2 to this Act ; and
- (b) the disposal referred to in paragraph (a) above is neither a deemed disposal nor a part disposal consisting of the grant of a lease under which, on the first date on which rent is payable, the rent does not exceed the commercial rent on that date.

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(6) In any case where—

- (a) there is a part disposal of an interest in land consisting of the grant of a lease, and
- (b) if sub-paragraph (5)(b) above had not been enacted that disposal would be a material disposal of the interest referred to in sub-paragraph (3)(b) or sub-paragraph (4) above,

this paragraph applies on any date on which—

- (i) rent payable under that lease exceeds the commercial rent on that date ; or
- (ii) there is a material disposal of the interest which was the retained interest in relation to that part disposal.

(7) If, after a part disposal which falls within paragraphs (a) and (b) of sub-paragraph (6) above there is a disposal of the retained interest referred to in paragraph (ii) of that sub-paragraph and that disposal—

- (a) is not a material disposal, but
- (b) consists of the grant of a further lease,

sub-paragraph (6) above shall again have effect as if that retained interest were itself the interest referred to in sub-paragraph (3)(b) or, as the case may be, sub-paragraph (4) above.

(8) For the purposes of this paragraph an event is connected with the grant of a lease if, by virtue of paragraph 44(4) above, that event is treated as occurring at the time of the disposal consisting of the grant of the lease.

Effect of disposals after a project of material development

48.—(1) In any case where—

- (a) by virtue of an election under paragraph 44(1) above the development land tax for which a person is liable on the disposal of an interest in land (in this paragraph referred to as “the relevant disposal”) is payable by instalments, and
- (b) the relevant disposal is the deemed disposal of an interest in land (in this paragraph referred to as “the relevant interest”), and
- (c) after the relevant disposal there is a disposal, other than a deemed disposal, of the relevant interest or of the balance of the relevant interest (in this paragraph and paragraph 49 below referred to as a “subsequent disposal”), and
- (d) the whole or part of the amount which is the relevant tax on the date of a subsequent disposal (excluding for this purpose any amount of the tax which on that date is already payable by instalments under paragraph 49(1) below) has not become payable before that date,

this paragraph shall apply on the occasion of that subsequent disposal, and in the following provisions of this paragraph and paragraph 49 below the tax which has not become payable as mentioned in paragraph (d) above is referred to as “the unpaid tax”.

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(2) Subject to paragraph 49(1) below, where this paragraph applies on the occasion of a subsequent disposal, the unpaid tax shall be payable on the date of that disposal or, if that disposal is a part disposal and the fraction determined under sub-paragraph (3) below is less than unity,—

- (a) that fraction of the unpaid tax shall be payable on that date ;
and
- (b) the amount of any instalments of tax payable in accordance with the preceding provisions of this Part of this Schedule and becoming so payable after the subsequent disposal shall be recalculated accordingly.

(3) The fraction referred to in sub-paragraph (2) above is that of which—

- (a) the numerator is the adjusted net proceeds of the subsequent disposal, and
- (b) the denominator is the net proceeds of the relevant disposal.

(4) If at any time after the date of a subsequent disposal, the relevant tax would, apart from this sub-paragraph, be increased by an amount (in this sub-paragraph and sub-paragraph (5) below referred to as “the added amount”), then, subject to sub-paragraph (5) below, paragraph 44(1) above shall not apply to the added amount.

(5) If, in a case falling within sub-paragraph (4) above,—

- (a) the subsequent disposal is a part disposal, and
- (b) at the time referred to in that sub-paragraph, any instalments of tax provided for by paragraph 45 above have not yet become payable,

then, notwithstanding anything in sub-paragraph (4) above, paragraph 44(1) above shall apply to that part of the added amount which remains after deducting therefrom the fraction of that amount determined under sub-paragraph (6) below.

(6) The fraction referred to in sub-paragraph (5) above is that of which the numerator is—

- (a) the adjusted net proceeds of the subsequent disposal, or
- (b) if there has previously been a subsequent disposal or disposals, the aggregate of the adjusted net proceeds of each subsequent disposal,

and the denominator is the net proceeds of the relevant disposal.

(7) In this paragraph, references to the adjusted net proceeds of a disposal of an interest in land are references to the amount of the net proceeds of that disposal less the amount which, for the purpose of determining the relevant base value of that interest on that disposal, is the amount of expenditure on improvements.

SCH. 8 (8) For the purposes of this paragraph, a disposal of the balance of the relevant interest means—

- (a) a disposal of the interest which was the retained interest in relation to the disposal of the relevant interest referred to in sub-paragraph (1)(c) above, or
- (b) a disposal which would fall within paragraph (a) above if, in the period beginning immediately after the disposal of the relevant interest referred to in sub-paragraph (1)(c) above and ending immediately before the disposal in question, no disposal had occurred which falls within either paragraph (a) above or this paragraph.

(9) For the purpose of determining whether there is a disposal of the relevant interest or of the balance of the relevant interest, a disposal to which Part I of Schedule 2 to this Act applies shall be regarded also as a separate disposal of each interest which is, within the meaning of that Part, a part of the interest disposed of.

49.—(1) In any case where—

- (a) paragraph 48 above applies on the occasion of a subsequent disposal, and
- (b) that disposal is a part disposal consisting of the grant of a lease under which rent is payable, and
- (c) on the first date on which rent is payable under the lease it does not exceed the commercial rent on that date,

then, notwithstanding anything in sub-paragraph (2) of paragraph 48 above, the unpaid tax or part thereof which would otherwise be payable on the date of the subsequent disposal in accordance with that sub-paragraph may, at the option of the person liable to pay it, be paid by instalments in accordance with the provisions of this paragraph.

(2) Where an amount of tax (in the following provisions of this paragraph referred to as “the material tax”) is payable by instalments under sub-paragraph (1) above then, subject to the following provisions of this paragraph,—

- (a) that tax shall be paid by equal instalments ; and
- (b) an instalment shall fall due on each date after the date of the disposal referred to in sub-paragraph (1) above on which an instalment of tax provided for by the preceding provisions of this Part of this Schedule falls due or would have fallen due but for paragraph 48(2) above.

(3) If, on a date before the whole of the material tax has become payable, an amount is paid by way of premium in respect of the lease referred to in sub-paragraph (1) above, then,—

- (a) the relevant fraction of the material tax shall be payable on that date, and
- (b) the amount of any instalments payable in accordance with sub-paragraph (2) above and becoming so payable after that date shall be recalculated accordingly.

(4) Where the material tax is payable by instalments and there is on any date a disposal—

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- (a) for which consideration is given, and
- (b) as a result of which the rights of the landlord under the lease referred to in sub-paragraph (1) above become vested, in whole or in part, in another person,

so much of the material tax as has not previously become payable shall be payable on that date.

(5) If rent payable on any date under the lease referred to in sub-paragraph (1) above exceeds the commercial rent on that date, so much of the material tax as has not previously become payable shall be payable on that date.

(6) For the purposes of sub-paragraph (3) above, the relevant fraction on the date referred to in that sub-paragraph is—

- (a) that of which the numerator is the amount of the premium referred to in that sub-paragraph and the denominator is the net proceeds of the disposal referred to in sub-paragraph (1) above, or
- (b) that fraction of the material tax which has not become payable before that date,

whichever is the smaller.

Payment of tax by instalments in other cases where consideration payable by instalments

50.—(1) In any case where—

- (a) a person is liable for development land tax on the disposal of an interest in land to which sub-paragraph (1) of paragraph 44 above does not apply, and
- (b) in accordance with the terms of the disposal the consideration or part of the consideration for the disposal is payable by instalments over a period which ends more than eighteen months after the date of the disposal, and
- (c) that person satisfies the Board that he would otherwise suffer undue hardship,

the tax may, at his option, be paid by such instalments as the Board may allow over a period which ends not later than eight years after the reckonable date or, if it is earlier, the date on which the last of the instalments mentioned in paragraph (b) of this sub-paragraph is payable.

(2) In any case where—

- (a) on the date of the disposal of an interest in land which is a subsequent disposal for the purposes of paragraph 48 above an amount of development land tax which had not previously become payable would, apart from this sub-paragraph, become payable on that date in accordance with sub-paragraph (2) of that paragraph, and
- (b) that amount could, at the option of the person liable to pay it, have been paid by instalments by virtue of sub-paragraph

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(1) of paragraph 49 above if paragraph (c) of that sub-paragraph had not been enacted, and

(c) the person liable to pay that amount satisfies the Board that he would otherwise suffer undue hardship,

then, notwithstanding anything in paragraph 48(2) above, that amount of tax may, at his option, be paid by such instalments as the Board may allow.

(3) In any case where—

(a) on any date an amount of development land tax which had not previously become payable would, apart from this sub-paragraph, become payable under—

(i) sub-paragraph (1) of paragraph 47 above, by virtue of any of sub-paragraphs (2)(a), (3)(a) and (6)(i) of that paragraph, or

(ii) sub-paragraph (5) of paragraph 49 above, and

(b) the person liable to pay that amount satisfies the Board that he would otherwise suffer undue hardship,

then, notwithstanding anything in those sub-paragraphs, that amount of tax may, at his option, be paid by such instalments as the Board may allow.

(4) Where an amount of tax is payable by instalments in accordance with sub-paragraph (2) or sub-paragraph (3) above, the last instalment shall fall due not later than the expiry of the period of eight years beginning with the date which is the reckonable date in relation to the liability for that tax.

51. Notwithstanding that a person has opted to pay an amount of tax by instalments under the preceding provisions of this Part of this Schedule, the tax for the time being unpaid, together with any interest which has accrued before the time of payment, may be paid at any time.

Postponement of tax on incorporation disposal

52.—(1) This paragraph applies where—

(a) as part of the transfer of his business to a company a person disposes of an interest in land to the company, and

(b) on that disposal (in this paragraph referred to as “the incorporation disposal”) the chargeable person becomes liable for an amount of development land tax (whether in respect of realised development value accruing on that disposal or by virtue of section 27 of this Act), and

(c) the transfer of the business is one where, for the purposes of Part III of the Finance Act 1965 (capital gains tax), paragraph 15 of Schedule 19 to the Finance Act 1969 applies (special rules on transfer of business as a going concern to a company).

1965 c. 25.
1969 c. 32.

(2) Where this paragraph applies, so much of the development land tax referred to in sub-paragraph (1)(b) above as appears to the Board or, on an appeal, to the Commissioners concerned to be just

and reasonable shall not become payable until such time as may be determined in accordance with sub-paragraphs (4) to (6) below ; and in the following provisions of this paragraph the amount of tax which does not become payable until that time is referred to as “ the postponed tax ”.

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(3) In determining under sub-paragraph (2) above the amount of the development land tax referred to in sub-paragraph (1)(b) above which is to be the postponed tax, the Board or, as the case may require, the Commissioners concerned shall have regard to the proportion of the consideration for the transfer of the business referred to in sub-paragraph (1)(a) above which consists of shares.

(4) If at any time within the period of eight years beginning on the date of the incorporation disposal there is a disposal—

- (a) of any of the shares comprised in the consideration for the transfer of the business concerned, or
- (b) of the interest referred to in sub-paragraph (1)(a) above or of any other interest in land which is derived, directly or indirectly, from that interest,

so much of the postponed tax as may be determined by the Board under sub-paragraph (5) below shall become payable at the time of that disposal.

(5) In making a determination under sub-paragraph (4) above in relation to a disposal of shares or an interest in land, the Board shall have regard—

- (a) to the proportion of the consideration for the transfer of the business or, as the case may be, the proportion of the value of the interest referred to in sub-paragraph (1)(a) above which is represented by the shares or interest disposed of ; and
- (b) in the case of a disposal of an interest in land which is a deemed disposal, to the extent to which liability for development land tax on any realised development value which accrues or might accrue on that deemed disposal is or would be deferred under any provision of this Act.

(6) At the expiry of the period of eight years beginning on the date of the incorporation disposal, there shall become payable so much of the postponed tax as has not previously become payable by virtue of sub-paragraph (4) above.

(7) In this paragraph “ shares ” includes stock.

Interpretation

53.—(1) In this Part of this Schedule—

“ planning permission granted for a limited period ” has the same meaning as in the relevant planning enactment and, in relation to such permission, “ the relevant period ” means the period specified in the condition by virtue of which the permission is planning permission granted for a limited period ;

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“premium” has the same meaning as in Part III of Schedule 1 to this Act;

“the relevant project” shall be construed in accordance with paragraph 45(10) above; and

“the relevant tax” shall be construed in accordance with paragraph 46(1) above.

(2) In determining for the purposes of this Part of this Schedule whether rent payable in respect of a lease on any date exceeds the commercial rent on that date, “commercial rent” means the rent which might have been expected to be paid on that date under a lease negotiated in the open market at the time at which the actual lease was granted and which (except as to rent) is identical to the actual lease and provides for rent payable—

(a) at the same intervals as those provided for under the actual lease; and

(b) at a uniform rate or, if the rent payable under the actual lease is rent at a progressive rate (and such that the amount of rent payable for any year is never less than the amount payable for any previous year), a rate which progresses by gradations proportionate to those provided by the actual lease.

PART IV

OTHER ADMINISTRATIVE PROVISIONS

Liability of trustees and personal representatives

54. Development land tax chargeable in respect of realised development value accruing to the trustees of a settlement or due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of those trustees or personal representatives.

Recovery from beneficiary of tax assessed on trustees or personal representatives

55.—(1) In any case where—

(a) development land tax assessed on any one or more trustees of a settlement or personal representatives in respect of realised development value accruing to the trustees or personal representatives on the disposal of an interest in land (in this paragraph referred to as “the material disposal”) is not paid within the period of six months beginning on the date on which it becomes payable, and

(b) before or after the expiry of that period of six months any part of the consideration for the material disposal or, as the case may be, an interest relevant to the material disposal is transferred by the trustees or personal representatives to a person who is absolutely entitled to it as against them,

then, subject to sub-paragraph (3) below, the person referred to in paragraph (b) above may at any time within the period of two years

beginning with the date when the tax became payable be assessed and charged (in the name of the trustees or personal representatives) to all or any part of that tax.

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(2) For the purposes of this paragraph, an interest in land is relevant to the material disposal if,—

- (a) in a case where that disposal is a deemed disposal followed by a deemed reacquisition, it is the interest reacquired or an interest derived from it; and
- (b) in a case where that disposal is a part disposal, it is the retained interest or an interest derived from it.

(3) If, in a case falling within sub-paragraph (1) above,—

- (a) part only of the consideration for the material disposal, or
- (b) an interest relevant to the material disposal but having an open market value less than the consideration for the material disposal,

was transferred as mentioned in paragraph (b) of that sub-paragraph, the maximum amount of development land tax to which the person concerned may be assessed and charged by virtue of that sub-paragraph shall be reduced proportionately.

(4) The reference in sub-paragraph (3)(b) above to the open market value of an interest which was transferred as mentioned in sub-paragraph (1) (b) above is a reference to the consideration which that interest might reasonably have been expected to fetch on a sale in the open market at the time of the transfer.

(5) For the purposes of this paragraph, a person is absolutely entitled as against trustees or personal representatives to any consideration or to an interest in land if that person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees or personal representatives to resort to the consideration or interest for payment of duty, taxes, costs or other outgoings, to direct how that consideration or interest shall be dealt with.

(6) Subsection (4) of section 28 of this Act shall have effect for the construction of any reference in this paragraph to a person absolutely entitled as against the trustees or personal representatives as if this paragraph were included in that section and as if the reference in that subsection to trustees included a reference to personal representatives.

Recovery of tax assessed on one member of a group from another member

56.—(1) If, on the disposal of an interest in land at any time, realised development value accrues to a company which is then a member of a group of companies and any of the development land tax assessed on the company in respect of the disposal is not paid within the period of six months beginning on the date when it becomes payable by the company, then a company—

- (a) which was the principal company of the group at the time of the disposal, or

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- (b) which in any part of the period of two years ending on the date of the disposal was a member of the group and owned either the interest disposed of or an interest which, on the disposal, was a part of that interest for the purposes of Part I of Schedule 2 to this Act,

may at any time within the period of two years beginning with the date on which the tax became payable be assessed and charged (in the name of the company to which the realised development value accrued) to all or any part of that tax.

1970 c. 9.

(2) A company paying an amount of development land tax under sub-paragraph (1) above shall be entitled to recover a sum equal to the aggregate of that amount and of any interest charged thereon under Part IX of the Taxes Management Act 1970—

- (a) from the company to which the realised development value accrued, or
 (b) if that company is not the company which was the principal company of the group at the time of the disposal, from that principal company.

(3) A company paying any amount under sub-paragraph (2)(b) above shall be entitled to recover a sum of that amount from the company to which the realised development value accrued and, so far as it is not so recovered, to recover from any company which—

- (a) is for the time being a member of the group, and
 (b) has while a member of the group owned the interest disposed of or any other interest falling within sub-paragraph (1)(b) above,

such proportion of the amount unrecovered as is just, having regard to the value of the interest disposed of (or of the rights which subsequently made up that interest) at the time when that company disposed of the interest owned by it as mentioned in paragraph (b) above.

(4) If at any time a company which is a member of a group (in this sub-paragraph referred to as “the chargeable company”) becomes liable for an amount of development land tax by virtue of section 27 of this Act and any of the development land tax assessed on the chargeable company by virtue of that liability is not paid within the period of six months beginning with the date on which it becomes payable by the chargeable company, then a company which was the principal company of the group at the time the liability arose may, at any time within the period of two years beginning with the date on which the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover from the chargeable company a sum equal to the aggregate of that amount and of any interest charged thereon under Part IX of the Taxes Management Act 1970.

(5) If, in a case where section 21 of this Act applies, any of the development land tax assessed on the chargeable company in consequence of that section is not paid within the period of six months

beginning with the date on which it becomes payable by that company, then a company—

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(a) which on that date, or immediately after the time of severance, was the principal company of the group referred to in subsection (1) of that section, or

(b) which on that date owned the relevant interest,

may at any time within the period of two years beginning with the date on which the tax became payable be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover from the chargeable company a sum equal to the aggregate of that amount and of any interest charged thereon under Part IX of the Taxes Management Act 1970.

1970 c. 9.

(6) In sub-paragraph (5) above “the chargeable company”, “the time of severance” and “the relevant interest” have the same meaning as in section 21 of this Act.

57.—(1) This paragraph applies in any case where—

(a) a company (in this paragraph referred to as “the chargeable company”) becomes liable for an amount of development land tax in respect of the disposal of an interest in land or other event; and

(b) a person who is connected with the chargeable company for the purposes of Part III of the Finance Act 1965 (capital gains tax) receives or becomes entitled to receive in respect of shares in the chargeable company any capital distribution from the company, other than a capital distribution representing a reduction of capital; and

1965 c. 25.

(c) either the capital so distributed derives from or the distribution constitutes the disposal or other event referred to in paragraph (a) above.

(2) If, in a case where this paragraph applies, any of the development land tax assessed on the chargeable company by virtue of the liability referred to in paragraph (a) of sub-paragraph (1) above is not paid within the period of six months beginning with the date when it becomes payable by the chargeable company, the person referred to in paragraph (b) of that sub-paragraph may, at any time within the period of two years beginning with the date on which the tax became payable, be assessed and charged (in the name of the chargeable company) to an amount of that development land tax—

(a) not exceeding the amount or value of the capital distribution which that person has received or become entitled to receive; and

(b) not exceeding the proportion of that tax which that person's share of the capital distribution bears to the whole of that distribution.

(3) A person paying an amount of tax under sub-paragraph (2) above shall be entitled to recover from the chargeable company a sum equal to the aggregate of that amount and of any interest charged thereon under Part IX of the Taxes Management Act 1970.

- SCH. 8 (4) In this paragraph "capital distribution" means any distribution from a company, including a distribution, in the course of dissolving or winding up the company, in money or money's worth, except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

Advance payments

1970 c. 9. 58.—(1) Where a person who is liable for development land tax in respect of the disposal of an interest in land or other event makes a payment on account of that tax before an assessment is made in respect of that liability, so much of the development land tax for which he is so liable as is equal to the amount of the payment on account shall not carry interest under any provision of Part IX of the Taxes Management Act 1970 in respect of any time—

(a) after the date of the payment, or

(b) if he is required to give notice under any of paragraphs 35 to 39 above with respect to the disposal, project or other event concerned and the notice is not given before the payment on account is made, after the date on which he gives the notice.

(2) If any amount paid on account of any development land tax for which a person is liable as is mentioned in sub-paragraph (1) above exceeds the amount for which that person is assessed as being so liable, the excess shall be repaid to him.

Interest on repayments

59.—(1) Any repayment of an amount paid in excess of a liability for, or for interest on, development land tax shall carry interest from the reckonable date or the date of payment, whichever is the later, at the rate which is for the time being the prescribed rate for the purposes of section 86A of the Taxes Management Act 1970.

(2) Interest paid to any person under this paragraph shall not be income of that person for any tax purposes.

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