



# Finance Act 1985

## 1985 CHAPTER 54

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [25th July 1985]

<sup>X1X2</sup>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 several duties hereinafter mentioned; 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:—

### Editorial Information

- X1** ss. 1-3, 5-7, 10, 98(1)(6), Schs. 1, 3, 4, 27 Pt. I from Gp 40:1(Customs and Excise), ss. 11-33, 98(1)(6), Schs. 6-8, 27 Pt. IV from Gp 40:2(Customs and Excise), ss. 4, 9, 98(1)(6), Schs. 2, 27 Pt. II from Gp 107:2(Road Traffic), ss. 8, 10(5)-(7), 98(1)(6), Schs. 5, 27 Pt. III from Gp 12:2(Betting, Gaming and Lotteries), ss.34-66, 73-77, 90-92, 93, 96, 98(1)-(3)(5)(6), Schs. 9-18, 22, 23, 25, 27 Pts. V, VI, VIII, X from Gp 63:1(Income, Corporation and Capital Gains Taxes), ss. 67-72, 95, 98(1)-(3)(6), Schs 19-21, 27 Pt. VII from Gp 63:2(Income, Corporation and Capital Gains Taxes), ss. 78-89, 98(1)(4)(6), Schs. 24, 27 Pt. IX from Gp 114(Stamp duty), ss. 94, 95, 98(1)(6), Schs. 26, 27 Pt. XI from Gp 65(Inheritance Tax), ss. 97, 98(1) from Gp 99:7(Public Finance and Economic Controls)
- X2** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

### Commencement Information

- II** Act partly in force at Royal Assent, partly prospective, partly retrospective, see individual sections. All provisions so far as unrepealed wholly in force at 1.2.1991. Some provisions came into force at specific times of the day.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.  
*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

**PART I**

CUSTOMS AND EXCISE AND VALUE ADDED TAX

**CHAPTER I**

CUSTOMS AND EXCISE

*The rates of duty*

**1 Spirits, beer, wine, made-wine and cider.**

- (1) In section 5 of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (excise duty on spirits) for “£15.48” there shall be substituted “£15.77”.
- (2) In section 36 of that Act (excise duty on beer) for “£24.00” and “£0.80” there shall be substituted “£25.80” and “£0.86” respectively.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.
- (4) With respect to wine or made-wine imported into or produced in the United Kingdom on or after 29th July 1985, Schedule 1 to this Act shall have effect with the substitution—
  - (a) for the words “of less than 15”, in each place where they occur, of the words “not exceeding 15”; and
  - (b) for the words “of not less than 15” of the words “exceeding 15”.
- (5) In section 62(1) of that Act (excise duty on cider) for “£14.28” there shall be substituted “£15.80”.
- (6) This section and Schedule 1 to this Act shall be deemed to have come into force on 20th March 1985.

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**Marginal Citations**

**M1** 1979 c. 4.

**2** ..... <sup>F1</sup>

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**Textual Amendments**

**F1** S. 2 repealed by Finance Act 1986 (c. 41, SIF 40:1), s. 114, Sch. 23 Pt. I

**3 Hydrocarbon oil.**

- (1) In section 6(1) of the <sup>M2</sup>Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil) for “£0.1716” (light oil) and “£0.1448” (heavy oil) there shall be substituted “£0.1794” and “£0.1515” respectively.

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- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1985.

**Marginal Citations**

M2 1979 c. 5.

**4 Vehicles excise duty.**

- (1) The <sup>M3</sup>Vehicles (Excise) Act 1971 and the <sup>M4</sup>Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.
- (2) For the provisions of Part II of Schedules 1 to 5 to each of those Acts (annual rates of duty) there shall be substituted the provisions set out in Part I of Schedule 2 to this Act.
- (3) The provisions of Part I of Schedule 4 to each of those Acts (annual rates of duty on goods vehicles: general provisions) shall have effect subject to the amendments made by Part II of Schedule 2 to this Act.
- (4) In section 2(1)(b) of each of those Acts (six month licence for vehicles with annual rate exceeding £18) for “£18” there shall be substituted “£35”.
- (5) In section 16 of the Act of 1971 (rates of duty for trade licences) in subsection (5), including that subsection as set out in paragraph 12 of Part I of Schedule 7 to that Act, for “£44” there shall be substituted “£46”.
- (6) In section 16 of the Act of 1972 (rates of duty for trade licences) in subsection (6), including that subsection as set out in paragraph 12 of Part I of Schedule 9 to that Act, for “£44” there shall be substituted “£46”.
- (7) In the heading of Schedule 1 to each of those Acts and in paragraph 1 of Part I of each of those Schedules (annual rates of duty on certain vehicles not exceeding 425 kilograms) for “425 KG.” and “425 kilograms” there shall be substituted respectively “450KG.” and “450 kilograms”.
- (8) This section applies in relation to licences taken out after 19th March 1985.

**Marginal Citations**

M3 1971 c. 10

M4 1972 c. 10 (N.I.).

*Other provisions*

**5 Blending of certain wines to constitute production of wine.**

- (1) In section 54 of the <sup>M5</sup>Alcoholic Liquor Duties Act 1979 (charge of excise duty on wine) at the end of subsection (3) there shall be inserted the following subsections:—
- “(3A) For the purposes of this Act, the process of blending or otherwise mixing two or more wines (in this subsection referred to as “the constituent wines”) constitutes the production of wine if—

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- (a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others; and
- (b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines; and
- (c) the blending or other mixing is with a view to dealing wholesale in the wine is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under subsection (1) above on its importation into the United Kingdom or, as the case may be, on its production as mentioned in paragraph (b) of that subsection.

(3B) Where, by virtue of subsection (3A) above, wine is produced in the United Kingdom, duty shall be chargeable on that wine by virtue of paragraph (b) of subsection (1) above whether or not duty was previously charged on all or any of the constituent wines by virtue of paragraph (a) or paragraph (b) of that subsection; but nothing in this subsection shall affect the operation of any regulations under section 56 below giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.”

(2) Subsection (1) above has effect in relation to the blending or otherwise mixing of wines on or after 26th March 1985.

#### Marginal Citations

M5 1979 c. 4.

## 6 Miscellaneous amendments relating to spirits and beer.

- (1) The <sup>M6</sup>Alcoholic Liquor Duties Act 1979 shall have effect subject to the amendments in Schedule 3 to this Act (being amendments relating to spirits and beer).
- (2) Paragraphs 3 and 4 of Schedule 3 to this Act shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and a different day may be so appointed for each of those paragraphs.

#### Subordinate Legislation Made

P1 Power of appointment conferred by s. 6(2) fully exercised: 29.10.1985 appointed by [S.I. 1985/1622](#), [art. 2](#)

#### Marginal Citations

M6 1979 c. 4.

## 7 Hydrocarbon oil: mixing etc.

- (1) Schedule 4 to this Act (which contains provisions about mixing hydrocarbon oil etc.) shall have effect.

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- (2) That Schedule shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

**Subordinate Legislation Made**

- P2** Power of appointment conferred by s. 7(2) fully exercised: 15.10.1985 appointed by [S.I. 1985/1451](#), [art. 2](#)

**8 Gaming machine licence duty.**

- (1) The <sup>M7</sup>Betting and Gaming Duties Act 1981 (in this section referred to as “the 1981 Act”) shall have effect subject to the amendments in Part I of Schedule 5 to this Act, being amendments designed—
- (a) enable the type of gaming machine licence which may be granted and the amount of duty payable thereon to be determined by reference to the value of the maximum prize obtainable by a successful player of the machine; and
  - (b) to extend to Northern Ireland the provisions of the 1981 Act relating to gaming machine licence duty.
- (2) Part II of Schedule 5 to this Act shall have effect for the purpose of extending to Northern Ireland certain subordinate legislation made under the 1981 Act.
- (3) Nothing in Schedule 5 to this Act has effect with respect to licences granted or to be granted for any period beginning before 1st October 1985.
- (4) In consequence of the extension to Northern Ireland referred to in subsection (1)(b) above, no gaming machine licence shall be issued under Part V of the <sup>M8</sup>Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 in respect of any period beginning on or after 1st October 1985.

**Marginal Citations**

- M7** 1981 c. 63  
**M8** 1972 c. 11 (N.I.).

**9 Vehicles excise duty: fees.**

- (1) In section 13 of the <sup>M9</sup>Vehicles (Excise) Act 1971 (temporary licences) the following subsection shall be inserted after subsection (2)—
- “(2A) Where an application for a vehicle licence is made to a body authorised by the Secretary of State to act as his agent for the purpose of issuing licences, then, before the body issues a licence under subsection (1)(a) above, it may require the applicant to pay to it in connection with the issue a fee of £2 or such other sum as may be prescribed.”
- (2) In section 37(2) of that Act (cases where fees may be prescribed without Treasury approval) after “made by” there shall be inserted “section 13(2A) or”.

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### Marginal Citations

**M9** 1971 c. 10.

## 10 Computer records etc.

- (1) Any provision made by or under any enactment which requires a person, in connection with any assigned matter,—
- (a) to produce, furnish or deliver any document, or cause any document to be produced, furnished or delivered, or
  - (b) to permit the Commissioners of Customs and Excise (in this section referred to as “the Commissioners”) or a person authorised by them—
    - (i) to inspect any document, or
    - (ii) to make or take extracts from or copies of or remove any document,
 shall have effect as if any reference in that provision to a document were a reference to a document within the meaning of Part I of the <sup>M10</sup>Civil Evidence Act 1968; and, accordingly, any reference in such a provision to a copy of a document shall be construed in accordance with section 10(2) of that Act.
- (2) In connection with any assigned matter, a person authorised by the Commissioners to exercise the powers conferred by this subsection—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies; and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
 to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.
- (3) Subsection (2) above applies to any document, within the meaning of Part I of the <sup>M11</sup>Civil Evidence Act 1968, which, in connection with any assigned matter, a person is or may be required by or under any enactment—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or
  - (b) to permit the Commissioners or a person authorised by them to inspect, make or take extracts from or copies of or remove.
- (4) Any person who—
- (a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or
  - (b) without reasonable excuse fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,
- shall be liable on summary conviction to a penalty of level 4 on the standard scale (as defined in section 75 of the <sup>M12</sup>Criminal Justice Act 1982).

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- (5) In each of the enactments mentioned in subsection (6) below (which create offences in relation, among other matters, to false documents) “document” shall have the same meaning as in Part I of the Civil Evidence Act 1968.
- (6) The enactments referred to in subsection (5) above are—
- (a) paragraph 4(1) of Schedule 1 to the <sup>M13</sup>Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (false statements and documents in connection with pool betting duty);
  - (b) paragraph 8(1) of Schedule 2 to that Act (false statements and documents in connection with general betting duty);
  - (c) section 167 of the <sup>M14</sup>Customs and Excise Management Act 1979 (untrue declarations etc.);
  - (d) section 168 of that Act (counterfeit documents etc.);
  - (e) section 15 of the <sup>M15</sup>Customs and Excise Duties (General Reliefs) Act 1979 (false statements and documents in connection with reliefs);
  - (f) paragraph 13(3) of Schedule 1 to the <sup>M16</sup>Betting and Gaming Duties Act 1981 (false statements and documents in connection with betting duty);
  - (g) paragraph 7(3) of Schedule 2 to that Act (false statements and documents in connection with gaming licence duty);
  - (h) paragraph 8(2) of Schedule 1 to the <sup>M17</sup>Car Tax Act 1983 (false documents etc.).
- (7) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the <sup>M18</sup>Civil Evidence Act 1968 and section 10(2) of that Act shall be construed—
- (a) in the case of Scotland, as references to Part III of the <sup>M19</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 and section 17(4) of that Act respectively, and
  - (b) in the case of Northern Ireland, as references to Part I of the <sup>M20</sup>Civil Evidence Act (Northern Ireland) 1971 and section 6(2) of that Act respectively.
- (8) In this section “assigned matter” means any matter which is an assigned matter for the purposes of the <sup>M21</sup>Customs and Excise Management Act 1979.

#### Marginal Citations

- M10** 1968 c.64.  
**M11** 1968 c.64.  
**M12** 1982 c.48.  
**M13** 1972 c. 11 (N.I.)  
**M14** 1979 c. 2.  
**M15** 1979 c. 3.  
**M16** 1981 c. 63.  
**M17** 1983 c. 53.  
**M18** 1968 c. 64  
**M19** 1968 c. 70.  
**M20** 1971 c. 36 (N.I.)  
**M21** 1979 c. 2

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## CHAPTER II

### VALUE ADDED TAX

**Modifications etc. (not altering text)**

**C1** Pt. I Chapter II (ss. 11-13) modified by Finance Act 1988 (c. 39, SIF 40:2), s. 21(a)

#### *Newspaper advertisements*

### 11 Newspaper advertisements.

With respect to supplies made on or after 1st May 1985, Schedule 5 to the principal Act shall have effect with the omission of Group 5 (newspaper advertisements).

#### *Offences etc.*

### 12 Offences and penalties in criminal proceedings.

(1) Section 39 of the principal Act (offences and penalties) shall be amended in accordance with the following provisions of this section; but any increased penalty provided for by those provisions does not apply to an offence committed on or before the date this Act is passed.

(2) In subsections (1)(b), (2)(ii) and (3)(b) (maximum of 2 years imprisonment on indictment) for “2” there shall be substituted “7”.

(3) After subsection (1) there shall be inserted the following subsection:—

“(1A) Any reference in subsection (1) above or subsection (3) below to the evasion of tax includes a reference to the obtaining of—

- (a) a payment under section 14(5) above; or
- (b) a refund under section 21 or section 22 above; or
- (c) a repayment under section 23 above;

and any reference in those subsections to the amount of the tax shall be construed,—

- (i) in relation to tax itself or a payment falling within paragraph (a) above, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and
- (ii) in relation to a refund or repayment falling within paragraph (b) or paragraph (c) above, as a reference to the amount falsely claimed by way of refund or repayment.”

(4) In subsection (2)(i) (penalty on summary conviction for certain offences relating to false documents or false information) after the words “statutory maximum” there shall be inserted “or, where subsection (2A) or subsection (2B) below applies, to the alternative penalty specified in that subsection if it is greater”.

(5) After subsection (2) there shall be inserted the following subsections:—

“(2A) In any case where—



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- (a) the document referred to in subsection (2)(a) above is a return required under this Act, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a return,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.

(2B) In any case where—

- (a) the document referred to in subsection (2)(a) above is a claim for a refund under section 21 or section 22 above or for a repayment under section 23 above, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the amount falsely claimed.

(2C) The reference in subsection (2)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(2D) Any reference in subsection (2)(a) or subsection (2C) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.”

(6) After subsection (3) there shall be inserted the following subsection:—

“(3A) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.”

(7) The following provisions shall cease to have effect—

- (a) in subsection (5), paragraph (a) and the words from “or, if greater” onwards;
- (b) subsection (6); and
- (c) subsection (7).

(8) In subsection (8)—

- (a) for the words “the failure referred to in subsection (7) above” there shall be substituted “a person’s failure to comply with any regulations made under this Act”; and
- (b) for the words from “that subsection” to “(if it is greater)” there shall be substituted “that person shall be liable on summary conviction to a penalty of level 3 on the standard scale, together with a penalty of whichever is the greater of £10 and”;

but that subsection, as so amended, shall not apply to a failure which begins on or after such day as the Treasury may by order made by statutory instrument appoint.

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- (9) In accordance with the provisions of subsections (1) to (7) above, section 39 of the principal Act, excluding subsection (8), shall have effect as set out in Schedule 6 to this Act.

**Modifications etc. (not altering text)**

**C2** Power of appointment conferred by s. 12(8) fully exercised (1.10.1986): [S.I. 1986/969, art. 2](#)

*Civil penalties*

**13 Tax evasion: conduct involving dishonesty.**

- (1) In any case where,—
- (a) for the purpose of evading tax, a person does any act or omits to take any action, and
  - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable, subject to subsections (4) and (7) below, to a penalty equal to the amount of tax evaded or, as the case may be, sought to be evaded, by his conduct.
- (2) The reference in subsection (1)(a) above to evading tax includes a reference to obtaining any of the following sums,—
- (a) a payment under section 14(5) of the principal Act,
  - (b) a refund under section 21 or section 22 of that Act, . . . <sup>F2</sup>
  - (c) a repayment under section 23 of that Act, [<sup>F3</sup>and]
  - [<sup>F3</sup>(d) a refund under section 11 of the Finance Act 1990,]
- in circumstances where the person concerned is not entitled to that sum.
- (3) The reference in subsection (1) above to the amount of the tax evaded or sought to be evaded by a person's conduct shall be construed,—
- (a) in relation to tax itself or a payment under section 14(5) of the principal Act, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and
  - (b) in relation to the sums referred to in paragraphs (b) and (c) of subsection (2) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (4) If a person liable to a penalty under this section has cooperated with the Commissioners in the investigation of his true liability for tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection, the Commissioners or tribunal shall have regard to the extent of the cooperation which the person concerned has given to the Commissioners in their investigation.
- (5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (6) below by reason only that it has been drawn to his attention—

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- (a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
  - (b) that the Commissioners or, on appeal, a value added tax tribunal have power to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the cooperation which he has given to the Commissioners in their investigation,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (6) The proceedings mentioned in subsection (5) above are—
    - (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and
    - (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.
  - (7) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence (whether under the principal Act or otherwise), that conduct shall not also give rise to liability to a penalty under this section.

#### Textual Amendments

- F2** Word repealed by [Finance Act 1990 \(c. 26, SIF 40:2\)](#), ss. 11(12), 132, [Sch. 19 Pt. III](#)
- F3** Word “and” and s. 13(2)(d) inserted by [Finance Act 1990 \(c. 29, SIF 40:2\)](#), [s. 11\(12\)](#)

#### Modifications etc. (not altering text)

- C3** [S. 13](#) applied by [Finance Act 1986 \(c. 41, SIF 40:2\)](#), [s. 14\(3\)](#)

### [<sup>F4</sup>13A Incorrect certificates as to zero-rating etc.

- (1) Subject to subsections (3) and (4) below, where—
  - (a) a person to whom one or more supplies are, or are to be, made gives to the supplier—
    - (i) a certificate that the supply or supplies fall, or will fall, wholly or partly within Group 7, 8 or 8A of Schedule 5, or Group 1 of Schedule 6, to the principal Act; or
    - (ii) a certificate such as is mentioned in paragraph 13(4)(f) of Schedule 3 to the Finance Act 1989 relating to the supply or supplies; and
  - (b) the certificate is incorrect,the person giving the certificate shall be liable to a penalty.
- (2) The amount of the penalty shall be equal to the difference between the amount of the tax which would have been chargeable on the supply or supplies if the certificate had been correct and the amount of tax actually so chargeable.

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- (3) The giving of a certificate shall not give rise to a penalty under this section if the person who gave it satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for his having given it.
- (4) Where by reason of giving a certificate a person is convicted of an offence (whether under the principal Act or otherwise), the giving of the certificate shall not also give rise to a penalty under this section.]

#### Textual Amendments

**F4** S. 13A inserted by Finance Act 1989 (c. 26, SIF 40:2), s. 23(1)(2)

### 14 Serious misdeclaration or neglect resulting in understatements or overclaims.

- (1) In any case where, for a prescribed accounting period beginning after the day appointed under subsection (8) below,—
  - (a) a return is made which understates a person's liability to tax or overstates his entitlement to a payment under section 14(5) of the principal Act, or
  - (b) an assessment is made which understates a person's liability to tax and, at the end of the period of thirty days beginning on the date of the assessment, he has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,

and the circumstances are as set out in . . . <sup>F5</sup> subsection (2) below, the person concerned shall be liable, subject to subsections (6) and (7) below, to a penalty equal to 30 per cent. of the tax which would have been lost if the inaccuracy had not been discovered.

- [<sup>F6</sup>(2) The circumstances referred to in subsection (1) above are that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered—
- (a) equals or exceeds 30 per cent. of the true amount of tax for that period, or
  - (b) equals or exceeds whichever is the greater of £10,000 and 5 per cent. of the true amount of tax for that period.]

- (4) [<sup>F7</sup>Any reference in this section] to the tax for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
  - (a) the amount (if any) by which credit for input tax for that period was overstated; and
  - (b) the amount (if any) by which output tax for that period was understated;
 but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the tax for that period which would have been so lost.

- (5) In [<sup>F8</sup>this section]“the true amount of tax”, in relation to a prescribed accounting period, means the amount of tax which was due from the person concerned for that period or, as the case may be, the amount of the payment (if any) to which he was entitled under section 14(5) of the principal Act for that period.

[<sup>F9</sup>(5A) Where—

- (a) a return for any prescribed accounting period overstates or understates to any extent a person's liability to tax or his entitlement to a payment under section 14(5) of the principal Act, and

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- (b) that return is corrected, in such circumstances and in accordance with such conditions as may be prescribed, by a return for a later such period which understates or overstates, to the corresponding extent, that liability or entitlement,
- it shall be assumed for the purposes of subsection (5) above that the statement made by each of those returns is a correct statement for the accounting period to which it relates.
- (5B) This section shall have effect in relation to a body which is registered and to which section 20 of the principal Act applies as if—
- (a) any reference to a payment under section 14(5) of that Act included a reference to a refund under the said section 20, and
- (b) any reference to credit for input tax included a reference to tax chargeable on supplies or importations which were not for the purposes of any business carried on by the body.]
- (6) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section . . . <sup>F10</sup> if—
- (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the conduct, or
- (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy concerned.
- (7) Where, by reason of conduct falling within subsection (1) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
- (b) a person is assessed to a penalty under section 13 above,
- that conduct shall not also give rise to liability to a penalty under this section . . . <sup>F10</sup>.
- (8) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

#### Textual Amendments

- F5** Words repealed by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 148, **Sch. 14 Pt. III**
- F6** [S. 14\(2\)](#) substituted for s. 14(2)(3) by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. **16(2)**
- F7** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. **16(3)**
- F8** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. **16(4)**
- F9** [S. 14\(5A\)\(5B\)](#) inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. **16(5)**
- F10** Words repealed by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 148, **Sch. 14 Pt. III**

#### Modifications etc. (not altering text)

- C4** Power of appointment conferred by s. 14(8) fully exercised (31.3.1990): [S.I. 1989/2270](#), art. 2

#### [<sup>F11</sup>14A Persistent misdeclaration resulting in understatements or overclaims.

- (1) In any case where—
- (a) for a prescribed accounting period (including one beginning before the commencement of this section), a return has been made which understates

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a person's liability to tax or overstates his entitlement to a payment under section 14(5) of the principal Act; and

- (b) the tax for that period which would have been lost if the inaccuracy had not been discovered equals or exceeds whichever is the greater of £100 and 1 per cent. of the true amount of tax for that period,

the inaccuracy shall be regarded, subject to subsections (5) and (6) below, as material for the purposes of this section.

(2) Subsection (3) below applies in any case where—

- (a) there is a material inaccuracy in respect of any two prescribed accounting periods; and
- (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one; and
- (c) after the coming into operation of this section, the Commissioners serve notice on the person concerned (in this section referred to as “a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.

(3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned, that person shall be liable to a penalty equal to 15 per cent. of the tax for that period which would have been lost if the inaccuracy had not been discovered.

(4) Subsections (4) to (5B) of section 14 above shall apply for the purposes of this section as they apply for the purposes of that section.

(5) An inaccuracy shall not be regarded as material for the purposes of this section if—

- (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
- (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy.

(6) Where by reason of conduct falling within subsection (1) above—

- (a) a person is convicted of an offence (whether under the principal Act or otherwise); or
- (b) a person is assessed to a penalty under section 13 or 14 above,

the inaccuracy concerned shall not be regarded as material for the purposes of this section.

(7) In any case where subsection (5) or (6) above applies, any penalty liability notice the service of which depended upon the inaccuracy concerned shall be deemed not to have been served.]

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**Textual Amendments**

**F11** S. 14A inserted by [Finance Act 1988 \(c. 39, SIF, 40:2\)](#), s. 17

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VALID FROM 01/12/1992

**[14B F12] Inaccuracies in EC sales statements.**

- (1) Where—
- (a) an EC sales statement containing a material inaccuracy has been submitted by any person to the Commissioners;
  - (b) the Commissioners have, within six months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
  - (c) another EC sales statement containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
  - (d) the submission date for the second inaccurate statement fell within the period of two years beginning with the day after the warning was issued;
  - (e) the Commissioners have, within six months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
  - (f) yet another EC sales statement containing a material inaccuracy is submitted by that person to the Commissioners; and
  - (g) the submission date for the statement falling within paragraph (f) above is not more than two years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,
- that person shall be liable to a penalty of £100 in respect of the statement so falling.
- (2) Subject to subsections (3) and (4) below, an EC sales statement shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.
- (3) An inaccuracy contained in an EC sales statement shall not be regarded as material for the purposes of this section if—
- (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.
- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under the principal Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material

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inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.

(6) In this section—

“EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(2A) of Schedule 7 to the principal Act; and

“submission date”, in relation to such a statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to the Commissioners.]

#### Textual Amendments

**F12** S. 14B inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. II para. 79; S.I. 1992/2979, art.4, Sch. Pt. II and S.I. 1992/3261, art.3, Sch.

## 15 Failures to notify and unauthorised issue of invoices.

(1) In any case where—

- (a) a person fails to comply with any of paragraphs 3, 4 and 11(2) [<sup>F13</sup>and (3)] of Schedule 1 to the principal Act (duty to notify liability for registration or change in nature of supplies etc. by a person exempted from registration), or
- (b) an unauthorised person issues [<sup>F14</sup>one or more invoices] showing an amount as being tax or as including an amount attributable to tax.

he shall be liable, subject to subsections (4) and (5) below, to a penalty equal to [<sup>F15</sup>the specified percentage] of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £50.

(2) In subsection (1)(b) above, “an unauthorised person” means anyone other than—

- (a) a person registered under the principal Act; or
- (b) a body corporate treated for the purposes of section 29 of that Act as a member of a group; or
- (c) a person treated as a taxable person under regulations made under section 31(4) of that Act; or
- (d) a person authorised to issue an invoice under regulations made under paragraph 2(6) of Schedule 7 to that Act; or
- (e) a person acting on behalf of the Crown.

(3) In subsection (1) above “relevant tax” means,—

- (a) in relation to a person’s failure to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act, the tax (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on that date on which the Commissioners received notification of, or otherwise [<sup>F16</sup>became fully aware of], his liability to be registered; and
- (b) in relation to a person’s failure to comply with subparagraph (2) [<sup>F17</sup>or (3)] of paragraph 11 of Schedule 1 to the principal Act, the tax (if any) for which, but for any exemption from registration, he would be liable for



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the period beginning on the date of the change or alteration referred to in that subparagraph and ending on the date on which the Commissioners received notification of, or otherwise [<sup>F18</sup>became fully aware of], that change or alteration; and

- (c) in relation to the issue of [<sup>F19</sup>one or more such invoices as are] referred to in subsection (1)(b) above, [<sup>F20</sup>the amount which is, or the aggregate of the amounts which are—
- (i) shown on the invoice or invoices as tax, or
  - (ii) to be taken as representing tax].

[<sup>F21</sup>(3A) For the purposes of subsection (1) above the specified percentage is—

- (a) 10 per cent. where the relevant tax is given by paragraph (a) or (b) of subsection (3) above and the period referred to in that paragraph does not exceed nine months;
  - (b) 20 per cent. where that tax is so given and the period so referred to exceeds nine months but does not exceed eighteen months; and
  - (c) 30 per cent. in any other case.]
- (4) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for his conduct.
- (5) Where, by reason of conduct falling within subsection (1) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
  - (b) a person is assessed to a penalty under section 13 above,
- that conduct shall not also give rise to liability to a penalty under this section.
- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sum for the time being specified in subsection (1) above such other sum as appears to them to be justified by the change.
- (7) An order under subsection (6) above shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.
- (8) A statutory instrument under subsection (6) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

#### Textual Amendments

- F13** Words inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(1\)\(a\)](#)
- F14** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(1\)\(b\)\(6\)](#)
- F15** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(1\)\(c\)\(6\)](#)
- F16** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(2\)\(a\)](#)
- F17** Words inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(2\)\(b\)](#)
- F18** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(2\)\(b\)](#)
- F19** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(2\)\(c\)](#)
- F20** Words and s. 15(3)(c)(i)(ii) substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(2\)\(c\)](#)
- F21** [S. 15\(3A\)](#) inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 18\(3\)](#)

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VALID FROM 27/07/1993

**[<sup>F22</sup>15A Mitigation of penalties under sections 13, 14, 14A and 15.**

- (1) Where a person is liable to a penalty under any of sections 13, 14, 14A and 15 above, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a value added tax tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any value added tax tribunal shall be entitled to take into account in exercising their powers under this section.
- (4) Those matters are—
  - (a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax;
  - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.]

**Textual Amendments**

**F22** S. 15A inserted (27.7.1993 with effect as mentioned in Sch. 2 para. 3(3) of the amending Act ) by 1993 c. 34, s. 49, Sch. 2, para. 3(1)

**16 Breaches of walking possession agreements.**

- (1) This section applies where—
  - (a) in accordance with regulations under paragraph 6(4) of Schedule 7 to the principal Act, a distress is authorised to be levied on the goods and chattels of a person (in this section referred to as a “person in default”) who has refused or neglected to pay any tax due or any amount recoverable as if it were tax due; and
  - (b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
  - (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.

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- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the tax or other amount referred to in subsection (1)(a) above.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the breach in question.
- (5) This section does not extend to Scotland.

## 17 Breaches of regulatory provisions.

- (1) If any person fails to comply with a requirement imposed under—
  - (a) paragraph 7 [<sup>F23</sup>or 7A] of Schedule 1 to the principal Act [<sup>F24</sup>(notification of end of liability or entitlement to be registered etc.)], or
  - (b) paragraph 7(1) or paragraph 8 of Schedule 7 to that Act (records and information, etc.), or
  - (c) any regulations or rules made under that Act, other than rules made under paragraph 9 of Schedule 8 thereto (procedural rules for tribunals), [<sup>F25</sup>or]
  - [<sup>F25</sup>(d) any order made by the Treasury under that Act; or
  - (e) any regulations made under the European Communities Act 1972 and relating to value added tax]he shall be liable, subject to subsections (9) and (10) and section 21(6) below, [<sup>F26</sup>to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.]
- (2) If any person fails to comply with a requirement to preserve records imposed under paragraph 7(2) of Schedule 7 to the principal Act, he shall be liable, subject to the following provisions of this section, to a penalty of £500.
- (3) Subject to subsection (4) below, in relation to a failure to comply with any such requirement as is referred to in subsection (1) above, the prescribed rate shall be determined by reference to the number of occasions in the period of two years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be,—
  - (a) if there has been no such previous occasion in that period, [<sup>F27</sup>£5];
  - (b) if there has been only one such occasion in that period, [<sup>F27</sup>£10]; and
  - (c) in any other case, [<sup>F27</sup>£15].
- (4) For the purposes of subsection (3) above—
  - (a) a failure to comply with any such requirement as is referred to in subsection (1) above shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 19 below;
  - (b) a previous failure to comply with any such requirement shall be disregarded if it occurred before the passing of this Act [<sup>F28</sup>or, in the case of a requirement falling within paragraph (d) or paragraph (e) of subsection (1) above, before the passing of the Finance Act 1986];
  - (c) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;

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- (d) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
  - (e) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of tax, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the tax due in respect of any period within the time required by regulations under section 14(1) of the principal Act, or
  - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 7 to that Act,
- the failure shall be disregarded for the purposes of that subsection and subsections (3) and (4) above unless it begins on or after the day appointed under section 12(8) above but, subject to that, in relation to such a failure the prescribed rate shall be whichever is the greater of that which is appropriate under paragraphs (a) to (c) of subsection (3) above and an amount equal to onesixth, onethird or onehalf of 1 per cent. of the tax due in respect of that period, the appropriate fraction being determined according to whether paragraph (a), paragraph (b) or paragraph (c) of subsection (3) above is applicable.
- (6) For the purposes of subsection (5) above, the tax due,—
- (a) if the person concerned has furnished a return, shall be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) in any other case, shall be taken to be such tax as has been assessed for that period and notified to him under paragraph 4(1) of Schedule 7 to the principal Act.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sums for the time being specified in subsection (2) and paragraphs (a) to (c) of subsection (3) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A statutory instrument made under subsection (7) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) A failure by any person to comply with any such requirement as is referred to in subsection (1) or subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.
- (10) Where, by reason of conduct falling within subsection (1) or subsection (2) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
  - (b) a person is assessed to a penalty under section 13 or section 14 above, or
  - (c) a person is assessed to a surcharge under section 19 below,

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that conduct shall not also give rise to liability to a penalty under this section.

#### Textual Amendments

- F23** Words inserted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(a)  
**F24** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(a)  
**F25** Word “or” and s. 17(1)(d)(e) inserted by Finance Act 1986 (c. 41, SIF 40:2), s. 15(1)  
**F26** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(b)(5)  
**F27** “£5”, “£10” and “£15” substituted respectively for “£10”, “£20” and “£30” by Finance Act 1988 (c. 39, SIF 40:2), s. 19(2)(4)(5)  
**F28** Words added by Finance Act 1986 (c. 41, SIF 40:2), s. 15(2)

VALID FROM 01/12/1992

#### [17A] <sup>F29</sup>Penalties for failure to submit EC sales statement.

- (1) If by the last day on which a person is required in accordance with regulations under the principal Act to submit an EC sales statement for any prescribed period to the Commissioners, the Commissioners have not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.
- (2) Where any person is in default in respect of any EC sales statement the Commissioners may serve notice on him stating—
  - (a) that he is in default in relation to the statement specified in the notice;
  - (b) that (subject to the liability mentioned in paragraph (d) below) no action will be taken if he remedies the default before the end of the period of fourteen days beginning with the day after the service of the notice;
  - (c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and
  - (d) that that person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of twelve months has elapsed without his being in default.
- (3) Where a person has been served with a notice under subsection (2) above, he shall become liable under this section—
  - (a) if the statement to which the notice relates is not submitted before the end of the period of fourteen days beginning with the day after the service of the notice, to a penalty in respect of that statement; and
  - (b) whether or not that statement is so submitted, to a penalty in respect of any EC sales statement the last day for the submission of which is after the service and before the expiry of the notice and in relation to which he is in default.
- (4) For the purposes of this section a notice served on any person under subsection (2) above shall continue in force—
  - (a) except in a case falling within paragraph (b) below, until the end of the period of twelve months beginning with the day after the service of the notice; and

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- (b) where at any time in that period of twelve months that person is in default in relation to any EC sales statement other than one in relation to which he was in default when the notice was served, until a period of twelve months has elapsed without that person becoming liable to a penalty under this section in respect of any EC sales statement.
- (5) The amount of any penalty to which a person who has been served with a notice under subsection (2) above is liable under this section shall be whichever is the greater of £50 and—
- (a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of fourteen days mentioned in subsection (3)(a) above, up to a maximum of one hundred days; and
- (b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of one hundred days.
- (6) In subsection (5)(b) above “the relevant amount”, in relation to a person served with a notice under subsection (2) above, means—
- (a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;
- (b) £10, where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and
- (c) £15, in any other case.
- (7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Commissioners or, on appeal a value added tax tribunal, that—
- (a) an EC sales statement has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit; or
- (b) there is a reasonable excuse for such a statement not having been dispatched, he shall be treated for the purposes of this Act as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section in respect of that statement and any notice served under subsection (2) above exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.
- (8) If it appears to the Treasury that there has been a change in the value of money since the coming into force of this section or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) above were varied, they may by order substitute for the sums for the time being specified in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.
- (9) A statutory instrument containing an order under subsection (8) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

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(10) In this section “EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(2A) of Schedule 7 to the principal Act.]

**Textual Amendments**

**F29** S. 17A inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. II para.82; S.I. 1992/2979, art.4, Sch. Pt. II and S.I. 1992/3261, art.3, Sch.

*Interest, surcharges and supplements*

**18 Interest on tax etc. recovered or recoverable by assessment.**

(1) Subject to section 21(6) below, where an assessment is made under any provision of paragraph 4 of Schedule 7 to the principal Act and, in the case of an assessment under subparagraph (1) of that paragraph, at least one of the following conditions is fulfilled, namely,—

- (a) the assessment relates to a prescribed accounting period in respect of which either—
  - (i) a return has previously been made, or
  - (ii) an earlier assessment has already been notified to the person concerned,
- (b) the assessment relates to a prescribed accounting period which exceeds three months and begins on the date with effect from which the person concerned was, or was required to be, registered,
- (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under [<sup>F30</sup>paragraph 11(1)] of Schedule 1 to the principal Act, the [<sup>F31</sup>whole of the amount assessed shall carry interest at the prescribed rate from the reckonable date] until payment.

(2) ..... <sup>F32</sup>

(3) [<sup>F33</sup>In any case where]—

- (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
  - (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),
- [<sup>F34</sup>the whole of the amount paid shall carry interest at the prescribed rate from the reckonable date] until the date on which it was paid.

(4) ..... <sup>F35</sup>

(6) Where an unauthorised person, as defined in section 15(2) above, issues an invoice showing an amount as being tax or as including an amount attributable to tax, the amount which is shown as tax or, as the case may be, is to be taken as representing tax shall carry interest at the prescribed rate from the date of the invoice until payment.

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- (7) The references in subsections [<sup>F36</sup>(1) and (3)] above to the reckonable date shall be construed as follows—
- (a) where the amount assessed or paid is such an amount as is referred to in subparagraph (2)(a) or subparagraph (2)(b) of paragraph 4 of Schedule 7 to the principal Act (incorrect repayment of tax or payment in respect of excess credit), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
  - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under the principal Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates; and
  - (c) in the case of an amount assessed under paragraph 4(6) of Schedule 7 to the principal Act (assessments in respect of goods which cannot be accounted for) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;
- and interest under this section shall run from the reckonable date even if that date is a nonbusiness day, within the meaning of section 92 of the <sup>M22</sup>Bills of Exchange Act 1882.
- (8) In this section “the prescribed rate” means such rate as may be prescribed by order made by the Treasury; and such an order—
- (a) may prescribe different rates for different purposes;
  - (b) shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) Interest under this section shall be paid without any deduction of income tax.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint and any reference in this section to a prescribed accounting period is a reference to a period which begins on or after the day so appointed.

#### Textual Amendments

- F30** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 14(8)(b)
- F31** Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 16(2)(6)
- F32** S. 18(2) repealed by Finance Act 1988 (c. 39, SIF 40:2), ss. 18(4)(a), 148, Sch. 14 Pt. III
- F33** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 18(4)(b)
- F34** Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 16(3)(6)
- F35** S. 18(4)(5) repealed by Finance Act 1990 (c. 29, SIF 40:2), ss. 16(4)(6), 132, Sch. 19 Pt. III Note 2
- F36** Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 16(5)(6)

#### Modifications etc. (not altering text)

- C5** Power of appointment conferred by s. 18(10) fully exercised (1.4.1990): S.I. 1989/2270, art. 3



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### Marginal Citations

M22 1882 c. 61.

## 19 The default surcharge.

- (1) If, by the last day on which a taxable person is required in accordance with regulations under the principal Act to furnish a return for the prescribed accounting period, being a day falling on or after the day appointed under subsection (10) below,—
  - (a) the Commissioners have not received that return, or
  - (b) the Commissioners have received that return but have not received the amount of tax shown on the return as payable by him in respect of that period,then that person shall be regarded for the purposes of this section as being in default in respect of that period.
- (2) Subject to subsections (8) and (9) below, subsection (4) below applies in any case where—
  - (a) a taxable person is in default in respect of any two prescribed accounting periods; and
  - (b) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and
  - (c) the Commissioners serve notice on the taxable person (in this section referred to as a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the later period referred to in paragraph (b) above and beginning, subject to subsection (3) below, on the date of the notice.
- (3) If a surcharge liability notice is served by reason of defaults in respect of two prescribed accounting periods and the second of those periods ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (6) to (9) below, if a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, he shall be liable to a surcharge equal to whichever is the greater of—
  - (a) the specified percentage of his outstanding tax for that period; and
  - (b) £30;and the reference in paragraph (a) above to a person’s outstanding tax for a prescribed accounting period is a reference to so much of the tax for which he is liable in respect of that period as has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period.
- (5) Subject to subsections (6) to (9) below, the specified percentage referred to in subsection (4)(a) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period, so that,—
  - (a) in relation to the first such prescribed accounting period, the specified percentage is 5 per cent.;

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- (b) in relation to the second such period, the specified percentage is 10 per cent.; and
  - (c) in relation to each subsequent such period the specified percentage is increased by a further 5 per cent. up to a maximum of 30 per cent. for the sixth and any later period.
- (6) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a value added tax tribunal that, in the case of a default which is material to the surcharge,—
- (a) the return or, as the case may be, the tax shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or tax not having been so despatched,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (7) For the purposes of subsection (6) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (8) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within subsection (1) of section 17 above, and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (9) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

**Modifications etc. (not altering text)**

**C6** Power of appointment conferred by s. 19(10) fully exercised (1.10.1986): [S.I. 1986/968](#), [art. 2](#)

**[<sup>F37</sup>20 Repayment supplement in respect of certain delayed payments or refunds.**

- (1) In any case where—

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- (a) a person is entitled to a payment under section 14(5) of the principal Act, or
- (b) a body which is registered and to which section 20 of that Act applies is entitled to a refund under that section,

and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £30, whichever is the greater.

- (2) The said conditions are—
  - (a) that the requisite return or claim is received by the Commissioners not later than one month after the last day on which it is required to be furnished or made, and
  - (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within the period of thirty days beginning on the date of the receipt by the Commissioners of that return or claim, and
  - (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.
- (3) Regulations may provide that, in computing the period of thirty days referred to in subsection (2)(b) above, there shall be left out of account periods determined in accordance with the regulations and referable to—
  - (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
  - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and
  - (c) in the case of a payment, the following matters, namely—
    - (i) any such continuing failure to submit returns as is referred to in section 14(7) of the principal Act, and
    - (ii) compliance with any such condition as is referred to in paragraph 5(1) of Schedule 7 to that Act (production of documents or giving of security as a condition of payment).
- (4) Except for the purpose of determining the amount of the supplement—
  - (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act, and
  - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 20 of that Act.
- (5) In this section “requisite return or claim” means—
  - (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under the principal Act, and
  - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 20 of that Act.
- (6) Subsection (1)(a) above shall have effect with respect to any prescribed accounting period ending, and subsection (1)(b) above shall have effect with respect to any claim made, on or after such day as the Treasury may by order made by statutory instrument appoint.

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- (7) If the Treasury by order made by statutory instrument so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of thirty days referred to in subsection (2)(b) above.]

#### Textual Amendments

**F37** S. 20 substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 20

#### Modifications etc. (not altering text)

**C7** Power of appointment conferred by s. 20(6) fully exercised (29.7.1988): [S.I. 1988/354](#), arts. 2, 3

### *Assessments, records and information*

## 21 Assessment of amounts due by way of penalty, interest or surcharge.

- (1) Where any person is liable—
- (a) to a penalty under any of sections 13 to 17 above, or
  - (b) for interest under section 18 above, or
  - (c) to a surcharge under section 19 above,

the Commissioners may [<sup>F38</sup>subject to subsection (1A) below] assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 13 to 17 above may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.

[<sup>F39</sup>(1A) Where a person is liable to a penalty under section 17 above for any failure to comply with such a requirement as is referred to in subsection (1)(b) to (e) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of two years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.]

- (2) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”,—
- (a) in the case of a penalty under section 13 above relating to the evasion of tax, the relevant period is the prescribed accounting period for which the tax evaded was due;
  - (b) in the case of a penalty under section 13 above relating to the obtaining of a payment under section 14(5) of the principal Act, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
  - (c) in the case of a penalty under section 14 above, the relevant period is the prescribed accounting period for which liability to tax was understated or, as the case may be, for which entitlement to a payment under section 14(5) of the principal Act was overstated;
  - (d) in the case of interest under section 18 above, the relevant period is the prescribed accounting period in respect of which the tax (or amount assessed as tax) was due; and

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- (e) in the case of a surcharge under section 19 above, the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises.
- (3) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to tax which was not paid at the time it should have been and that tax (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of the principal Act and this Part of this Act as tax due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the tax and penalty, interest or surcharge.
- (4) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (2) above and is also assessed under subparagraph (1), subparagraph (2) or subparagraph (6) of paragraph 4 of Schedule 7 to the principal Act for the prescribed accounting period which is the relevant period under subsection (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.
- (5) In the case of an amount due by way of penalty under section 17 or interest under section 18 above—
- (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated; and
- (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (6) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 17 above or for interest under section 18 above,—
- (a) a failure falling within section 17(1) above is remedied, or
- (b) the tax or other amount referred to in section 18(1) above is paid,
- it shall be treated for the purposes of section 17 or, as the case may be, section 18 above as remedied or paid on the date specified as mentioned in subsection (5)(a) above.
- (7) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were tax due from him.
- (8) Subparagraph (10) of paragraph 4 of Schedule 7 to the principal Act (notification to personal representatives etc.) shall apply for the purposes of this section as it applies for the purposes of that paragraph.

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#### Textual Amendments

**F38** Words inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), **s. 19(3)(5)**

**F39** [S. 21\(1A\)](#) inserted by [Finance Act 1988 \(c. 39, SIF, 40:2\)](#), **s. 19(3)(5)**

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#### Modifications etc. (not altering text)

**C8** [S. 21](#) extended by [Finance Act 1986 \(c. 41, SIF 40:2\)](#), **s. 14(3)**

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## **22 Assessments: time limits and supplementary assessments.**

- (1) Subject to the following provisions of this section, an assessment—
- (a) under any provision of paragraph 4 of Schedule 7 to the principal Act, or
  - (b) under section 21 above,
- shall not be made more than six years after the end of the prescribed accounting period or importation concerned or, in the case of an assessment under section 21 above of an amount due by way of a penalty which is not among those referred to in subsection (2) of that section, six years after the event giving rise to the penalty.
- (2) Subject to subsection (5) below, an assessment under section 21 above of an amount due by way of any penalty, interest or surcharge referred to in subsection (2) of that section may be made at any time before the expiry of the period of two years beginning when the amount of tax due for the prescribed accounting period concerned has been finally determined.
- (3) In relation to an assessment under section 21 above, any reference in subsection (1) or subsection (2) above to the prescribed accounting period concerned is a reference to that period which, in the case of the penalty, interest or surcharge concerned, is the relevant period referred to in subsection (2) of that section.
- (4) Subject to subsection (5) below, if tax has been lost—
- (a) as a result of conduct falling within section 13(1) above or for which a person has been convicted of fraud, or
  - (b) in circumstances giving rise to liability to a penalty under section 15 above,
- an assessment may be made as if, in subsection (1) above, each reference to six years were a reference to twenty years.
- (5) Where, after a person's death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge,—
- (a) the assessment shall not be made more than three years after the death; and
  - (b) if the circumstances are as set out in subsection (4) above, the modification of subsection (1) above contained in that subsection shall not apply but any assessment which (from the point of view of time limits) could have been made immediately after the death may be made at any time within three years after it.
- (6) Subparagraphs (7) and (8) of paragraph 4 of Schedule 7 to the principal Act (which are superseded by the preceding provisions of this section) shall cease to have effect.
- (7) If, otherwise than in circumstances falling within subparagraph (5)(b) of paragraph 4 of Schedule 7 to the principal Act (further evidence relating to an assessment under subparagraph (1) or subparagraph (2) of that paragraph), it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that paragraph or under section 21 above exceeds the amount which was so assessed, then,—
- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

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## **23 Amendments of Schedule 7 to the principal Act.**

Schedule 7 to the principal Act (administration, collection and enforcement) shall be amended in accordance with Schedule 7 to this Act.

### *Appeals*

## **24 Amendments of section 40 of the principal Act.**

(1) In section 40 of the principal Act (appeals), at the end of subsection (1) (decisions which are appealable) there shall be added the following paragraphs—

- “(o) any liability to a penalty or surcharge by virtue of any of sections 13 to 17 and 19 of the Finance Act 1985;
- (p) the amount of any penalty, interest or surcharge specified in an assessment under section 21 of that Act;
- (q) the making of an assessment on the basis set out in section 22(4) of that Act.”

(2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Without prejudice to section 13(4) of the Finance Act 1985, nothing in subsection (1)(p) above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 13 to 19 of that Act.”

(3) In subsection (2) of that section (appeals not to be entertained unless all required returns have been made and the amounts payable have been paid) after the word “and” there shall be inserted “except in the case of an appeal against a decision with respect to the matter mentioned in subsection (1)(n) above, unless he”.

(4) In subsection (3) of that section, for the words “paragraph (b) or (m)” there shall be substituted “any of paragraphs (b), (m), (o) and (p)”.

(5) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) Where, on an appeal against a decision with respect to any of the matters mentioned in paragraph (m) above,—

- (a) it is found that the amount specified in the assessment is less than it ought to have been, and
- (b) the tribunal gives a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.”

## **25 Settling appeals by agreement.**

(1) Subject to the provisions of this section, where a person gives notice of appeal under section 40 of the principal Act and, before the appeal is determined by a value added tax tribunal, the Commissioners and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated—

- (a) as upheld without variation, or

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- (b) as varied in a particular manner, or
- (c) as discharged or cancelled,

the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement (including any terms as to costs).

- (2) Subsection (1) above shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioners that he desires to repudiate or resile from the agreement.
- (3) Where an agreement is not in writing—
- (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Commissioners to the appellant or by the appellant to the Commissioners; and
  - (b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.
- (4) Where—
- (a) a person who has given a notice of appeal notifies the Commissioners, whether orally or in writing, that he desires not to proceed with the appeal; and
  - (b) thirty days have elapsed since the giving of the notification without the Commissioners giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,
- the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the Commissioners had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.
- (5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

**Modifications etc. (not altering text)**

- C9** S. 25 amended (1.7.1994) by 1994 c. 9, s. 7(4) (with s. 19(3)); S.I. 1994/1690, art. 2  
 S. 25 extended (1.10.1994) by 1994 c. 9, ss. 60(10), 61; S.I. 1994/1773, art. 2

**26 Certain appeals to lie directly to the Court of Appeal.**

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal as may be prescribed by the order, and
  - (b) subject to the consent of the parties and to such other conditions as may be so prescribed,
- an appeal from a value added tax tribunal shall lie to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that section 13 of the <sup>M23</sup>Tribunals and Inquiries Act 1971 (which provides for appeals to the High Court from, among other tribunals, a value



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- added tax tribunal) shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order; and
- (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(3) This section does not extend to Scotland.

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**Marginal Citations**

**M23** 1971 c. 62.

## 27 Procedural rules governing appeals.

- (1) On an appeal against an assessment to a penalty under section 13 above, the burden of proof as to the matters specified in paragraphs (a) and (b) of subsection (1) of that section shall lie upon the Commissioners.
- (2) Paragraph 9 of Schedule 8 to the principal Act (rules with respect to procedure to be followed on appeals to value added tax tribunals) shall be amended as follows—
- (a) after the words “on appeals to” there shall be inserted “and in other proceedings before”;
- (b) in paragraph (d) the words “and produce documents” shall be omitted;
- (c) at the end of paragraph (d) there shall be inserted the following paragraph—  
“(dd) for discovery and for requiring persons to produce documents”, and
- (d) at the end of paragraph (e) there shall be added the words “or producing documents”.
- (3) On and after such day as the Lord Chancellor may by order made by statutory instrument appoint—
- (a) the power to make rules under paragraph 9 of Schedule 8 to the principal Act shall be exercisable by the Lord Chancellor, after consultation with the Lord Advocate, instead of by the Commissioners;
- (b) any rules under that paragraph which are in force immediately before the day appointed under this subsection shall have effect as if made as mentioned in paragraph (a) above; and
- (c) a statutory instrument by which the power referred to in paragraph (a) above is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In section 45 of the principal Act (orders, rules and regulations) in subsection (2) (statutory instruments to be subject to annulment by the Commons House of Parliament) after the words “subsection (3) below” there shall be inserted “and section 27(3)(c) of the Finance Act 1985”.

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**Modifications etc. (not altering text)**

**C10** Power of appointment conferred by s. 27(3) fully exercised (1.7.1986): [S.I. 1986/934](#), [art. 2](#)

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### *Miscellaneous*

#### **28 Penalty for failure to comply with directions etc. of tribunal.**

At the end of paragraph 9 of Schedule 8 to the principal Act (procedural rules for tribunals) there shall be added the following paragraph—

- “10 (1) A person who fails to comply with a direction or summons issued by a value added tax tribunal under rules made under paragraph 9 above shall be liable to a penalty not exceeding £1000.
- (2) A penalty for which a person is liable by virtue of subparagraph (1) above may be awarded summarily by a tribunal notwithstanding that no proceedings for its recovery have been commenced.
- (3) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of a penalty under this paragraph, and on such an appeal the court may either confirm or reverse the decision of the tribunal or reduce or increase the sum awarded.
- (4) A penalty awarded by virtue of this paragraph shall be recoverable as if it were tax due from the person liable for the penalty.”

#### **29 Enforcement of certain decisions of tribunal.**

- (1) If the decision of a value added tax tribunal in England and Wales on an appeal under section 40 of the principal Act is registered by the Commissioners in accordance with rules of court, payment of—
- (a) any amount which, as a result of the decision, is, or is recoverable as, tax due from any person, and
  - (b) any costs awarded to the Commissioners by the decision,
- may be enforced by the High Court as if that amount or, as the case may be, the amount of those costs were an amount due to the Commissioners in pursuance of a judgment or order of the High Court.
- (2) If the decision of a value added tax tribunal in Scotland on an appeal under section 40 of the principal Act—
- (a) confirms or varies an amount which is, or is recoverable as, tax due from any person, or
  - (b) awards costs to the Commissioners,
- the decision may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.
- (3) Subsection (4) below shall apply in relation to the decision of a value added tax tribunal in Northern Ireland on an appeal under section 40 of the principal Act where—
- (a) any amount is, or is recoverable as, tax due from any person, as a result of the decision, whether with or without an award of costs to the Commissioners; or
  - (b) any costs are awarded to the Commissioners by the decision.
- (4) Where this subsection applies—

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- (a) payment of the amount mentioned in paragraph (a) of subsection 3 above or, as the case may be, the amount of the costs mentioned in paragraph (b) of that subsection may be enforced by the Enforcement of Judgments Office; and
  - (b) a sum equal to any such amount shall be deemed to be payable under a money judgment within the meaning of Article 2(2) of the <sup>M24</sup>Judgments Enforcement (Northern Ireland) Order 1981, and the provisions of that order shall apply accordingly.
- (5) Any reference in this section to a decision of a value added tax tribunal includes a reference to an order (however described) made by a tribunal for giving effect to a decision.

**Modifications etc. (not altering text)**

**C11** S. 29 amended (1.7.1994) by 1994 c. 9, s. 7(4) (with s. 19(3)); S.I. 1994/1690, art. 2  
S. 29 extended (1.10.1994) by 1994 c. 9, ss. 60(10), 61; S.I. 1994/1773, art. 2

**Marginal Citations**

**M24** S.I. 1981/226 (N.I. 6).

**30 Appointments to and administration of tribunals.**

- (1) Schedule 8 to this Act shall have effect with respect to appointments to and the administration of value added tax tribunals.
- (2) This section shall come into operation on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) No provision of Schedule 8 to this Act shall affect the appointment of any person who, immediately before that provision comes into operation, holds office as President, or as a chairman or other member of value added tax tribunals.

**Modifications etc. (not altering text)**

**C12** Power of appointment conferred by s. 30(2) fully exercised (1.4.1986): S.I. 1986/365, art. 2

**31 Insolvency.**

At the end of subsection (4) of section 31 of the principal Act (power by regulations to make provisions for persons who carry on a business of a taxable person who has become bankrupt or incapacitated etc.) there shall be added the following subsection—

“(5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or incapacitated shall be construed as a reference to its being in liquidation or receivership or to an administration order being in force in relation to it.”

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**Textual Amendments**

**F40** S. 32 repealed by Finance Act 1990 (c. 29, SIF 40:2), s. 132, **Sch. 19 Pt. III** Note 1 and is expressed to be repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, ss. 100(2), **Sch. 15**

**33 Interpretation and construction of Chapter II.**

- (1) In this Chapter “the principal Act” means the <sup>M25</sup>Value Added Tax Act 1983.
- (2) For the purpose of any provision of this Chapter which refers to a reasonable excuse for any conduct,—
  - (a) an insufficiency of funds to pay any tax due is not a reasonable excuse; and
  - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.
- (3) In relation to a prescribed accounting period, any reference in this Chapter to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from tax due.
- (4) ..... <sup>F41</sup>
- (5) This Chapter shall be construed as one with the principal Act except that—
  - (a) references in section 39(9) of that Act (application of certain provisions to offences and penalties) to penalties do not include references to penalties under sections 13 to 17 above; and
  - (b) section 45 of that Act (orders, rules and regulations) does not apply in relation to orders under any provision of this Chapter.

**Textual Amendments**

**F41** S. 33(4) repealed by Finance Act 1988 (c. 39, SIF 40:2), s. 148, **Sch. 14 Pt. III**

**Marginal Citations**

**M25** 1983 c. 55.

**PART II**

**INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX**

**CHAPTER I**

**GENERAL**

**34**— ..... <sup>F42</sup>  
**49.**

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### Textual Amendments

**F42** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

## 50 Agents acting for non-residents.

(1) Section 78 of the <sup>M26</sup>Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsection (2) and (3) below, and the amendments made by those subsections shall have effect—

- (a) for the year 1985-86 and subsequent years of assessment, in the case of profits or gains chargeable to income tax; and
- (b) for accounting periods ending on or after 1st April 1985, in the case of profits or gains chargeable to corporation tax.

(2) After the words “Subject to” there shall be inserted “subsection (2) below and”.

(3) At the end of the section there shall be inserted the following subsections—

“(2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—

- (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
- (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and
- (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
- (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;

and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.

(3) In subsection (2) above ‘investment transactions’ means—

- (a) transactions in shares, stock or securities of any other description, excluding commodity or financial futures,
- (b) transactions on a recognised futures exchange, within the meaning of the Capital Gains Tax Act 1979, and
- (c) the placing of money at interest,

and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.

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- (4) Subsection (2) above does not apply to profits or gains which constitute income of an offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984.
- (5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each other, within the terms of section 533 of the principal Act.”

#### Marginal Citations

**M26** 1970 c. 9.

**51—53** ..... <sup>F43</sup>

#### Textual Amendments

**F43** Ss. 51–53 repealed by [Income and Corporation Taxes Act 1988 \(c.1, SIF 1\)](#), s. 844, [Sch. 31](#)

#### <sup>F44</sup>**54** **Withdrawal of right of certain non-resident companies to payment of tax credits.**

- (1) This section applies to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state and, at any time when it or its associated company has such a qualifying presence, is entitled by virtue of arrangements having effect under section 497(1) of the Taxes Act (relief by agreement with other countries) to a tax credit under section 86 of the <sup>M27</sup>Finance Act 1972 (tax credit for certain recipients of qualifying distributions) in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions.
- (2) Schedule 13 to this Act has effect to supplement the provisions of this section.
- (3) Notwithstanding anything to the contrary in the arrangements referred to above and subject to paragraph 2 of the said Schedule, a company to which this section applies shall not be entitled to claim under subsection (4) of the said section 86 to have the tax credit referred to in subsection (1) above set against the income tax chargeable on its income for the year of assessment in which the distribution is made or, where the credit exceeds that income tax, to have the excess paid to it.
- (4) A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 7½ per cent or more in value of the property, payroll or sales of such members situated in, attributable to or derived from the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.
- (5) For the purposes of subsection (4) above—
- (a) 7½ per cent or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under

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- subsection (4) of the said section 86, the claimant proves otherwise to the satisfaction of the Board, and
- (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (6) In this section “the relevant date” means the date on which this section comes into force or, if earlier, the earliest date on which a distribution could have been made in relation to which the provisions of this section are applied by an order made under this section.
- (7) This section shall come into force on such date as the Treasury may by order made by statutory instrument appoint and the Treasury may in addition by order made by statutory instrument—
- (a) prescribe that the provisions of this section shall apply in relation to distributions made on or after a date before that on which the order bringing them into force is made, being a date not earlier than 1st April 1985,
- (b) prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of this section, and
- (c) prescribe that for subsections (4) and (5) of this section (or for those subsections as they have effect at any time) there shall be substituted either the following provisions—
- “(4) A company shall be treated as having a qualifying presence in a unitary state if it is subject to tax in such a state for any period ending after the relevant date for which that state charges tax.
- (5) For the purposes of subsection (4) above a company shall be regarded as subject to tax in a unitary state if it is liable there to a tax charged on its income or profits by whatever name called and shall be treated as so charged unless it proves otherwise to the satisfaction of the Board”
- or the following provisions—
- “(4) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.
- (5) For the purposes of subsection (4) above—
- (a) a company shall be treated as having its principal place of business in a unitary state unless it proves otherwise to the satisfaction of the Board, and
- (b) the principal place of business of a company shall include both the place where the central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”
- (8) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.]

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**Textual Amendments**  
**F44** S. 54 repealed by [Income and Corporation Taxes Act 1988 \(c.1\)](#), s. 844, **Sch. 31** (with saving in [Sch. 30 para. 20](#))

**Marginal Citations**  
**M27** 1972 c. 41.

## CHAPTER II

### CAPITAL ALLOWANCES

**55—59** ..... <sup>F45</sup>

**Textual Amendments**  
**F45** Ss. 55–59, 61–66 and Schs. 14–17 repealed by [Capital Allowance Act 1990 \(c. 1\)](#), s. 164(4)(5), **Sch. 2**

**60** ..... <sup>F46</sup>

**Textual Amendments**  
**F46** Ss. 51–53 repealed by [Income and Corporation Taxes Act 1988 \(c.1, SIF 1\)](#), s. 844, **Sch. 31**

**61—66** ..... <sup>F47</sup>

**Textual Amendments**  
**F47** Ss. 55–59, 61–66 and Schs. 14–17 repealed by [Capital Allowance Act 1990 \(c. 1\)](#), s. 164(4)(5), **Sch. 2**

## CHAPTER III

### CAPITAL GAINS

**67 Exemption for gilt-edged securities and qualifying corporate bonds.**

- (1) In section 67 of the <sup>M28</sup>Capital Gains Tax Act 1979 (gains on disposals of gilt-edged securities and corporate bonds held for 12 months not to be chargeable gains)—
- (a) in subsection (1) the words from “except” to the end of the subsection shall not apply if the disposal occurs on or after 2nd July 1986; and
  - (b) subsections (2) and (3) shall not apply in relation to disposals on or after that date <sup>F48</sup>.



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- <sup>x3</sup>(2) With respect to disposals occurring on or after 2nd July 1986—
- (a) in section 270 of the <sup>M29</sup>Taxes Act (charge to tax on certain disposals of United Kingdom securities) at the end of subsection (6) there shall be added the words “or qualifying corporate bonds, within the meaning of section 64 of the Finance Act 1984”;
  - (b) in section 84 of the Capital Gains Tax Act 1979 (compensation stock), in subsection (4) for paragraphs (a) and (b) there shall be substituted the following paragraphs—
    - “(a) shall, so far as possible, be identified with securities which were issued to him as mentioned in subsection (1) above rather than with other securities of that kind, and
    - (b) subject to paragraph (a) above, shall be identified with securities issued at an earlier time rather than with those issued at a later time”and
  - (c) in Part II of Schedule 13 to the Finance Act 1984 (reorganisations etc. involving qualifying corporate bonds) in paragraph 10(1)(c) for the words from “if” to “that section” there shall be substituted “on that subsequent disposal section 67 of the principal Act”.

#### Editorial Information

**X3** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Textual Amendments

**F48** S. 67(1) repealed by [Finance Act 1986 \(c. 41\)](#), s. 114(6), [Sch. 23 Pt. VII](#) with respect to disposals on or after 2 July 1986

#### Marginal Citations

**M28** [1979 c.14](#)  
**M29** [1984 c.43](#).

## 68 Modification of indexation allowance.

- (1) Subject to subsection (2) below, with respect to disposals of assets on or after 6th April 1985 or, in the case of disposals by companies, 1st April 1985, the provisions of Chapter III of Part III of the Finance Act 1982 shall have effect subject to the amendments in Part I of Schedule 19 to this Act, being amendments designed—
  - (a) to remove the twelve month qualifying period for the indexation allowance; and
  - (b) to extend the indexation allowance to cases where there is a loss on a disposal; and
  - (c) to make provisions supplementary to those matters.
- (2) In the case of securities within the meaning of Chapter IV of this Part of this Act, the amendments in Part I of Schedule 19 to this Act—

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- (a) shall not have effect with respect to disposals of gilt—edged securities as defined in Schedule 2 to the <sup>M30</sup>Capital Gains Tax Act 1979 or qualifying corporate bonds as defined in section 64 of the <sup>M31</sup>Finance Act 1984; and
  - (b) shall have effect with respect to disposals of other securities on or after 28th February 1986.
- (3) In Schedule 19 to this Act—
- (a) Part II shall have effect with respect to holdings of securities to which Part II of Schedule 13 to the <sup>M32</sup>Finance Act 1982 applied (share pools in existence on 1st or 6th April 1982);
  - (b) Part III shall have effect with respect to other holdings of securities held on or acquired after the 1985 date;
  - (c) Part IV shall have effect with respect to the identification of securities disposed of on or after the 1985 date;
  - (d) Part V has effect with respect to securities in respect of which elections have been or could be made under Schedule 6 to the <sup>M33</sup> Finance Act 1983; and
  - (e) Part VI contains consequential provisions relating to assets forming part of a premiums trust fund;
- and in that Schedule and paragraphs (b) and (c) above “the 1985 date” means 1st April 1985 in the case of holdings or disposals by companies and 6th April 1985 in any other case.
- (4) For the purpose of computing the indexation allowance on a disposal of an asset [<sup>F49</sup>to which this subsection applies] where, on 31st March 1982, the asset was held by the person making the disposal, it shall be assumed that on that date the asset was sold by the person making the disposal and immediately reacquired by him at its market value on that date .
- (5) Except where an election under section 96(5) of the Finance Act 1988 has effect, neither subsection (4) above nor section 96(2) of the Finance Act 1988 shall apply for the purpose of computing the indexation allowance in a case where that allowance would be greater if they did not apply <sup>F50</sup>.]
- (5A) If under subsection (4) above it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately re—acquired by him, sections 34 and 39 of the Capital Gains Tax Act 1979 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in re— the asset on 31st March 1982 <sup>F51</sup>.]
- (6) Where, after 31st March 1982, an asset which was held on that date has been merged or divided or has changed its nature or rights in or over the asset have been created, then, subject to subsection (5) above, section (4) above shall have effect to determine for the purposes of section 36 of the <sup>M34</sup> Capital Gains Tax Act 1979 (assets derived from other assets) the amount of the consideration for the acquisition of the asset which was so held .
- (7) Subsection (8) below applies to a disposal of an asset which is not a no gain/no loss disposal if—
- (a) the person making the disposal acquired the asset after 31st March 1982; and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal;

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and for the purposes of this subsection a no gain/no loss disposal is one on which, by virtue of [any of the enactments specified in subsection 7A below <sup>F52</sup> neither a gain nor a loss accrues to the person making the disposal .

- (7A) The enactments mentioned in subsection (7) above are—
- (a) sections 44, 56, 123A, [146(2) or (3), 146A(2) <sup>F53</sup>], 147(4), 148 and 149A of the Capital Gains Tax Act 1979;
  - (b) sections 267, 273, [or 273A <sup>F54</sup>], 340(7), 342, 342A, 342B, 343(5) and 352(7) of the Income and Corporation Taxes Act 1970;
  - (c) section 148 of the Finance Act 1982;
  - (d) section 7 of the Finance (No. 2) Act 1983;
  - (e) paragraph 2 of Schedule 2 to the Trustee Savings Banks Act 1985;
  - (ee) section 130(3) of the Transport Act 1985 <sup>F55</sup>]
  - (f) section 486(8) of the Taxes Act ; <sup>F56</sup> . . .
  - (g) paragraph 4 of Schedule 12 to the Finance Act 1988 <sup>F52</sup>]
  - [<sup>F57</sup>(h) section 78(2) of the Finance Act 1991.]
- [<sup>F58</sup>, and
- (i) paragraph 2(1) of Schedule 12 to the Finance Act 1990.]
- (8) Where this subsection applies to a disposal—
- (a) the person making the disposal shall be treated for the purpose referred to in subsection (4) above as having held the asset on 31st March 1982; and
  - (b) for the purpose of determining any gain or loss on the disposal, the consideration which, apart from this subsection, that person would be treated as having given for the asset shall be taken to be reduced by deducting therefrom any indexation allowance brought into account by virtue of Part I of Schedule 13 to the Finance Act 1982 on any disposal falling within subsection (7)(b) above .
- (9) In paragraphs (b) and (c) of subsection (3) above and in Parts III and IV of Schedule 19 to this Act “securities” does not include relevant securities as defined in section 88(9) of the Finance Act 1982 (as amended by paragraph 3(3) of Schedule 19 to this Act) but, subject to that, means—
- (a) shares or securities of a company; and
  - (b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.
- (10) Shares or securities of a company shall not be treated for the purposes of subsection (9) above or Part III of Schedule 19 to this Act as being of the same class unless they are so treated by the practice of the Stock Exchange or would be so treated if dealt with on the Stock Exchange.

#### Textual Amendments

- F49** Repealed by [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#), s. 148, [Sch. 14 Pt. VII](#) in relation to disposals on or after 6th April 1988
- F50** [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), s. 96, [Sch. 8 para. 11](#) in relation to disposals on or after 6th April 1988, previously “(5) Subsection (4) above applies to a disposal—(a) which occurs on or after 6th April 1985 or, in the case of a disposal by a company, 1st April 1985; and (b) in respect of which a claim is made that subsection (4) above should apply (a) and a claim under paragraph (b) above shall be made within the period of two years beginning at the end of the year of assessment or accounting

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period in which the disposal occurs or within such longer period as the Board may by notice in writing allow.” Finance Act 1988 (c. 39, SIF 63:1, 2), s. 62(4)—disposals of oil licences relating to underdeveloped areas.

- F51** Finance Act 1988 (c. 39, SIF 63:1,2), s. 118(2) for disposals on or after 6th April 1988
- F52** Finance Act 1988 (c.39, SIF 63:1,2), s. 118(3)(4)
- F53** Finance Act 1989 (c.26, SIF 63:1,2), s. 141, and Sch. 15 para. 4(1)(a)
- F54** Finance Act 1990 (c. 29, SIF 63:1,2), s. 70(7)(a) in relation to disposals on or after 20 March 1990
- F55** Finance Act 1989 (c.26, SIF 63:1,2), s. 141, and Sch. 15 para. 4(1)(b)
- F56** Word in s. 68(7A)(f) repealed (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1, 63:2), ss. 78(6), 123, Sch. 19 Pt. V
- F57** S. 68(7A)(h) inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1, 63:2), s. 78(6)
- F58** Word in s. 68(7A)(h) and s. 68(7A)(i) added (retrospective to 26.7.1990) by Finance Act 1991 (c. 31, SIF 63:1, 63:2), s. 99(1)(3) and deemed to have come into force on 26.7.1990

**Modifications etc. (not altering text)**

- C13** S. 68(4) excluded (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.12(2)
- C14** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113(2)—subsections (4)–(8) not to apply to certain disposals of building society and industrial and provident society shares made on or after 4 July 1987. Finance Act 1990 (c. 29,SIF 63:1, 2), s. 54—(4) to (8) not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

**Marginal Citations**

- M30** 1979 c. 14.
- M31** 1984 c. 43
- M32** 1982 c. 39
- M33** 1983 c. 28
- M34** 1979 c. 14

**69 Relief for disposals by individuals on retirement from family business.**

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where a material disposal of business assets is made by an individual who, at the time of the disposal,—
- (a) has attained the age of 60, or
  - (b) has retired on ill-health grounds below the age of 60,
- and sections 124 and 125 of the <sup>M35</sup>Capital Gains Tax Act 1979 shall not apply to any disposal made on or after 6th April 1985 unless it is a disposal in respect of which, by virtue only of paragraph 5(1) of Schedule 20 to this Act, relief in accordance with that Schedule cannot be given.
- (2) For the purposes of this section and Schedule 20 to this Act, a disposal of business assets is—
- (a) a disposal of the whole or part of a business, or
  - (b) a disposal of one or more assets which, at the time at which a business ceased to be carried on, were in use for the purposes of that business, or
  - (c) a disposal of shares or securities of a company (including a disposal of an interest in shares which a person is treated as making by virtue of section 72 of the Capital Gains Tax Act 1979—capital distributions),
- and the question whether such a disposal is a material disposal shall be determined in accordance with the following provisions of this section.

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- (3) A disposal of the whole or part of a business is a material disposal if, throughout a period of at least one year ending with the date of the disposal, the relevant conditions are fulfilled and, in relation to such a disposal, the conditions are fulfilled at any time if at that time the business is owned by the individual making the disposal or—
- (a) the business is owned by a company—
    - (i) which is a trading company, and
    - (ii) which is either that individual's family company or a member of a trading group of which the holding company is that individual's family company; and
  - (b) that individual is a full-time working director of that company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.
- (4) A disposal of assets such as is mentioned in subsection (2)(b) above is a material disposal if—
- (a) throughout a period of at least one year ending with the date on which the business ceased to be carried on the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time either the business was owned by the individual making the disposal or paragraphs (a) and (b) of subsection (3) above apply; and
  - (b) on or before the date on which the business ceased to be carried on, the individual making the disposal had either attained the age of 60 or retired on ill-health grounds below that age; and
  - (c) the date on which the business ceased to be carried on falls within the permitted period before the date of the disposal.
- (5) A disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in subsection (2)(c) above) is a material disposal if, throughout a period of at least one year ending with the operative date, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time—
- (a) the individual making the disposal owns the business which, at the date of the disposal, is owned by the company or, if the company is the holding company of a trading group, by any member of the group; or
  - (b) the company is the individual's family company and is either a trading company or the holding company of a trading group and the individual is a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association;
- and, except where subsection (6) or subsection (7) below applies, the operative date for the purposes of this subsection is the date of the disposal.
- (6) In any case where—
- (a) within the permitted period before the date of the disposal referred to in subsection (5) above, the company concerned either ceased to be a trading company without continuing to be or becoming a member of a trading group or ceased to be a member of a trading group without continuing to be or becoming a trading company, and
  - (b) on or before the date of that cessation, the individual making the disposal attained the age of 60 or retired on ill-health grounds below that age,

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then, subject to subsection (7) below, the operative date for the purposes of subsection (5) above is the date of the cessation referred to in paragraph (a) above; and, where this subsection applies, the reference in subsection (5)(a) above to the date of the disposal shall also be construed as a reference to the date of that cessation.

(7) If, throughout a period which ends on the date of the disposal referred to in subsection (5) above or, if subsection (6) above applies on the date of the cessation referred to in paragraph (a) of that subsection and which begins when the individual concerned ceased to be a full-time working director of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association,—

- (a) the company concerned was his family company and either a trading company or the holding company of a trading group, and
- (b) he was a director of the company concerned or, as the case may be, of one or more members of the group or association and, in that capacity, devoted at least ten hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the operative date for the purposes of subsection (5) above is the date on which the individual ceased to be a full-time working director as mentioned above.

(8) For the purposes of this section—

- (a) any reference to the disposal of the whole or part of a business by an individual includes a reference to the disposal by him of his interest in the assets of a partnership carrying on the business; and
- (b) subject to paragraph (a) above, at any time when a business is carried on by a partnership, the business shall be treated as owned by each individual who is at that time a member of the partnership.

(9) Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.

#### **Marginal Citations**

**M35** 1979 c.14

## **70 Relief for other disposals associated with retirement.**

(1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where an individual—

- (a) who has attained the age of 60, or
- (b) who has retired on ill-health grounds below the age of 60,

makes a relevant disposal of the whole or part of the assets provided or held for the purposes of an office or employment exercised by him; and, if he ceases to exercise that office or employment before the date of the relevant disposal, the date on which he ceased to exercise it is in subsection (2) below referred to as the “prior cessation date”.

(2) For the purposes of subsection (1) above, a disposal of the whole or part of the assets provided or held as mentioned in that subsection is a relevant disposal if—

- (a) throughout a period of at least one year ending with the date of the disposal or, where applicable, the prior cessation date, the office or employment was the full—time occupation of the individual making the disposal; and

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- (b) that office or employment is other than that of director of a company which is either the family company of the individual concerned or is a member of a trading group of which the holding company is his family company; and
  - (c) where there is a prior cessation date, the individual either had attained the age of 60 on or before that date or on that date retired on ill-health grounds below that age; and
  - (d) where there is a prior cessation date, the disposal takes place within the permitted period after the cessation date.
- (3) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, where—
- (a) the trustees of a settlement dispose of—
    - (i) shares or securities of a company, or
    - (ii) an asset used or previously used for the purposes of a business, being, in either case, part of the settled property; and
  - (b) the conditions in subsection (4) or, as the case may be, subsection (5) below are fulfilled with respect to a beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities or the asset referred to in paragraph (a) above, but excluding, for this purpose, an interest for a fixed term; and in those subsections that beneficiary is referred to as “the qualifying beneficiary”.
- (4) In relation to a disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in section 69(2)(c) above), the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the company was the qualifying beneficiary’s family company and either a trading company or the holding company of a trading group; and
  - (b) that, throughout a period of at least one year ending as mentioned in paragraph (a) above, the qualifying beneficiary was a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association; and
  - (c) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to be a full-time working director as mentioned in paragraph (b) above, having attained the age of 60 or retired on ill-health grounds below that age.
- (5) In relation to a disposal of an asset, the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the asset was used for the purposes of a business carried on by the qualifying beneficiary; and
  - (b) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to carry on the business referred to in paragraph (a) above; and
  - (c) that, on or before the date of the disposal or, if it was earlier, the date on which the qualifying beneficiary ceased to carry on that business, he attained the age of 60 or retired on ill-health grounds below that age.

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- (6) In any case where—
- (a) by virtue of section 69 above, relief falls to be given, in accordance with Schedule 20 to this Act, in respect of a material disposal of business assets which either consists of the disposal by an individual of his interest in the assets of a partnership or is of a description falling within subsection (5) of that section, and
  - (b) the individual making that material disposal makes an associated disposal of assets, as defined in subsection (7) below,
- relief from capital gains tax shall also be given, subject to and in accordance with that Schedule, in respect of the associated disposal.
- (7) In relation to a material disposal of business assets, a disposal of an asset is an associated disposal if—
- (a) it takes place as part of a withdrawal of the individual concerned from participation in the business carried on by the partnership referred to in subsection (6)(a) above or, as the case may be, by the company which owns the business as mentioned in subsection (5)(a) of section 69 above; and
  - (b) immediately before the material disposal or, if it was earlier, the cessation of the business mentioned in paragraph (a) above, the asset was in use for the purposes of that business; and
  - (c) during the whole or part of the period in which the asset has been in the ownership of the individual making the disposal the asset has been used—
    - (i) for the purposes of the business mentioned in paragraph (a) above (whether or not carried on by the partnership or company there referred to); or
    - (ii) for the purposes of another business carried on by the individual or by a partnership of which the individual concerned was a member; or
    - (iii) for the purposes of another business in respect of which the conditions in paragraphs (a) and (b) of subsection (3) of section 69 above were fulfilled.
- (8) In subsections (6) and (7) above “material disposal of business assets” has the same meaning as in section 69 above and Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.
- (9) In consequence of the provisions of this section and section 69 above, with respect to disposals on which relief falls to be given under Schedule 20 to this Act, section 126 of and Schedule 4 to the <sup>M36</sup>Capital Gains Tax Act 1979 (gifts of business assets) shall be amended as follows—
- (a) in subsection (2)(b) of section 126 for the words “the proportion” there shall be substituted “the appropriate proportion”; for the words “subsection (5)(b) of section 124 above” there shall be substituted “paragraph 7(2) or paragraph 8(2) of Schedule 20 to the Finance Act 1985”; and for the words “that section” there shall be substituted “that Schedule”;
  - (b) in subsection (7)(a) of section 126 for the words “section 124 (8) above” there shall be substituted “paragraph 1 of Schedule 20 to the Finance Act 1985”;
  - (c) in paragraph 8(4) for the words “the proportion determined under subsection (5)(b) of section 124 of this Act” there shall be substituted “the appropriate proportion determined under Schedule 20 to the Finance Act 1985”; and



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(d) for the words “section 124 above” or “section 124 of this Act”, in any other place where they occur, there shall be substituted “Schedule 20 to the Finance Act 1985”;

and, with respect to disposals (and associated acquisitions) made on or after 6th April 1985, in section 120 of the <sup>M37</sup>Capital Gains Tax Act 1979 (roll-over relief etc.—trade carried on by family company) in paragraph (b) for the words “section 124 below” there shall be substituted “Schedule 20 to the Finance Act 1985”.

(10) In consequence of the provisions referred to in subsection (9) above, the words “Schedule 20 to the Finance Act 1985” shall be substituted—

[<sup>F59</sup>(a) for the words “section 124 of the said Act of 1979” in section 79(3) of the <sup>M38</sup>Finance Act 1980 (general relief for gifts); and <sup>F59</sup>]

(b) for the words “section 124 of that Act” in paragraph 1(2)(g) of Schedule 11 to the <sup>M39</sup>Finance Act 1984 (furnished holiday lettings);

and, in consequence of paragraph (b) above, in paragraph 1(2)(h) of Schedule 11 to the Finance Act 1984 for the words “that Act” there shall be substituted “the Capital Gains Tax Act 1979”.

#### Textual Amendments

**F59** Repealed by [Finance Act 1989 \(c.26, SIF 63:1,2\)](#), s. 187, [Sch. 17 Part VII](#) in relation to disposals on or after 14 March 1989 (except where relief given under 1980 s. 79 in respect of a disposal made before that date).

#### Marginal Citations

**M36** [1979 c.14](#)  
**M37** [1979 c. 14](#)  
**M38** [1980 c. 48](#)  
**M39** [1984 c. 43](#)

## 71 Assets disposed of in a series of transactions.

(1) For the purposes of the Capital Gains Tax Act 1979 (in this section referred to as “the principal Act”), in any case where,—

- (a) by way of two or more material transactions which are linked (in this section referred to as a series of linked transactions), one person disposes of assets to another person with whom he is connected or to two or more other persons with each of whom he is connected, and
- (b) the original market value of the assets disposed of by any of the transactions in the series, as determined under Schedule 21 to this Act, is less than the appropriate portion of the aggregate market value of the assets disposed of by all the transactions in the series, as so determined,

then, subject to subsection (2) below, the disposal effected by any linked transaction in the series in respect of which the condition in paragraph (b) above is fulfilled shall be deemed to be for a consideration equal to the appropriate portion referred to in that paragraph.

(2) Where the disposal effected by a material transaction is one to which section 44 of the principal Act applies (disposals of assets between husband and wife) nothing in subsection (1) above shall affect the amount which, for the purposes of the principal Act, is the consideration for that disposal.

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- (3) Subject to subsections (6) to (8) below, any reference in this section to a material transaction is a reference to a transaction by way of gift or otherwise which takes place after 19th March 1985; and for the purposes of this section two or more material transactions are linked if they occur within the period of six years ending on the date of the last of them.
- (4) This section shall apply or, as the case may be, shall again apply—
- (a) when a second material transaction causes a series of linked transactions to come into being; and
  - (b) whenever, on the occurrence of a further material transaction, an existing series is extended by the inclusion of that transaction (whether or not an earlier transaction ceases to form part of the series);
- and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section on each such occasion.
- (5) In consequence of the preceding provisions of this section, any gift or other transaction which occurs after 19th March 1985 shall be disregarded for the purposes of section 151 of the principal Act (the previous code for assets disposed of in a series of transactions).
- (6) Where a member of a group of companies disposes of an asset to another member of the group in circumstances such that, by virtue of section 273 of [the Income and Corporation Taxes Act 1970 <sup>F60</sup>], both companies are treated, so far as relates to corporation tax on chargeable gains, as if the consideration for the disposal were of such an amount as would secure that neither a gain nor a loss would accrue, the transaction by which that disposal is effected is not a material transaction; and a disposal in these circumstances is in this section referred to as an “inter-group transfer”.
- (7) In any case where—
- (a) a company (in this subsection referred to as “company A”) disposes of an asset by way of a material transaction, and
  - (b) company A acquired the asset after 19th March 1985 by way of an inter-group transfer, and
  - (c) the disposal by company A is to a person who is connected with another company (in this subsection referred to as “company B”) which at some time after 19th March 1985 disposed of the asset by way of an inter-group transfer, and
  - (d) either the disposal by way of inter-group transfer which is referred to in paragraph (c) above was the occasion of the acquisition referred to in paragraph (b) above or, between that disposal and that acquisition, there has been no disposal of the asset which was not an inter-group transfer,
- then, for the purpose of determining whether subsection (1) above applies in relation to a series of linked transactions, the disposal by company A shall be treated as having been made by company B; but any increase in the consideration for that disposal resulting from the application of subsection (1) above shall have effect with respect to company A.
- (8) In any case where one or more transactions occur on or before 19th March 1985 and one or more transactions occur after that date in circumstances such that—
- (a) if all the transactions had occurred before that date, section 151 of the principal Act would have applied in relation to them, and

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- (b) if all the transactions occurred after that date, subsection (1) above would apply to them,  
such of the transactions which occurred on or before that date as occurred not more than two years before the first of the transactions occurring after that date shall be treated as material transactions.

**Textual Amendments**

**F60** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

**72 Commodity and financial futures and traded options.**

- (1) If, apart from [sectin 128 of the Taxes Act <sup>F61</sup>, gains arising to any person in the course of dealing in commodity or financial futures or in [qualifying options <sup>F62</sup>] would constitute, for the purposes of the Tax Acts, profits or gains, chargeable to tax under Schedule D otherwise than as the profits of a trade, then, on and after 6th April 1985,—
  - (a) his outstanding obligations under any futures contract entered into in the course of that dealing and any [qualifying option <sup>F62</sup>] granted or acquired in the course of that dealing shall be regarded as assets to the disposal of which the <sup>M40</sup>Capital Gains Tax Act 1979 (in this section referred to as “the principal Act”) applies; . . . <sup>F63</sup>
  - (b) . . . <sup>F64</sup>
- (2) In subsection (1) above—
  - (a) “commodity of financial futures” means commodity futures or financial futures which are for the time being dealt in on a recognised futures exchange, within the meaning of the principal Act; and
  - (b) “qualifying option” means a traded option or financial option as defined in section 137(9) of that Act <sup>F65</sup>.]
- (2A) Notwithstanding the provisions of subsections (2)(a) above, where, otherwise than in course of dealing with a recognised futures exchange, within the meaning of the principal Act,—
  - (a) an authorised person or listed institution enters into a commodity or financial futures contract with another person, or
  - (b) the outstanding obligations under a commodity or financial futures contract to which an authorised person or listed institution is a party are brought to an end by a further contract between the parties to the futures contract, then, except in so far as any gain or loss arising to any person from that transaction arises in the course of the trade, the gain or loss shall be regarded for the purposes of subsection (1) above as arising to him in the course of dealing in vcommodity or financial futures
- (2B) In subsection (2A) above— “authorised person”has the same meaning as in the Financial Services Act 1986, and “listed institution”has the same meaning as in section 43 of that Act <sup>F66</sup>.]
- (3) For the purposes of the principal Act, where, in the course of dealing in commodity or financial futures, a person who has entered into a futures contract closes out that contract by entering into another futures contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall constitute the disposal

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of an asset (namely, his outstanding obligations under the first-mentioned contract) and, accordingly,—

- (a) any money or money's worth received by him on that transaction shall constitute consideration for the disposal; and
- (b) any money or money's worth paid or given by him on that transaction shall be treated as incidental costs to him of making the disposal.

(4) In any case where,—

- (a) a person who, in the course of dealing in financial futures, has entered into a futures contract does not close out that contract (as mentioned in subsection (3) above), and
- (b) the nature of the futures contract is such that, at its expiry date, the persons concerned is entitled to receive or liable to make a payment in full settlement of all obligations under that contract,

then, for the purposes of the principal Act, he shall be treated as having disposed of an asset (namely, his outstanding obligations under the futures contract) and the payment received or made by him shall be treated as consideration for that disposal or, as the case may be, as incidental costs to him of making the disposal.

(5) ..... F67

<sup>X4</sup>(6) In section 155 of the principal Act (interpretation) after subsection (3) there shall be inserted the following subsections—

“(3A) In this Act “recognised futures exchange” means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of this Act by order made by the Board.

(3B) An order made by the Board under subsection (3A) above—

- (a) may designate a futures exchange by name or by reference to any class or description of futures exchanges, including, in the case of futures exchanges in a country outside the United Kingdom, a class or description framed by reference to any authority or approval given in that country; and
- (b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient.”

(7) ..... F64

#### Editorial Information

- X4** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Textual Amendments

- F61** Income and Corporation Taxes Act 1988 Sch. 29 para. 32
- F62** Finance (No. 2) Act 1987 s. 81(1), (8) on and after 29 April 1988 by virtue of S.I. 1988 No. 744 (not reproduced.)
- F63** Word repealed by Income and Corporation Taxes Act 1988 s. 844 and Sch. 31
- F64** S. 72(1)(b), (7) repealed by Income and Corporation Taxes Act 1988 s. 844 and Sch. 31

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- F65** Finance (No. 2) Act 1987 s. 81(2), (8) on and after 29 April 1988 by virtue of S.I. [1988 No. 744](#) (not reproduced.)
- F66** Finance (No. 2) Act 1987 s. 81(3), (8) on and after 29 April 1988 by virtue of S.I. [1988 No. 744](#)
- F67** Repealed by Finance (No. 2) Act 1987 s. 81(1), (8) and 104(4) and Sch. 9 Part II on and after 29 April 1988 by virtue of S.I. [1988 No. 744](#)

**Modifications etc. (not altering text)**

- C15** Definitions employed for the purposes of Income and Corporation Taxes Act 1988 ss. 128 and 399
- C16** Income and Corporation Taxes Act 1988 ss. 128 and 399(5)

**Marginal Citations**

- M40** [1979 c. 14](#)

**CHAPTER IV**

**SECURITIES**

**73**— ..... **F68**  
**77.**

**Textual Amendments**

- F68** [Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25](#) paras. 7–9 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

**PART III**

**STAMP DUTY**

**78**— ..... **F69**  
**80.**

**Textual Amendments**

- F69** [Ss. 78, 79](#) and 80 repealed by [Finance Act 1986 \(c. 41, SIF 114\)](#), [ss. 73, 74\(1\)\(c\)\(3\)](#), 114, Sch. 23 Pt. IX(1) Note 1

**81 Renounceable letters of allotment etc.**

- (1) Subsection (2) below applies where there is an arrangement whereby—
  - (a) rights under an instrument are renounced in favour of a person (A),
  - (b) the rights are rights to shares in a company (company B), and
  - (c) A, or a person connected with A, or A and such a person together, has or have control of company B or will have such control in consequence of the arrangement.

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- (2) The instrument shall not be exempt by virtue of section 65(1) of the Finance Act 1963 <sup>F70</sup> (renounceable letters of allotment etc.) or section 14(1) of the Finance Act (Northern Ireland) 1963 <sup>F71</sup> (corresponding provision for Northern Ireland) from stamp duty under or by reference to the heading “Conveyance or Transfer on Sale ” in Schedule 1 to the Stamp Act 1891 <sup>F72</sup>.
- (3) References in this section to shares in company B include references to its loan capital to which section 126(1) of the Finance Act 1976 <sup>F73</sup> does not apply by virtue of section 126(2) or (3) (convertible loan capital and excessive return capital).
- (4) In this section “ shares” includes stock.
- (5) For the purposes of this section a person has control of company B if he has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (6) For the purposes of this section one person is connected with another if he would be so connected for the purposes of the Capital Gains Tax Act 1979 <sup>F74</sup>.
- (7) This section applies to instruments if rights are renounced under them on or after 1st August 1985, except where the arrangement concerned includes an offer for the rights and on or before 27th June 1985 the offer became unconditional as to acceptances.

#### Textual Amendments

- F70** 1963 c. 25.  
**F71** 1963 c. 22 (N. I.).  
**F72** 1891 c. 39.  
**F73** 1976 c. 40.  
**F74** 1979 c. 14.

## 82 Gifts inter vivos.

- (1) The stamp duty chargeable by virtue of section 74 of the <sup>M41</sup>Finance (190910) Act 1910 (gifts inter vivos) is abolished.
- (2) In section 58(7) of the Stamp Act 1891 (valuation by reference to value for purposes of section 74 of 1910 Act) for the words from “the value” to the end there shall be substituted “the value at any time of any property, that value shall be taken to be the price which the property might reasonably be expected to fetch on a sale at that time in the open market.”
- (3) In section 90(5) of the <sup>M42</sup>Finance Act 1965 (which relates to valuation for the purposes of subsection (1) of that section and of section 74 of the 1910 Act) for “either of those provisions” there shall be substituted “that subsection”; and in section 4(5) of the <sup>M43</sup>Finance Act (Northern Ireland) 1965 (which makes similar provision) for “either of those provisions” there shall be substituted “that subsection”.
- (4) In section 15(1) of the <sup>M44</sup>Finance (No. 2) Act 1983 (relief from duty under section 74 of the 1910 Act for local constituency associations) for the words from “7 above” to the end there shall be substituted “7 above, section 57 of the <sup>M45</sup>Stamp Act 1891 shall not apply in relation to a conveyance or transfer by which the disposal or, in the case of paragraph (b), either of the disposals referred to in that paragraph is effected.”

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- (5) An instrument—
- (a) in respect of which stamp duty would be chargeable by virtue of section 74 of the 1910 Act apart from this section, and
  - (b) on which stamp duty is not chargeable under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891,
- shall not be deemed to be duly stamped unless it has, in accordance with section 12 of the 1891 Act, been stamped with a particular stamp denoting that it is duly stamped or that it is not chargeable with any duty.
- (6) This section applies to—
- (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (7) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (6)(b) above shall be deemed to be that as varied in accordance with this section.
- (8) The preceding provisions of this section shall be deemed to have come into operation on 26th March 1985.
- (9) Subsection (5) above does not apply to an instrument which is required by regulations under section 87(1) or (2) below to be certified.

**Modifications etc. (not altering text)**

C17 Ss. 82(5), 84(9) restricted by S.I. 1987/516, reg. 5

**Marginal Citations**

M41 1910 c. 8.  
M42 1965 c. 25.  
M43 1965 c. 16 (N.I.)  
M44 1983 c. 49.  
M45 1891 c. 39.

**83 Part III Transfers in connection with divorce etc.**

- (1) Stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the <sup>M46</sup>Stamp Act 1891 shall not be chargeable on an instrument by which property is conveyed or transferred from one party to a marriage to the other if the instrument—
- (a) is executed in pursuance of an order of a court made on granting in respect of the parties of a decree of divorce, nullity of marriage or judicial separation, or
  - (b) is executed in pursuance of an order of a court which is made in connection with the dissolution or annulment of the marriage or the parties’ judicial separation and which is made at any time after the granting of such a decree, or
  - (c) is executed at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or their judicial separation.

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- (2) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of that subsection shall be chargeable under this subsection with stamp duty of 50p.
- (3) This section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.

**Modifications etc. (not altering text)**

**C18** Ss. 83(2), 84(8) excluded by S.I. 1987/516, reg. 2(1)(2)(b)

**Marginal Citations**

**M46** 1891 c. 39.

**84 Death: varying dispositions, and appropriations.**

- (1) Where, within the period of two years after a person's death, any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied by an instrument executed by the persons or any of the persons who benefit or would benefit under the dispositions, stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the instrument.
- (2) Subsection (1) above does not apply where the variation is made for any consideration in money or money's worth other than consideration consisting of the making of a variation in respect of another of the dispositions.
- (3) Subsection (1) above applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.
- (4) Where property is appropriated by a personal representative in or towards satisfaction of a general legacy of money, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (5) Where on an intestacy property is appropriated by a personal representative in or towards satisfaction of any interest of a surviving husband or wife in the intestate's estate, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (6) The reference in subsection (5) above to an interest in the intestate's estate—
  - (a) includes a reference to the capital value of a life interest which the surviving husband or wife has under the <sup>M47</sup>Intestates' Estates Act 1952 elected to have redeemed, and
  - (b) in Scotland, includes a reference to prior rights (within the meaning of the <sup>M48</sup>Succession (Scotland) Act 1964) but, without prejudice to subsection (7) below, not to such rights as are mentioned in that subsection.
- (7) Where in Scotland, on an intestacy or otherwise, property is appropriated by a personal representative in or towards satisfaction of the right of a husband *tojus relictii*, of a wife *tojus relictæ* or of issue *tolegitim*, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.



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- (8) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of subsection (1), (4), (5) or (7) above shall be chargeable under this subsection with stamp duty of 50p.
- (9) But an instrument which is chargeable under subsection (8) above shall not be treated as duly stamped unless it has, in accordance with section 12 of the <sup>M49</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (10) Subject to subsection (11) below, this section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.
- (11) Subsections (5) to (7) above and, so far as it relates to subsection (5) or (7), subsection (8) above apply to instruments executed on or after 1st August 1985.

**Modifications etc. (not altering text)**

**C19** Ss. 83(2), 84(8) excluded by S.I. 1987/516, **reg. 2(1)(2)(b)**

**C20** Ss. 82(5), 84(9) restricted by S.I. 1987/516, **reg. 5**

**Marginal Citations**

**M47** 1952 c. 64.

**M48** 1964 c. 41.

**M49** 1891 c. 39.

**85 Repeal of certain fixed duties.**

- (1) The headings which are specified in Schedule 1 to the Stamp Act 1891 and are mentioned in Schedule 24 to this Act shall be omitted.
- (2) In section 7 of the <sup>M50</sup>Finance Act 1907 (stamping of hirepurchase agreements) for the words from “shall only be charged” to the end there shall be substituted “shall not be charged with any stamp duty.”
- (3) This section and that Schedule apply to—
  - (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are not stamped before 26th March 1985.
- (4) For the purposes of section 14(4) of the <sup>M51</sup>Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (3) (b) above shall be deemed to be that as varied in accordance with this section.
- (5) This section and that Schedule shall be deemed to have come into operation on 26th March 1985.

**Marginal Citations**

**M50** 1907 c. 13.

**M51** 1891 c. 39.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

## 86 Abolition of duty on contract notes.

- (1) Subsections (1) and (2) of section 77 of the <sup>M52</sup>Finance (1909-10) Act 1910 (duty on contract notes) shall cease to have effect.
- (2) This section applies to contract notes made and executed on or after 26th March 1985, and shall be deemed to have come into operation on that date.

### Marginal Citations

M52 1910 c. 8.

## 87 Certificates.

- (1) The Commissioners may make regulations providing that an instrument which is of a kind specified in them—
  - (a) shall be certified to be an instrument of that kind, and
  - (b) shall not be treated as duly stamped if it is not so certified.
- (2) The Treasury may make regulations providing that an instrument which is of a kind specified in them, and which would apart from this subsection be chargeable with stamp duty of a fixed amount under any provision so specified, shall not be charged with such duty under that provision if it is certified to be an instrument of that kind.
- (3) Certification under this section shall be by such method as the regulations may specify, and in particular they may provide for a certificate to be borne by or attached to or otherwise associated with an instrument in such manner as they may specify.
- (4) A certificate under this section shall be in such form and signed by such person as the regulations may specify.
- (5) Regulations under this section may contain such incidental or consequential provisions as the Commissioners or Treasury (as the case may be) think fit.
- (6) Regulations under this section may make different provision for different cases or descriptions of case.
- (7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

## 88 Exchange rates.

Section 12 of the <sup>M53</sup>Finance Act 1899 (fixed exchange rate for foreign currency) shall not apply to instruments executed on or after 1st August 1985, and section 6 of the <sup>M54</sup>Stamp Act 1891 (exchange rate at date of instrument) shall apply to instruments to which section 12 of the 1899 Act would apply if this Act had not been passed.

### Marginal Citations

M53 1899 c. 9.

M54 1891 c. 39.

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**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

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## 89 Exemption from section 28 of Finance Act 1931.

- (1) Section 28 of the <sup>M55</sup>Finance Act 1931 (production to Commissioners of instruments transferring land and furnishing of particulars) shall not apply in relation to any instrument (an “exempt instrument”) which falls within any class prescribed for the purposes of this section by regulations made by the Commissioners.
- (2) Regulations under this section may—
  - (a) provide that the particulars mentioned in Schedule 2 to the 1931 Act shall be furnished to the Commissioners, in accordance with the requirements of the regulations, in respect of exempt instruments or such descriptions of exempt instruments as may be prescribed by the regulations;
  - (b) make different provision in relation to different cases or kinds of case and in respect of different parts of Great Britain.
- (3) Any person who fails to comply with any requirement imposed by regulations made under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (as defined in section 75 of the <sup>M56</sup>Criminal Justice Act 1982).
- (4) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Section 35(x) of the 1931 Act (which gives power by regulations to exempt certain instruments in Scotland where particulars are obtained through the General Register of Sasines and which is superseded by the power given by this section) shall cease to have effect.
- (6) Regulations made under section 35(x) shall have effect after the commencement of this section as if they were made under this section and as if they imposed on the Keeper of the Registers of Scotland the duty mentioned in section 35(x).

### Marginal Citations

- M55** 1931 c. 28.  
**M56** 1982 c. 48.

## PART IV

### OIL TAXATION

## 90 Limitations on relief for exploration and appraisal expenditure.

- (1) With respect to expenditure incurred on or after 19th March 1985, section 5A of the <sup>M57</sup>Oil Taxation Act 1975 (allowance of exploration and appraisal expenditure) shall be amended in accordance with subsections (3) to (5) below.
- (2) with respect to expenditure incurred on or after 1st April 1986, in subsection (2) of the said section 5A (the purposes for which expenditure is to be incurred to qualify for relief), for the words “the United Kingdom, the territorial sea thereof”, in each place where they occur, there shall be substituted “the territorial sea of the United Kingdom”.
- <sup>x5</sup>(3) After subsection (2) there shall be inserted the following subsection—

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“(2A) Any reference in subsection (2) above to a designated area does not include a sector which, by virtue of subsection (3)(b) of section 107 of the Finance Act 1980 (transmedian fields), is deemed to be a designated area”

<sup>x5</sup>(4) In subsection (5) (which modifies the application of certain provisions of section 5 of the <sup>M58</sup>Oil Taxation Act 1975 in relation to section 5A) in paragraph (c) (which excludes certain receipts from being taken into account under subsection (6) of section 5 of that Act and thereby prevents the expenditure which qualifies for relief being reduced on account of those receipts) for the words from “does not include” onwards there shall be substituted—

“(i) includes a reference to a sum received, or treated by virtue of subsection (5A) below as received, from the disposal of oil won in the course of operations carried out for any of the purposes in paragraphs (a) to (c) of subsection (2) of this section; but

(ii) does not include a reference to a sum received for the assignment of any of the rights conferred by a licence or of any interest in a licensed area”

<sup>x5</sup>(5) After subsection (5) there shall be inserted the following subsections—

“(5A) Subsection (5B) below applies in any case where—

- (a) oil which is won as mentioned in paragraph (c)(i) of subsection (5) above is either disposed of otherwise than in sales at arm’s length or appropriated to refining or to any use except for production purposes of an oil field, and
- (b) if that oil had been disposed of in a sale at arm’s length, then, by virtue of section 5(6) of this Act as applied by subsection (5) above, certain expenditure would have been reduced by reference to the receipt of a sum from that disposal.

(5B) Where this subsection applies, the oil concerned shall be treated for the purposes of subsection (5)(c)(i) above and section 5(6) of this Act as having been disposed of for a sum equal to its market value at the material time in the calendar month in which it was disposed of or appropriated as mentioned in subsection (5A)(a) above and, accordingly, for those purposes—

- (a) a sum equal to that market value shall be treated as having been received from that disposal; and
- (b) no account shall be taken of any sum actually received from the disposal of any of that oil.

(5C) In the application of Schedule 3 to this Act for the purpose of ascertaining the market value of oil as mentioned in subsection (5B) above,—

- (a) in paragraph 2, in paragraph (c) of sub-paragraph (2) for the words from the beginning to “paragraph in question” there shall be substituted “the contract is for the sale of the whole quantity of oil whose market value falls to be ascertained for the purposes of section 5A(5B) of this Act”;
- (b) sub-paragraph (3) and (4) of paragraph 2 shall be omitted; and
- (c) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in subsection (5A)(a) above”

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#### Editorial Information

**X5** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Marginal Citations

**M57** 1975 c. 22.

**M58** 1975 c. 22.

## 91 Chargeable periods relevant to limit on tax payable and expenditure supplement.

<sup>X6</sup>(1) In subsection (1A) of section 9 of the <sup>M59</sup>Oil Taxation Act 1975 (the chargeable periods in respect of which the tax payable is limited under that section) in paragraph (b) (chargeable periods after the net profit period), for the words “included in paragraph (a) above” there shall be substituted “which are included in paragraph (a) above and in which the amount of oil won and saved from the field exceeds 1,000 metric tonnes”; and at the end of that subsection there shall be added the words “and for the purposes of paragraph (b) above 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere shall be counted as equivalent to one metric tonne”.

(2) The amendments made by subsection (1) above has effect with respect to any oil field in respect of which the first chargeable period ends after 30th June 1985.

<sup>X6</sup>(3) In section 111 of the Finance Act 1981 (restriction of expenditure supplement by reference to net profit period), in subsection (1) for the words from “in which” onwards there shall be substituted “which is the earliest chargeable period ending after a development decision has been made for the field in which—

- (a) the amount of oil won and saved from the field exceeds 1,000 metric tonnes (counting 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere as equivalent to one metric tonne); and
- (b) a net profit from the field accrues to the participator;

and subsection (7) of section 5A of the principal Act (time when development decision is made) shall apply for the purposes of this subsection as it applies for the purposes of subsection (1)(c) of that section. ”

(4) The amendment made by subsection (3) above has effect with respect to chargeable periods ending after 30th June 1985.

#### Editorial Information

**X6** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

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### Marginal Citations

**M59** 1975 c. 22.

## 92 Qualifying asset; exclusion of land and certain buildings etc.

- (1) In subsection (1) of section 8 of the <sup>M60</sup>Oil Taxation Act 1983 (meaning of “qualifying asset”) after the word “means” there shall be inserted “subject to subsection (1A) below”.
- <sup>X7</sup>(2) After subsection (1) of that section there shall be inserted the following subsection—
- “(1A) Notwithstanding anything in subsection (1) above, the following assets are not qualifying assets for the purposes of this Act, namely,—
- (a) land or an interest in land; and
  - (b) a building or structure which is situated on land and which does not fall within any of sub-paragraphs (i) to (iv) of paragraph (c) of subsection (4) of section 3 of the principal Act.”
- (3) In section 15(3) of the Oil Taxation Act 1983 (interpretation) in the definition of “qualifying asset” for the words “section 8(1)” there shall be substituted “section 8”.
- <sup>X7</sup>(4) In paragraph 4 of Schedule 2 to that Act (cases where all the oil is exempt gas) at the end of sub-paragraph (2) (modifications of section 8(1)) there shall be inserted the following subparagraph—
- “(2A) In any case where this paragraph applies, paragraph (b) of subsection (1A) of section 8 of this Act shall have effect in relation to the participator as if—
- (a) for the words “does not” there were substituted “would not”; and
  - (b) at the end there were added the words “even if section 10(2) of the principal Act were disregarded””
- (5) This section has effect for determining whether any consideration which is received or receivable after 19th March 1985 constitutes tariff receipts or disposal receipts within the meaning of the <sup>M61</sup>Oil Taxation Act 1983.

### Editorial Information

**X7** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

### Marginal Citations

**M60** 1983 c. 56.

**M61** 1983 c. 56.

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## PART V

### MISCELLANEOUS AND SUPPLEMENTARY

#### 93 Abolition of development land tax and tax on development gains.

- (1) Development land tax shall not be charged in respect of any disposal taking place on or after 19th March 1985; and for this purpose “disposal” includes a deemed disposal within the meaning of the <sup>M62</sup>Development Land Tax Act 1976 (in this section referred to as “the 1976 Act”) and any other event which, but for the repeals effected by Part X of Schedule 27 to this Act, would constitute a disposal of an interest in land for the purposes of that Act.
- (2) Without prejudice to subsection (1) above, no realised development value, within the meaning of the 1976 Act, shall accrue to any person on or by reason of any event occurring on or after 19th March 1985.
- (3) In any case where, immediately before 19th March 1985, liability for development land tax stands for the time being deferred as mentioned in section 27 of the 1976 Act, that liability shall be extinguished with effect from that date.
- (4) In any case where—
  - (a) by virtue of paragraph 52 of Schedule 8 to the 1976 Act (postponement of tax on incorporation disposal) an amount of tax is not payable until a time determined in accordance with sub-paragraphs (4) to (6) of that paragraph, and
  - (b) that amount of tax has not become payable before 19th March 1985,that amount of tax shall be remitted with effect from that date.
- (5) Part I of Schedule 25 to this Act shall have effect for supplementing the preceding provisions of this section.
- (6) No part of a chargeable gain which accrues to any person on the disposal of an interest in land on or after 19th March 1985 shall be a development gain by virtue of Chapter 1 of Part III of the <sup>M63</sup>Finance Act 1974; and for this purpose “disposal of an interest in land” means any event which, but for the repeals effected by Part X of Schedule 27 to this Act, would be (or be deemed to be) a disposal of an interest in land to which section 38 of that Act would apply.
- (7) In consequence of the preceding provisions of this section and of the repeals effected by Part X of Schedule 27 to this Act, the enactments specified in Part II of Schedule 25 to this Act shall have effect subject to the amendments in that Part; but those amendments do not affect the operation of the enactments concerned in relation to—
  - (a) a disposal, as defined in subsection (1) above, taking place before 19th March 1985; or
  - (b) a disposal of an interest in land, as defined in subsection (6) above, taking place before that date.

#### Marginal Citations

**M62** 1976 c. 24.

**M63** 1974 c. 30.

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)*

**94 Capital transfer tax: conditional exemption.**

- (1) Schedule 26 to this Act (which contains amendments about conditional exemption) shall have effect.
- (2) Those amendments have effect in relation to events on or after 19th March 1985.

**95 The national heritage: transfer of Treasury functions to Board.**

- (1) The functions of the Treasury under—
  - (a) Part II, and section 76 of, and Schedules 3 to 5 to, the <sup>M64</sup>Capital Transfer Tax Act 1984 (exempt transfers);
  - (b) section 147 of the <sup>M65</sup>Capital Gains Tax Act 1979 (works of art etc.);
  - (c) the enactments re-enacted by those provisions;
 and the corresponding functions of the Treasury under any earlier enactments relating to capital transfer tax or estate duty, are hereby transferred to the Commissioners of Inland Revenue (“the Board”).
- (2) This section shall not affect the validity of anything done by or in relation to the Treasury before the passing of this Act ; and anything which at that date is in the process of being done by or in relation to the Treasury may, if it relates to functions transferred by this section to the Board, be continued by or in relation to the Board.
- (3) Any authorisation, designation, direction, approval, determination, or other thing given, made or done by the Treasury in connection with functions transferred by this section shall have effect as if given, made or done by the Board in so far as that is required for continuing its effect after the passing of this Act.
- (4) Any enactment passed or instrument or other document made before the coming into operation of this section shall have effect, so far as may be necessary, for the purpose or in consequence of the transfer of functions affected by this section as if any reference to the Treasury were or included a reference to the Board.

**Marginal Citations**

**M64** 1984 C. 51

**M65** 1979 c. 14

**96 European Communities and Investment Bank: exemptions.**

- <sup>x8</sup>(1) In section 126 of the <sup>M66</sup>Finance Act 1984 (tax exemptions in relation to designated international organisations) the following shall be inserted after subsection (3)—

“(4) The Treasury may, by order made by statutory instrument, designate any of the Communities or the European Investment Bank for the purposes of this section, and references in subsections (2) and (3) above to an organisation designated for the purposes of this section include references to a body so designated by virtue of this sub-section.

- (5) Subsection (3) above, as it applies by virtue of subsection (4) above, shall be read as if the words “under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891” were omitted.”



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- (2) An order made by virtue of subsection (4) of section 126 of the Finance Act 1984 may revoke or vary the <sup>M67</sup>European Communities (Loan Stock) (Stamp Duties) Order 1972 (which provides for exemption from stamp duty in respect of issues and transfers of loan stock of the bodies referred to in that subsection, other than the Economic Community).

**Editorial Information**

**X8** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

**Marginal Citations**

**M66** 1984 c. 43.  
**M67** S.I. 1972/1589.

**97 Extension of Provisional Collection of Taxes Act 1968 to reduced and composite rates.**

In section 1 of the <sup>M68</sup>Provisional Collection of Taxes Act 1968, after subsection (1) there shall be inserted the following subsection—

- “(1A) The reference in subsection (1) above to income tax includes a reference to any amount payable as representing income tax—
- (a) under section 343 of the Income and Corporation Taxes Act 1970 (dividends and interest payable by building societies); or
  - (b) under section 27 of the Finance Act 1984 (interest paid on deposits with banks etc.).”

**Marginal Citations**

**M68** 1968 c. 2.

**98 Short title interpretation, construction and repeals.**

- (1) This Act may be cited as the Finance Act 1985.
- (2) In this Act “the Taxes Act” means the Income and Corporation Taxes Act [1988 <sup>F75</sup>].
- (3) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to Corporation Tax Act and, so far as it relates to capital gains tax, shall be construed as one with the <sup>M69</sup>Capital Gains Tax Act 1979.
- (4) Part III of this Act shall be construed as one with the Stamp Act 1891.
- (5) Part IV of this Act shall be construed as one with Part I of the <sup>M70</sup>Oil Taxation Act 1975.
- (6) The enactments specified in Schedule 27 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

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**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

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**Textual Amendments**

**F75** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

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**Marginal Citations**

**M69** 1979 c. 14.

**M70** 1975 c. 22.

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

#### TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Description of wine or made-wine	Rates of duty per hectolitre £
Wine or made-wine of a strength of less than 15 per cent. and not being sparkling	98.00
Sparkling wine or sparkling made-wine of a strength of less than 15 per cent.	161.80
Wine or made-wine of a strength of not less than 15 per cent. but not exceeding 18 per cent.	169.00
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	194.90
Wine or made-wine of a strength exceeding 22 per cent.	194.90 plus £15.77 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.

### SCHEDULE 2

Section 4.

#### VEHICLES EXCISE DUTY

### PART I

PROVISIONS SUBSTITUTED IN PART II OF SCHEDULES 1 TO 5 TO THE <sup>M71</sup>VEHICLES (EXCISE) ACT 1971 AND THE <sup>M72</sup>VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

#### Marginal Citations

**M71** 1971 c. 10.

**M72** 1972 c. 10. (N.I.)

1 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 1—

Description of vehicle	Rate of duty £
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1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	10.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger	20.00
3. Bicycles and tricycles not in the foregoing paragraphs	40.00

2 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 2—

Description of vehicle	Rate of duty £
Hackney carriages	50.00 with an additional 1.00 for each person above 20 (excluding the driver) for which the vehicle has seating capacity.

3, 4. .... F76

**Textual Amendments**  
**F76** Sch. 2 paras. 3, 4 and 9 repealed by Finance Act 1990 (c. 29, SIF 107:2), s. 132, Sch. 19 Pt. II (in relation to licences taken out after 20.3.1990)

5 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 5—

Description of vehicle	Rate of duty £
1. Any vehicle first registered under the Roads Act 1920 before 1st January 1947, or which, if its first registration for taxation purposes had been effected in Northern Ireland, would have been so first registered under the Act as in force in Northern Ireland	60.00

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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

2. Other vehicles 100.00

## PART II

### AMENDMENT OF PART I OF SCHEDULE 4 TO THE <sup>M73</sup>VEHICLES (EXCISE) ACT 1971 AND THE VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

#### Marginal Citations

**M73** 1971 c. 10

6 In the Act of 1971 and the Act of 1972, in paragraph 6(1) of Part I of Schedule 4, for “£67” there shall be substituted “£75”.

7 The following shall be substituted for paragraph 6(2) of Part I of Schedule 4 to the Act of 1971—

“(2) If a farmer’s goods vehicle or a showman’s goods vehicle has a plated gross weight or a plated train weight, the annual rate of duty applicable to it shall be—

- (a) if that weight does not exceed 75 tonnes, £90;
- (b) if that weight exceeds 75 tonnes but does not exceed 12 tonnes, £135 in the case of a farmer’s goods vehicle and £90 in the case of a showman’s goods vehicle; and
- (c) if that weight exceeds 12 tonnes, the appropriate Part II rate.”

8 The following shall be substituted for paragraph 6(2) of Part I of Schedule 4 to the Act of 1972—

“(2) If a farmer’s goods vehicle or a showman’s goods vehicle has a relevant maximum weight or a relevant maximum train weight, the annual rate of duty applicable to it shall be—

- (a) if that weight does not exceed 75 tonnes, £90;
- (b) if that weight exceeds 75 tonnes but does not exceed 12 tonnes, £135 in the case of a farmer’s goods vehicle and £90 in the case of a showman’s goods vehicle; and
- (c) if that weight exceeds 12 tonnes, the appropriate Part II rate.”

9 ..... <sup>F77</sup>

#### Textual Amendments

**F77** Sch. 2 paras. 3, 4 and 9 repealed by Finance Act 1990 (c. 29, SIF 107:2), s. 132, Sch. 19 Pt. II (in relation to licences taken out after 20.3.1990)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)*

## SCHEDULE 3

### M74 AMENDMENTS OF ALCOHOLIC LIQUOR DUTIES ACT 1979

#### Marginal Citations

M74 1979 c. 4.

#### *Manufacture of spirits during the recovery of beer*

- 1 In section 13 (regulations and directions relating to manufacture of spirits) after subsection (2) there shall be inserted the following subsection—

“(2A) If the Commissioners so direct, spirits manufactured by a process to which a direction under subsection (2) above applies shall be treated as not being within the charge of duty on spirits under section 5 above.”

#### *Spirits: attenuation charge*

- 2 In section 14 (the attenuation charge) at the end of subsection (6) (which empowers the Commissioners to make an allowance where the charge arises wholly or partly from certain specified causes) there shall be added the words “or from some other legitimate cause”.

#### *Determination of beer duty*

- 3 (1) In section 38 (duty on beer brewed by brewers for sale in subsection (8) (which provides that duty becomes payable immediately it is charged by the proper officer) for the words from “payable” onwards there shall be substituted “chargeable in respect of duty shall be determined and become due in accordance with regulations made under section 49 below”.
- (2) In subsection (9) of that section (which enables duty to be charged at the close of each month in respect of all the brewings during the month) for the words “cause the charge to be made up” there shall be substituted “permit the duty chargeable to be determined”.
- (3) In section 49(1) (regulations of the Commissioners) after paragraph (b) there shall be inserted the following paragraph—
- “(bb) for determining the duties chargeable and the due dates for payment”.

#### *Restrictions on adding substances to beer*

- 4 (1) In section 52 (offences by brewers for sale) for subsection (2) (which restricts the substances which may be added to beer) there shall be substituted the following subsections—
- “(2) A brewer for sale may, on his entered premises and in accordance with regulations under section 49 above, add to beer brewed on those premises—

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- (a) water;
- (b) finings for the purpose of clarification; and
- (c) such other substances as may be sanctioned by the Commissioners.

(2A) Except as provided by subsection (2) above, a brewer for sale who adds anything to beer on his entered premises shall be liable on summary conviction to a penalty of level 3 on the standard scale.”

(2) After section 71 there shall be inserted the following section—

**“71A Restrictions on adding substances to beer.**

(1) The Commissioners may by regulations provide that, except in such cases and subject to such conditions as may be specified by or under the regulations, no substance may be added to beer at any time—

- (a) after it leaves the entered premises on which it was brewed, or
- (b) in the case of beer brewed outside the United Kingdom, after it is imported into the United Kingdom,

and before it is sold by retail or otherwise supplied for consumption.

(2) Regulations under this section may regulate the transportation of beer at any such time as is referred to in subsection (1) above; and the conditions referred to in that subsection may include conditions as to—

- (a) the keeping and production of samples of the product of any process of addition to beer; and
- (b) the keeping and production of records.

(3) Any person who contravenes or fails to comply with regulations under this section (including any conditions imposed by such regulations) shall be liable on summary conviction to a penalty of level 3 on the standard scale, and any beer in respect of which the offence was committed shall be liable to forfeiture.”

(3) In section 72 (offences by wholesalers or retailers of beer) subsections (1) and (2) (which relate to the addition of substances to and the dilution of, beer) shall cease to have effect on the coming into operation of regulations under section 71A of the <sup>M75</sup>Alcoholic Liquor Duties Act 1979.

**Marginal Citations**

**M75** 1979 c. 4.

SCHEDULE 4

HYDROCARBON OIL: MIXING ETC.

1 The following shall be substituted for section 20 of the <sup>M76</sup>Hydrocarbon Oil Duties Act 1979 (contaminated or accidentally mixed oil)—

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## “20 Contaminated or accidentally mixed oil.

- (1) This section applies where it is shown to the satisfaction of the Commissioners—
  - (a) that hydrocarbon oil has been delivered for home use, that since it was so delivered it has become contaminated, and that at the time it became contaminated it was oil on which the appropriate duty of excise had been paid, or
  - (b) that hydrocarbon oils of different descriptions have been delivered for home use, that since they were so delivered they have become accidentally mixed with each other, and that at the time of mixing they were oils on which the appropriate duty of excise had been paid.
- (2) Subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, they may make to such person as they see fit a payment in accordance with subsection (3) below.
- (3) The payment shall be of an amount appearing to the Commissioners to be equal to the excise duty which would have been payable if—
  - (a) the oil had been delivered for home use (uncontaminated) at the time it became contaminated (where subsection (1)(a) above applies), or
  - (b) the oils had been delivered for home use (unmixed) at the time they became mixed (where subsection (1)(b) above applies).”

### Marginal Citations

M76 1979 c. 5.

- 2 The following shall be inserted after section 20 of that Act (as substituted by paragraph 1 above)—

*“ Mixing: adjustment of duty*

### 20A Mixing: adjustment of duty.

- (1) In this section “new oil” means hydrocarbon oil which after it has been charged under section 6 above as oil of one description becomes oil of a different description as a result of approved mixing in a pipeline with other hydrocarbon oil which has been so charged; and “approved mixing” has the meaning given by subsection (5) below.
- (2) Where the Commissioners are of opinion that, if the new oil had fallen to be charged under section 6 above as oil of the different description, the amount of duty would have been greater or less than that actually charged, then—
  - (a) if in their opinion the amount would have been greater, they may charge under this section a duty of excise on the oil of an amount equal to the difference, and
  - (b) if in their opinion the amount would have been less, they may make under this section an allowance equal to the difference.



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- (3) In determining the amount of duty which would have been charged if the new oil had fallen to be charged under section 6 above as oil of the different description, the rates to be applied are those effective at the time when in the Commissioners' opinion the oil became oil of the different description.
- (4) Where the Commissioners have made a charge or allowance under subsection (2) above, then, for the purposes of this Act, any relief or rebate which was permitted or allowed at the time of the charge under section 6 above shall be disregarded.
- (5) The Commissioners may make regulations—
- (a) enabling them to grant to persons (whether individually or of a specified class) permission to mix in a pipeline different descriptions of hydrocarbon oil (whether generally or in the case of specified descriptions only) and to withdraw permission for reasonable cause;
  - (b) enabling permission to be granted subject to conditions and conditions to be varied for reasonable cause,
- and in this section “approved mixing” means mixing in accordance with permission under the regulations.
- (6) The Commissioners may make regulations—
- (a) for prescribing the method of charging the duty under this section;
  - (b) for determining the form of the allowance under this section (which may be by way of repayment or otherwise) and the time the allowance may be made.
- (7) Regulations under this section may make different provision for different circumstances.”

3 In section 27(3) of that Act (expressions have meanings given by certain other Acts), in the list of expressions defined in the Management Act, after the entry relating to “officer” and “proper” there shall be inserted “pipeline”.

4 In paragraph 11 of Schedule 3 to that Act (securing and collecting duty on oil produced in the United Kingdom) the words “produced in the United Kingdom” shall cease to have effect.

## SCHEDULE 5

Section 8.

### GAMING MACHINE LICENCE DUTY

#### PART I

##### <sup>M77</sup>AMENDMENTS OF BETTING AND GAMING DUTIES ACT 1981

#### Marginal Citations

M77 1981 c. 63.

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

1 (1) In section 21 (gaming machine licences) in subsection (1) for the words “Great Britain” there shall be substituted “the United Kingdom”.

(2) ..... F78

#### Textual Amendments

**F78** Sch. 5 para. 1(2) repealed by Finance Act 1987 (c. 16, SIF12:2), s. 72(7), Sch. 16 Pt. II Note 3

2 (1) In section 21A (special licences) at the end of subsection (1) there shall be added the words “and no special licence shall authorise a machine which is not a smallprize machine.”

(2) In subsection (3) of that section the words from “either that” to “Acts or” shall be omitted.

3 (1) In section 22 (gaming machine licence duty) in subsection (1) for subparagraph (i) of paragraph (a) there shall be substituted the following subparagraph—

“(i) to whether or not the licence authorises the provision of a smallprize machine, and”.

(2) For subsections (2) to (4) of that section there shall be substituted the following subsections—

“(2) For the purposes of this Act a gaming machine is a smallprize machine if the value or aggregate value of the benefits in money or money’s worth, which any player who is successful in a single game played by means of the machine may receive, cannot exceed £3.

(3) The Commissioners may by order substitute for the sum for the time being mentioned in subsection (2) above such higher sum as may be specified in the order, with effect from a date so specified.”

4 (1) In section 23 (amount of duty) in paragraph (a) of subsection (1) for the words from “where” to “Acts” there shall be substituted “which authorise the provision only of smallprize machines”.

(2) In Tables A and B in subsection (1) of that section the words “*Premises with local authority approval*” and “*Premises without local authority approval*” shall be omitted.

5 In section 24(5) (provision of gaming machine in contravention of restrictions) for the words “a penalty of £500” there shall be substituted “a penalty of level 5 on the standard scale.”

6 In section 26(2) (interpretation of provisions relating to gaming machine licence duty), for the entry relating to Great Britain there shall be substituted the following entries—

“‘United Kingdom’ includes the territorial waters of the United Kingdom;

“small prize machine” has the meaning given by section 22(2) above.”

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- 7 In section 33(1) (general interpretation provisions) at the end of the definition of “the prescribed sum” there shall be inserted the words “and
  - (c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.”

8 ..... F79

**Textual Amendments**

F79 Sch. 5 para. 8 repealed by Finance Act 1986 (c. 41, SIF 12:2), s. 114(6), Sch. 23 Pt. III Notes (a)(b)

- 9 (1) In Schedule 4 (gaming machine licence duty), in paragraph 4 (no licence required for months preceding and following a summer licence) for the words from “gaming machine”, in the second place where they occur, to “Acts” there shall be substituted “smallprize machine on any premises”.
- (2) In paragraph 16 of that Schedule (failure to comply with provisions etc. as to gaming machine licence duty) in subparagraph (1) for the words “a penalty of £500” there shall be substituted “a penalty of level 5 on the standard scale.”

**PART II**

EXTENSION TO NORTHERN IRELAND OF CERTAIN SUBORDINATE LEGISLATION

- 10 Any orders or regulations made under any provision of Schedule 4 to the <sup>M78</sup>Betting and Gaming Duties Act 1981, in so far as they have effect immediately before 1st August 1985, shall have effect on and after that day in relation to Northern Ireland as if—
  - (a) that Act extended to Northern Ireland at the time when the orders or regulations were made, and
  - (b) the orders or regulations were made in relation to Northern Ireland as well as Great Britain.

**Marginal Citations**

M78 1981 c. 63.

SCHEDULE 6

Section 12.

SECTION 39 OF THE PRINCIPAL ACT AS AMENDED, EXCLUDING SUBSECTION (8)

**Offences and penalties.**

“39 (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable—

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- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (1A) Any reference in subsection (1) above or subsection (3) below to the evasion of tax includes a reference to the obtaining of—
- (a) a payment under section 14(5) above; or
  - (b) a refund under section 21 or section 22 above;
- or
- (c) a repayment under section 23 above;
- and any reference in those subsections to the amount of the tax shall be construed,—
- (i) in relation to tax itself or a payment falling within paragraph (a) above, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and
  - (ii) in relation to a refund or repayment falling within paragraph (b) or paragraph (c) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (2) If any person—
- (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
  - (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- he shall be liable—
- (i) on summary conviction, to a penalty of the statutory maximum or, where subsection (2A) or subsection (2B) below applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) on conviction or indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (2A) In any case where—
- (a) the document referred to in subsection (2)(a) above is a return required under this Act, or
  - (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a return,
- the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax way falsely understated.
- (2B) In any case where—
- (a) the document referred to in subsection (2)(a) above is a claim for a refund under section 21 or section 22 above or for a repayment under section 23 above, or
  - (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a claim,

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- the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the amount falsely claimed.
- (2C) The reference in subsection (2)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.
- (2D) Any reference in subsection (2)(a) or subsection (2C) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.
- (3) Where a person’s conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—
- (a) on summary conviction, to a penalty of the statutory maximum or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (3A) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.
- (4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.
- (5) If any person supplies goods or services in contravention of paragraph 5(2) of Schedule 7 to this Act, he shall be liable on summary conviction to a penalty of level 5 on the standard scale.
- (9) Sections 145 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.”

SCHEDULE 7

Section 23.

AMENDMENTS OF SCHEDULE 7 TO THE PRINCIPAL ACT

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (2) In subparagraph (6) (assessment on failure to prove availability or loss or destruction of goods) after the words “supplied by him” there shall be inserted “or have been exported from the United Kingdom otherwise than by way of supply”.
- (3) After subparagraph (6) of that paragraph there shall be inserted the following subparagraph—
- “(6A) In any case where,—
- (a) as a result of a person’s failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under subparagraph (1) above for that period, and
  - (b) the tax assessed has been paid but no proper return has been made for the period to which the assessment related, and
  - (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subparagraph (4) above, the Commissioners find it necessary to make another assessment under subparagraph (1) above,
- then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of tax greater than that which they would otherwise have considered to be appropriate.”

#### Textual Amendments

**F80** Sch. 7 para. 1(1) repealed by Finance Act 1988 (c. 39, SIF 40:2), s. 148, Sch. 14 Pt. III

- 2 In paragraph 7(2) (records to be preserved for a period not exceeding three years) for “three” there shall be substituted “six”.
- 3 (1) In paragraph 8 (furnishing of information and production of documents) for subparagraphs (2) and (3) there shall be substituted the following subparagraphs—
- “(2) Every person who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business or to whom such a supply is made and every person who is concerned (in whatever capacity) in the importation of goods in the course or furtherance of a business shall—
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or services or to the supply or importation as the Commissioners may reasonably specify; and
  - (b) upon demand made by an authorised person, produce or cause to be produced for inspection by that person,—
    - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
    - (ii) at such time as the authorised person may reasonably require,

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any documents relating to the goods or services or to the supply or importation.

(3) Where, by virtue of subparagraph (2) above, an authorised person has power to require the production of any documents from any such person as is referred to in that subparagraph, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.”

(2) In subparagraph (4) of that paragraph for the words from “goods” to “services” there shall be substituted “goods or services or the importation of goods”.

(3) After subparagraph (4) there shall be inserted the following subparagraphs—

“(4A) An authorised person may take copies of, or make extracts from, any document produced under subparagraph (2) or subparagraph (3) above.

(4B) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under subparagraph (2) or subparagraph (3) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under subparagraph (3) above, the removal of the document under this subparagraph shall not be regarded as breaking the lien.

(4C) Where a document removed by an authorised person under subparagraph (4B) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.”

4 After paragraph 9 there shall be inserted the following paragraph

**Power to require opening of gaming machines**

“9A An authorised person may at any reasonable time require a person making such a supply as is referred to in subsection (1) of section 13 of this Act or any person acting on his behalf—

- (a) to open any gaming machine, within the meaning of that section; and
- (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with subsection (2) of that section, is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.”

5 (1) In paragraph 10 (entry and search of premises and persons) in subparagraph (3) (search warrants)—

- (a) for the words “an offence in connection with the tax” there shall be substituted “a fraud offence which appears to be of a serious nature”;
- (b) after the word “authorising” there shall be inserted “subject to subparagraphs (5) and (6) below”;

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)*

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- (c) in paragraph (b) for the words “such an offence” there shall substituted “a fraud offence which appears to him to be of a serious nature”; and
- (d) in paragraph (c) the words “to have committed or to be about to commit such an offence or” shall be omitted.

(2) At the end of the paragraph there shall be added the following subparagraphs—

“(4) In subparagraph (3) above ”a fraud offence’ means an offence under any provision of subsections (1) to (3) of section 39 of this Act.

(5) The powers conferred by a warrant under this paragraph shall not be exercisable—

- (a) by more than such number of authorised persons as may be specified in the warrant; nor
- (b) outside such times of day as may be so specified; nor
- (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(6) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows:—

- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
- (b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person; and
- (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.”

6 After paragraph 10 there shall be inserted the following paragraphs—

**Order for access to recorded information, etc.**

“10A1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—

- (a) that an offence in connection with the tax is being, has been or is about to be committed, and
- (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this paragraph.

(2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

- (a) give an authorised person access to it, and



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- (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,  
not later than the end of the period of seven days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in subparagraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 8 and 10 above.

#### **Procedure where documents etc. are removed**

- 10B (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 10 or 10A above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal, provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
  - (3) Subject to subparagraph (7) below, if a request for permission to be granted access to anything which—
    - (a) has been removed by an authorised person, and
    - (b) is retained by the Commissioners for the purpose of investigating an offence,is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
  - (4) Subject to subparagraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
    - (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
    - (b) photograph or copy it, or cause it to be photographed or copied.
  - (5) Where anything is photographed or copied under subparagraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.

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- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—
    - (i) the investigation of which he is in charge, or
    - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.
- 10C (1) Where, on an application made as mentioned in subparagraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 10B above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under subparagraph (1) above shall be made,—
- (a) in the case of a failure to comply with any of the requirements imposed by subparagraphs (1) and (2) of paragraph 10B above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
  - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates’ Courts (Northern Ireland) Order 1981.
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.”

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## SCHEDULE 8

Section 30

### VALUE ADDED TAX TRIBUNALS

#### *Interpretation*

- 1 In this Schedule “Schedule 8” means Schedule 8 to the principal Act (constitution and procedure of value added tax tribunals).

#### *The President*

- 2 (1) In paragraph 2 of the Schedule 8, in subparagraph (2) after the words “Lord Chancellor”, there shall be inserted “after consultation with the Lord Advocate”.

- (2) After that subparagraph there shall be inserted the following subparagraph—

“(3) Subject to paragraph 3 below, the appointment of the President shall be for such term and subject to such conditions as may be determined by the Lord Chancellor, after consultation with the Lord Advocate, and a person who ceases to hold the office of President shall be eligible for reappointment thereto.”

- 3 (1) In paragraph 3 of Schedule 8, in subparagraph (1) after the word “office”, in the second place where it occurs, there shall be inserted “(a)” and at the end of the subparagraph there shall be added “or

(b) if subparagraph (1A) below applies, on the date on which he attains the age of seventyfive”.

- (2) After subparagraph (1) of that paragraph there shall be inserted the following subparagraph—

“(1A) If the Lord Chancellor, after consultation with the Lord Advocate, considers it desirable in the public interest to do so, he may authorise the President to continue in office after the end of the completed year of service mentioned in subparagraph (1) (a) above.”

- (3) In subparagraph (2) of that paragraph after the word “fit” there shall be inserted “and after consultation with the Lord Advocate”.

- (4) At the end of subparagraph (3) of that paragraph there shall be added the words “after consultation with the Lord Advocate”.

- (5) In subparagraph (4) of that paragraph for the words, “the Treasury may” there shall be substituted “the Lord Chancellor may with the approval of the Treasury”.

- (6) In subparagraph (5) of that paragraph for the words “the Treasury”, where they first occur, there shall be substituted “the Lord Chancellor” and for the words “the Treasury may” there shall be substituted “the Lord Chancellor may with the approval of the Treasury”.

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### *Sittings of tribunals*

- 4 In paragraph 4 of Schedule 8—
- (a) for the words “the President” there shall be substituted “the Lord Chancellor or, in relation to Scotland, the Secretary of State”;
  - (b) the words “with the consent of the Treasury” shall be omitted; and
  - (c) for the word “he” there shall be substituted “the Lord Chancellor or, as the case may be, the Secretary of State”.

### *Membership of tribunals*

- 5 (1) In paragraph 7 of Schedule 8, in subparagraph (3), after the word “made”, when it first occurs, there shall be inserted “by the appropriate authority, that is to say” and in each of paragraphs (a) to (c) the word “by” shall be omitted.
- (2) After subparagraph (3) of that paragraph there shall be inserted the following subparagraphs—
- “(3A) No person may be appointed to a panel of chairmen of tribunals for England and Wales or Northern Ireland unless he is a barrister or solicitor of not less than seven years’ standing; and no person may be appointed to a panel of chairmen of tribunals for Scotland unless he is an advocate or solicitor of not less than seven years’ standing.
- (3B) Subject to the following provisions of this paragraph, the appointment of a chairman of value added tax tribunals shall be for such term and subject to such conditions as may be determined by the appropriate authority, and a person who ceases to hold the office of chairman shall be eligible for reappointment thereto.
- (3C) A chairman of value added tax tribunals may resign his office at any time and shall vacate his office—
- (a) at the end of the completed year of service in which he attains the age of seventytwo; or
  - (b) if subparagraph (3D) below applies in his case, on the date on which he attains the age of seventyfive.
- (3D) If the appropriate authority considers it desirable in the public interest to do so, he may authorise a chairman of value added tax tribunals to continue in office after the end of the completed year of service mentioned in subparagraph (3C)(a) above.
- (3E) The appropriate authority may, if he thinks fit, remove a chairman of value added tax tribunals from office on the ground of incapacity or misbehaviour.”
- (3) In subparagraph (4) of that paragraph for the words “the Treasury may”, in both places where they occur, there shall be substituted “the Lord Chancellor may with the approval of the Treasury”.
- (4) In subparagraph (5) of that paragraph for the words “the Treasury”, where they first occur, there shall be substituted “the Lord Chancellor” and for the words “the

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Treasury may” there shall be substituted “the Lord Chancellor may with the approval of the Treasury”.

#### *Administration*

- 6 (1) Officers and staff may be appointed under section 27 of the <sup>M79</sup>Courts Act 1971 (court staff) for carrying out the administrative work of value added tax tribunals in England and Wales.
- (2) The Secretary of State may make available such officers and staff as he may consider necessary for carrying out the administrative work of value added tax tribunals in Scotland.

[Schedules 9 to 13 repealed by ICTA 1988 s.844 and Sch.31. See 1987 edition for these provisions.]

[Schedules 14 to 17 repealed by 1990(C) s.164(4) and Sch.2. See 1989 edition for these provisions.]

#### **Marginal Citations**

**M79** 1971 c. 23.

### SCHEDULES 9—13

. . . **F81**

#### **Textual Amendments**

**F81** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988](#) (c. 1, SIF 63:1), s. 844, [Sch. 31](#)

### SCHEDULES 14—17.

. . . **F82**

#### **Textual Amendments**

**F82** Schs. 14–17 repealed by [Capital Allowances Act 1990](#) (c.1, SIF 63:1), s. 164(4), [Sch. 2](#)

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## SCHEDULE 18

F83  
. . .

### Textual Amendments

**F83** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, **Sch. 31**

## SCHEDULE 19

Section 68

### INDEXATION

#### PART I

#### AMENDMENTS OF <sup>M80</sup>FINANCE ACT 1982

### Marginal Citations

**M80** 1982 c. 39

- 1 (1) In section 86, in subsection (1), paragraphs (b) and (c) and the word “and” at the end of paragraph (a) shall be omitted.
- <sup>x9</sup>(2) In subsection (2) of that section, for paragraph (a) there shall be substituted—
- “**(a)** “the unindexed gain or loss” means the amount of the gain or loss on the disposal computed in accordance with Chapter II of Part II of the Capital Gains Tax Act 1979 and, if there is neither a gain nor a loss on the disposal as so computed, the unindexed gain or loss shall be nil;”
- and in paragraph (b) for the words “gross gain” there shall be substituted “unindexed gain or loss”.
- <sup>x9</sup>(3) In subsection (4) of that section for the words from “allowed” to “extinguish it” there shall be substituted
- (a) if there is an unindexed gain, the indexation allowance shall be deducted from the gain and, if the allowance exceeds the unindexed gain, the excess shall constitute a loss;
- (b) if there is an unindexed loss, the indexation allowance shall be added to it so as to increase the loss; and
- (c) if the unindexed gain or loss is nil, there shall be a loss equal to the indexation allowance”.
- (4) Subsection (5) of that section shall be omitted.

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#### Editorial Information

**X9** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Modifications etc. (not altering text)

**C21** [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#), [s. 113](#)—paragraphs 1(3), 2 and 5 not to apply to certain disposals of building society and industrial and provident society shares made on or after 4 July 1987. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), [s. 54](#)—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

2 (1) In sections 87, in subsection (2), in the definition of “RI” the words “which is the twelfth month after that” shall be omitted.

<sup>x10</sup>(2) In subsection (3) of that section, for paragraph (a) there shall be substituted—

“(a) the expenditure is attributable to the acquisition of relevant securities, within the meaning of section 88 below, which are disposed of within the period of ten days beginning on the day on which the expenditure was incurred, or].”

#### Editorial Information

**X10** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Modifications etc. (not altering text)

**C22** [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#), [s. 113](#)—paragraphs 1(3), 2 and 5 not to apply to certain disposals of building society and industrial and provident society shares made on or after 4 July 1987. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), [s. 54](#)—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

3 (1) In section 88, in each of subsections (1) to (5) and (7) and (8) for the word “securities” (or “Securities”) where it first occurs there shall be substituted “relevant securities” (or “Relevant securities”).

(2) The following provisions of that section shall be omitted—

- (a) in subsection (1) the words “and section 89 below” and “section 89 below”; and
- (b) subsection (5A).

<sup>x11</sup>(3) In subsection (9) of that section, for the words from “securities”, where that word first occurs, to the end of paragraph (b) there shall be substituted ““relevant securities” means—

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- (a) securities, within the meaning of [Section 710 of the Taxes Act 1988
- (b) deep discount securities, within the meaning of [Schedule 4 to that Act]; and
- (c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter [V of Part XVII of the Taxes Act 1988].”.

#### Editorial Information

**X11** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

- 4 Section 89 (identification of securities: special rules) shall be omitted.
- 5 (1) In Schedule 13, in paragraph 1(a), for the words “gross gain” there shall be substituted “unindexed gain or loss”.
- (2) In paragraph 2 of that Schedule, in sub-paragraph (1) the words “subsection (5)(b) of that section or” shall be omitted and in sub-paragraph (3)—
- (a) the words “and which falls within subsection (1)(b) of section 86 of this Act” shall be omitted; and
  - (b) in paragraph (b) for the words “a gross gain” there shall be substituted the words “an unindexed gain”.
- (3) Paragraph 3 of that Schedule shall be omitted.
- (4) In paragraph 4(1) of that Schedule, the words “occurring after the beginning of the qualifying period” shall be omitted.
- (5) In paragraph 6 of that Schedule—
- <sup>x12</sup>(a) in sub-paragraph (1)(b) for the words “qualifying period” there shall be substituted “period of twelve months beginning on the date of the issue of the shares, securities or debentures”; and
  - (b) in sub-paragraph (2)(a) for the words “qualifying period” there shall be substituted “period referred to in sub-paragraph (1)(b) above”.
- (6) In paragraph 7 of that Schedule, sub-paragraph (2) shall be omitted .

#### Editorial Information

**X12** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

#### Modifications etc. (not altering text)

**C23** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 1(3), 2 and 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain disposals of building society and industrial and provident society shares



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made on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1) (b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain disposals of building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

## PART II

### PRE-APRIL 1982 SHARE POOLS

- 6 (1) Subject to sub-paragraphs (2) and (3) below, a holding of securities, as it exists immediately before the 1985 date, is for the purposes of this Part of this Schedule a 1982 holding if, by virtue of paragraph 8(2) of Schedule 13 to the <sup>M81</sup> Finance Act 1982, it is regarded for the purposes of the <sup>M82</sup> Capital Gains Tax Act 1979 as a single asset.
- (2) If the holding of securities referred to in sub-paragraph (1) above is “the reduced holding”, within the meaning of paragraph 9 of Schedule 13 to the Finance Act 1982, then, for the purposes of this Part of this Schedule, the 1982 holding is the aggregate of—
- (a) the reduced holding, (as it exists immediately before the 1985 date); and
  - (b) such of the separate assets (derived from the same holding as the reduced holding) which, by virtue of sub-paragraph (3)(b) of the said paragraph 9, constitute separate assets as have not been disposed of before that date.
- (3) If a person so elects, quoted securities, as defined in paragraph 8 of Schedule 5 to the Capital Gains Tax Act 1979 (assets held on 6th April 1965) which are covered by the election—
- (a) shall be treated as an accretion to an existing 1982 holding or, as the case may be, as constituting a new 1982 holding; and
  - (b) shall be excluded from paragraph 2 of that Schedule (restriction of gain or loss by reference to actual cost);
- and the relevant allowable expenditure (as defined in relation to a disposal to which section 86 of the Finance Act 1982 applies) which is attributable to that 1982 holding shall be adjusted or determined accordingly.
- (4) Paragraphs 4 to 8 of the said Schedule 5 (except paragraph 4(1)) shall apply in relation to an election under sub-paragraph (3) above as they apply in relation to an election under paragraph 4 of that Schedule, but with the substitution for any reference to 19th March 1968 of a reference to 31st March 1985 in the case of holdings or disposals by companies and 5th April 1985 in any other case.

#### Marginal Citations

**M81** 1982 c. 39.

**M82** 1979 c. 14

- 7 (1) For the purposes of the <sup>M83</sup> Capital Gains Tax Act 1979, on and after the 1985 date, a 1982 holding shall continue to be regarded or, if it comes into being by virtue of

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paragraph 6 above, shall begin to be regarded as a single asset (but one which cannot grow by the acquisition of additional securities of the same class).

- (2) In a case where the 1982 holding is determined by paragraph 6(2) above, for all purposes of capital gains tax the relevant allowable expenditure attributable to the securities comprised in the 1982 holding shall be taken to be the aggregate of—
- (a) the amount which, by virtue of sub-paragraph (2) of paragraph 10 of Schedule 13 to the <sup>M84</sup>Finance Act 1982, would for those purposes be regarded as the relevant allowable expenditure attributable to the reduced holding referred to in paragraph 6(2)(a) above on a disposal of the whole of it immediately before the 1985 date ; and
  - (b) the amount which, by virtue of that sub-paragraph, would for those purposes be regarded as the relevant allowable expenditure attributable to the separate assets referred to in paragraph 6(2)(b) above on a disposal of them immediately before that date.
- (3) For the purposes of section 87(5) of the Finance Act 1982 (indexation of allowable expenditure) the relevant allowable expenditure which by virtue of sub-paragraph (2) above is attributable to the securities comprised in a 1982 holding shall be deemed to be expenditure falling within section 32(1)(a) of the Capital Gains Tax Act 1979 .

#### Modifications etc. (not altering text)

**C24** Income and Corporation Taxes Act 1988 s. 440A(6) and [Finance Act 1988 \(c. 39, SIF63:1, 2\)](#), **s. 113**—paragraph 7(3) not to apply to certain disposals of building society and industrial and provident society shares. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), **s. 41** and Sch. 6 para. 12(10)—application of meaning of “1982 holding” to apportionment of income of life assurance companies. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), **s. 54**—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

#### Marginal Citations

**M83** 1979 c. 14.

**M84** 1982 c.39.

## PART III

### POOLING OF OTHER SECURITIES

#### Modifications etc. (not altering text)

**C25** [S.I. 1986 No. 1948](#) (Personal Equity Plan Regulations) (in Part III Vol. 5) regn. 32(2)—Part III to apply for the purposes of PEF regulations with a substituted para. 8(2).

- 8 (1) In this Part of this Schedule—
- (a) “the principal Act” means the Capital Gains Tax Act 1979;
  - (b) “the 1982 Act” means the Finance Act 1982; and
  - (c) “relevant allowable expenditure” has the meaning assigned to it be subsection (2)(b) and (3) of section 86 of the 1982 Act .

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- (2) This Part of this Schedule shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, this Part of this Schedule shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class .
- (3) Nothing in this Part of this Schedule shall be taken as affecting the manner in which the market value of any securities is to be ascertained.

**Modifications etc. (not altering text)**

- C26** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—sub-paragraphs (b) and (c) not to apply to certain disposals of building society and industrial and provident society shares made on or 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.
- C27** S.I. 1989 No.469 (in Part III Vol. 5) for modification of para. 8(2) in relation to pooling of personal equity plan investments.

- 9 (1) Any number of securities of the same class which—
- (a) were held by the same person in the same capacity immediately before the 1985 date, and
  - (b) were acquired on or after 6th April 1982 or, in the case of a company, 1st April 1982,
- shall for the purposes of the principal Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.
- (2) Any number of securities of the same class which—
- (a) are acquired by the same person in the same capacity on or after the 1985 date, and
  - (b) do not form part of a single asset by virtue of sub-paragraph (1) above.
- shall for the purposes of the principal Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.
- (3) A holding of securities which, by virtue of sub-paragraph (1) or sub-paragraph (2) above, is to be regarded as a single asset is in this Part of this Schedule referred to as a “new holding”.

**Modifications etc. (not altering text)**

- C28** Definition applied for purposes of 1988 s. 440A(6) and 1990 Sch. 6 para. 12(10)—appointment of income of life assurance companies.

- 10 Without prejudice to the generality of paragraph 9 above, a disposal of securities in a new holding, other than a disposal of the whole of it, is a disposal of part of an asset

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and the provisions of the principal Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.

- 11 (1) In relation to a disposal of a new holding, the following provisions of this Part of this Schedule have effect in place of the provisions of section 87 of the 1982 Act for the purpose of computing the indexation allowance.
- (2) On any disposal of a new holding, other than a disposal of the whole of it,—
- (a) the qualifying expenditure and the indexed pool of expenditure shall each be apportioned between the part disposed of and the remainder in the same proportions as, under the principal Act, the relevant allowable expenditure is apportioned; and
  - (b) the indexation allowance is the amount by which the portion of the indexed pool which is attributed to the part disposed of exceeds the portion of the qualifying expenditure which is attributed to that part.
- (3) On a disposal of the whole of a new holding, the indexation allowance is the amount by which the indexed pool of expenditure at the time of the disposal exceeds the qualifying expenditure at that time .

**Modifications etc. (not altering text)**

**C29** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 11 to 15 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

- 12 In relation to a new holding, the qualifying expenditure is at any time the amount which would be the aggregate of the relevant allowable expenditure in relation to a disposal of the whole of the holding occurring at that time .

**Modifications etc. (not altering text)**

**C30** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 11 to 15 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

- 13 (1) The provisions of this paragraph have effect, subject to paragraph 15 below, for determining, in relation to a new holding, the indexed pool of expenditure at any time.
- (2) In the case of a new holding falling within paragraph 9 (1) above, the indexed pool of expenditure shall come into being immediately before the 1985 date and shall at that time consist of the aggregate of—
- (a) the qualifying expenditure at that time; and

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- (b) any indexation allowance which, in accordance with section 87 of the 1982 Act, would have applied to a disposal at that time of all of the securities comprised in the holding, on the assumption that the amendments made by paragraphs 1 and 2 above had always had effect.
- (3) In the case of any other new holding, the indexed pool of expenditure shall come into being at the time that the holding comes into being or, if it is earlier, when any of the qualifying expenditure is incurred and shall at the time it comes into being be the same as the qualifying expenditure at that time.
- (4) Any reference in the following provisions of this Part of this Schedule to an operative event is a reference to any event (whether a disposal or otherwise) which has the effect of reducing or increasing the qualifying expenditure referable to the new holding.
- (5) Whenever an operative event occurs,—
  - (a) there shall be added to the indexed pool of expenditure the indexed rise, as calculated under paragraph 14 below, in the value of the pool since the last operative event or, if there has been no previous operative event, since the pool came into being; and
  - (b) if the operative event results in an increase in the qualifying expenditure then, in addition to any increase under paragraph (a) above, the same increase shall be made to the indexed pool of expenditure; and
  - (c) if the operative event is a disposal resulting in a reduction in the qualifying expenditure, the indexed pool of expenditure shall be reduced in the same proportion as the qualifying expenditure is reduced; and
  - (d) if the operative event results in a reduction in the qualifying expenditure but is not a disposal, the same reduction shall be made to the indexed pool of expenditure.
- (6) Where the operative event is a disposal—
  - (a) any addition under paragraph (a) of sub-paragraph (5) above shall be made before the calculation of the indexation allowance under paragraph 11 above; and
  - (b) the reduction under paragraph (c) of that sub-paragraph shall be made after that calculation .

**Modifications etc. (not altering text)**

**C31** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 11 to 15 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

- 14 (1) At the time of any operative event, the indexed rise in the indexed pool of expenditure is a sum produced by multiplying the value of the pool immediately before the event by a figure expressed as a decimal and determined, subject to sub-paragraph (2) below, by the formula—

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$$\frac{RE-RL}{RL}$$

where—

RE is the retail prices index for the month in which the operative event occurs ;  
and

RL is the retail price index for the month in which occurred the immediately preceding operative event or, if there has been no such event, in which the indexed pool of expenditure came into being.

- (2) If RE, as defined in sub-paragraph (1) above, is equal to or less than RL, as so defined, the indexed rise is nil .

**Modifications etc. (not altering text)**

**C32** [Finance Act 1988 \(c. 39, SIF63:1, 2\)](#), [s. 113](#)—paragraphs 11 to 15 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), [s. 54](#)—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

*Consideration for options*

- 15 (1) If, in a case where sub-paragraph (5)(b) of paragraph 13 above applies, the increase in the qualifying expenditure is, in whole or in part, attributable to the cost of acquiring an option binding the grantor to sell (in this paragraph referred to as “the option consideration”), then, in addition to any increase under paragraph (a) or paragraph (b) of sub-paragraph (5) of paragraph 13 above, the indexed pool of expenditure shall be increased by an amount equal to the indexed rise in the option consideration, as determined under sub-paragraph (2) below.
- (2) The indexed rise in the option consideration is a sum produced by multiplying the consideration by a figure expressed as a decimal and determined, subject to sub-paragraph (3) below, by the formula—

$$\frac{RO-RA}{RA}$$

Where—

RO is the retail prices index for the month in which falls the date on which the option is exercised ; and

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RA is the retail prices index for the month in which falls the date in which the option was acquired or, if it is later, March 1982.

- (3) If RO, as defined in sub-paragraph (2) above, is equal to or less than RA, as so defined, the indexed rise is nil .

**Modifications etc. (not altering text)**

**C33** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 11 to 15 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

**PART IV**

IDENTIFICATION OF SECURITIES ETC.

- 16 (1) This Part of this Schedule applies where a person disposes of securities on or after the 1985 date, and in such a case the securities disposed of shall be identified in accordance with the provisions of this Part of this Schedule with securities of the same class acquired by him which could be comprised in that disposal.
- (2) The provisions of this Part of this Schedule apply notwithstanding that securities disposed of are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of securities in one capacity, they shall not be identified with securities which he holds or can dispose of only in some other capacity).
- (3) Notwithstanding anything in sub-paragraphs (1) and (2) above, the provisions of this Part of this Schedule do not apply to shares in respect of which relief under [Chapter III of Part VIII of the Taxes Act <sup>F84</sup>](relief for investment in corporate trades) has been given and not withdrawn.

**Textual Amendments**

**F84** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

- 17 (1) Part III of this Schedule shall have effect with respect to securities in place of section 65 of the <sup>M85</sup>Capital Gains Tax Act 1979 (pooling) but subject to—
- (a) section 66 of that Act (disposals on or before day of acquisition); and
- (b) section 58 of the <sup>M86</sup>Finance (No. 2) Act 1975 (disposal of certain shares and securities within prescribed period of acquisition).
- (2) In relation to disposals of securities on or after the 1985 date, section 66 of the Capital Gains Tax Act 1979 shall have effect—
- (a) as if the reference in subsection (2)(a) to provisions of Schedule 5 to that Act included a reference to paragraph 19(3) below; and

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- (b) as if the reference in subsection (2)(b) to section 65 of that Act were a reference to Part III of this Schedule.

#### Marginal Citations

**M85** 1979 c. 14.

**M86** 1975 c. 45.

- 18 (1) Without prejudice to section 66 of the Capital Gains Tax Act 1979 if, within a period of ten days, a number of securities are acquired and subsequently a number of securities are disposed of and, apart from this paragraph,—
- (a) the securities acquired would increase the size of, or constitute a new holding, and
  - (b) the securities disposed of would decrease the size of, or extinguish, the same new holding,
- then, subject to sub-paragraphs (2) and (3) below, the securities disposed of shall be identified with the securities acquired and none of them shall be regarded as forming part of an existing new holding or constituting a new holding.
- (2) If, in a case falling within sub-paragraph (1) above, the number of securities acquired exceeds the number disposed of,—
- (a) the excess shall be regarded as forming part of an existing new holding or, as the case may be, as constituting a new holding; and
  - (b) if the securities acquired were acquired at different times (within the ten days referred to in sub-paragraph (1) above) the securities disposed of shall be identified with securities acquired at an earlier time rather than with securities acquired at a later time.
- (3) If, in a case falling within sub-paragraph (1) above, the number of securities disposed of exceeds the number acquired, the excess shall not be identified in accordance with that sub-paragraph.
- (4) Securities which, by virtue of this paragraph, do not form part of or constitute a new holding shall be treated for the purposes of section 87(3) of the <sup>M87</sup>Finance Act 1982 (cases where indexation allowance is nil) as relevant securities within the meaning of section 88 of that Act .

#### Modifications etc. (not altering text)

**C34** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 18, 22 and 23 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

#### Marginal Citations

**M87** 1982 c. 39.



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- 19 (1) The identification rules set out in sub-paragraphs (2) and (3) below have effect subject to section 66 of the <sup>M88</sup>Capital Gains Tax Act 1979 but, subject to that, have priority according to the order in which they are so set out.
- (2) Securities disposed of shall be identified with securities forming part of a new holding, within the meaning of Part III of this Schedule, rather than with other securities.
- (3) Securities disposed of shall be identified with securities forming part of a 1982 holding, within the meaning of Part II of this Schedule, rather than with other securities and, subject to that, shall be identified with securities acquired at a later time rather than with securities acquired at an earlier time.

**Marginal Citations**

**M88** 1979 c. 14.

**PART V**

PARALLEL POOLING

- 20 (1) Where an election has been made under Schedule 6 to the <sup>M89</sup>Finance Act 1983 (parallel pooling) that election may be revoked by notice in writing to the inspector not later than 31st March 1987 or within such further time as the Board may allow.
- <sup>X13</sup>(2) At the end of paragraph 2(2)(b) of the said Schedule 6 (elections to be irrevocable) there shall be added the words “except in accordance with Part V of Schedule 19 to the Finance Act 1985”.
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required in consequence of a revocation under sub-paragraph (1) above.

**Editorial Information**

**X13** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)( a ), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

**Marginal Citations**

**M89** 1983 c. 28.

- 21 (1) An election under Schedule 6 to the <sup>M90</sup>Finance Act 1983 shall not have effect with respect to any disposal on or after 1st April 1985.
- (2) The Treasury may by regulations make such provisions as are referred to in sub-paragraph (3) below in relation to qualifying securities, within the meaning of the said Schedule 6,—

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- (a) in respect of which an election under that Schedule has been made and not revoked under paragraph 20 above; and
  - (b) which, immediately before 1st April 1985, were regarded as indistinguishable parts of a single asset by virtue of paragraph 3 of that Schedule.
- (3) The provisions referred to in sub-paragraph (2) above are such as appear to the Treasury to be appropriate to enable section 68 of this Act and the preceding provisions of this Schedule to take full effect in relation to the securities concerned.
- (4) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

#### Marginal Citations

**M90** 1983 c. 28.

## PART VI

### UNDERWRITER'S PREMIUMS TRUST FUNDS

- 22 This Part of this Schedule has effect with respect to premiums trust funds, within the meaning of [Section 457 of the Taxes Act <sup>F85</sup>] (underwriters), and any reference in paragraph 23 below to a fund is a reference to such a premiums trust fund .

#### Textual Amendments

**F85** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

#### Modifications etc. (not altering text)

**C35** [Finance Act 1988 \(c. 39, SIF63:1, 2\)](#), [s. 113](#)—paragraphs 18, 22 and 23 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), [s. 54](#)—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

- 23 (1) Subject to the following provisions of this paragraph, the enactments relating to indexation shall apply with any necessary modifications in relation to assets forming part of a fund as they apply in relation to other assets.
- (2) In this paragraph “the enactments relating to indexation” means—
- (a) section 86 to 88 of and Schedule 13 to the <sup>M91</sup>Finance Act 1982; and
  - (b) section 68 of this Act and Parts I to III of this Schedule.
- (3) For the purposes of the application of the enactments relating to indexation in accordance with sub-paragraph (1) above, it shall be assumed—

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- (a) that assets forming part of a fund are disposed of and immediately reacquired on the last day of each accounting period; and
- (b) that the indexation allowance computed for that accounting period is allocated to the corresponding underwriting year in the same proportion as the gains or losses referred to in [Section 142A of the Capital Gains Tax Act 1979 <sup>F86</sup>]

#### Textual Amendments

**F86** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

#### Modifications etc. (not altering text)

**C36** Finance Act 1988 (c. 39, SIF63:1, 2), s. 113—paragraphs 18, 22 and 23 not to apply to certain disposals of building society and industrial and provident society shares on or after 4 July 1987. Finance Act 1990 (c. 29, SIF 63:1, 2), s. 54—paras. 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23 not to apply to certain building society shares etc. held by collective investment schemes and disposed of on or after 20 March 1990.

#### Marginal Citations

**M91** 1982 c. 39

## SCHEDULE 20

Sections 69 and 70.

### RETIREMENT RELIEF ETC.

#### PART I

##### INTERPRETATION

- 1 (1) This paragraph and paragraphs 2 and 3 below have effect for the purposes of this Schedule and sections 69 and 70 of this Act.
- (2) In the provisions referred to above—
- “commercial association of companies” means a company together with such of its associated companies, within the meaning of section [416 <sup>F87</sup>] of the Taxes Act, as carry on businesses which are of such a nature that the business of the company and the associated companies taken together may be reasonably considered to make up a single composite undertaking;
- “family company” means, in relation to an individual, a company the voting rights in which are—
- (a) as to not less than 25 per cent, exercisable by the individual, or
  - (b) as to more than 50 per cent, exercisable by the individual or a member of his family and, as to not less than 5 per cent, exercisable by the individual himself;
- “family” means, in relation to an individual, the husband or wife of the individual and a relative of the individual or of the individual’s husband or

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wife and, for this purpose, “relative” means brother, sister, ancestor or lineal descendant;

“full-time working director”, in relation to one or more companies, means a director who is required to devote substantially the whole of his time to the service of that company or, as the case may be, those companies taken together, in a managerial or technical capacity;

“group of companies” means a company which has one or more 51 per cent subsidiaries, together with those subsidiaries;

“holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 51 per cent subsidiaries ;

“permitted period” means a period of one year or such longer period as the Board may, in any particular case, by notice in writing allow;

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

“trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades ;

“trading group” means a group of companies the business of whose members, taken together, consists wholly or mainly of the carrying on of a trade or trades .

- (3) For the purposes of sub-paragraph (2) above, voting rights exercisable by trustees of a settlement are to be treated as voting rights exercisable by a member of the family of an individual if—
- (a) the individual or any member of his family is a beneficiary under the settlement; and
  - (b) no one, other than the individual or a member of his family, is for the time being entitled under the settlement to receive any capital or income of the settled property; and
  - (c) the terms of the settlement are such that no one other than the individual or a member of his family can become entitled to capital or income except upon the failure (for whatever reason) of the individual or a member of his family to become so entitled.
- (4) Any reference in sub-paragraph (3) above to a person being or becoming entitled to any capital or income of the settled property includes a reference to a person—
- (a) whose entitlement is subject to a power which could be so exercised as to require all or any of the capital or income in question to be paid to some other person; or
  - (b) whose entitlement depends upon his exercising a power in his own favour.

#### Textual Amendments

**F87** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

#### Modifications etc. (not altering text)

**C37** Definitions applied for purposes of 1990 ss. 31–32—roll-over relief for disposal of shares to employee share ownership trusts.

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- 2 (1) For the purposes of the provisions referred to in paragraph 1(1) above, where, as part of a reorganisation, within the meaning of section 77 of the <sup>M92</sup>Capital Gains Tax Act 1979, there is a disposal of shares or securities of a company and, apart from this sub-paragraph, the shares disposed of and the new holding (as defined in that section) would fall to be treated, by virtue of section 78 of that Act, as the same asset, the said section 78 shall not apply if the individual concerned so elects or, in the case of a trustees' disposal, if the trustees and the individual concerned jointly so elect; and an election under this sub-paragraph shall be made by notice in writing given to the Board not more than two years after the end of the year of assessment in which the disposal occurred.
- (2) In sub-paragraph (1) above, the reference to a reorganisation, within the meaning of section 77 of the Capital Gains Tax Act 1979, includes a reference to an exchange of shares or securities which is treated as such a reorganisation by virtue of section 85(3) of that Act.

**Marginal Citations**

**M92** 1979 c. 14.

- 3 (1) A person who has been concerned in the carrying on of a business shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to be engaged in and, by reason of ill-health, is incapable of engaging in work of the kind which he previously undertook in connection with that business; and
  - (b) that he is likely to remain permanently so incapable.
- (2) In sub-paragraph (1) above, the reference to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership carrying on the business; and the business which is relevant for the purposes of the provisions referred to in paragraph 1(1) above is that referred to—
- (a) in subsection (3) or subsection (4) of section 69 of this Act in relation to a material disposal of business assets;
  - (b) in subsection (5) of section 70 of this Act in relation to a trustees' disposal; and
  - (c) in subsection (7) of section 70 of this Act in relation to an associated disposal.
- (3) A person who has been a full-time working director of a company or of two or more companies shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to serve and, by reason of ill-health, is incapable of serving that company or, as the case may be, those companies in a managerial or technical capacity; and
  - (b) that he is likely to remain permanently incapable of serving in such a capacity that company or those companies (as the case may be) or any other company engaged in business of a kind carried on by that company or those companies.

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- (4) In relation to an employee's disposal, a person who has been exercising any office or employment shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to exercise and, by reason of ill-health, is incapable of exercising that office or employment; and
  - (b) that he is likely to remain permanently so incapable.
- 4 (1) In this Schedule—
- (a) “material disposal of business assets” has the same meaning as in section 69 of this Act;
  - (b) “employee's disposal” means a disposal falling within sub-section (1) of section 70 of this Act;
  - (c) “trustees' disposal” means a disposal falling within sub-section (3) of section 70 of this Act and, in relation to such a disposal, “the qualifying beneficiary” has the meaning assigned to it by paragraph (b) of that subsection;
  - (d) “associated disposal” has the meaning assigned to it by section 70(7) of this Act;
- and “qualifying disposal” means any of the disposals referred to in paragraphs (a) to (d) above.
- (2) Any reference in this Schedule to the qualifying period is a reference to the period of at least one year which,—
- (a) in relation to a material disposal of business assets, is referred to in subsection (3), subsection (4)(a) or subsection (5) (as the case may require) of section 69 of this Act;
  - (b) in relation to an employee's disposal, is referred to in section 70(2)(a) of this Act;
  - (c) in relation to a trustees' disposal, is referred to in subsection (4) or subsection (5) (as the case may require) of section 70 of this Act;
- and, in relation to an associated disposal, any reference in this Schedule to the qualifying period is a reference to that period which is the qualifying period in relation to the material disposal of business assets with which the associated disposal is associated in accordance with section 70(7) of this Act.
- (3) In relation to a qualifying disposal, any reference in this Schedule to the amount available for relief is a reference to the amount determined in accordance with paragraphs 13 to 16 below.

## PART II

### THE OPERATION OF THE RELIEF

#### *Disposals on which relief may be given*

- 5 (1) Relief in accordance with this Schedule shall not be given in respect of any disposal unless the qualifying period relating to that disposal ends on or after 6th April 1985.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

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- (2) Except in the case of a disposal which is made by an individual who has attained the age of 60, relief in accordance with this Schedule shall be given only on the making of a claim not later than two years after the end of the year of assessment in which the disposal occurred.
- (3) In the case of a trustees' disposal, relief in accordance with this Schedule shall be given only on a claim made jointly by the trustees and the beneficiary concerned.
- (4) Where a claim for relief in accordance with this Schedule is dependent upon an individual having retired on ill-health grounds below the age of 60, the claim shall be made to the Board.

#### *Gains qualifying for relief*

- 6 Subject to paragraphs 9 and 10 below, in the case of any qualifying disposal other than one of shares or securities of a company, the gains accruing to the individual or, in the case of a trustees' disposal, the trustees on the disposal of chargeable business assets comprised in the qualifying disposal shall be aggregated, and only so much of that aggregate as exceeds the amount available for relief shall be chargeable gains (but not so as to affect liability in respect of gains accruing on the disposal of assets other than chargeable business assets).
- 7 (1) Subject to paragraphs 9 to 11 below, in the case of a qualifying disposal of shares or securities of a trading company which is not a holding company,—
  - (a) the gains which on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated, and
  - (b) of the appropriate proportion of the aggregated gains, only so much as exceeds the amount available for relief shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the aggregated gains).
  - (2) for the purposes of sub-paragraph (1)(b) above, “the appropriate proportion” is that which that part of the value of the company's chargeable assets immediately before the end of the qualifying period which is attributable to the value of the company's chargeable business assets bears to the whole of that value, but, in the case of a company which has no chargeable assets, “the appropriate proportion” is the whole.
  - (3) for the purposes of this paragraph, every asset is a chargeable asset except one, on the disposal of which by the company immediately before the end of the qualifying period, no gain accruing to the company would be a chargeable gain.
- 8 (1) Subject to paragraphs 9 to 11 below, in the case of a qualifying disposal of shares or securities of a holding company,—
  - (a) the gains which on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated, and
  - (b) of the appropriate proportion of the aggregated gains, only so much as exceeds the amount available for relief shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the aggregated gains).

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- (2) For the purposes of sub-paragraph (1)(b) above, “the appropriate proportion” is that which that part of the value of the trading group’s chargeable assets immediately before the end of the qualifying period which is attributable to the value of the trading group’s chargeable business assets bears to the whole of that value; but, in the case of a trading group which has no chargeable assets, “the appropriate proportion” is the whole.
- (3) For the purposes of sub-paragraph (2) above,—
- (a) any reference to the trading group’s chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and
  - (b) subject to paragraph (c) below, every asset is a chargeable asset except one, on the disposal of which by the member of the group concerned immediately before the end of the qualifying period no gain accruing to that member would be a chargeable gain; and
  - (c) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.
- (4) Where the whole of the ordinary share capital of a 51 per cent subsidiary of the holding company is not owned directly or indirectly by that company, then, for the purposes of sub-paragraph (2) above, the value of the chargeable assets and chargeable business assets of that subsidiary shall be taken to be reduced by multiplying it by a fraction of which the denominator is the whole of the ordinary share capital of the subsidiary and the numerator is the amount of that share capital owned, directly or indirectly, by the holding company.
- (5) Expressions used in sub-paragraph (4) above have the same meaning as in section [838(1) <sup>F88</sup>] of the Taxes Act (subsidiaries).

#### Textual Amendments

**F88** Income and Corporation Taxes Act 1988 Sch. 29 para. 32

- 9
- (1) If, in the case of a trustees’ disposal, there is, in addition to the qualifying beneficiary, at least one other beneficiary who, at the end of the qualifying period, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares, securities or asset which is the subject matter of the disposal, only the relevant proportion of the gain which accrues to the trustees on the disposal shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.
  - (2) For the purposes of sub-paragraph (1) above, the relevant proportion is that which, at the end of the qualifying period, the qualifying beneficiary’s interest in the income of the part of the settled property comprising the shares, securities or asset in question bears to the interests in that income of all the beneficiaries (including the qualifying beneficiary) who then have interests in possession in that part.
  - (3) The reference in sub-paragraph (2) above to the qualifying beneficiary’s interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.



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- 10 (1) If, in the case of an associated disposal,—
- (a) the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act for only part of the period in which it was in the ownership of the individual making the disposal, or
  - (b) for any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act, the individual making the disposal was not concerned in the carrying on of that business (whether personally, as a member of a partnership or as a full-time working director of any such company as is referred to in section 69(3)(b) of this Act), or
  - (c) for the whole or any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act, its availability for that use was dependent upon the payment of rent, only such part of the gain which accrues on the disposal as appears to the Board to be just and reasonable shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.
- (2) In determining how much of a gain it is just and reasonable to bring into account as mentioned in sub-paragraph (1) above, the Board shall have regard to the length of the period the asset was in use as mentioned in that sub-paragraph and the extent to which any rent paid was less than the amount which would have been payable in the open market for the use of the asset.
- (3) In sub-paragraphs (1) and (2) above “rent” includes any form of consideration given for the use of the asset.
- 11 (1) This paragraph applies where—
- (a) there is a material disposal of business assets or a trustees’ disposal which (in either case) consists of a disposal which the individual or trustees is or are treated as making by virtue of section 72 of the <sup>M93</sup>Capital Gains Tax Act 1979 in consideration of a capital distribution; and
  - (b) the capital distribution consists wholly of chargeable business assets of the company or partly of such assets and partly of money or money’s worth.
- (2) Where the capital distribution consists wholly of chargeable business assets, no relief shall be given under this Schedule in respect of the gains accruing on the disposal.
- (3) Where the capital distribution consists only partly of chargeable business assets, the gains accruing on the disposal (aggregated as mentioned in paragraph 7(1)(a) or paragraph 8(1)(a) above) shall be reduced for the purposes of this Schedule by multiplying them by the fraction of which—
- (a) the numerator is the part of the capital distribution which does not consist of chargeable business assets; and
  - (b) the denominator is the entire capital distribution;
- and it shall be to that reduced amount of aggregated gains that, in accordance with sub-paragraph (1)(b) of paragraph 7 or, as the case may be, paragraph 8 above, the appropriate proportion determined under sub-paragraph (2) of that paragraph shall be applied.

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- (4) Any question whether or to what extent a capital distribution consists of chargeable business assets shall be determined by reference to the status of the assets immediately before the end of the qualifying period.

#### Marginal Citations

M93 1979 c. 14.

- 12 (1) Subject to paragraphs 9 to 11 above, in arriving at the aggregate gains under any of paragraphs 6, 7(1) and 8(1) above—
- (a) the respective amounts of the gains, shall be computed in accordance with the provisions of the Capital Gains Tax Act 1979 fixing the amount of chargeable gains, and
  - (b) any allowable loss which accrues on the qualifying disposal concerned shall be deducted,
- and the provisions of this Schedule shall not affect the computation of the amount of any allowable loss.
- (2) Subject to the following provisions of this paragraph, in paragraphs 6 to 11 above, “chargeable business assets” means an asset (including goodwill but not including shares or securities or other assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—
- (a) the individual concerned; or
  - (b) that individual’s family company; or
  - (c) a member of a trading group of which the holding company is that individual’s family company; or
  - (d) a partnership of which the individual concerned is a member.
- (3) An asset is not a chargeable business asset if, on the disposal of it, no gain which might accrue would be a chargeable gain.
- (4) In relation to a trustees’ disposal, references in sub-paragraph (2) above to the individual shall be construed as references to the beneficiary concerned.
- (5) Sub-paragraph (6) below applies if—
- (a) a qualifying disposal falling within paragraph 7 or paragraph 8 above is a disposal which the individual or trustees concerned is or are treated as making by virtue of section 72 of the <sup>M94</sup>Capital Gains Tax Act 1979 in consideration of a capital distribution; and
  - (b) no later than two years after the end of the year of assessment in which the individual or the trustees received the capital distribution, the individual or trustees by notice in writing to the inspector elects or elect that that sub-paragraph should apply.
- (6) If, in a case where this sub-paragraph applies in relation to a qualifying disposal, any part of the assets of the company concerned consists, as at the end of the qualifying period, of the proceeds of the sale of an asset sold not more than six months before the end of that period, then, sub-paragraph (2) above and paragraph 7 or, as the case may be, paragraph 8 above shall have effect as if, at that time—

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- (a) the asset remained the property of the company and was in use for the purposes for which it was used before its sale; and
- (b) the proceeds of sale of the asset did not form part of the assets of the company.

#### Marginal Citations

**M94** 1979 c. 14.

#### *The amount available for relief: the basic rule*

- 13 (1) Subject to the following provisions of this Part of this Schedule, on a qualifying disposal by an individual the amount available for relief by virtue of sections 69 and 70 of this Act is [<sup>F89</sup>an amount equal to the aggregate of—
- [<sup>F89</sup>(a) so much of the gains qualifying for relief as do not not exceed the appropriate percentage of £125,000; and
  - (b) one half of so much of those gains as exceed the appropriate percentage of £125,000 but do not exceed that percentage of £500,000;]
- [<sup>F89</sup>and for the purposes of this sub-paragraph “the appropriate percentage is a percentage”] determined according to the length of the qualifying period which is appropriate to the disposal on a scale rising arithmetically from 10 per cent where that period is precisely one year to 100 per cent where it is ten years.
- (1A) In sub-paragraph (1) above “the gains qualifying for relief” means, in relation to any qualifying disposal, so much of the gains accruing on the disposal (aggregated under paragraph 6, 7(1)(a) or 8(1)(a) above) as would, by virtue of this Schedule, not be chargeable gains if—
- (a) sub-paragraph (1) above had specified as the amount available for relief a fixed sum in excess of those aggregate gains;
- and
- (b) paragraphs 14 to 16 below were disregarded <sup>F89</sup>.]
- (2) The amount available for relief by virtue of section 70 of this Act on a trustees’ disposal shall be determined, subject to sub-paragraph (3) below, in accordance with sub-paragraph (1) above on the assumption that the trustees’ disposal is a qualifying disposal by the qualifying beneficiary.
- (3) If, on the same day, there is both a trustees’ disposal and a material disposal of business assets by the qualifying beneficiary, the amount available for relief shall be applied to the beneficiary’s disposal in priority to the trustees’ disposal.

#### Textual Amendments

**F89** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(1)(2) for qualifying disposals occurring on or after 6 April 1988. Previously “a percentage of [£125,000(x)Finance Act 1987 (c. 16), s. 47 for qualifying disposals occurring on or after 6 April 1987. Previously “£100,000”.]” in para. 13(1).

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### *Aggregation of earlier business periods*

- 14 (1) If, apart from this paragraph, the qualifying period appropriate to a qualifying disposal (in this paragraph referred to as “the original qualifying period”) would be less than ten years but throughout some period (in this paragraph referred to as “the earlier business periods”) which—
- (a) ends not earlier than two years before the beginning of the original qualifying period, and
  - (b) falls, in whole or in part, within the period of ten years ending at the end of the original qualifying period,
- the individual making the disposal or, as the case may be, the relevant beneficiary was concerned in the carrying on of another business (in this paragraph referred to as the “previous business”) then, for the purpose of determining the amount available for relief on the qualifying disposal, the length of the qualifying period appropriate to that disposal shall be redetermined on the assumptions and subject to the provisions set out below.
- (2) For the purposes of the redetermination referred to in subparagraph (1) above, it shall be assumed that the previous business is the same business as the business at retirement and, in the first instance, any time between the end of the earlier business period and the beginning of the qualifying period shall be disregarded (so that those two periods shall be assumed to be one continuous period).
  - (3) The reference in sub-paragraph (1) above to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership or, if the business was owned by a company, then as a full-time working director of that company or, as the case may be, of any member of the group or commercial association of which it is a member; and the reference in subparagraph (2) above to the business at retirement is a reference to that business which, in relation to the qualifying disposal, is referred to—
    - (a) in subsection (3), subsection (4) or subsection (5) of section 69 of this Act where the qualifying disposal is a material disposal of business assets;
    - (b) in subsection (5) of section 70 of this Act where that disposal is a trustees’ disposal; and
    - (c) in subsection (7) of section 70 of this Act where that disposal is an associated disposal.
  - (4) any extended qualifying period resulting from the operation of subparagraph (2) above shall not begin earlier than the beginning of the period of ten years referred to in subparagraph (1)(b) above.
  - (5) If the earlier business period ended before the beginning of the original qualifying period, any extended qualifying period which would otherwise result from the operation of the preceding provisions of this paragraph shall be reduced by deducting therefrom a period equal to that between the ending of the earlier business period and the beginning of the original qualifying period.
  - (6) Where there is more than one business which qualifies as the previous business and, accordingly, more than one period which qualifies as the earlier business period, this paragraph shall apply first in relation to that one of those businesses in which the individual in question was last concerned and shall then again apply (as if any

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extended qualifying period resulting from the first application were the original qualifying period) in relation to the next of those business and so on.

*Relief given on earlier disposal*

- 15 (1) In any case where—
- (a) an individual makes a qualifying disposal or is the qualifying beneficiary in relation to a trustees' disposal, and
  - (b) relief has been (or falls to be) given under this Schedule in respect of an earlier disposal which was either a qualifying disposal made by the individual or a trustees' disposal in respect of which he was the qualifying beneficiary,
- the amount which, apart from this paragraph, would be the amount available for relief on the disposal mentioned in paragraph (a) above shall not exceed the limit in sub-paragraph (3) below.
- (2) [In the following provisions of this paragraph <sup>F90</sup>—
- (a) the disposal falling within sub-paragraph (1)(a) above is referred to as “the later disposal”; and
  - (b) the disposal falling within sub-paragraph (1)(b) above or, if there is more than one such disposal, each of them is referred to as “the earlier disposal”.
- (3) The limit referred to in sub-paragraph (1) above is the difference between—
- (a) the amount which would be available for relief on the later disposal if the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) were extended by the addition of a period equal to so much (if any) of the qualifying period appropriate to the earlier disposal, (or, as the case may be, to each of the earlier disposals) as does not already fall within the qualifying period appropriate to the later disposal
    - (i) if the gains qualifying for relief on that disposal were increased by the amount of the underlying gains relieved on the earlier disposal (or the aggregate amount of the underlying gains relieved on all the earlier disposals, as the case may be); and
    - (ii) if the qualifying period appropriate to the later disposal <sup>F91</sup>] (as redetermined where appropriate under paragraph 14 above) were extended by the addition of a period equal to so much (if any) of the qualifying period appropriate to the earlier disposal (or, as the case may be, to each of the earlier disposals) as does not already fall within the qualifying period appropriate to the later disposal; and
  - (b) the amount of relief given under this Schedule on the earlier disposal or, as the case may be, the aggregate of the relief so given on all the earlier disposals.
- (3A) Where there is only one earlier disposal, or where there are two or more such disposals but none of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above—
- (a) if the earlier disposal took place on or after 6th April 1988, the amount of the underlying gains relieved on that disposal is the aggregate of—

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- (i) so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13(1)(a) above, not chargeable gains; and
      - (ii) twice the amount of so much of those gains as were, by virtue of paragraph 13(1)(b) above, not chargeable gains; and
    - (b) if the earlier disposal took place before 6th April 1988, the amount of the underlying gains relieved on that disposal (or on each such disposal) is so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13 above, not chargeable gains.
- (3B) Where there are two or more earlier disposals and at least one of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above, the aggregate amount of the underlying gains relieved on all those disposals shall be determined as follows—
- (a) it shall be assumed for the purposes of paragraph (b) below—
    - (i) that the amount which resulted from the calculation under sub-paragraph (3)(a) above on the last of those disposals (“the last disposals”) was the amount of the gains qualifying for relief on that disposal which were, by virtue of this Schedule, not chargeable gains (the “gains actually relieved”);
    - (ii) that the qualifying period appropriate to that disposals (as redetermined where appropriate under paragraph 14 above) was that period as extended in accordance with that sub-paragraph (3)(a)(ii) above; and
    - (iii) that the last disposal was the only earlier disposal;
  - (b) there shall then be ascertained in accordance with paragraph 13(1) above (but on the assumption in paragraph (a) above)—
    - (i) how much of the gains actually relieved would, by virtue of paragraph 13(1)(a) above, not have been chargeable gains; and
    - (ii) how much of the gains actually relieved would, by virtue of paragraph 13(1)(b) above, not have been chargeable gains; and
  - (c) the aggregate amount of the underlying gains relieved on all the earlier disposals is the sum of—
    - (i) the amount ascertained under paragraph (b)(i) above; and
    - (ii) twice the amount ascertained under paragraph (b)(ii) above.
- (3C) In this paragraph “the gains qualifying for relief” has the meaning given by paragraph 13(1A) above <sup>F92]</sup>
- (4) References in this paragraph to relief given under this Schedule include references to relief given under section 34 of the <sup>M95</sup> Finance Act 1965 or section 124 of the <sup>M96</sup> Capital Gains Tax Act 1979; and—
- (a) in relation to relief given under either of those sections paragraph (b) of sub-paragraph (1) above shall have effect as if, for the words from “which was” onwards, there were substituted “made by the individual”; and
  - (b) for the purpose of determining the limit in sub-paragraph (3) above where the earlier disposal (or any of the earlier disposals) was a disposal in respect of which relief was given under either of those sections—
    - (i) the underlying gains relieved on that disposal shall (subject to sub-paragraph (3B) above) be taken to be gains of an amount equal to the relief given under the section in question in respect of that disposal; and

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- (ii) the reference in sub-paragraph (3)(a)(ii) above to the qualifying period appropriate to the earlier disposal shall be construed in accordance with paragraph (c) below;
- (c) for the purpose mentioned in paragraph (b) above, that reference shall, as respects the earlier disposal in question, be taken to be <sup>F93</sup> a reference,—
  - (i) if the disposal took place on or before 11th April 1978, to the period of ten years ending with the disposal; and
  - (ii) in any other case, to the qualifying period within the meaning of the section in question.

#### Textual Amendments

- F90** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(3) for qualifying disposals occurring on or after 6 April 1988. Previously “In sub paragraph (3) below”.
- F91** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(4) for qualifying disposals occurring on or after 6 April 1988. Previously “If the qualifying period appropriate to that disposal”.
- F92** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(5) for qualifying disposals occurring on or after 6 April 1988. Previously “In sub-paragraph (3) below”.
- F93** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(6) for qualifying disposals occurring on or after 6 April 1988. Previously “(b) in the application of sub-paragraph (3) above where the earlier disposal was a disposal in respect of which relief was given under either of those sections, the reference in paragraph (a) to the qualifying period appropriate to the disposal is”.

#### Marginal Citations

- M95** 1965 c. 25
- M96** 1979 c. 14.

#### *Aggregation of spouse's interest in the business*

- 16 (1) In any case where—
- (a) an individual makes a material disposal of business assets, and
  - (b) the subject matter of that disposal (whether business, assets or shares or securities) was acquired, in whole or in part, from that individual's spouse, and
  - (c) that acquisition was either under the will or intestacy of the spouse or by way of lifetime gift and in the year of assessment in which occurred the spouse's death or, as the case may be, the lifetime gift, the individual and his spouse were living together, and
  - (d) as a result of the acquisition the individual acquired the whole of the interest in the business, assets, shares or securities concerned which, immediately before the acquisition or, as the case may be, the spouse's death, was held by the spouse, and
  - (e) not later than two years after the end of the year of assessment in which the material disposal occurred, the individual elects that this paragraph should apply,
- the period which, apart from this paragraph, would be the qualifying period appropriate to that disposal shall be extended by assuming that, in the conditions which under section 69 of this Act are the relevant conditions applicable to the

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disposal, any reference to the individual were a reference either to the individual or his spouse.

- (2) An election under sub-paragraph (1)(e) shall be made by notice in writing to the inspector.
- (3) Where the acquisition referred to in sub-paragraph (1)(c) above was by way of lifetime gift, the amount available for relief on the material disposal concerned, having regard to the extension of the qualifying period under sub-paragraph (1) above, shall not exceed [<sup>F94</sup>the limit] specified in sub-paragraph (4) below.
- (4) The [<sup>F94</sup>limit] referred to in sub-paragraph (3) above [<sup>F94</sup>is]—
- [<sup>F95</sup>(a) the amount by which [<sup>F96</sup>£125,000] exceeds the amount of relief given under this Schedule on disposals made by the spouse up to and including the disposal by way of lifetime gift referred to in sub-paragraph (1)(c) above and on trustees' disposals in respect of which the spouse was the qualifying beneficiary; and]
- (b) the amount which would have been available for relief on the material disposal if—
- (i) the lifetime gift had not occurred; and
- (ii) the material disposal had been made by the spouse; and
- (iii) anything done by the individual in relation to the business concerned after the lifetime gift was in fact made had been done by the spouse.
- [<sup>F95</sup>(5) In sub-paragraph (4)(a) above, the reference to relief given under this Schedule includes a reference to relief given under section 34 of the <sup>M97</sup>Finance Act 1965 or section 124 of the <sup>M98</sup>Capital Gains Tax Act 1979.]

#### Textual Amendments

- F94** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 110(6) for qualifying disposals occurring on or after 6 April 1988. Previously “which ever is the lower of the two limits”, “limits” and “are”.
- F95** Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96, Sch. 8 para. 11 in relation to disposals on or after 6th April 1988, previously “(5) Subsection (4) above applies to a disposal—(a) which occurs on or after 6th April 1985 or, in the case of a disposal by a company, 1st April 1985; and (b) in respect of which a claim is made that subsection (4) above should apply (a) and a claim under paragraph (b) above shall be made within the period of two years beginning at the end of the year of assessment or accounting period in which the disposal occurs or within such longer period as the Board may by notice in writing allow.”
- Finance Act 1988 (c. 39, SIF 63:1, 2), s. 62(4)—disposals of oil licences relating to underdeveloped areas.
- F96** Finance Act 1987 s. 47 for qualifying disposals occurring on or after 6 April 1987. Previously £100,000

#### Marginal Citations

- M97** 1965 c. 25.
- M98** 1979 c. 14.



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## SCHEDULE 21

Section 71

### ASSETS DISPOSED OF IN A SERIES OF LINKED TRANSACTIONS

- 1 (1) This Schedule has effect for determining the original market value of assets and the aggregate market value of assets as mentioned in subsection (1)(b) of section 71 of this Act (in this Schedule referred to as “the principal section”).  
(2) Expressions used in this Schedule have the same meaning as in the principal section.
- 2 Where there is a series of linked transactions, the original market value of the assets disposed of by each transaction in the series shall be determined as follows—
  - (a) if at the time in question the transaction is the most recent in the series, the original market value of the assets disposed of by that transaction is the market value which, apart from the principal section, would be deemed to be the consideration for that transaction for the purposes of the principal Act; and
  - (b) in the case of any other transaction in the series, the original market value of the assets disposed of by that transaction is the value which, prior to the occurrence of the most recent transaction in the series, was or would have been deemed for the purposes of the principal Act to be the consideration for the transaction concerned (whether by virtue of that Act or the previous operation of the principal section).
- 3 (1) Subject to paragraph 4 below, in relation to any transaction in a series of linked transactions,—
  - (a) any reference in the principal section or this Schedule to the aggregate market value of the assets disposed of by all the transactions in the series is a reference to what would have been the market value of all those assets for the purposes of the principal Act if, considering all the assets together, they had been disposed of by one disposal occurring at the time of the transaction concerned; and
  - (b) any reference in the principal section to the appropriate portion of the aggregate market value of the assets disposed of by all the transactions in the series is a reference to that portion of the market value determined in accordance with paragraph (a) above which it is reasonable to apportion to those of the assets which were actually disposed of by the transaction concerned.

(2) The reference in sub-paragraph (1)(a) above to considering all the assets together includes a reference not only to considering them as a group or holding or collection of assets retaining their separate identities but also (if it gives a higher market value) to considering them as brought together, physically or in law, so as to constitute either a single asset or a number of assets which are distinct from those which were comprised in each of the transactions concerned.
- 4 (1) If any of the assets disposed of by all the transactions in a series of linked transactions were acquired after the time of the first of those transactions, then, in the application of paragraph 3 above in relation to each of the transactions in the series,—

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (a) no account shall be taken of any assets which were acquired after the time of that transaction unless they were acquired by way of an inter-group transfer; and
  - (b) subject to sub-paragraph (2) below, the number of assets of which account is to be taken shall be limited to the maximum number which were held by the person making the disposal at any time in the period beginning immediately before the first of the transactions in the series and ending immediately before the last.
- (2) If, before the first of the transactions referred to in paragraph (b) of sub-paragraph (1) above, the person concerned (being a company) disposed of any assets by way of an inter-group transfer, the maximum number of assets referred to in that paragraph shall be determined as if the inter-group transfer had occurred after that first transaction.
- (3) In the application of sub-paragraph (1) above in a case where the assets disposed of are securities, the assets disposed of by any of the transactions in a series of linked transactions shall be identified with assets acquired on an earlier date rather than with assets acquired on a later date.
- (4) In sub-paragraph (3) above “securities” includes any assets which are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

[Schedules 22 to 23 repealed by ICTA 1988 s.844 and Sch.31. See 1987 edition for these provisions.]

SCHEDULE

22. ....

F97

**Textual Amendments**

**F97** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988](#) (c. 1, SIF 63:1), s. 844, **Sch. 31**

SCHEDULE

23. ....

F98

**Textual Amendments**

**F98** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988](#) (c. 1, SIF 63:1), s. 844, **Sch. 31**

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## SCHEDULE 24

### STAMP DUTY: HEADINGS OMITTED

- (a) The heading beginning “Agreement or contract made or entered into pursuant to the Highways Acts”.
- (b) The headings beginning “Appointment of a new trustee, and appointment in execution of a power of any property”.
- (c) The heading beginning “Charter of resignation”.
- (d) The heading beginning “Covenant. Any separate deed of covenant”.
- (e) The heading “Deed of any kind whatsoever, not described in this schedule”.
- (f) The headings beginning “Letter of allotment and letter of renunciation” and “Scrip certificate, scrip”.
- (g) The heading beginning “Letter or power of attorney, and commission, factory, mandate”.
- (h) The heading beginning “Precept of clare constat”.
- (i) The heading “Procuration, deeds or other instrument of”.
- (j) The heading beginning “Resignation”, together with the heading “instrument of resignation of any lands or other heritable subjects in Scotland not of burgage tenure”.
- (k) The heading “Revocation of any use or trust of any property by any writing, not being a will”.
- (l) The heading beginning “Seisin” and the heading “Notarial instrument to be expedited and recorded in any register of sasines”.
- (m) The heading “Warrant of attorney of any other kind”.
- (n) The heading beginning “Writ”.

## SCHEDULE 25

Section 93.

### ABOLITION OF DEVELOPMENT LAND TAX AND TAX ON DEVELOPMENT GAINS

#### PART I

##### PROVISIONS SUPPLEMENTARY TO ABOLITION OF DEVELOPMENT LAND TAX

- 1 (1) In this Part of this Schedule “the 1976 Act” means the <sup>M99</sup>Development Land Tax Act 1976.
- (2) Expressions used in this Part of this Schedule have the same meaning as in the 1976 Act.

#### Marginal Citations

M99 1976 c. 24.

- 2 (1) In any case where—
- (a) before 19th March 1985 there was a DLT disposal which was a deemed disposal, and

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- (b) by virtue of any provision of the 1976 Act, liability for development land tax on all or any of the realised development value which accrued on the DLT disposal stands deferred immediately before that date and, accordingly, is extinguished under section 93(3) of this Act,

then, except as respects the interaction of the DLT disposal with a CGT disposal or trading disposal occurring before 19th March 1985, for the purposes of Part I of Schedule 6 to the 1976 Act (interaction of development land tax with other taxes) so much of the realised development value as is referable to the deferred tax shall be assumed not to have accrued on the DLT disposal and, accordingly, no sum shall be regarded as being available or allowable as a deduction under any provision of that Part by virtue of that amount of realised development value.

- (2) If, in a case falling within paragraphs (a) and (b) of sub-paragraph (1) above, liability for only some of the tax which accrued on the DLT disposal stands deferred as mentioned in paragraph (b), any reference in that sub-paragraph to the amount of realised development value which is referable to the deferred tax is a reference to that proportion of the whole of the realised development value accruing on the DLT disposal which the tax the liability for which stands so deferred bears to the whole of the tax the liability for which arose on the DLT disposal.
- (3) In this paragraph, “DLT disposal”, “CGT disposal” and “trading disposal” have the meaning assigned by section 34(3) of the 1976 Act.
- 3 Where, by virtue of paragraph 21 or paragraph 22 of Schedule 2 to the 1976 Act (general rules for determining amount of consideration),—
- (a) consideration is brought into account without any discount for postponed payment or without regard to any risk of irrecoverability, or
- (b) consideration is determined without taking account of any contingent liability,
- no further assessment to tax shall be raised by reason of anything occurring on or after 19th March 1985, but relief by way of discharge or repayment of tax or otherwise shall continue to be available on and after that date under sub-paragraph (2) of the paragraph in question.

## PART II

### CONSEQUENTIAL AMENDMENTS

#### *The Taxes Management Act 1970*

- 4 In section 38 of the <sup>M100</sup>Taxes Management Act 1970 (modification of section 37 in relation to partnerships) in subsection (3) for the words “subsections (3A) and (5)” (which were substituted by paragraph 8 of Schedule 8 to the <sup>M101</sup>Development Land Tax Act 1976) there shall be substituted “subsection (5)”.

#### **Marginal Citations**

**M100** 1970 c. 9.

**M101** 1976 c. 24.

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- 5 In section 40 of that Act (assessment on personal representatives) in subsection (3) for the words “subsections (1) and (2) above” (which were substituted by paragraph 9(1) of Schedule 8 to the said Act of 1976) there shall be substituted “this section”.
- 6 In section 70 of that Act (evidence) in subsection (2) for the words “86A or 87” (which were substituted by section 115 of the Finance Act <sup>M102</sup>1980) there shall be substituted “or 87”.

**Marginal Citations**

[M102 1980 c. 48.](#)

*The Taxes Act*

- 7—9. . . . . <sup>F99</sup>

**Textual Amendments**

**F99** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

*The Finance Act 1981*

- 10 In section 135 of the <sup>M103</sup>Finance Act 1981 (Chevening estate) in subsection (1) for the words “capital transfer tax and development land tax” there shall be substituted “and capital transfer tax”.

**Marginal Citations**

[M103 1981 c. 35.](#)

SCHEDULE 26

Section 94.

CAPITAL TRANSFER TAX: CONDITIONAL EXEMPTION

*Principal amendments*

- 1 In section 30 (1) (b) of the <sup>M104</sup>Capital Transfer Tax Act 1984 there shall be added at the end “or (where the property is an area of land within subsection (1) (d) of that section) with respect to which the requisite undertakings described in that section are given by such person or persons as the Treasury think appropriate in the circumstances of the case.”.

**Marginal Citations**

[M104 1984 c. 51.](#)

- 2 (1) Section 31 of that Act shall be amended as follows.

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- (2) For subsection (1) (d) (conditional exemption for land adjoining building) there shall be substituted—
- “(d) any area of land which in the opinion of the Treasury is essential for the protection of the character and amenities of such a building as is mentioned in paragraph (c) above.”.
- (3) In subsections (2) (b) and (4) for “reasonable steps” there shall be substituted “such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it”.
- (4) The following shall be inserted after subsection (4)—
- “(4A) In the case of an area of land within subsection (1) (d) above (relevant land) there is an additional requisite undertaking, which is that, until the person beneficially entitled to property falling within subsection (4C) below dies, or it is disposed of, whether by sale or gift or otherwise, specified steps will be taken for its maintenance, repair and preservation and for securing reasonable access to the public; and “specified steps” means such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it.
- (4B) Where different persons are entitled (either beneficially or otherwise) to different properties falling within subsection (4C) below, subsection (4A) above shall have effect to require separate undertakings as to the maintenance, repair, preservation and access of each of the properties to be given by such persons as the Treasury think appropriate in the circumstances of the case.
- (4C) The following property falls within this subsection—
- (a) the building for the protection of whose character and amenities the relevant land is in the opinion of the Treasury essential;
- (b) any other area (or areas) of land which, in relation to the building, falls (or fall) within subsection (1) (d) above and which either lies (or lie) between the relevant land and the building or is (or are) in the opinion of the Treasury physically closely connected with the relevant land or the building.
- (4D) Where subsection (4A) above requires an undertaking for the maintenance, repair, preservation and access of property, such an undertaking for its maintenance, repair, preservation and access is effective.
- (4E) Any undertaking given in pursuance of subsection (4A) above is for the purposes of this Act given with respect to the relevant land.
- (4F) It is for the person seeking the designation of relevant land to secure that any undertaking required under subsection (4A) above is given.”
- 3 (1) Section 32 of that Act (chargeable events for conditionally exempt property) shall be amended as follows.
- (2) After subsection (5) there shall be inserted—
- “(5A) This section does not apply where section 32A below applies”.
- (3) Subsections (6) and (7) shall be omitted.

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4 The following shall be inserted after section 32 of that Act—

**“32A Associated properties.**

- (1) For the purposes of this section the following properties are associated with each other, namely, a building falling within section 31 (1) (c) above and (to the extent that any of the following exists) an area or areas of land falling within section 31 (1) (d) above in relation to the building and an object or objects falling within section 31 (1) (e) above in relation to the building; and this section applies where there are such properties, which are referred to as associated properties.
- (2) Where there has been a conditionally exempt transfer of any property (or part), tax shall be charged under this section in respect of that property (or part) on the first occurrence after the transfer of an event which under this section is a chargeable event with respect to that property (or part).
- (3) If the Treasury are satisfied that at any time an undertaking given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of any of the associated properties has not been observed in a material respect, then (subject to subsection (10) below) the failure to observe the undertaking is a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.
- (4) If—
  - (a) the person beneficially entitled to property dies, or
  - (b) property (or part of it) is disposed of, whether by sale or gift or otherwise,then, if the property is one of the associated properties and an undertaking for its maintenance, repair, preservation, access or keeping has been given under section 30 above or this section, the death or disposal is (subject to subsections (5) to (10) below) a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.
- (5) Subject to subsection (6) below, the death of a person beneficially entitled to property, or the disposal of property (or part), is not a chargeable event if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—
  - (a) a disposal of the property (or part) concerned by sale by private treaty to a body mentioned in Schedule 3 to this Act, or to such a body otherwise than by sale, or
  - (b) a disposal of the property (or part) concerned in pursuance of section 230 below.
- (6) Where a disposal mentioned in subsection (5) (a) or (b) above is a part disposal, that subsection does not make the event non-chargeable with respect to property other than that disposed of unless any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case; and in this

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subsection “part disposal” means a disposal of property which does not consist of or include the whole of each property which is one of the associated properties and of which there has been a conditionally exempt transfer.

- (7) Where, after a relevant disposal (that is, a disposal mentioned in subsection (5) (a) or (b) above made in circumstances where that subsection applies), a person beneficially entitled to the property (or part) concerned dies or the property (or part) concerned is disposed of, the death or disposal is not a chargeable event with respect to the property (or part) concerned unless there has again been a conditionally exempt transfer of the property (or part) concerned after the relevant disposal.
- (8) The death of a person beneficially entitled to property, or the disposal of property (or part) otherwise than by sale, is not a chargeable event if—
- (a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property (or part) concerned, or
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of anything falling within the associated properties is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case.
- (9) If—
- (a) the whole or part of any property is disposed of by sale, and
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case,

the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).

- (10) If—
- (a) the Treasury are satisfied that there has been a failure to observe, as to one of the associated properties or part of it, an undertaking for the property’s maintenance, repair, preservation, access or keeping, or
  - (b) there is a disposal of one of the associated properties or part of it, and it appears to the Treasury that the entity consisting of the associated properties has not been materially affected by the failure or disposal, they may direct that it shall be a chargeable event only with respect to the property or part as to which there has been a failure or disposal (if it is a chargeable event with respect to that property or part apart from this subsection).”

#### *Consequential amendments*

- 5 In sections 33 (1), 34 (1), and 221 (6) (a) of that Act, and in paragraph 5 of Schedule 2 to that Act, after “32” there shall be inserted “or 32A”.
- 6 In sections 33 (6) and 34 (4) of that Act, at the end there shall be added “or, where the property has been disposed of as mentioned in section 32A (5) above, before any event which apart from section 32A (5) would have been such a chargeable event.”
- 7 For section 35 (2) (a) and (b) of that Act there shall be substituted—



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- “(a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either—
- (i) under section 32 or 32A above (as the case may be), or
  - (ii) under Schedule 5 to this Act,
- as the Board may elect;
- (b) if there has been such a conditionally exempt transfer, tax shall be chargeable under section 32 or 32A above (as the case may be) and not under that Schedule.”
- 8 In section 78 of that Act—
- (a) in subsection (1) (b) there shall be added at the end “ or (where the property is an area of land within subsection (1) (d) of that section) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case. ”;
  - (b) in subsection (3) after “sections 32,” there shall be inserted “32A,” and after “section 32” there shall be inserted “or 32A”.
- 9 In section 79 (3) (b) of that Act after “given” there shall be inserted “with respect to the property” and after “case” there shall be inserted “or (where the property is an area of land within subsection (1) (d) of that section) the requisite undertakings described in that section have been given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case”.
- 10 After section 207 (2) of that Act there shall be inserted—
- “(2A) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3) or subsection (4) (a) of that section, the person liable for the tax is the person who, if the property were sold—
- (a) in a case within subsection (3) of that section, at the time the tax becomes chargeable, and
  - (b) in a case within subsection (4) (a) immediately after the death,
- would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (2B) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (4) (b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.”
- 11 In sections 216 (7), 226 (4) and 233 (1) (c) of that Act, after “32,” there shall be inserted “32A,”.
- 12 In paragraph 3 of Schedule 4 to that Act—
- (a) in sub-paragraph (2) (b) after “32 (5) (b)” there shall be inserted “,32A (6), (8) (b) or (9) (b)”;
  - (b) in sub-paragraph (2) (c) after “32” there shall be inserted “,32A”;
  - (c) in sub-paragraph (3) after “(4)” there shall be inserted “, or (as the case may be) undertakings such as are described in subsections (4) and (4A),” , after “the undertaking” (in both places) there shall be inserted “or undertakings”, and after “32” there shall be inserted “or 32A”.

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- 13 In paragraph 4 (2) of Schedule 6 to that Act, for paragraphs (a) and (b) there shall be substituted—
- “(a) if there has been no conditionally exempt transfer of the property on death, either—
- (i) tax shall be chargeable under section 32 or 32A of this Act (as the case may be), or
- (ii) estate duty shall be chargeable under those provisions, as the Board may elect, and
- (b) if there has been such a conditionally exempt transfer, there shall be a charge under section 32 or 32A of this Act (as the case may be) and not under those provisions;”.
- 14 In Schedule 6 to the <sup>M105</sup>Value Added Tax Act 1983, in item 3 of Group 11, after “32(4)” there shall be inserted “or 32A (5) or (7)”.

#### Marginal Citations

M105 1983 c. 55

## X14 SCHEDULE 27

### REPEALS

#### Editorial Information

**X14** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2)(3), 2(2), 3(3), 5(5)(a), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

### PART I

#### CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 72(1) and (2).
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In Schedule 3, in paragraph 11, the words “produced in the United Kingdom”.
1984 c. 43.	The Finance Act 1984.	Section 2.

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- 1 The repeals in the Alcoholic Liquor Duties Act 1979 have effect on the coming into operation of regulations under section 71A of the Alcoholic Liquor Duties Act 1979.
- 2 The repeal in the Hydrocarbon Oil Duties Act 1979 has effect on the coming into operation of paragraph 4 of Schedule 4 to this Act.

## PART II

### VEHICLES EXCISE DUTY

Chapter	Short title	Extent of repeal
1977 c. 36.	The Finance Act 1977.	Section 5(4). Section 6(4).
1981 c. 35.	The Finance Act 1981.	Section 7(4). Section 8(4).
1983 c. 28.	The Finance Act 1983.	In Schedule 3, in Part II, in paragraph 8(5)(b) the words “(2)(a) and” and “in each case”, and paragraph 8(5)(c) and the word “and” immediately preceding it.
1984 c. 43.	The Finance Act 1984.	In section 4, subsection (2) and in subsections (4) and (5) the words “£42” and “and the words “, respectively, “£44” and”.  In Schedule 2, Part I, and in Part II paragraph 6(4) and (5).

These repeals apply in relation to licences taken out after 19th March 1985.

## PART III

### GAMING MACHINE LICENCE DUTY

Chapter	Short title	Extent of repeal
1972 c.11(N.I.).	The Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.	Part V.  In section 72(2), the words “and paragraph 7(2) of Schedule 3”. Schedule 3.

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

1980 c. 48.	The Finance Act 1980.	Section 7(2). In Schedule 6, Part II.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 21A(3), the words from “either that” to “Acts or”.  In section 23(1), the words “Premises with local authority approval” and “Premises without local authority approval”.
1982 c. 39.	The Finance Act 1982.	In Schedule 6, paragraphs 18 to 24.

- 1 The repeals in the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972, the Finance Act 1980 and the Finance Act 1982 have effect from 1st October 1985.
- 2 The repeals in the Betting and Gaming Duties Act 1981 do not affect licences granted for periods beginning before 1st October 1985.

#### PART IV

##### VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In section 39, in subsection (5), paragraph (a) and the words from “or, if greater” onwards; and subsections (6) and (7).  In Schedule 5, Group 5.  In Schedule 7, in paragraph 3, subparagraphs (3) and (4) and in paragraph 4, subparagraphs (7) and (8).  In Schedule 7, in paragraph 10(3)(c), the words “to have committed or to be about to commit such an offence or”.  In Schedule 8, in paragraph 4, the words “with the consent of the Treasury”; in paragraph 7(3), in paragraphs (a) to (c), the word “by” and in paragraph 9, the words “and produce documents”.

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- 1 The repeal in Schedule 5 to the Value Added Tax Act 1983 has effect with respect to supplies made on or after 1st May 1985.
- 2 The repeals in paragraphs 4 and 7 of Schedule 8 to the Value Added Tax Act 1983 have effect on the coming into operation of Schedule 8 to this Act.

## PART V

### INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 263(4), the words “as respects more than one surrendering company”.Section 333(1)(b) and the word “or” immediately preceding it.Section 333(2) and (3).In section 334(2), the words following paragraph (c).Section 335(2) to (5).In section 337(4), paragraph (b) of the proviso.In section 343, in subsection (2), in paragraph (b) the words from “except that” to the end; in subsection (3), paragraphs (iii) and (iv) of the proviso; and subsections (6), (8A), (8B) and (9).
1970 c. 31 (N.I.).	The Friendly Societies Act (Northern Ireland) 1970.	Section 1(3), (3A) and (5).Section 55.
1974 c.46.	The Friendly Societies Act 1974.	Section 7(3), (3A) and (5).In Schedule 9, in paragraph 23, paragraph (a).
1975 c. 45.	The Finance (No. 2) Act 1975.	Schedule 9.
1978 c. 42.	The Finance Act 1978.	In section 54(7), in paragraph (c)(i), the final word “or” and paragraphs (c)(ii) and (d).
S.I. 1979/1714 (N.I. 19).	The Perjury (Northern Ireland) Order 1979.	In Schedule 1, paragraph 20.
1980 c. 48.	The Finance Act 1980.	In section 57(2), paragraph (a) and in paragraph (b) the words “in

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		section 55(1) of the said Act of 1970 and”.
1983 c. 28.	The Finance Act 1983.	Section 29.
1984 c. 43.	The Finance Act 1984.	Section 34. In section 73(5), the words from “which specify” to “registered friendly societies” and paragraph (a).

- 1 The repeal in section 263 of the Income and Corporation Taxes Act 1970 has effect in accordance with section 39(2)(b) of this Act.
- 2 The repeals in section 333 and 337 of the Income and Corporation Taxes Act 1970 have effect with respect to life or endowment business (as defined in section 337 of that Act) of friendly societies and branches thereof carried on on or after 1st June 1984.
- 3 The repeals in sections 334 and 335 of the Income and Corporation Taxes Act 1970, Schedule 9 to the Friendly Societies Act 1974 and section 73 of the Finance Act 1984 have effect with respect to business of friendly societies and branches thereof carried on on or after 19th March 1985.
- 4 The repeals in section 343 of the Income and Corporation Taxes Act 1970, section 54 of the Finance Act 1978, section 29 of the Finance Act 1983 and section 34 of the Finance Act 1984 have effect for the year 1986–87 and subsequent years of assessment.
- 5 The repeals in section 1 of the Friendly Societies Act (Northern Ireland) 1970 and section 7 of the Friendly Societies Act 1974 and the repeal of Schedule 9 to the Finance (No 2) Act 1975 (except paragraphs 5, 9 and 10) and section 57(2)(a) of the Finance Act 1980 have effect in accordance with section 41(4) of this Act.

## PART VI

### INCOME TAX AND CORPORATION TAX: CAPITAL ALLOWANCES

Chapter	Short title	Extent of repeal
1968 c. 3.	The Capital Allowances Act 1968.	Section 68(3A).Section 82(3).Section 94(5).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 378(1), the words from “during” to “defined” and in the proviso the words “writing-down”.In section 378(1), in paragraph (c) of the proviso, the words “for the purposes of this subsection”.Section 378(3).Section 379.In section 386(1), the words “after 19th march 1968” and the words

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		from “shall be made” to “discontinuance”.Section 386(9).Section 387(2).
1971 c. 68.	The Finance Act 1971.	Section 41(2).In section 44(1), paragraph (c) and the word “and” immediately preceding it.In section 50(4), the words from the beginning to “payable and”.In Schedule 8, in paragraph 5(1), the words “during that period”.In Schedule 8, in paragraph 6(5), paragraph (d).In Schedule 8, in paragraph 8, sub-paragraph (5) and the word “new” wherever occurring.In Schedule 8, in paragraph 10(2), in paragraph (a), the words from “immediately” to “the expenditure” and paragraph (b), except the final word “and”.
1972 c. 41.	The Finance Act 1972.	Section 67(2)(b).
1974 c. 30.	The Finance Act 1974.	In section 17(1), the words “and had been in use for the purposes of the trade”.
1975 c. 7.	The Finance Act 1975.	In section 14(1), the words “and had been in use for the purposes of the trade”.
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 49(1), the words “and had been in use for the purposes of the trade”.
1978 c. 42.	The Finance Act 1978.	Section 39(2).
1980 c. 48.	The Finance Act 1980.	In section 65(2), in paragraph (a), the words from “immediately” to “brought into use”.In section 65(2), paragraph (b) except the final word “and”.In section 71(1), the words “and had been in use for the purposes of the trade”.
1982 c. 39.	The Finance Act 1982.	In Schedule 12, in paragraph 14, the words “and (3)”.

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- 1 The repeals in section 68 of the Capital Allowances Act 1968 and section 39 of the Finance Act 1978 have effect with respect to capital expenditure incurred on or after 1st April 1986, other than expenditure which—
- (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure; and
- (b) is incurred before 1st April 1987.
- 2 The repeals in section 82 of the Capital Allowances Act 1968, section 50 of the Finance Act 1971 and paragraph 14 of Schedule 12 to the Finance Act 1982 have effect with respect to any chargeable period or its basis period ending on or after 18th December 1984.
- 3 The repeal in section 94 of the Capital Allowances Act 1968 has effect with respect to capital expenditure incurred on or after 1st April 1985 unless that expenditure—
- (a) is incurred before 1st April 1987, and
- (b) consists of the payment of sums made under a contract entered into on or before 19th March 1985 by the person incurring the expenditure.
- 4 The repeals in sections 378, 379, 386 and 387 of the Income and Corporation Taxes Act 1970 have effect with respect to expenditure incurred on or after 1st April 1986.
- 5 The repeals in sections 41 and 44 of, and in paragraphs 6 and 10 of Schedule 8 to, the Finance Act 1971, in section 17 of the Finance Act 1974, in section 14 of the Finance Act 1975, in section 49 of the Finance (No 2) Act 1975, and in sections 65 and 71 of the Finance Act 1980 have effect with respect to any chargeable period or its basis period ending on or after 1st April 1985.
- 6 The repeals in paragraphs 5 and 8 of Schedule 8 to the Finance Act 1971 and in the Finance Act 1972 have effect with respect to capital expenditure incurred on or after 1st April 1985.

## PART VII

### CAPITAL GAINS

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970	Section 270(3).
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 58(12), the words from “(other” to “that Act”.
1979 c. 14.	The Capital Gains Act 1979.	In section 65, in subsection (1)(b), the words from “and this” to the end and in subsection (7)(b), the words from “subject” to “above”.  In section 66, in subsection (4), the words from “and in” to the end.  Section 67(2) and (3).



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		Sections 68 to 70.
		In section 84, in subsection (3)(b)(ii), the words “if the disposal is within” and “that section”
		Sections 124 and 125.
		Section 151.
		In Schedule 7, paragraph 2(2) and in the Table in paragraph 9, the second entry relating to section 58(12) of the Finance (No. 2) Act 1975.
1981 c. 35.	The Finance Act 1985.	In section 41, in subsection (1) the words “or gains or losses” and in subsections (2) and (3) the words “gains or losses”.
1982 c. 39.	The Finance Act 1982.	In section 58, in subsection (5) the words from “including” to “gains” and subsection (6).
		In section 86(1), paragraphs (b) and (c) and the word “and” at the end of paragraph (a).
		Section 86(5).
		In section 87(2), in the definition of “RI” the words “which is the twelve month after that”.
		In section 88, in subsection (1) the words “and section 89 below” and “section 89 below”, paragraph (b) and the word “and” immediately preceding it; and subsection (5A).
		Section 89.
		In Schedule 13, in paragraph 2(1), the words “subsection (5)(b) of that section or”.
		In Schedule 13, in paragraph 2(3), the words “and which falls within subsection (1)(b) of section 86 of this Act”.

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		In Schedule 13, paragraph 3.
		In Schedule 13, in paragraph 4(1), the words “occurring after the beginning of the qualifying period”.
		In Schedule 13, paragraph 7(2).
1983 c. 28.	The Finance Act 1983.	Section 34(2).
1983 c. 49.	The Finance (No. 2) Act 1983.	In section 7(5), the words from “and in paragraph 3” to the end.
1984 c. 43.	The Finance Act 1984.	In Schedule 9, in paragraph 11(1) the words “and 89”.
		In Schedule 13, paragraph 4 and paragraph 9(b) and the word “and” immediately preceding it.
1	The repeals in section 270 of the Income and Corporation Taxes Act 1970, section 58 of the Finance (No. 2) Act 1975, sections 65 to 70 and 84 of and Schedule 7 to the Capital Gains Tax Act 1979, section 41 of the Finance Act 1981, section 58 of the Finance Act 1982 and Schedule 13 to the Finance Act 1984 have effect with respect to disposals on or after 2nd July 1986.	
2	The repeal of sections 124 and 125 of the Capital Gains Tax Act 1979 has effect in accordance with section 69(1) of this Act.	
3	The repeal of section 151 of the Capital Gains Tax Act 1979 has effect with respect to gifts or other transactions occurring after 19th March 1985.	
4	The repeals in the Finance Act 1982, the Finance Act 1983, the Finance (No. 2) Act 1983 and Schedule 9 to the Finance Act 1984 have effect—	
	(a)	in the case of securities within the meaning of Chapter IV of Part II of this Act (other than those mentioned in paragraph (b) below), with respect to disposals on or after 28th February 1986, and
	(b)	in the case of gilt-edged securities as defined in Schedule 2 to the Capital Gains Tax Act 1979 and qualifying corporate bonds as defined in section 64 of the Finance Act 1984, with respect to disposals on or after 2nd July 1986, and
	(c)	in any other case, with respect to disposals made on or after 6th April 1985 or, in the case of disposals by companies, 1st April 1985.

## PART VIII

### SECURITIES

Chapter	Short title	Extent of repeal
These repeals have effect in relation to any year of assessment beginning on or after 6th April 1986.		

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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

1970 c. 9.	The Taxes Management Act 1970.	In section 31(3), the reference to section 30 of the Income and Corporation Taxes Act 1970. In section 98, in the Table, the reference to section 30(1) and (2) of the Income and Corporation Taxes Act 1970.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 30. Section 33.
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraphs 13 and 14. In Schedule 7, paragraph 1.
1978 c. 42.	The Finance Act 1978.	In Schedule 2, paragraph 1.
1984 c. 43.	The Finance Act 1984.	In Schedule 7, in paragraph 2(2)(a), the reference to section 30(3) of the Income and Corporation Taxes Act 1970.

These repeals have effect in relation to any year of assessment beginning on or after 6th April 1986.

## PART IX

### STAMP DUTY

#### (1) GIFTS INTER VIVOS

Chapter	Short title	Extent of repeal
1910 c. 8.	The Finance (1909/10) Act 1910.	Section 74.
1942 c. 21.	The Finance Act 1942.	Section 44.
1942 c. 20 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1942.	Section 1.
1946 c. 64.	The Finance Act 1946.	In section 57(2), the words from “a conveyance or transfer operating” to “Finance (190910) Act, 1910”.
1946 c. 17(N.I.).	The Finance (No. 2) Act (Northern Ireland) 1946.	In section 28(2), the words from “a conveyance or transfer operating” to “Finance (190910) Act, 1910”.
Chapter	Short title	Extent of repeal

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1963 c. 25.	The Finance Act 1963.	Section 64.  In section 67, subsection (3) and, in subsection (5), the words “or donee” in both places where they occur.
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	Section 13.  In section 16, subsection (3) and, in subsection (5), the words “or donee” in both places where they occur.
1965 c. 25.	The Finance Act 1965.	In section 90, in subsection (2), the proviso and, in subsection (5), the words “of the said section 74 and”.
1965 c. 16 (N.I.)	The Finance Act (Northern Ireland) 1965.	In section 4, in subsection (2), the words from “where the completed transaction” to “in any other case” and, in subsection (5), the words “of section 74 of the Finance (190910) Act 1910 and”.
1967 c. 1.	The Land Commission Act 1967.	Section 25(6).
1971 c. 68.	The Finance Act 1971.	In section 64(2), the words from “and section 74” to “on sale”.
1971 c. 27 (N.I.).	The Finance Act (Northern Ireland) 1971.	In section 5(2), the words from “and section 74” to “on sale”.
1973 c. 51.	The Finance Act 1973.	In section 49(3)(b), the words from “without prejudice” to “on sale”.
S.I. 1973/1323 (N.I. 18).	The Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.	In Article 10(3)(b), the words from “without prejudice” to “on sale),”.
1980 c. 48.	The Finance Act 1980.	In Schedule 18, in paragraph 12(1), the words “or under section 74 of the Finance (19091910) Act 1910”.
1981 c. 35.	The Finance Act 1981.	Section 107(2).
1982 c. 39.	The Finance Act 1982.	In section 129(1), paragraph (b) and the word

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

1983 c. 49.	The Finance (No. 2) Act 1983.	“or” immediately preceding it. Section 15(2).
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## (2) FIXED DUTIES

Chapter	Short title	Extent of repeal
1843 c. 86.	The London Hackney Carriages Act 1843.	In section 23, the words “and no such agreement shall be liable to any stamp duty”.
1845 c. 118.	The Inclosure Act 1845.	In section 163, the words “, or power of attorney,”.
1891 c. 39.	The Stamp Act 1891.	In section 59, in subsection (2) the words “except where appropriate with the fixed duty of 50p” and in subsection (5) the words “is stamped with the fixed duty of 50p or”.  In Schedule 1, the whole of the headings mentioned in Schedule 24 to this Act (with the words “And any” preceding “Notarial instrument”) and the whole of the headings beginning “Attorney, letter, or power of”, “Attorney, warrant of”, “Clare constat”, “Commission in the nature of a power of attorney in Scotland”, “Factory, in the nature of a letter or power of attorney in Scotland”, “Power of attorney” and “Proxy”.
1909 c. 43.	The Revenue Act 1909.	Section 9.
1913 c. 20.	The Bankruptcy (Scotland) Act 1913.	In section 189, the words “powers of attorney, commissions, factories,”.
1914 c. 59.	The Bankruptcy Act 1914.	In section 148, the words “power of attorney, proxy paper,”.
1917 c. 31.	The Finance Act 1917.	Section 30(1).
1921 c. 32.	The Finance Act 1921.	In Schedule 3, paragraph 4.

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1923 c. 26(N.I.).	The Finance Act (Northern Ireland) 1923.	In section 4, the words “power of attorney or other”.
1924 c. 27.	The Conveyancing (Scotland) Act 1924.	Section 6(2).  Section 42(2).
1927 c. 10.	The Finance Act 1927.	Section 56.
1928 c. 9.(N.I.).	The Finance Act (Northern Ireland) 1928.	Section 5.
1929 c. 29.	The Government Annuities Act 1929.	In section 22(1) (f), the words “(except a power of attorney)”.
1949 c. 47.	The Finance Act 1949.	In section 58, paragraph (d).  In Schedule 8, in Part I, paragraphs 17 and 18.
Chapter	Short title	Extent of repeal
1949 c. 15. (N.I.)	The Finance Act (Northern Ireland) 1949.	In Schedule 2, in Part 1, paragraphs 16 and 17.
1954 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1954.	Section 9.
1960 c. 22. (N.I.)	The Companies Act (Northern Ireland) 1960.	In section 304A, in subsection (1)(b) the words “power of attorney proxy paper”.
1962 c. 37.	The Building Societies Act 1962	In section 117, paragraph (b).
1967 c. 31. (N.I.)	The Building Societies Act (Northern Ireland) 1967.	In section 118, subsection (1) (b).
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraph 1(3) (c) and the word “and” immediately preceding it, and paragraph 4.
1970 c. 21. (N.I.)	The Finance Act (Northern Ireland) 1970.	In Schedule 2, paragraph 1(3) (c) and the word “and” immediately preceding it, and paragraph 4.
1970 c. 31. (N.I.)	The Friendly Societies Act (Northern Ireland) 1970.	In section 69, paragraph (b).
1974 c.46.	The Friendly Societies Act 1974.	In section 105, paragraph (a).
1980 c. 48.	The Finance Act 1980.	Section 99.
1983 c. 2.	The Representation of the People Act 1983.	Section 21(7).

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1983 c. 28.	The Finance Act 1983.	In section 46(3) (c) the words “section 99 of the Finance Act 1980 and”.
1985 c. 6.	The Companies Act 1985.	In section 638, in subsection (2) (b) the words “power of attorney, proxy paper”, and in subsection (3) (b) the words “power of attorney, commission, factory”.
1985 c. 50.	The Representation of the People Act 1985	Section 8(11).

### (3) CONTRACT NOTES

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1891 c. 39.	The Stamp Act 1891.	Section 8.
1910 c. 8.	The Finance (190910) Act 1910.	In section 77, subsections (1), (2) and (4). In section 78, subsections (2), (4) and (5). In section 79, in subsection (1) the words from “but” to “each option”, and subsection (2).
1966 c. 18.	The Finance Act 1966.	Section 46.
1966 c. 21(N.I.).	The Finance Act (Northern Ireland) 1966.	Section 4.
1970 c. 24.	The Finance Act 1970.	In Schedule 7, in paragraph 9, subparagraph (1), in subparagraph (2) the words “In consequence of subparagraph (1) above,” and subparagraph (3).
1970 c. 21(N.I.).	The Finance Act (Northern Ireland) 1970.	In Schedule 2, in paragraph 9, subparagraph (1), in subparagraph (2) the words “In consequence of subparagraph (1) above,” and subparagraph (3).

### (4) EXCHANGE RATES

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

1899 c. 9.	The Finance Act 1899.	Section 12. The Schedule.
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### (5) FINANCE ACT 1931

Chapter	Short title	Extent of repeal
1931 c. 28.	The Finance Act 1931.	Section 35(x).

The repeals under (4) above apply to instruments executed on or after 1st August 1985.

## PART X

### DEVELOPMENT LAND TAX AND TAX ON DEVELOPMENT GAINS

Chapter	Short title	Extent of repeal
1974 c. 30.	The Finance Act 1974.	Section 38 to 47. Section 57(3)(c). Schedules 3 and 4. Schedules 6 to 10.
1976 c. 24.	The Development Land Tax Act 1976.	The whole Act.
1976 c. 40.	The Finance Act 1976.	Section 129.
1976 c. 75.	The Development of Rural Wales Act 1976.	Section 31.
1977 c. 36.	The Finance Act 1977.	Section 55.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 114. In Schedule 7, paragraphs 3, 4 and 6; in paragraph 8, item 6 of Part I of the Table; and in the Table in paragraph 9 all the entries relating to the Finance Act 1974 except those relating to sections 26(2)(a) and 30(1).
1979 c. 47.	The Finance (No. 2) Act 1979	Section 24. In Schedule 4, paragraph 4.
1980 c. 48.	The Finance Act 1980.	Sections 110 to 116. Section 118(4). In Schedule 18, paragraphs 11 and 16.
1981 c. 35.	The Finance Act 1981.	Sections 129 to 133.
1982 c. 39.	The Finance Act 1982.	Section 155.
1983 c. 28.	The Finance Act 1983.	Section 46(4).



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1983 c. 49.	The Finance (No. 2) Act 1983.	Section 14.
1984 c. 43.	The Finance Act 1984.	In section 99, in subsection (2) the words from “and accordingly” onwards and subsection (3). Section 118 to 123. In Schedule 21, paragraphs 18 and 19.
1984 c. 51.	The Capital Transfer Tax Act 1984.	In Schedule 8, paragraph 5.

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- 1 The repeals in the Finance Act 1974, the Finance Act 1976, the Capital Gains Tax Act 1979 and section 99(3) of the Finance Act 1984—
  - (a) do not have effect in relation to a disposal of an interest in land, as defined in section 93(6) of this Act, which takes place before 19th March 1985; and
  - (b) do not affect the construction of paragraph 9 of Schedule 5 to the Capital Gains Tax Act 1979 (of which sub-paragraph (5) adopts for the purposes of that paragraph certain provisions of the Finance Act 1974).
- 2 The other repeals in this Part and the repeal of section 114 of and paragraph 6 of Schedule 7 to the Capital Gains Tax Act 1979 do not have effect in relation to a disposal, as defined in section 93(1) of this Act, which takes place before 19th March 1985.

## PART XI

### MISCELLANEOUS

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Chapter	Short title	Extent of repeal
1984 c. 51.	The Capital Transfer Tax Act 1984.	In section 32, subsections (6) and (7).

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These repeals have effect in relation to events on or after 19th March 1985.

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**Status:**

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**Changes to legislation:**

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