



Finance Act 1985

1985 CHAPTER 54

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 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.

Status: This is the original version (as it was originally enacted).

2 Tobacco products

- (1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

“TABLE

1. Cigarettes	An amount equal to 21 per cent, of the retail price plus £26-95 per thousand cigarettes.
2. Cigars	£47-05 per kilogram.
3. Hand-rolling tobacco	£43-73 per kilogram.
4. Other smoking tobacco and chewing tobacco.	£24-95 per kilogram.”

- (2) This section shall be deemed to have come into force on 22nd March 1985.

3 Hydrocarbon oil

- (1) In section 6(1) of the 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.
- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1985.

4 Vehicles excise duty

- (1) The Vehicles (Excise) Act 1971 and the 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.

Other provisions

5 Blending of certain wines to constitute production of wine

- (1) In section 54 of the 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—

- (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 which 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.

6 Miscellaneous amendments relating to spirits and beer

- (1) The 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.

7 Hydrocarbon oil: mixing etc.

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

Status: This is the original version (as it was originally enacted).

8 Gaming machine licence duty

- (1) The 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) to 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 Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 in respect of any period beginning on or after 1st October 1985.

9 Vehicles excise duty: fees

- (1) In section 13 of the 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".

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 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—

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- (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 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 Criminal Justice Act 1982).
- (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 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 Customs and Excise Management Act 1979 (untrue declarations etc.);
 - (d) section 168 of that Act (counterfeit documents etc.);
 - (e) section 15 of the 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 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 Car Tax Act 1983 (false documents etc.).

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- (7) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the 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 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 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 Customs and Excise Management Act 1979.

CHAPTER II

VALUE ADDED TAX

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

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- (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—
- (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 (20) 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)—

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- (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.

- (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.

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, and
 - (c) a repayment under section 23 of that Act,
- 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 co-operation which the person concerned has given to the Commissioners in their investigation.

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- (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—
- (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 co-operation 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.

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 paragraph (a) or paragraph (b) of 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.
- (2) The circumstances referred to in subsection (1) above are as follows—
- (a) that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered—
 - (i) equals or exceeds 30 per cent, of the true amount of tax for that period, or
 - (ii) equals or exceeds whichever is the greater of £10,000 and 5 per cent, of the true amount of tax for that period ; or
 - (b) that the condition in subsection (3) below is fulfilled with respect to the period concerned and that, during any period of four years beginning not more than

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six years before the end of that period, there were at least two earlier prescribed accounting periods beginning after the day appointed under subsection (8) below in respect of each of which—

- (i) either there was made such a return as is referred to in paragraph (a) of subsection (1) above or there was such an assessment as is referred to in paragraph (b) of that subsection and the person concerned did not, within the period there referred to, take all such steps as were reasonable to draw the understatement to the attention of the Commissioners; and
 - (ii) the condition in subsection (3) below was fulfilled.
- (3) The condition referred to in subsection (2)(b) above is that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered equals or exceeds 15 per cent, of the true amount of tax for that period.
- (4) The references in subsections (1) to (3) above 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 subsections (2) (a) and (3) above " 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.
- (6) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section nor be taken into account under subsection (2) (b) above 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 and shall not be taken into account under subsection (2)(b) above.
- (8) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

15 Failures to notify and unauthorised issue of invoices

- (1) In any case where—

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- (a) a person fails to comply with any of paragraphs 3, 4 and 11(2) 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 an invoice 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 30 per cent, 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 the date on which the Commissioners received notification of, or otherwise discovered, his liability to be registered ; and
 - (b) in relation to a person's failure to comply with sub-paragraph (2) 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 the period beginning on the date of the change or alteration referred to in that sub-paragraph and ending on the date on which the Commissioners received notification of, or otherwise discovered, that change or alteration ; and
 - (c) in relation to the issue of such an invoice as is referred to in subsection (1) (b) above, the amount which is shown on the invoice as tax or which is to be taken as representing tax.
- (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.

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- (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.

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.
- (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 of Schedule 1 to the principal Act (notification of cessation of taxable supplies), 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),
 he shall be liable, subject to subsections (9) and (10) and section 21(6) below, to a daily penalty at the prescribed rate for each day on which the failure continues.
- (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.

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- (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, £10;
 - (b) if there has been only one such occasion in that period, £20; and
 - (c) in any other case, £30.
- (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;
 - (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 ;
 - (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 one-sixth, one-third or one-half 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

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

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 paragraph 11(1)(a) of Schedule 1 to the principal Act,
- the tax or other amount assessed shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (2) In any case where—
- (a) a person fails to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act (notification of liability to registration) or, being a person exempted from registration under sub-paragraph (1)(a) of paragraph 11 of that Schedule, fails to comply with sub-paragraph (2) of that paragraph (notice of circumstances affecting entitlement to exemption), and

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- (b) the Commissioners, rather than assessing the amount of tax due, require him to make a return for the period beginning on the date with effect from which he was required to be registered or, as the case may be, on which it appears to the Commissioners that he should no longer have been exempt from registration and ending on a date specified by the Commissioners, and
 - (c) that period exceeds three months, and
 - (d) the tax due for that period is paid without the need for an assessment. that tax shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (3) If, in a case where subsection (2) above does not apply,—
 - (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),that tax or other amount shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until the date on which it was paid.
- (4) Where the amount assessed or paid as mentioned in any of subsections (1) to (3) above relates to a particular prescribed accounting period which does not exceed three months, interest under this section shall run on the whole of that amount from the reckonable date.
- (5) Where subsection (4) above does not apply, the Commissioners shall, to the best of their judgment, attribute different parts of the amount assessed or paid to different parts of the period to which that amount relates; and interest under this section on the part of an amount which is attributed to a particular part of a period shall run from the date which, if that part were a prescribed accounting period, would be the reckonable date.
- (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.
- (7) The references in subsections (4) and (5) 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 sub-paragraph (2)(a) or sub-paragraph (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 non-business day, within the meaning of section 92 of the Bills of Exchange Act 1882.

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- (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.

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 a 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;

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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.;
- (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.

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- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

20 Repayment supplement in respect of certain delayed payments

- (1) In any case where—

- (a) a person is entitled to a payment under section 14(5) of the principal Act in respect of a prescribed accounting period, and
- (b) the return for that period which is required in accordance with regulations under the principal Act is received by the Commissioners not later than one month after the last day on which, in accordance with those regulations, it is required to be furnished, and
- (c) a written instruction directing the making of the payment due under the said section 14(5) is not issued by the Commissioners within the period of thirty days beginning on the day following the end of that prescribed accounting period or, if it is later, on the date of the receipt by the Commissioners of the return referred to in paragraph (b) above, and
- (d) the amount shown on that return as due by way of payment under the said section 14(5) is not more than £100 in excess of the payment which was in fact due,

the amount which, apart from this section, would be due by way of that payment shall be increased by the addition of a supplement equal to 5 per cent, of that amount or £30, whichever is the greater.

- (2) Regulations may provide that, in computing the period of thirty days referred to in subsection (1)(c) 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 return referred to in subsection (1)(b) above,
 - (b) the correction by the Commissioners of any errors or omissions in that return,
 - (c) any such continuing failure to submit returns or pay tax as is referred to in section 14(7) of the principal Act, and
 - (d) 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).
- (3) Except for the purpose of determining the amount of the supplement, a supplement paid to any person under subsection (1) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act.
- (4) This section shall have effect with respect to any prescribed accounting period ending on or after such day as the Treasury may by order made by statutory instrument appoint.
- (5) 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 (1)(c) above.

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 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.
- (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
 - (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 sub-paragraph (1), sub-paragraph (2) or sub-paragraph (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.

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- (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) Sub-paragraph (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.

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.

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- (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) Sub-paragraphs (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 sub-paragraph (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.

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 (Dip) 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 "

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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

(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

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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.

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 Tribunals and Inquiries Act 1971 (which provides for appeals to the High Court from, among other tribunals, a value 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.

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

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- (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".

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 sub-paragraph (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 principle 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—
- (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 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.

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.

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.”

32 Refund of tax in cases of bad debts

- (1) For section 22 of the principal Act there shall be substituted the following section—

“22 Refund of tax in cases of bad debts.

- (1) Where
- (a) a person has supplied goods or services for a consideration in money and has accounted for and paid tax on that supply; and

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- (b) the person liable to pay any outstanding amount of the consideration has become insolvent,
- then, subject to subsections (4) and (5) below and to regulations under this section, the first-mentioned person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of tax chargeable by reference to the outstanding amount
- (2) An individual becomes insolvent for the purposes of this section if—
- (a) in England and Wales, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors, a composition or scheme proposed by him is approved under Chapter I of Part III of the Insolvency Act 1985 or, after his death, his estate falls to be administered in accordance with an order under Part IV of that Act;
 - (b) in Scotland, sequestration of his estate is awarded, he signs a trust deed for his creditors or, after his death, a judicial factor is appointed under section 11A of the Judicial Factors (Scotland) Act 1889 to administer his estate;
 - (c) in Northern Ireland, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors, a resolution of his creditors is approved by the court under section 5 of the Bankruptcy Amendment Act (Northern Ireland) 1929 or, after his death, the court makes an order for the administration in bankruptcy of his estate; or
 - (d) in the Isle of Man, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors or, after his death, the court makes an order for the administration in bankruptcy of his estate.
- (3) A company becomes insolvent for the purposes of this section if—
- (a) it goes into liquidation in the United Kingdom or the Isle of Man at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up ; or
 - (b) a person who has been appointed in Great Britain to act as its administrator or administrative receiver issues a certificate of his opinion that, if it went into liquidation, the assets of the company would be insufficient to cover the payment of any dividend in respect of debts which are neither secured nor preferential.
- (4) A person shall not be entitled to a refund under this section unless—
- (a) the value of the supply is equal to or less than its open market value; and
 - (b) in the case of a supply of goods, the property in the goods has passed to the person to whom they were supplied or to a person deriving title from, through or under that person.
- (5) A person shall not be entitled to a refund under this section in a case where the insolvency arises otherwise than by virtue of such a certificate as is mentioned in subsection (3) (b) above unless he has proved in the insolvency for the requisite amount, that is to say, the outstanding amount of the consideration less the amount of his claim.
- (6) If regulations under this section so provide in relation to insolvencies of any description, this section shall have effect in relation to insolvencies of that description as if—
- (a) subsection (5) above were omitted ; or

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- (b) the reference in that subsection to proving in the insolvency for the requisite amount were a reference to the taking of the prescribed steps in relation to that amount.
- (7) Regulations under this section may—
- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations ;
 - (b) require a claim to be evidenced and quantified by reference to such records and other documents preserved for such period, not exceeding six years from the making of the claim, as may be so specified;
 - (c) make provision for determining what amount (if any) is the outstanding amount of the consideration in particular cases, such as those involving part payment or mutual debts;
 - (d) require the repayment of a refund under this section where any requirement of the regulations is not complied with ;
 - (e) require the repayment of such a refund where the claimant subsequently proves for or takes the prescribed steps in relation to an amount which (taken with the amount for which he has previously proved or in relation to which he has previously taken the prescribed steps) exceeds the requisite amount; and
 - (f) make different provision for different circumstances.
- (8) In this section "administrative receiver" has the same meaning as in Part II of the Insolvency Act 1985 and references to an individual include, in relation to Scotland, references to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985."
- (2) This section applies where the person liable to pay the outstanding amount of the consideration becomes insolvent on or after such day as the Treasury may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.

33 Interpretation and construction of Chapter II

- (1) In this Chapter " the principal Act" means the 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) In any case where—
- (a) an amount is due from the Commissioners to any person under section 14(5) of the principal Act, and
 - (b) that person is liable to pay a sum assessed by way of penalty, interest or surcharge,

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the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.

- (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.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

34 Charge of income tax for 1985-86

Income tax for the year 1985-86 shall be charged at the basic rate of 30 per cent.; and in respect of so much of an individual's total income as exceeds the basic rate limit (£16,200) at such higher rates as are specified in the Table below:

TABLE

<i>Higher rate bands</i>	<i>Higher rate</i>
The first (£3,000)	40 per cent.
The second (£5,200)	45 per cent.
The third (£7,900)	50 per cent.
The fourth (£7,900)	55 per cent.
The fifth	60 per cent.

and paragraphs (a) and (b) of subsection (1) of section 32 of the Finance Act 1971 (charge of tax at the basic and higher rates) shall have effect accordingly.

35 Rate of advance corporation tax for financial year 1985

The rate of advance corporation tax for the financial year 1985 shall be three-sevenths.

36 Personal reliefs

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1985-86.
- (2) In section 8 of the Taxes Act (personal reliefs)—

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- (a) in subsection (1)(a) (married) for " £3,155 " there shall be substituted " £3,455";
- (b) in subsections (1)(b) (single) and (2) (wife's earned income relief) for " £2,005 " there shall be substituted " £2,205";
- (c) in subsection (1A) (age allowance) for "£3,955 " and "£2,490" there shall be substituted " £4,255 " and " £2,690 " respectively ; and
- (d) in subsection (1B) (income limit for age allowance) for " £8,100 " there shall be substituted " £8,800".

37 Relief for interest

- (1) For the year 1985-86 the qualifying maximum referred to in paragraphs 5(1) and 24(3) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) shall be £30,000.
- (2) In paragraph 5 of Schedule 7 to the Finance Act 1982 (loans over the tax relief limit) in sub-paragraph (2) (which excludes interest on such loans unless the qualifying lender has given notice to bring them within the deduction scheme) after the word " unless " there shall be inserted—
 - “(a) the loan is made on or after 6th April 1987 ; or
 - (b)”.
- (3) In sub-paragraph (4) of the said paragraph 5 (interest on a limited loan can be relevant interest only to the extent that it qualifies for tax relief) for the words " notice has been given as mentioned in sub-paragraph (2) above" there shall be substituted " the condition in paragraph (a) or paragraph (b) of subparagraph (2) above is fulfilled".
- (4) In paragraph 14(2) of the said Schedule 7 (power by order to prescribe qualifying lenders for the purposes of the deduction scheme) for the words from " with effect" onwards there shall be substituted " with effect from such date as may be so specified".

38 Interest paid on deposits with banks etc.

- (1) Schedule 8 to the Finance Act 1984 (interest paid on deposits with banks etc.) shall be amended as follows.
- (2) In paragraph 2 (meaning of "deposit-taker"), for the word " section ", in paragraph (f) of sub-paragraph (1), there shall be substituted the word " sub-paragraph " and for subparagraph (2) there shall be substituted the following subparagraph—
 - “(2) An order under sub-paragraph (1)(f) above may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order”.
- (3) In paragraph 3(2), after paragraph (a) (person beneficially entitled to interest must be an individual), there shall be inserted the following paragraph—
 - “(ad) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals ; or”.
- (4) In paragraph 3(3) (deposits which are not relevant deposits), the following paragraphs shall be inserted after paragraph (d)—
 - “(dd) it is a general client account deposit;

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- (ddd) it forms part of a premiums trust fund (within the meaning of paragraph 16 of Schedule 10 to the Taxes Act) of an underwriting member of Lloyd's”.
- (5) In paragraph 3, after sub-paragraph (4), there shall be inserted the following sub-paragraph—
- “(4A) A declaration under sub-paragraph (3)(h) shall be in such form as may be prescribed or authorised, and; contain such information as may reasonably be required, by the Board”.
- (6) In paragraph 3(8) (interpretation), the following definition shall be inserted after the definition of " appropriate person " —
- “'general client account deposit' means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account”.
- (7) After paragraph 3 there shall be inserted the following paragraph—
- “3A (1) The Treasury may by order made by statutory instrument make amendments in this Schedule providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-taker as may be so specified.
- (2) The Board may by regulations made by statutory instrument make provision—
- (a) requiring any declaration under paragraph 3 (3)(h)(ii) above which does not give the address of the person making it, to be supported by a certificate given by the deposit-taker concerned—
- (i) in such form as may be prescribed or authorised by the Board ; and
- (ii) containing such information as may reasonably be required by the Board ; and
- (b) generally for giving effect to the principal section and this Schedule.
- (3) Any order or regulations made under this paragraph may contain such incidental and consequential provision as appears to the Treasury or, as the case may be, Board to be appropriate.
- (4) A statutory instrument made in the exercise of the power conferred by this paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (8) Subject to paragraph 6(1) of Schedule 8 to the Finance Act 1984 (deposits denominated in a foreign currency not to be treated as relevant deposits before 6th April 1986), subsections (3), (4) and (6) above apply in relation to payments of interest made or credited after 5th April 1985.

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- (9) There shall be made such assessments, or reductions of assessments, or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsections (3), (4), (6) and (8) above.
- (10) The words " Regulations under paragraph 3A of Schedule 8 to the Finance Act 1984 " shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.).

39 Group relief: modifications

- (1) Section 258 and the following sections of Chapter I of Part XI of the Taxes Act (the enactments relating to group relief) shall have effect subject to Part I of Schedule 9 to this Act.
- (2) Section 263 of the Taxes Act (exclusion of double allowances etc.) shall be amended in accordance with Part II of Schedule 9 to this Act and in that Part—
 - (a) paragraphs 9, 10 and 13 have effect in relation to any claim with respect to an accounting period of the surrendering company which begins on or after 1st August 1985; and
 - (b) paragraphs 11 and 12 have effect in relation to any claim with respect to an accounting period of the claimant company which begins on or after that date.
- (3) In subsection (2) above " the surrendering company " and " the claimant company " have the meaning assigned by section 258 of the Taxes Act.

40 Building societies

- (1) Section 343 of the Taxes Act (arrangements for building societies to account for tax on dividends and interest etc.) shall be amended in accordance with this section.
- (2) In subsection (1), after the words " year of assessment" there shall be inserted " ending before 6th April 1986".
- (3) After subsection (1) there shall be inserted the following subsections—
 - “(1A) The Board may by regulations made by statutory instrument make provision with respect to the year 1986-87 and any subsequent year of assessment requiring building societies, on such sums as may be determined in accordance with the regulations, to account for and pay an amount representing income tax calculated in part at the basic rate and in part at the reduced rate determined for the year of assessment concerned under section 26(1)(a) of the Finance Act 1984; and any such regulations may contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.
 - (1B) A statutory instrument made in the exercise of the power conferred by subsection (1A) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (4) In subsection (2), for the words from the beginning to " this section" there shall be substituted " For any year of assessment to which regulations under subsection (1A) above apply "; for the words " the society ", in the first place where they occur, there shall be substituted " a building society " ; in paragraph (a) for the words " total profits

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of the society " there shall be substituted " income of the society from the trade carried on by it " ; and in paragraph (b) the words from " except that" to the end shall be omitted.

- (5) In subsection (3), for the words preceding paragraph (a) there shall be substituted " Except in so far as regulations under subsection (1A) above otherwise provide, for any year of assessment to which such regulations apply"; in paragraph (a) for the words " that society " there shall be substituted " a building society " ; and paragraphs (iii) and (iv) of the proviso shall be omitted.
- (6) In subsection (4), for the words from the beginning to "this Act" there shall be substituted " Notwithstanding anything in Part II of this Act, for any year of assessment to which regulations under subsection (1A) above apply " and for the words " the society" there shall be substituted " a building society".
- (7) In subsection (7), for the words following " dividend " there shall be substituted " has the meaning assigned to it by regulations under subsection (1A) above".
- (8) Subsections (6), (8A), (8B) and (9) shall be omitted.
- (9) Subsections (4) to (8) above have effect for the year 1986-87 and subsequent years of assessment.
- (10) The Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.) shall be amended as follows—
 - (a) in the first column, after the words " Schedule 6, paragraph 10 ", and
 - (b) in the second column, after the words " Regulations under section 204 of the principal Act," there shall, in each case, be inserted " Regulations under section 343(1 A) of the principal Act".

41 Friendly societies

- (1) In section 64 of the Friendly Societies Act 1974 (maximum benefits for members of friendly societies) at the end of subsection (2) there shall be added the following subsections—
 - “(2A) In applying the limits in this section in accordance with section 73(6)(b) of the Finance Act 1984 (that is to say, in relation to the aggregate of the benefits secured by contracts made after 13th March 1984 and those secured by contracts made on or before that day), any contract for an annuity which was made before 1st June 1984 by a new society, as defined in section 337(3) of the Income and Corporation Taxes Act 1970, shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent, of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of seventy-five years.
 - (2B) If, on or after 19th March 1985, a person becomes in breach of the limits in this section, the policy effected by that contract which causes those limits to be exceeded shall not be a qualifying policy, within the meaning of Part I of Schedule 1 to the Income and Corporation Taxes Act 1970; and in any case where—
 - (a) the limits in this section are exceeded as a result of the aggregation of the sums assured under two or more contracts, and

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- (b) at a time immediately before one of those contracts was entered into (but not immediately after it was entered into) the sums assured by the contract or contracts which were then in existence did not exceed the limits in this section,
only those policies effected by contracts made after that time shall be treated as causing the limits to be exceeded.”
- (2) Section 64 of the Friendly Societies Act 1974 (as amended by subsection (1) above)—
- (a) shall have effect as if contained within sections 332 to 336 of the Taxes Act, instead of within the said Act of 1974; and
- (b) shall extend to Northern Ireland;
- and in consequence of paragraph (b) above, section 55 of the Friendly Societies Act (Northern Ireland) 1970 shall cease to have effect.
- (3) With respect to life or endowment business carried on on or after 1st June 1984, section 333 of the Taxes Act (distinction between old and new societies) shall have effect with the omission—
- (a) in subsection (1), of paragraph (b) and the word " or " immediately preceding it; and
- (b) of subsections (2) and (3).
- (4) With respect to—
- (a) policies issued in respect of insurances made on or after 19th March 1985, and
- (b) policies issued in respect of insurances made before that date which are varied on or after that date,
- section 7(3) of the Friendly Societies Act 1974 (societies not entitled to registration if in breach of the statutory limits) shall not apply and for paragraph 3 of Schedule 1 to the Taxes Act (qualifying friendly society policies) there shall be substituted the paragraphs set out in Part I of Schedule 10 to this Act.
- (5) Part II of Schedule 10 to this Act shall have effect with respect to policies issued in respect of insurances made on or after 1st June 1984 and before 19th March 1985; and, with respect to business carried on on or after 19th March 1985 by friendly societies which are not new societies,—
- (a) Part III of that Schedule shall have effect; and
- (b) subsections (2) to (5) of section 335 of the Taxes Act (conditions for tax exempt business) shall not apply.
- (6) With respect to business carried on on or after 19th March 1985, section 334 of the Taxes Act (conditions for tax exempt business) shall be amended as follows—
- (a) in subsection (1) after the words " apply to " there shall be inserted " so much of the " and for the words from " unless " onwards there shall be substituted “as is attributable to a policy which, by virtue of section 64(2B) of the Friendly Societies Act 1974,—
- (a) is not a qualifying policy ; and
- (b) would not be a qualifying policy if all policies with other friendly societies were left out of account”; and
- (b) in subsection (2), in paragraph (a) for the words " the payment of the first premium" there shall be substituted " the making of the insurance or, where the contract provides for the term to begin on a date not more than three months earlier than the making of the insurance, that date " and the words following paragraph (c) shall be omitted ;

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- (c) at the end of paragraph (a) of subsection (3) there shall be added the words " and, for the purposes of this paragraph, if the term begins on a date earlier than the making of the insurance, any premium paid in respect of a period before the making of the insurance, or in respect of that period and a subsequent period, shall be treated as having been payable on that date";
 - (d) at the end of paragraph (c) of subsection (4) there shall be added "and
 - (d) may make provision for the waiver of premiums by reason of a person's disability."
- (7) Section 337 of the Taxes Act (interpretation of provisions relating to registered friendly societies) shall be amended as follows—
- (a) in subsection (1) for the words following " interpretation of " there shall be substituted—
 - “(a) sections 332 to 336 above and the following provisions of this section,
 - (b) paragraphs 3 and 3A of Schedule 1 to this Act, and
 - (c) section 41 of and Parts II and III of Schedule 10 to the Finance Act 1985”;
 - (b) in subsection (2) (definition of " life or endowment business ") for the words from " within " to " period)" there shall be substituted " within any of paragraphs (1), (2), (4) and (5) of Schedule 1 to the Friendly Societies Act 1974 ");
 - (c) for paragraph (a) of subsection (2) there shall be substituted—
 - “(a) shall not include the issue of a policy affording provision for sickness or other infirmity (whether bodily or mental) unless—
 - (i) it also affords assurance for a gross sum independent of sickness or other infirmity; and
 - (ii) not less than sixty per cent, of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity ; and
 - (iii) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum”;
 - (d) in subsection (3) (general definitions) after the definition of " life assurance business " there shall be inserted—
 - ““ new society ' means a friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business”;

and after the words " said provisions " there shall be inserted " (including this subsection)";
 - (e) in subsection (4) (amalgamated societies) in paragraph (a) of the proviso for the words " a society not within section 333(1)(6) above" there shall be substituted " not a new society"; and
 - (f) in subsection (4), paragraph (b) of the proviso shall be omitted;
- and this subsection has effect with respect to business carried on on or after 19th March 1985 except that paragraphs (d) and (e) above also have effect with respect to business carried on on or after 1st June 1984.

- (8) In section 393 of the Taxes Act (the introductory provision to the "chargeable events" legislation affecting insurance policies, contracts for life annuities etc.) at the end of the definition of "life annuity" in subsection (3) there shall be added the words "and any annuity the contract for which is made on or after 1st June 1984 by a friendly society or branch thereof in the course of life or endowment business, as defined in section 337 of this Act".
- (9) Where, under section 395 or section 397 of the Taxes Act, a gain is to be treated as arising in connection with a policy issued by a friendly society in the course of tax exempt life or endowment business, section 399 of that Act (method of charging gain to tax) shall have effect in relation to the gain as if subsection (4) (exclusion of basic rate tax) were omitted.
- (10) In section 27 of the Finance Act 1974 (control of certain societies registered after 31st May 1973) in subsection (3) (notice of intention to withdraw certain tax advantages) for the words from "such date" onwards there shall be substituted "the date of the notice".

42 Relief for Class 4 contributions

- (1) An individual making a claim in that behalf shall be entitled, in computing his total income for any year of assessment beginning on or after 6th April 1985, to deduct one-half of any amount (as finally settled) which is determined under subsection (2) of section 9 of the Social Security Act 1975 or of the Social Security (Northern Ireland) Act 1975 and which he is liable to pay in respect of that year by way of Class 4 contributions under either of those sections.
- (2) In paragraph 3(2) of Schedule 2 to each of those Acts, there shall be inserted after paragraph (e) "and
- (f) section 42 of the Finance Act 1985 (relief for Class 4 contributions)."

43 Business entertaining expenses

- (1) In subsection (8)(b) of section 411 of the Taxes Act (which limits expenses on gifts for which deductions may be made) for "£2" there shall be substituted "£10".
- (2) This section applies to expenses incurred after 5th April 1985.

44 Business expansion scheme

- (1) Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades) shall be amended as follows.
- (2) The following paragraph shall be inserted after paragraph 2—

“Modification of paragraph 2 for research and development companies

- 2A (1) Where eligible shares in a company are issued for the purpose of enabling the company to raise money—
- (a) for research and development from which it intends to derive a qualifying trade which it will carry on; or
- (b) both for any such research and development and for the resulting trade;

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paragraph 2 above shall apply in relation to the company with the modifications set out in this paragraph.

(2) For paragraph (b) of sub-paragraph (1) there shall be substituted—

“(b) those shares are issued to him for the purpose of raising money—

- (i) for research and development which is being carried on at the time when the shares are issued, or begins immediately thereafter, and from which the company intends to derive a qualifying trade which will be carried on by it; or
- (ii) both for any such research and development and the resulting trade.”

(3) For sub-paragraph (4) there shall be substituted the following—

“(4) The relief shall be given on a claim and shall not be allowed unless and until the company has carried on the research and development for four months.”

(4) In sub-paragraph (5), for the word ' trade ' there shall be substituted the words ' research and development '.

(5) In sub-paragraph (7)(b), for the words from 'either' to the end there shall be substituted the words 'three years after that date'.”

(3) In paragraph 6(2) (trades which are excluded from being qualifying trades) after the word " or " there shall be inserted the words " of property development or".

(4) In paragraph 6, after sub-paragraph (2A), there shall be inserted the following sub-paragraph—

“(2AA) A trade shall not be treated as failing to comply with this paragraph by reason only that at any time after 19th March 1985 it consists to a substantial extent of receiving royalties or licence fees if—

- (a) the company carrying on the trade is engaged in research and development throughout the relevant period; and
- (b) all royalties and licence fees received by it in that period are attributable to research and development which it has carried out.”

(5) In paragraph 6(2B) (interpretation), the following definitions shall be inserted after the definition of " film " —

“' property development ' means the development of land, by a company which has, or at any time has had, an interest in the land, with the sole or main object of realising a gain from disposing of the land when developed ;

' interest in land ' means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land ; or

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(b) in Scotland, the interest of a creditor in a charge or security of any kind over land.”

(6) In paragraph 20(2) (interpretation) the following definition shall be inserted after the definition of " the relevant period " —

“research and development' means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program.”

(7) Subsection (2) has effect in relation to shares issued on or after 6th April 1985 and subsections (3) and (5) have effect in relation to shares issued after 19th March 1985.

45 Profit sharing schemes

(1) Chapter III of Part III of the Finance Act 1978 (profit sharing schemes) shall be amended in accordance with this section.

(2) In subsection (6) of section 54 of that Act (definition of " the release date ") for the words " seventh anniversary " (which were substituted by section 46(4) of the Finance Act 1980) there shall be substituted " fifth anniversary".

(3) In subsection (7) of that section (definition of " the appropriate percentage ")—

(a) in paragraph (c)(i) for the words " sixth anniversary " there shall be substituted " fifth anniversary " and the final word " or " shall be omitted ; and

(b) paragraphs (c)(ii) and (d) shall be omitted.

(4) In subsection (6) of section 56 of that Act (capital receipts in respect of scheme shares) —

(a) for " £140 " there shall be substituted " £100"; and

(b) for " 7 years " there shall be substituted " 5 years".

(5) The amendments made by subsection (4) above have effect for the year 1986-87 and subsequent years of assessment.

46 Deep discount securities

Schedule 11 to this Act (deep discount securities) shall have effect in relation to any deep discount security issued on or after 19th March 1985; and " deep discount security" and " issued " have the same meanings here as in that Schedule.

47 Partnerships: basis of assessment

(1) This section applies where—

(a) a trade, profession or vocation is carried on by persons in partnership,

(b) there is a change in those persons as a result of which section 154(1) of the Taxes Act treats the trade, profession or vocation as discontinued and a new trade, profession or vocation as set up and commenced, and

(c) a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be engaged in carrying it on in partnership immediately after the change, but no election is made under section 154(2) to disapply section 154(1).

(2) In a case where this section applies, the Taxes Act shall have effect as if—

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- (a) the section set out in subsection (3) below were substituted for section 116 (special basis at commencement), and
- (b) section 117 (special basis for two years following commencement) were amended as mentioned in subsection (4) below.

(3) The substitute for section 116 is this—

“116 Special basis at commencement.

The computation of the profits or gains chargeable to income tax under Case I or Case II of Schedule D for the year of assessment in which the new trade, profession or vocation is treated as having been set up and commenced, and for each of the three years of assessment following that year of assessment, shall be made on the full amount of the profits or gains arising in the year of assessment in question.”

(4) The amendments of section 117 are these—

- (a) in subsection (1) for " second ", " third ", " next after " and "next but one after" there shall be substituted (respectively) " fifth " , " sixth " , " next but three after " and " next but four after " ;
- (b) in subsections (2) and (3) for " second " and " third " there shall be substituted (respectively and throughout) " fifth " and " sixth " .

(5) This section has effect in relation to any change which takes place after 19th March 1985 in the persons engaged in carrying on a trade, profession or vocation in partnership.

48 Limited partners: restriction of reliefs

(1) Schedule 12 to this Act (restriction in case of limited partners and others of reliefs in respect of losses, interest and charges and of allowances for expenditure) shall have effect where the chargeable period—

- (a) in which the loss in question is sustained or incurred, or the interest or charges in question paid, or
- (b) for which the allowance in question falls to be made,

begins after 19th March 1985.

(2) That Schedule shall also have effect where that period begins on or before that date and ends after it if the person sustaining or incurring the loss or paying the interest or charges, or to whom the allowance falls to be made, begins after that date to carry on as a limited partner the trade—

- (a) in which, or in connection with which, the loss is sustained or incurred or the interest or charges paid, or
- (b) in taxing which, or by reason of participation in which, the allowance falls to be made,

and it is immaterial whether or not he was carrying on the trade otherwise than as a limited partner on or before that date.

49 Covenanted payments to charity: increase of exemption from excess tax liability

- (1) In section 457 of the Taxes Act (settlements made on or after 7th April 1965) in subsection (1A) (covenanted payments to charity: first £5,000 exempt from excess liability) for " £5,000 " there shall be substituted " £10,000".
- (2) In Schedule 16 to the Finance Act 1972 (apportionment of income of close companies) in paragraph 5, in sub-paragraph (5A) (total income reduced by amount of covenanted payments to charities subject to the £5,000 limit) for " £5,000 " there shall be substituted " £10,000".
- (3) This section has effect for the year 1985-86 and subsequent years of assessment in relation to payments made after 5th April 1985.

50 Agents acting for non-residents

- (1) Section 78 of the Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsections (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,

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- (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.

- (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 others within the terms of section 533 of the principal Act.”

51 Offshore life assurance: chargeable events

- (1) In Part III of Schedule 15 to the Finance Act 1984 (modifications of chargeable events legislation in relation to new non-resident policies and new offshore capital redemption policies) at the beginning of sub-paragraph (1) of paragraph 8 (reduction of gain so as to reflect only that part of the period of the policy during which the policy holder is resident in the United Kingdom) there shall be inserted the words " Subject to sub-paragraph (3) below".
- (2) At the end of sub-paragraph (2) of the said paragraph 8 there shall be inserted the following sub-paragraph—
 - “(3) If, on the happening of the chargeable event referred to in sub-paragraph (1) above or at any time during the period referred to in paragraph (a) of that sub-paragraph, the policy is or was held by a trustee resident outside the United Kingdom or by two or more trustees any of whom is or was so resident, no reduction shall be made under that sub-paragraph unless—
 - (a) the policy was issued in respect of an insurance made on or before 19th March 1985 ; and
 - (b) on that date the policy was held by a trustee who was so resident or, as the case may be, by two or more trustees any of whom was so resident.”

52 London Regional Transport: tax losses

In computing for the purposes of corporation tax the profit or loss of London Regional Transport for any accounting period beginning on or after 1st April 1985, the loss of the London Transport Executive for any earlier accounting period shall be computed as if section 16(1)(b) of the Finance Act 1970 (grants to the Executive to be left out of account in computing profits chargeable to corporation tax) had not been enacted.

53 Valuation for corporation and income tax purposes of oil appropriated in certain circumstances

- (1) In section 14 of the Oil Taxation Act 1975 (valuation of oil disposed of or appropriated in certain circumstances) after subsection (4) there shall be inserted the following subsection—

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“(4A) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of this Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income,—

- (a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in sub-paragraphs (i) and (ii) of that subsection; and
- (b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil at the material time in the calendar month in which it was appropriated.”

(2) In subsection (5) of that section—

- (a) for the words " preceding subsection ", in each place where they occur, there shall be substituted " subsections (4) and (4A) above " ;
- (b) in paragraph (a), in the version of paragraph 2(2)(c) of Schedule 3 to the Oil Taxation Act 1975 which is there set out, for the words from " section 14(4)" onwards there shall be substituted " subsection (4) or subsection (4A) of section 14 of this Act, and of no other oil; and, for the avoidance of doubt, it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm's length of oil of the kind in question".

(3) Subsections (1) and (2) above have effect with respect to oil appropriated on or after 19th March 1985 and subsection (2)(b) above also has effect with respect to oil disposed of on or after that date.

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 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, 1½ per cent, or more in value of the property, payroll or sales of such members situated in, attributable to or derived from

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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) 7 ½ 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 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

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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.

CHAPTER II

CAPITAL ALLOWANCES

55 Capital allowances in respect of machinery and plant: the revised code

- (1) With respect to capital expenditure incurred on or after 1st April 1985, in sections 41(1)(a) and 44(1)(a) of the Finance Act 1971 (which provide for first-year and writing-down allowances in respect of capital expenditure incurred on the provision of machinery and plant for the purposes of trade) after the words " machinery or plant" there shall be inserted " wholly and exclusively".
- (2) With respect to any chargeable period where that period or its basis period ends on or after 1st April 1985, the Finance Act 1971 shall have effect with the omission of—
- (a) section 41(2) (which provides for the withdrawal of a first-year allowance where the machinery or plant is disposed of without being brought into use), and
 - (b) paragraph (c) of subsection (1) of section 44 (which makes it a condition for a writing-down allowance that the machinery or plant must be or have been in use for the purposes of the trade) and the word " and " immediately preceding that paragraph.
- (3) The enactments specified in Schedule 14 to this Act shall be amended in accordance with that Schedule,—
- (a) as to those in Part I, with respect to capital expenditure incurred as mentioned in subsection (1) above ; and
 - (b) as to those in Part II, with respect to any such chargeable period as is referred to in subsection (2) above.

56 Time when capital expenditure is incurred

- (1) The provisions of this section have effect to determine when capital expenditure is to be taken to be incurred for the purposes of—
- (a) Parts I and II of the Capital Allowances Act 1968 ;
 - (b) Chapter I of Part III of the Finance Act 1971 (machinery and plant);
 - (c) any enactment which falls to be construed (or is expressed to have effect) as if it were contained in any of those enactments; and
 - (d) Schedule 12 to the Finance Act 1982 (dwelling-houses let on assured tenancies).
- (2) Subject to subsections (3) to (5) below, an amount of capital expenditure is to be taken to be incurred on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).
- (3) If, under or by virtue of any agreement,—

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- (a) as a result of the issue of a certificate or some other event, an obligation to pay an amount of capital expenditure on the provision of an asset becomes unconditional, and
- (b) at a time before that obligation becomes unconditional, the asset becomes the property of or is otherwise under the contract attributed to the person having that obligation,

then, in a case where the obligation referred to in paragraph (a) above becomes unconditional within the period of one month beginning at the end of a chargeable period or its basis period but the time referred to in paragraph (b) above falls at or before the end of that chargeable period or its basis period, subsection (2) above shall apply as if the obligation became unconditional immediately before the expiry of that period.

- (4) Where, under or by virtue of any agreement, the whole or any part of an amount of capital expenditure is required to be paid on (or not later than) a date which is more than four months after the date on which the obligation to pay that amount becomes unconditional, so much of that expenditure as is required to be so paid shall be taken to be incurred on the date on or before which it is required to be so paid.
- (5) In any case where—
 - (a) under or by virtue of any agreement, an obligation to pay an amount of capital expenditure becomes unconditional on a date earlier than that which accords with normal commercial usage, and
 - (b) the sole or main benefit which (apart from this subsection) might have been expected to be obtained from the obligation becoming unconditional on that earlier date is that, by virtue of subsection (2) above, the expenditure would be taken to be incurred in a chargeable period or its basis period which is earlier than would otherwise have been the case,

then, in relation to that amount of expenditure, subsection (2) above shall have effect as if, for the words from " on which " onwards there were substituted " on or before which it is required to be paid " ; and, accordingly, subsection (4) above shall be disregarded.

- (6) Subject to subsection (7) below, the preceding provisions of this section have effect with respect to any chargeable period or its basis period ending on or after 18th December 1984 and, accordingly, the following provisions shall not have effect with respect to any such period, namely,—
 - (a) section 82(3) of the Capital Allowances Act 1968; and
 - (b) in subsection (4) of section 50 of the Finance Act 1971, the words from the beginning to " payable; and ".
- (7) In relation to Part II of the Capital Allowances Act 1968 (scientific research), the preceding provisions of this section have effect with respect to any chargeable period (within the meaning of that Part) ending on or after 1st April 1985.
- (8) In so far as (apart from subsections (2) to (6) above) any provision of the Capital Allowances Act 1968, Chapter I of Part XIV of the Taxes Act (patents and know-how) or the Finance Act 1971 would have the effect that any expenditure would for any purpose fall to be treated as incurred on a date which is later than that which would result from the application of those subsections, nothing in this section shall affect the continuing operation of that provision.

57 Election for certain machinery or plant to be treated as short-life assets

- (1) The provisions of this section apply where—
- (a) a person carrying on a trade (in this section referred to as " the trader ") incurs capital expenditure on or after 1st April 1986 on the provision of machinery or plant wholly and exclusively for the purposes of the trade; and
 - (b) the machinery or plant is not of a description specified in Schedule 15 to this Act; and
 - (c) the trader makes an election under this section requiring the machinery or plant to be treated as a short-life asset;
- and any machinery or plant to which an election under this section applies is in the following provisions of this section referred to as a " short-life asset".
- (2) An election under this section—
- (a) shall be made in writing to the inspector;
 - (b) shall specify the short-life asset, the capital expenditure concerned and the date on which it was incurred;
 - (c) may not be made more than two years; after the end of the chargeable period or its basis period in which the capital expenditure was incurred ; and
 - (d) shall be irrevocable;
- and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of paragraph (c) above.
- (3) Where an election is made under this section, it shall be assumed for the purposes of section 44 of the Finance Act 1971 (in the following provisions of this section referred to as " section 44 ")—
- (a) that the trader incurred the expenditure on the provision of the short-life asset wholly and exclusively for the purposes of a trade (in the following provisions of this section referred to as " the notional trade ") carried on by him separately from the trade referred to in subsection (1) above (in those provisions referred to as his " actual trade ") and from any other trade which he in fact carries on or is assumed for any other purpose to carry on; and
 - (b) that, without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of section 44, the notional trade is permanently discontinued when the short-life asset begins to be used wholly or partly for purposes other than those of the actual trade.
- (4) Any allowance or charge which, on the assumptions in subsection (3) above, would fall to be made for any chargeable period in the case of the notional trade shall be made for that period in the case of the actual trade; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to an election under this section.
- (5) If the disposal value of a short-life asset does not fall to be brought into account in accordance with section 44 for any of the chargeable periods ending on or before the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned or, as the case may be, the first part of that expenditure, then,—
- (a) in the first chargeable period ending after that fourth anniversary or, as the case may be, in its basis period, the notional trade shall be treated as permanently

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- discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period referred to in paragraph (a) above in respect of the notional trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
- (6) If, at a time before the notional trade would otherwise be permanently discontinued for the purposes of section 44, the short-life asset begins to be used otherwise than for a qualifying purpose, within the meaning of section 64 of the Finance Act 1980 (leased assets used for certain purposes) and the occasion of its beginning to be so used falls within the requisite period, within the meaning of that section, then at that time—
- (a) the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof, and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period in which, or in the basis period for which, the asset began to be so used shall for the purposes of section 44 (as it has effect in accordance with section 65 of the Finance Act 1980) be added to the trader's qualifying expenditure for that chargeable period in respect of the separate trade referred to in subsection (2) of the said section 65.
- (7) Subject to subsection (8) below, if, at a time before the notional trade is permanently discontinued for the purposes of section 44, the trader disposes of a short-life asset to a person with whom he is connected within the terms of section 533 of the Taxes Act,—
- (a) the disposal shall be treated for the purposes of section 44 (in its application both to the trader and to the connected person) as a sale of the short-life asset at a price equal to the amount of the trader's qualifying expenditure in respect of the notional trade for the chargeable period related to the disposal;
- (b) nothing in paragraph 3 of Schedule 8 to the Finance Act 1971 (sales between connected persons etc.) shall apply in relation to the disposal;
- (c) immediately after his acquisition of the short-life asset, the connected person shall be taken to have made an election under this section (so that, in his hands, the machinery or plant concerned is also a short-life asset for the purposes of this section); and
- (d) in relation to the connected person, subsection (5) above shall have effect as if any reference to the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned were a reference to the date which was (or which, by virtue of the previous operation of this paragraph, had effect as) that fourth anniversary in relation to the trader.
- (8) Paragraphs (a) and (b) of subsection (7) above do not apply in relation to a disposal unless, by notice in writing given to the inspector not more than two years after the end of the chargeable period or its basis period in which the disposal occurred, the trader and the connected person so elect.
- (9) In the application of subsection (6) of section 44 (disposal value) where a short-life asset is disposed of at a price lower than that which it would have fetched if sold in the open market, paragraph (b)(i) (which excludes open market value where the buyer is entitled to allowances) shall not apply unless an election is made under subsection (8) above.

- (10) Any reference in Schedule 15 to this Act to expenditure in respect of which the making of a first-year allowance is precluded by any enactment shall be construed without regard to paragraph 2 of Schedule 12 to the Finance Act 1984 (which terminates first-year allowances in respect of expenditure incurred on the provision of machinery or plant on or after 1st April 1986).

58 Allowances for ships

- (1) With respect to expenditure incurred on or after 1st April 1985, paragraph 8 of Schedule 8 to the Finance Act 1971 (first-year allowances for new ships) shall have effect in relation to ships which are not new as well as in relation to new ships and accordingly—
- (a) the word " new ", wherever appearing, shall be omitted ; and
 - (b) sub-paragraph (5) (previous ownership disregarded in certain cases in determining whether ship is new) shall also be omitted.
- (2) After the said paragraph 8 there shall be inserted the paragraphs set out in Schedule 16 to this Act, being provisions relating to writing-down allowances for ships.

59 Entitlement to allowances for machinery and plant which are fixtures

- (1) The provisions of Schedule 17 to this Act apply to determine entitlement to an allowance under Chapter I of Part III of the Finance Act 1971 in respect of expenditure on the provision of machinery or plant which is so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land ; and at any time when, by virtue of that Schedule, any machinery or plant is treated as belonging to any person, no other person shall be entitled to such an allowance in respect of it.
- (2) Schedule 17 to this Act applies to expenditure incurred after 11th July 1984, unless that expenditure—
- (a) consists of the payment of sums payable under a contract entered into on or before that date; or
 - (b) is incurred pursuant to an obligation contained in a lease or agreement for a lease entered into on or before that date.
- (3) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of Schedule 17 to this Act.
- (4) Where any question arises as to whether any machinery or plant has become, in law, part of a building or other land and that question is material with respect to the liability to tax (for whatever period) of two or more persons, that question shall be determined, for the purposes of the tax of all those persons, by the Special Commissioners who shall determine the question in like manner as if it were an appeal, except that, for the purposes of the determination, all those persons shall be entitled to appear and be heard by, or to make representations in writing to, the Special Commissioners.
- (5) In subsection (2) of section 46 of the Finance Act 1971 (lessee required to provide machinery or plant under the terms of his lease) after the word "Where " there shall be inserted " (a) " and after the words " terms of the lease " there shall be inserted “and
- (b) the machinery or plant is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land,

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then, if the machinery or plant would not otherwise belong to him”.

- (6) The amendments made by subsection (5) above have effect in relation to any lease entered into after 11th July 1984, unless it was entered into pursuant to an agreement made on or before that date.
- (7) This section and Schedule 17 to this Act shall be construed as if they were contained in Chapter I of Part III of the Finance Act 1971, except that expenditure shall not be treated for the purposes of that Schedule as having been incurred after the date on which it was in fact incurred by reason only of so much of section 50(4) of that Act as relates to expenditure incurred before a trade begins.
- (8) Nothing in subsection (1) above affects the entitlement of any person to an allowance by virtue of section 85 of the Capital Allowances Act 1968 (allowances in respect of contributions of a capital nature) and, accordingly, in paragraph 15(6) of Schedule 8 to the Finance Act 1971 (modification of the operation of section 85 in relation to allowances for machinery and plant) after the words " the said Chapter I ", where they last occur, there shall be inserted " or Schedule 17 to the Finance Act 1985".

60 Carry-back by companies of losses referable to capital allowances

- (1) In section 177(3A) of the Taxes Act (which provides that where one or more first-year allowances fall to be made to a company for an accounting period in which the company incurs a loss in a trade, so much of the loss as would not have been incurred if the allowance or allowances had been totally disclaimed or postponed may be carried back for three years) for the words from " would not " to " postponed " there shall be substituted " does not exceed the allowance or allowances which are so made".
- (2) This section has effect with respect to accounting periods ending after 13th March 1984.

61 Dredging

- (1) No initial allowance shall be made under section 67 of the Capital Allowances Act 1968 (dredging) in respect of capital expenditure incurred on or after 1st April 1986 unless that expenditure—
 - (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) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

62 Agricultural land and buildings

- (1) 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,

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section 68 of the Capital Allowances Act 1968 (allowances for capital expenditure relating to agricultural land and buildings etc.) shall be amended in accordance with subsections (2) and (3) below.

- (2) For paragraphs (a) and (b) of subsection (1) (which provide for an initial allowance equal to one-fifth, followed by writing-down allowances over eight years equal to four-fifths) there shall be substituted the words " during a writing-down period of twenty-five years beginning with the chargeable period relating to the incurring of that expenditure, writing-down allowances of an aggregate amount equal to that expenditure".
- (3) Subsection (3A) (special provisions as to initial allowances) shall cease to have effect.
- (4) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

63 Allowances for capital expenditure on scientific research

- (1) In section 91 of the Capital Allowances Act 1968 (allowances for capital expenditure on scientific research) after subsection (1) there shall be inserted the following subsections—

“(1A) No allowance shall be made under subsection (1) above in respect of expenditure on the acquisition of, or of rights in or over, any land except in so far as, on a just apportionment, that expenditure is referable to the acquisition of, or of rights in or over, or of machinery or plant which forms part of, a building or other structure already constructed on that land.

(1B) For the purposes of this section, expenditure on the provision of a dwelling is not scientific research expenditure ; but where part of a building is used for scientific research and part consists of a dwelling and the capital expenditure which it is just to apportion to the construction or acquisition of the dwelling is not more than one quarter of the capital expenditure which is referable to the construction or acquisition of the whole building, the whole of the building shall be treated for the purposes of this Part of this Act as used for scientific research.”

- (2) In section 92 of that Act (termination of use of assets provided for scientific research) in subsection (1) after the word " representing " there shall be inserted " allowable " and for the words from " be used" onwards there shall be substituted " belong to him; and the occasion of that asset ceasing to belong to him is in the following provisions of this section referred to as ' the relevant event'".
- (3) In subsections (2) and (3) of that section for the words " the sale " in each place where they occur there shall be substituted " the relevant event " and—
 - (a) in subsection (2)(a) for the words "proceeds of sale" there shall be substituted " disposal value of the asset"; and
 - (b) in subsection (3) for the words "proceeds of sale are " there shall be substituted " disposal value of the asset is".
- (4) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) For the purposes of this section the disposal value of an asset depends upon the nature of the relevant event, and—

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- (a) if that event is the actual sale of the asset at a price not lower than that which it would have fetched if sold in the open market, equals the proceeds of that sale;
 - (b) if that event is the deemed sale of the asset under subsection (4) below, equals the deemed proceeds of sale under that subsection ; and
 - (c) in any other event, equals the price which the asset would have fetched if sold in the open market.”
- (5) In subsection (4) of that section, in paragraph (b) for the words from " unless " to " be used for " there shall be substituted " unless, prior to its demolition, the asset had begun to be used for purposes other than".
- (6) In subsection (5) of that section for the words " sale if the sale " there shall be substituted " relevant event if that event".
- (7) This section 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 under a contract entered into on or before 19th March 1985 by the person incurring the expenditure.

64 Writing-down allowances for expenditure on patent rights

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 378 of the Taxes Act (writing-down allowances for capital expenditure on purchase of patent rights) shall be amended as follows,—
- (a) for the words from " there shall " to " allowances " there shall be substituted " then, in accordance with Part I of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him";
 - (b) the words from " during " to " defined " shall be omitted; and
 - (c) in the proviso the words " writing-down " shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part I of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 378 of the Taxes Act;
 - (b) in subsection (2) of that section for the words from the beginning to the end of paragraph (b) of the proviso there shall be substituted " For the purposes of this section and Part I of Schedule 18 to the Finance Act 1985 " and the words " for the purposes of this subsection " shall be omitted ;
 - (c) subsection (3) of that section and section 379 of the Taxes Act shall not apply ;
 - (d) in subsection (1) of section 385 of the Taxes Act for the words " under section 378 or section 379 of this Act" there shall be substituted " falling to be made in accordance with Part I of Schedule 18 to the Finance Act 1985";
 - (e) in each of subsections (2) and (3) of section 385 of the Taxes Act for the words " under section 378, 379 or " there shall be substituted " in accordance with Part I of Schedule 18 to the Finance Act 1985, or under section";
 - (f) in subsection (4) of section 385 of the Taxes Act, for the words " section 379 of this Act " there shall be substituted " Part I of Schedule 18 to the Finance Act 1985";

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- (g) in section 388(1) of the Taxes Act, in paragraph (b) of the definition of "income from patents" for the words "section 379(3)" there shall be substituted "paragraph 1(3) of Schedule 18 to the Finance Act 1985 or"; and
 - (h) notwithstanding the provisions of section 387 of the Taxes Act relating to the application of provisions of the Capital Allowances Act 1968, Schedule 7 to that Act shall not apply.
- (3) Schedule 18 to this Act shall be construed as if it were contained in Chapter I of Part XIV of the Taxes Act (patents and know-how).

65 Writing-down allowances for acquisition of know-how

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 386 of the Taxes Act (writing-down allowances for expenditure on acquisition of know-how) shall be amended as follows,—
- (a) the words "after 19th March 1968" shall be omitted; and
 - (b) for the words "writing-down allowances" there shall be substituted "then, in accordance with Part II of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him"; and
 - (c) the words from "shall be made" to "discontinuance" shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part II of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 386 of the Taxes Act; and
 - (b) subsection (9) of that section shall not apply.
- (3) With respect to consideration received in respect of the disposal of know-how on or after 1st April 1986—
- (a) in subsection (2) of section 386 of the Taxes Act for the word "not" there shall be substituted "neither brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor"; and
 - (b) in subsection (4) of that section after the word "neither" there shall be inserted "brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor".

66 Hotels

- (1) No initial allowance shall be made in respect of capital expenditure incurred on or after 1st April 1986 in respect of a qualifying hotel (within the meaning of section 38 of the Finance Act 1978) unless that expenditure—
- (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) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968 except that—
- (a) expenditure shall not be treated for the purposes of that subsection as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before a trade begins); and
 - (b) expenditure falling within subsection (1)(b) of section 5 of that Act (purchase price of building bought unused) shall be treated for the purposes

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of that subsection as having been incurred at the latest time when any expenditure falling within subsection (1)(a) of that section (expenditure on the construction of the building) was incurred.

CHAPTER III

CAPITAL GAINS

67 Exemption for gilt-edged securities and qualifying corporate bonds

- (1) In section 67 of the 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.
- (2) With respect to disposals occurring on or after 2nd July 1986—
- (a) in section 270 of the 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".

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 Capital Gains Tax Act 1979 or qualifying corporate bonds as defined in section 64 of the 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 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 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 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) 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 ;
- 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.
- (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, subsection (4) above shall have effect to determine for the purposes of section 36 of the 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;

and for the purposes of this subsection a no gain /no loss disposal is one on which, by virtue of section 267 or section 273 of the Taxes Act, section 44 of the Capital Gains

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Tax Act 1979, section 148 of the Finance Act 1982 or section 7(4) of the Finance (No. 2) Act 1983, neither a gain nor a loss accrues to the person making the disposal.

- (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.

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 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.
- (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

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are fulfilled and, in relation to such a disposal, those 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. 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)

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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.

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
- (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

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- (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.
- (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

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- (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 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) of Schedule 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
 - (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 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—
- (a) for the words " section 124 of the said Act of 1979 " in section 79(3) of the Finance Act 1980 (general relief for gifts); and
 - (b) for the words " section 124 of that Act" in paragraph 1(2)(g) of Schedule 11 to the 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".

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.
- (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).

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(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 Taxes Act, 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
- (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.

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

(1) If, apart from this subsection, gains arising to any person in the course of dealing in commodity or financial futures or in traded options 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 traded option granted or acquired in the course of that dealing shall be regarded as assets to the disposal of which the Capital Gains Tax Act 1979 (in this section referred to as "the principal Act") applies; and
- (b) any gain arising in the course of that dealing shall not be chargeable to tax under Schedule D and any loss so arising shall not be allowable against profits or gains which are so chargeable.

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

- (2) In subsection (1) above— (a) " commodity or 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) "traded option" has the meaning given by section 137(9) of that Act.
- (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 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 person 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) In section 137(9) of the principal Act (options and forfeited deposits) for the words " the London International Financial Futures Exchange " there shall be substituted " a recognised futures exchange".
- (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) Nothing in subsection (1) above affects the operation of section 312 of the Taxes Act (annuity business of insurance companies: separate charge on profits).

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

CHAPTER IV

SECURITIES

The accrued income scheme

73 Deemed sums and reliefs on transfers

- (1) This section applies where securities are transferred on or after 28th February 1986; and references to a period are to the interest period in which the settlement day falls.
- (2) If they are transferred with accrued interest—
- (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount, and
 - (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
- (3) If they are transferred without accrued interest—
- (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount, and
 - (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.
- (4) In subsection (2) above " the accrued amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for. and
 - (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.
- (5) In subsection (3) above " the rebate amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day. an amount equal to the amount (if any) of gross interest so accounted for, and
 - (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.
- (6) The accrued proportion is—
- $$\frac{\mathbf{A}}{\mathbf{B}}$$
- (7) The rebate proportion is—
- $$\frac{\mathbf{B}-\mathbf{A}}{\mathbf{B}}$$
- (8) In this section—

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

A is the number of days in the period up to (and including) the settlement day, and

B is the number of days in the period.

74 Treatment of deemed sums and reliefs

- (1) Subsection (2) below applies if a person is treated as entitled under section 73 above to a sum on securities of a particular kind in an interest period, and either—
 - (a) he is not treated as entitled under that section to relief on securities of that kind in the period, or
 - (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 73 above to relief on securities of a particular kind in an interest period, and either—
 - (a) he is not treated as entitled under that section to a sum on securities of that kind in the period, or
 - (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.
- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) or (6) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which falls due on the securities at the end of the interest period, and is taken into account in computing tax charged for the chargeable period in which the interest period ends, shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance.
- (6) But if the period is one which does not end with an interest payment day, the person shall be treated as becoming, in the next interest period, entitled under section 73 above to relief on the securities of an amount equal to the amount of the allowance.
- (7) Where but for this subsection a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

75 Exceptions from preceding provisions

- (1) Section 73 (2) (a) or (3) (a) above (as the case may be) does not apply if—
 - (a) the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade,

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- (b) the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000,
 - (c) the securities transferred form part of the estate of a deceased person, the transferor is his personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000,
 - (d) the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000,
 - (e) the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period,
 - (f) the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 99 of the Taxes Act (securities free of income tax for residents abroad),
 - (g) the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period, or
 - (h) the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under Case IV or Case V of Schedule D and computed on the amount of sums received in the United Kingdom.
- (2) Section 73(2)(b) or (3)(b) above (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade, or
 - (b) subsection (1)(b), (c), (d), (e), (f), (g) or (h) above would apply if " transferor " read " transferee ".
- (3) For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (4) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor), or
 - (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee),

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but the provisions in this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.

- (5) For the purposes of this section " disabled person's trusts " means trusts falling within paragraph 5(1) of Schedule 1 to the Capital Gains Tax Act 1979, " branch or agency " has the meaning given by section 12(3) of that Act, and the place where securities are situated shall be determined in accordance with section 18(4) of that Act.
- (6) For the purposes of this section " FOTRA securities" means securities issued with the condition mentioned in section 22(1) of the Finance (No. 2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940.

Deemed interest on certain securities

76 Deemed interest

Schedule 22 to this Act (which relates to securities held between certain dates) shall have effect.

Further provisions

77 Further provisions

Schedule 23 to this Act (which contains provisions relating to interpretation and other matters) shall have effect.

PART III

STAMP DUTY

78 Takeovers

- (1) Subsection (2) below applies where a company (company A) issues relevant securities (but issues or transfers no other property) in exchange for shares in another company (company B) and company A—
 - (a) has control of company B, or
 - (b) will have such control in consequence of the exchange or of a general offer as a result of which the exchange is made.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B by way of the exchange.
- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) by way of the exchange, the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B by way of the exchange.

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

- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the general offer or other arrangement providing for the exchange make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the exchange is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange.
- (6) References in this section to shares in company B include references to convertible loan capital of the company ; and " convertible loan capital " means loan capital mentioned in section 126(2) of the Finance Act 1976.
- (7) For the purposes of this section company A has control of company B if company A 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.
- (8) In this section " general offer " means an offer made to the members of company B or any class of them, and—
 - (a) includes an offer made with exceptions for persons connected with company A, but
 - (b) excludes an offer made with exceptions for persons who are not connected with company A,and a person is connected with a company if he would be so connected for the purposes of the Capital Gains Tax Act 1979.
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (10) An instrument in respect of which reduced stamp duty Part III is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) The preceding provisions of this section apply 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.
- (12) 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 (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) An instrument to which this subsection applies shall be taken to be duly stamped in accordance with the law in force at the time when it was executed—

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- (a) if it is treated by the Commissioners as if stamp duty were not chargeable on it and if, had it been executed on or after 26th March 1985, stamp duty under the heading mentioned in subsection (2) above would by virtue of that subsection not have been chargeable on it, or
- (b) if it is stamped with duty of an amount no less than the reduced duty with which, had it been so executed, it would have been chargeable under that heading by virtue of subsection (3) above ;

and the instruments to which this subsection applies are instruments executed on or after 28th July 1984 and before 26th March 1985, other than instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.

(14) This section shall be deemed to have come into operation on 26th March 1985.

79 Voluntary winding-up: transfer of shares

- (1) Subsection (2) below applies where a company is Voluntary being wound up altogether voluntarily and there is an arrangement under section 287 of the Companies Act 1948, section 582 of the Companies Act 1985 or section 257 of the Companies Act (Northern Ireland) 1960 whereby—
 - (a) its liquidator transfers to another company (company A) shares in a company (company B) which is a subsidiary of the company being wound up,
 - (b) company A issues relevant securities (but issues or transfers no other property) to the liquidator or a member or members of the company being wound up, and
 - (c) company A acquires control of company B in consequence of the transfer of shares in company B.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B to company A.
- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B to company A.
- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the arrangement make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the arrangement is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the liquidator or member concerned of the company being wound up.
- (6) References in this section to shares in company B include references to convertible loan capital of the company; and " convertible loan capital" means loan capital mentioned in section 126(2) of the Finance Act 1976.

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

- (7) For the purposes of this section company A has control of company B if company A 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.
- (8) In this section " subsidiary" has the same meaning as in the Companies Act 1948, the Companies Act 1985 or the Companies Act (Northern Ireland) 1960 (as the case may be).
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty. ;
- (10) An instrument in respect of which reduced stamp duty is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) 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.
- (12) 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 (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) This section shall be deemed to have come into operation on 26th March 1985.

80 Takeovers and winding-up: modifications

- (1) This section modifies the operation of sections 78 and 79 above as they apply to instruments executed on or after 1st August 1985.
- (2) In sections 78 and 79 " shares " includes stock.
- (3) References in sections 78 and 79 to shares in company B include references to excessive return capital of the company; and " excessive return capital" means loan capital to which section 126(1) of the Finance Act 1976 does not apply by virtue of section 126(3).
- (4) The terms of a general offer or other arrangement shall be disregarded for the purposes of sections 78(4) and 79(4) to the extent that they provide for the sale of securities to a person other than company A.
- (5) Section 78(5) shall have effect as if for the words from " unless " to the end there were substituted " unless—
 - (a) they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange, or

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- (b) they are registered, in such a register, in the name of company B and are held on trust for the person so transferring."
- (6) In section 78(8) the reference to members of company B includes a reference to persons entitled to the company's convertible loan capital (within the meaning of section 78(6)) or to its excessive return capital (within the meaning of subsection (3) above).

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.
- (2) The instrument shall not be exempt by virtue of section 65(1) of the Finance Act 1963 (renounceable letters of allotment etc.) or section 14(1) of the Finance Act (Northern Ireland) 1963 (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.
- (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 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.
- (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.

82 Gifts inter vivos

- (1) The stamp duty chargeable by virtue of section 74 of the Finance (1909-10) 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 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";

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and in section 4(5) of the 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 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 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. "
- (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.

83 Transfers in connection with divorce etc.

- (1) Stamp duty under the heading "Conveyance or Transfer on Sale " in Schedule 1 to the 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 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.
- (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.

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- (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.

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 Intestates' Estates Act 1952 elected to have redeemed, and
 - (b) in Scotland, includes a reference to prior rights (within the meaning of the 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 to *jus relictii*, of a wife to *jus relictæ* or of issue to *legitim*, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (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 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.

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

- (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.

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 Finance Act 1907 (stamping of hire-purchase 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 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.

86 Abolition of duty on contract notes

- (1) Subsections (1) and (2) of section 77 of the 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.

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.

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

- (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 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 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.

89 Exemption from section 28 of Finance Act 1931

- (1) Section 28 of the 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 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).

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

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 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".
- (3) After subsection (2) there shall be inserted the following subsection—
 - “(2A) Any reference in subsection (2) above to a designated area does not include a sector which, by virtue of subsection (3)(6) of section 107 of the Finance Act 1980 (transmedian fields), is deemed to be a designated area.”
- (4) In subsection (5) (which modifies the application of certain provisions of section 5 of the 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”.
- (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—

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

- (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-paragraphs (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.”

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

- (1) In subsection (1A) of section 9 of the 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 amendment 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.
- (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.

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

92 Qualifying assets: exclusion of land and certain buildings

- (1) In subsection (1) of section 8 of the Oil Taxation Act 1983 (meaning of "qualifying asset") after the word "means" there shall be inserted "subject to subsection (1A) below".
- (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".
- (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 Oil Taxation Act 1983.

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 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—

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

- (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 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.

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 Capital Transfer Tax Act 1984 (exempt transfers);
 - (b) section 147 of the 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.

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

- (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 effected by this section as if any reference to the Treasury were or included a reference to the Board.

96 European Communities and Investment Bank: exemptions

- (1) In section 126 of the 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 subsection.

(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.”

- (2) An order made by virtue of subsection (4) of section 126 of the Finance Act 1984 may revoke or vary the 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).

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

In section 1 of the 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.).”

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 1970.
- (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, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with the 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 Oil Taxation Act 1975.

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

- (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.