



# Finance Act 1991

## 1991 CHAPTER 31

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [25th July 1991]

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

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

#### CHAPTER I

#### CUSTOMS AND EXCISE

##### *Rates of duty*

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

- (1) In section 5 of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (spirits) for “£17.35” there shall be substituted “ £18.96 ”.
- (2) In section 36 of that Act (beer) for “£0.97” there shall be substituted “ £1.06 ”.
- (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.

**Status:** Point in time view as at 19/03/1991. This version of this Act contains provisions that are not valid for this point in time.

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- (4) In section 62(1) of that Act (cider) for “£18.66” there shall be substituted “ £20.40 ”.
- (5) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1991.

**Commencement Information**

**I1** S. 1 in force at 6 p.m. 19.03.1991: see s. 1(5).

**Marginal Citations**

**M1** 1979 c. 4.

**2 Tobacco products.**

- (1) For the Table in Schedule 1 to the <sup>M2</sup>Tobacco Products Duty Act 1979 there shall be substituted—

“ TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £40.15 per thousand cigarettes.
2. Cigars	£61.72 per kilogram.
3. Hand-rolling tobacco	£65.12 per kilogram.
4. Other smoking tobacco and chewing tobacco	£28.69 per kilogram.”

- (2) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1991.

**Commencement Information**

**I2** S. 2 in force at 6 p.m. 19.03.1991: see s. 2(2).

**Marginal Citations**

**M2** 1979 c. 7.

**3 Hydrocarbon oil.**

- (1) In section 6(1) of the <sup>M3</sup>Hydrocarbon Oil Duties Act 1979, for “£0.2248” (duty on light oil) and “£0.1902” (duty on heavy oil) there shall be substituted “ £0.2585 ” and “ £0.2187 ” respectively.
- (2) In section 11(1) of that Act, for “£0.0083” (rebate on fuel oil) and “£0.0118” (rebate on gas oil) there shall be substituted “ £0.0091 ” and “ £0.0129 ” respectively.
- (3) In section 13A(1) of that Act (rebate on unleaded petrol) for “£0.0299” there shall be substituted “ £0.0344 ”.
- (4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for “£0.0083” there shall be substituted “ £0.0091 ”.

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- (5) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1991.

#### Commencement Information

**I3** S. 3 in force at 6 p.m. 19.03.1991: see s. 3(5).

#### Marginal Citations

**M3** 1979 c. 5.

VALID FROM 25/07/1991

#### 4 Vehicles excise duty.

- (1) The <sup>M4</sup>Vehicles (Excise) Act 1971 shall be amended as follows.
- (2) In Schedule 1 (annual rate of duty on certain vehicles not exceeding 450 kilograms unladen weight) in Part I, in paragraph 3 (interpretation) there shall be inserted at the end—
- “weight unladen shall be construed in accordance with section 190(2) of the Road Traffic Act 1988.”
- (3) In Schedule 1, for the Table set out in Part II there shall be substituted—

“Description of vehicle	Rate of duty
	£
1. Bicycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	15.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres	30.00
3. Bicycles not included above	50.00
4. Tricycles	50.00”

- (4) In Schedule 3 (annual rates of duty on tractors etc.) in the Table set out in Part II—
- (a) in the entry relating to special machines, for “16.00 there shall be substituted “ 30.00 ”; and
- (b) in the entry relating to recovery vehicles, for “50.00 there shall be substituted “ 75.00 ”.
- (5) Subsections (1) to (4) above shall apply in relation to licences taken out after 19th March 1991.
- (6) This section shall apply in relation to the <sup>M5</sup>Vehicles (Excise) Act (Northern Ireland) 1972 as it applies in relation to the <sup>M6</sup>Vehicles (Excise) Act 1971, but with the

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substitution for “section 190(2) of the <sup>M7</sup>Road Traffic Act 1988, in subsection (2), of “Article 2(3) of the Road Traffic (Northern Ireland) Order 1981 ”.

#### Marginal Citations

- M4** 1971 c. 10.  
**M5** 1972 c. 10 (N.I.).  
**M6** 1971 c. 10.  
**M7** 1988 c. 52.

VALID FROM 25/07/1991

#### 5 Pool betting duty.

- (1) In section 7(1) of the <sup>M8</sup>Betting and Gaming Duties Act 1981 (which specifies 40 per cent. as the rate of pool betting duty) for “40 per cent.” there shall be substituted “37.50 per cent.”
- (2) This section shall apply in relation to bets made at any time by reference to an event taking place on or after 17th August 1991.

#### Marginal Citations

- M8** 1981 c. 63.

VALID FROM 25/07/1991

#### 6 Gaming licence duty.

- (1) The Betting and Gaming Duties Act 1981 shall be amended as follows.
- (2) In section 14 (rate of gaming licence duty) in subsection (1)—
- (a) in paragraph (a), for “£250 there shall be substituted “£10 ”; and
  - (b) in paragraph (b), the words “payable after the end of that period and shall be omitted.
- (3) For the Table set out in section 14(1) there shall be substituted—

“ TABLE

<i>Part of gross gaming yield</i>	<i>R ate</i>
The first £450,000	2½ per cent.
The next £2,250,000	12½ per cent.
The next £2,700,000	25 per cent.
The remainder	33&frac13; per cent.”

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- (4) In section 15 (gaming without duly paid licence) there shall be inserted at the end—
- “(4) In subsection (1)(b) above the reference to amounts of gaming licence duty includes amounts payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) of Schedule 2 to this Act.”
- (5) In paragraph 3 of Schedule 2 (Commissioners’ regulation-making powers in connection with gaming licence duty) at the end of sub-paragraph (3) there shall be inserted—
- “(d) requiring, in relation to gaming licence duty chargeable by reference to the gross gaming yield from any premises in any period, that, at such time before the end of the period and in such manner as may be specified in the regulations, an amount be paid in anticipation of the duty chargeable, being an amount calculated in such manner as may be so specified.”
- (6) In paragraph 5 of that Schedule (power to estimate)—
- (a) in sub-paragraph (1), for the words from “on account to “gaming yield there shall be substituted “under section 14(1)(b) above or by virtue of regulations under paragraph 3(3)(d) above ” and the words “of the duty shall be omitted; and
- (b) in sub-paragraph (2), the word “duty shall be omitted.
- (7) In paragraph 6 of that Schedule (persons from whom duty recoverable) in sub-paragraph (1), after “period there shall be inserted “and any amount payable in anticipation of that duty by virtue of regulations under paragraph 3(3)(d) above ” and “(3)(c) shall be omitted.
- (8) In paragraph 7 of that Schedule (enforcement) there shall be inserted at the end—
- “(5) In sub-paragraphs (1)(b) and (3)(a) above references to the duty on gaming licences include amounts payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) above.
- (6) In ascertaining for the purposes of sub-paragraph (1) or (3) above the amount of the duty which is unpaid or payment of which is sought to be avoided, an amount payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) above shall be treated as an amount of duty.”
- (9) Subsections (2)(a) and (3) above shall have effect in relation to gaming licences for any period beginning after 30th September 1991.

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VALID FROM 20/03/1991

*Duties of excise: other provisions*

VALID FROM 01/05/1993

**7 Beer duty.**

- (1) For section 36 of the<sup>M9</sup> Alcoholic Liquor Duties Act 1979 (charge on beer imported into, or brewed in, the United Kingdom of an excise duty at a rate per hectolitre for every degree by which the original gravity of the beer exceeds 1000 degrees) there shall be substituted—

**“36 Beer: charge of excise duty.**

- (1) There shall be charged on beer—
- (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom,
- a duty of excise at the rate of £10.60 per hectolitre per cent. of alcohol in the beer.
- (2) Subject to the provisions of this Act—
- (a) the duty on beer produced in, or imported into, the United Kingdom shall be charged and paid, and
  - (b) the amount chargeable in respect of any such duty shall be determined and become due,
- in accordance with regulations under section 49 below.”

- (2) After section 41 of that Act (which specifies certain reliefs from duty) there shall be inserted—

**“41A Suspension of duty: registration of persons and premises.**

- (1) A person registered by the Commissioners under this section may hold, on premises so registered in relation to him, any beer of a prescribed class or description—
- (a) which has been produced in, or imported into, the United Kingdom, and
  - (b) which is chargeable as such with excise duty,
- without payment of that duty.
- (2) A person entitled under subsection (1) above to hold beer on premises without payment of duty may also without payment of duty carry out on those premises such operations as may be prescribed on, or in relation to, such of the beer as may be prescribed.
- (3) No person shall be registered under this section unless—
- (a) he is a registered brewer or a packager of beer; and

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- (b) he appears to the Commissioners to satisfy such requirements for registration as they may think fit to impose.
  - (4) No premises shall be registered under this section unless—
    - (a) they are used for the production or packaging of beer, or
    - (b) they are adjacent to, and occupied by the same person as, premises falling within paragraph (a) above which are registered under this section,  
and they appear to the Commissioners to satisfy such requirements for registration as the Commissioners may think fit to impose.
  - (5) The Commissioners may register a person or premises under this section for such periods and subject to such conditions as they think fit.
  - (6) The Commissioners may at any time for reasonable cause—
    - (a) revoke or vary the terms of their registration of any person or premises under this section; or
    - (b) restrict the premises which are so registered.
  - (7) As respects beer chargeable with a duty of excise that has not been paid, regulations under section 49 below may, without prejudice to the generality of that section, make provision—
    - (a) regulating the holding or packaging of, or the carrying out of other operations on or in relation to, any such beer on registered premises without payment of the duty;
    - (b) for securing and collecting the duty on any such beer held on registered premises;
    - (c) permitting the removal of any such beer from registered premises without payment of duty in such circumstances and subject to such conditions as may be prescribed;
    - (d) for such persons as may be prescribed to be liable to pay the duty on any such beer held on, or removed without payment of duty from, registered premises, and for the circumstances in which, and the time at which, they are liable to do so.
  - (8) If any person contravenes or fails to comply with any condition of registration under this section he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer in respect of which the offence was committed shall be liable to forfeiture.
  - (9) In this section—
    - “prescribed means specified in, or determined in accordance with, regulations made by the Commissioners under section 49 below;
    - “registered premises means premises registered under this section.”
- (3) For sections 47 and 48 of that Act (licences to brew beer and to use premises for adding solutions to beer) there shall be substituted—

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#### **“47 Registration of producers of beer.**

- (1) A person who produces beer on any premises in the United Kingdom must be registered with the Commissioners under this section in respect of those premises; and in this Act “registered brewer means a person registered under this section in respect of any premises.
- (2) A person who produces beer on any premises shall not be required to be registered under this section in respect of those premises if the beer is produced solely for his own domestic use or solely for the purposes of research or experiments in the production of beer.
- (3) An application for the registration under this section of any person required to be so registered in respect of any premises—
  - (a) shall be made at least fourteen days before the day on which he begins production of beer on those premises; and
  - (b) shall be in such form and manner as the Commissioners may by or under regulations prescribe.
- (4) If any person fails to apply for registration under this section in circumstances where he is required by subsection (3)(a) above to do so, he shall be liable on summary conviction to a penalty not exceeding level 4 on the standard scale; and any beer or worts produced in contravention of that provision shall be liable to forfeiture.
- (5) If any person produces beer on any premises in circumstances in which he is required to be, but is not, registered under this section in respect of those premises, he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer or worts in respect of which the offence was committed shall be liable to forfeiture.”
- (4) The enactments and instruments mentioned in Schedule 2 to this Act shall have effect with the amendments specified in that Schedule.
- (5) This section shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.
- (6) An order under subsection (5) above may contain such saving or transitional provision as the Commissioners think fit; and, without prejudice to the generality of the foregoing, any such order may include provision—
  - (a) for treating beer—
    - (i) produced, or in the process of being produced, before the relevant day, and
    - (ii) held on, or in the process of being transported between, registered premises on that day,
 as beer produced on or after that day and chargeable accordingly, and
  - (b) for the remission or repayment of any duty charged or paid in respect thereof under provisions replaced by this section and Schedule 2 to this Act.
- (7) In this section—
 

“the Commissioners means the Commissioners of Customs and Excise;  
 “registered premises means—



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- (a) premises which, on the relevant day, are registered under section 41A of the <sup>M10</sup>Alcoholic Liquor Duties Act 1979, or
- (b) premises in respect of which, on that day, a person is registered under section 47 of that Act;

“the relevant day means the day appointed for the coming into force of subsection (1) of the section 36 substituted by subsection (1) above.

#### Subordinate Legislation Made

- P1** S. 7(5) power fully exercised (26.4.1993): 1.5.1993 appointed day for s. 7(2)(3)(5) and 1.6.1993 appointed day for s. 7(1)(4)(6)(7) by S.I. 1993/1152.

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

- C1** S. 7(2)(3)(5) excluded (26.4.1993) by S.I. 1993/1152, art. 4(1).

#### Commencement Information

- I4** S. 7 wholly in force; s. 7 not in force at Royal Assent see s. 7(5); s. 7(2)(3)(5) in force at 1.5.1993 and s. 7(1)(4)(6)(7) in force at 1.6.1993 by S.I. 1993/1152, art. 3, Sch. 1.

#### Marginal Citations

- M9** 1979 c. 4.  
**M10** 1979 c. 4.

## 8 Vehicles excise duty: exemptions.

- (1) The <sup>M11</sup>Vehicles (Excise) Act 1971 shall be amended as follows.
- (2) In section 4(1) (exemptions) after paragraph (ca) there shall be inserted—
  - “(cb) vehicles used solely as mine rescue vehicles or for the purpose of conveying or drawing emergency winding-gear at mines;”.
- (3) In section 4(1)(ka) (pedestrian controlled vehicles) the words “(other than mowing machines) shall be omitted.
- (4) In section 4(2), the following definition shall be inserted before the definition of “ambulance—
  - “ “fire engine means a vehicle—
    - (a) constructed or adapted for use for the purpose of fire fighting, salvage or both, and
    - (b) used solely for the purposes of a fire brigade (whether or not one maintained under the Fire Services Act 1947);”.
- (5) In section 4(2), after the definition of “veterinary ambulance there shall be inserted—
  - “ “weight unladen shall be construed in accordance with section 190(2) of the Road Traffic Act 1988.”
- (6) Section 7(4) (power to exempt civil defence vehicles) shall cease to have effect.
- (7) Subsections (3) and (5) above shall be deemed to have come into force on 20th March 1991.

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- (8) Subsection (4) above shall be deemed to have come into force on 1st June 1991.
- (9) Subsection (6) above shall come into force on 1st October 1991.
- (10) This section shall apply in relation to the <sup>M12</sup>Vehicles (Excise) Act (Northern Ireland) 1972 as it applies in relation to the <sup>M13</sup>Vehicles (Excise) Act 1971, but with the following modifications—
- (a) in subsection (4), for “the <sup>M14</sup>Fire Services Act 1947 there shall be substituted “the Fire Services (Northern Ireland) Order 1984 ”, and
  - (b) in subsection (5), for “section 190(2) of the <sup>M15</sup>Road Traffic Act 1988 there shall be substituted “Article 2(3) of the Road Traffic (Northern Ireland) Order 1981 ”.

#### Commencement Information

**I5** S. 8 partly in force at 20.3.1991 and wholly in force at 1.10.1991, see s. 8(7)(8)(9)

#### Marginal Citations

**M11** 1971 c. 10.  
**M12** 1972 c. 10 (N.I.).  
**M13** 1971 c. 10.  
**M14** 1947 c. 41.  
**M15** 1988 c. 52.

## 9 Vehicles excise duty: combined transport.

- (1) The Vehicles (Excise) Act 1971 ( “the 1971 Act) and the Vehicles (Excise) Act (Northern Ireland) 1972 ( “the 1972 Act) shall be amended as follows.
- (2) After section 18A of the 1971 Act there shall be inserted—

*“ Rebate of duty*

### **18B Combined transport of goods.**

- (1) This section applies to any goods vehicle which—
- (a) has a plated gross weight or a plated train weight which exceeds 3,500 kilograms, or
  - (b) has neither a plated gross weight nor a plated train weight, but has a design weight which exceeds 3,500 kilograms.
- (2) Where in the course of the transport of goods between member States by means of combined transport a goods vehicle to which this section applies is transported by rail in Great Britain at a time when a vehicle licence for it is in force, the holder of the licence shall, on making a claim, be entitled to receive from the Secretary of State, by way of rebate of the duty paid upon the licence, a sum of an amount calculated in accordance with the method prescribed for the purpose by the Secretary of State.

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- (3) The Secretary of State may by regulations prescribe when and how a claim for a rebate under this section is to be made and the evidence to be provided in support of such a claim.
- (4) For the purposes of this section—
  - (a) goods are transported by means of combined transport where they are loaded on a goods vehicle which is transported by rail between the following points, namely the nearest suitable rail loading station to the point of loading and the nearest suitable rail unloading station to the point of unloading;
  - (b) “design weight and “goods vehicle have the same meanings as in Schedule 4 to this Act; and
  - (c) references to the plated gross weight or plated train weight of a goods vehicle shall be construed in accordance with paragraph 9 of that Schedule.”
- (3) Subsection (2) above shall apply in relation to the 1972 Act as it applies in relation to the 1971 Act, but with the following modifications—
  - (a) for the words “Great Britain there shall be substituted the words “Northern Ireland ”,
  - (b) for the words “plated gross weight, in each place where they occur, there shall be substituted the words “relevant maximum weight ”, and
  - (c) for the words “plated train weight, in each place where they occur, there shall be substituted the words “relevant maximum train weight ”.
- (4) In section 26(2)(a) of the 1971 Act (penalty for making false declarations) for the word “or, in the first place where it occurs, there shall be substituted “, a claim for a rebate under section 18B of this Act or an application ”.
- (5) In section 37(4) of the 1971 Act and section 34(4) of the 1972 Act (additional regulation-making powers in relation to documents required by regulations under certain provisions) after “17(1), there shall be inserted “18B(3), ”.
- (6) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

## **10 Extension of Vehicles (Excise) Act 1971 to Northern Ireland.**

- (1) The <sup>M16</sup>Vehicles (Excise) Act 1971 (“the 1971 Act), and any other Act to the extent that it amends or extends the 1971 Act, shall extend to Northern Ireland.
- (2) In consequence of subsection (1) above—
  - (a) the 1971 Act shall have effect subject to Part I of Schedule 3 to this Act, and
  - (b) section 11 of the <sup>M17</sup>Finance Act 1976 (which extends the power to make regulations under the 1971 Act to require information about goods vehicles, etc.) shall have effect subject to Part II of that Schedule.
- (3) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) An order under subsection (3) above may contain such supplementary, incidental, consequential, saving or transitional provision as the Secretary of State thinks fit.

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### Marginal Citations

M16 1971 c. 10.

M17 1976 c. 40.

VALID FROM 25/07/1991

## *Management*

### 11 Revenue traders and registered excise dealers and shippers.

- (1) In section 1 of the <sup>M18</sup>Customs and Excise Management Act 1979 (interpretation) in subsection (1), after the definition of “Queen’s warehouse” there shall be inserted—
- “registered excise dealer and shipper means a revenue trader approved and registered by the Commissioners under section 100G below;
- “registered excise dealers and shippers regulations means regulations under section 100G below;”.
- (2) In the definition of “revenue trader” in that subsection, in paragraph (a) (person carrying on a trade or business subject to any of the revenue trade provisions of the customs and excise Acts) after the words “customs and excise Acts” there shall be inserted the words “or which consists of or includes—
- (i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods); or
- (ii) the financing or facilitation of any such transactions or activities;”.
- (3) Schedule 4 to this Act shall have effect.

### Marginal Citations

M18 1979 c. 2.

### 12 Protection of the revenues derived from excise duties.

Schedule 5 to this Act (which makes provision for the purpose of protecting the revenues derived from duties of excise) shall have effect.

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VALID FROM 01/04/1991

## CHAPTER II

### VALUE ADDED TAX

#### 13 Rate.

- (1) In section 9(1) of the <sup>M19</sup>Value Added Tax Act 1983 (rate of tax) for “15 per cent. there shall be substituted “ 17.50 per cent. ”
- (2) This section shall be deemed to have come into force on 1st April 1991.

#### Marginal Citations

M19 1983 c. 55.

VALID FROM 25/07/1991

#### 14 Person supplied for input tax purposes.

In section 14 of the Value Added Tax Act 1983 (which allows as a credit against a taxable person’s output tax the tax on goods or services supplied to him) there shall be inserted after subsection (3A)—

“(3B) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsection (3) above as supplied to such other person as may be determined in accordance with the order.”

VALID FROM 25/07/1991

#### 15 Bad debts.

- (1) In section 11 of the <sup>M20</sup>Finance Act 1990 (refund of tax where bad debt written off and period of two years from supply has elapsed) in subsection (1)(c) for “two years there shall be substituted “one year ”.
- (2) The amendment made by subsection (1) above shall be deemed always to have had effect.

#### Marginal Citations

M20 1990 c. 29.

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VALID FROM 25/07/1991

## 16 Groups of companies.

- (1) Section 29 of the Value Added Tax Act 1983 (groups of companies) shall be amended as follows.
- (2) In subsection (3) for the words from “resident to “if there shall be substituted the words “are eligible to be treated as members of a group if each of them falls within subsection (3A) below and ”.
- (3) The following subsection shall be inserted after subsection (3)—
 

“(3A) A body falls within this subsection if it is resident in the United Kingdom or it has an established place of business in the United Kingdom.”

VALID FROM 25/07/1991

## 17 Interest on overpayments etc.

- (1) In the <sup>M21</sup>Value Added Tax Act 1983, after section 38 (administration, collection and enforcement) there shall be inserted—

### “38A Interest in certain cases of official error.

- (1) Where, due to an error on the part of the Commissioners, a person—
  - (a) has accounted to them for an amount by way of output tax which was not output tax due from him and which they are in consequence liable to repay to him, or
  - (b) has failed to claim credit under section 14 above for an amount for which he was entitled so to claim credit and which they are in consequence liable to pay to him, or
  - (c) has (otherwise than in a case falling within paragraph (a) or (b) above) paid to them by way of value added tax an amount that was not tax due and which they are in consequence liable to repay to him, or
  - (d) has suffered delay in receiving payment of an amount due to him from them in connection with value added tax,

then, if and to the extent that they would not be liable to do so apart from this section, they shall pay interest to him on that amount for the applicable period, but subject to the following provisions of this section.
- (2) Nothing in subsection (1) above requires the Commissioners to pay interest—
  - (a) on any amount which falls to be increased by a supplement under section 20 of the Finance Act 1985 (repayment supplement on certain delayed payments or refunds); or
  - (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

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- (3) Interest under this section shall be payable at such rates as may from time to time be prescribed by order made by the Treasury; and any such order—
- (a) may prescribe different rates for different purposes; and
  - (b) shall apply to interest for periods beginning on or after the date on which the order is expressed to come into force, whether or not interest runs from before that date;
- and the first such order may prescribe, for cases where interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.
- (4) The “applicable period in a case falling within paragraph (a) or (b) of subsection (1) above is the period—
- (a) beginning with the appropriate commencement date, and
  - (b) ending with the date on which the Commissioners authorise payment of the amount on which the interest is payable.
- (5) In subsection (4) above, the “appropriate commencement date—
- (a) in a case where an amount would have been due from the person by way of value added tax in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Commissioners received payment of that amount; and
  - (b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Commissioners would, apart from the error, have authorised payment of the amount on which the interest is payable;
- and in this subsection “the relevant return means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.
- (6) The “applicable period in a case falling within paragraph (c) of subsection (1) above is the period—
- (a) beginning with the date on which the payment is received by the Commissioners, and
  - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (7) The “applicable period in a case falling within paragraph (d) of that subsection is the period—
- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and
  - (b) ending with the date on which they in fact authorise payment of that amount.
- (8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period referable to the raising and answering of any reasonable inquiry relating to any matter giving rise to, or otherwise connected with, the person’s entitlement to interest under this section.

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- (9) The Commissioners shall only be liable to pay interest under this section on a claim made in writing for that purpose.
- (10) No claim shall be made under this section after the expiry of six years from the date on which the claimant discovered the error or could with reasonable diligence have discovered it.
- (11) In this section—
- (a) any reference to receiving a payment from the Commissioners includes a reference to the discharge, by way of set-off, of their liability to make it; and
  - (b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 7 to this Act.
- (12) This section confers a right to interest in respect of periods before as well as after its coming into force.

**38B Interest: general treatment.**

- (1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of—
- (a) any provision of this Act,
  - (b) section 25 of the Finance Act 1985, or
  - (c) section 24 of the Finance Act 1989,
- shall be treated as an amount due to him by way of credit under section 14(5) above.
- (2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.”
- (2) In section 40(1) of that Act (which specifies the matters in respect of which an appeal lies to a value added tax tribunal against a decision of the Commissioners) after paragraph (h) there shall be inserted—
- “(ha) any liability of the Commissioners to pay interest under section 38A above or the amount of interest so payable;”.

**Marginal Citations**

M21 1983 c. 55.

VALID FROM 25/07/1991

**18 Reduction of penalty for serious misdeclaration etc.**

- (1) In section 14 of the Finance Act 1985 (serious misdeclaration or neglect resulting in understatements or overclaims) in subsection (1) (liability to penalty equal to a percentage of the tax which would have been lost) for “30 per cent. there shall be substituted “ 20 per cent. ”



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- (2) Subject to subsection (3) below, this section shall apply where a penalty is assessed on or after 20th March 1991 in relation to a prescribed accounting period beginning on or after 1st April 1990.
- (3) This section shall not apply in the case of a supplementary assessment if the original assessment was made before 20th March 1991.

VALID FROM 25/07/1991

## CHAPTER III

### CAR TAX

#### 19 Vehicles leased to the handicapped.

- (1) In section 5A of the <sup>M22</sup>Car Tax Act 1983 (relief where vehicle leased to the handicapped) after subsection (2) (which imposes a charge to tax where vehicle supplied by the lessor in certain circumstances) there shall be inserted—

“(2A) Subsection (2)(b) above shall not apply where at the time of the supply the lessor is—

- (a) a charity, or
- (b) a person used by a charity for the purpose of making supplies which attract relief under this section.”

- (2) This section shall apply in relation to supplies made on or after the day on which this Act is passed.

#### Marginal Citations

M22 1983 c. 53.

#### 20 Research vehicles.

- (1) Section 7 of the <sup>M23</sup>Car Tax Act 1983 (remission of tax on certain vehicles) shall be amended as follows.

- (2) After subsection (4) there shall be inserted—

“(4A) Regulations under this Act may make provision for enabling the Commissioners to remit the tax on a chargeable vehicle or, if the tax has been paid, to repay it, subject in either case to such conditions as they think necessary for the protection of the revenue, where—

- (a) subsection (4B) below applies, and
- (b) such other conditions are satisfied as may be prescribed by the regulations.

(4B) This subsection applies where a person registered under this Act—

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- (a) makes the vehicle in the United Kingdom and appropriates it to his own use,
- (b) imports the vehicle into the United Kingdom and registers it, or
- (c) acquires the vehicle in the United Kingdom in an unused condition from another,

and, at the time he appropriates, registers or, as the case may be, acquires the vehicle, he intends it to be used only by him or on his behalf and only for the purposes of commercial or industrial research.”

(3) In subsection (5) (conditions which may be imposed) after “subsection (4)” there shall be inserted “or (4A)”.

(4) In subsection (6) (recovery of tax where breach of condition)—

- (a) for “has been remitted on a vehicle under subsection (4) above” there shall be substituted “on a vehicle has been—
  - (a) remitted under subsection (4) above, or
  - (b) remitted or repaid under subsection (4A) above,”;
- (b) after “remission” there shall be inserted “or, as the case may be, an amount of tax equal to that repaid”.

#### Marginal Citations

**M23** [1983 c. 53](#).

## PART II

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### CHAPTER I

##### GENERAL

#### Commencement Information

**I6** Chapter I partly in force at 4.5.1988 due to retrospective effect of s. 74(5)

VALID FROM 25/07/1991

#### *Income tax rates and allowances*

#### **21 Charge and rates of income tax for 1991-92.**

- (1) Income tax shall be charged for the year 1991-92, and—
- (a) the basic rate shall be 25 per cent.,
  - (b) the basic rate limit shall be £23,700, and
  - (c) the higher rate shall be 40 per cent.

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- (2) In accordance with subsection (1)(b) above, section 1(4) of the Taxes Act 1988 (indexation) shall not apply for the year 1991-92.

## 22 Married couple's allowance.

- (1) Section 257C(1) of the Taxes Act 1988 (indexation), so far as relating to section 257A(1) of that Act (married couple's allowance), shall not apply for the year 1991-92.
- (2) Section 257A(1) of that Act shall apply for the year 1991-92 as if the amount specified in it were "£1,720".

VALID FROM 25/07/1991

### *Corporation tax rates*

## 23 Rate of corporation tax for 1990.

- (1) The rate at which corporation tax is charged for the <sup>M24</sup>financial year 1990 shall be 34 per cent. (and not 35 per cent. as provided by section 19 of the Finance Act 1990).
- (2) For the financial year 1990 the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths (and not one fortieth as provided by section 20 of the Finance Act 1990).
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

### Marginal Citations

M24 1990 c. 29.

## 24 Charge and rate of corporation tax for 1991.

Corporation tax shall be charged for the financial year 1991 at the rate of 33 per cent.

## 25 Small companies.

- (1) For the financial year 1991—
- (a) the small companies' rate shall be 25 per cent., and
  - (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.
- (2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—
- (a) for "£200,000" there shall be substituted "£250,000", and
  - (b) for "£1,000,000" there shall be substituted "£1,250,000".

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- (3) Subsection (2) above shall have effect for the financial year 1991 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company's accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

VALID FROM 25/07/1991

### *Interest*

#### **26 Relief for interest.**

For the year 1991-92 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

#### **27 Abolition of higher rate relief on certain mortgage interest etc.**

- (1) At the end of section 353 of the Taxes Act 1988 (certain interest payments to be deducted from or set off against income) there shall be added—

“(4) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of interest which falls to be deducted or set off under subsection (1) above by virtue of section 355(1)(a), 356(1) or 365.

(5) In subsection (4) above, “excess liability means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate.”

- (2) In section 369 of that Act (mortgage interest relief at source) in subsection (3) (charge to tax at basic rate on an amount equal to that which falls to be deducted in computing total income) after the words “in computing his total income there shall be inserted the words “(otherwise than for the purposes of excess liability) ”; and after that subsection there shall be inserted—

“(3A) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of relevant loan interest to which this section applies.

(3B) In this section “excess liability means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate.”

- (3) The amendment made by subsection (1) above shall not apply in relation to interest which falls to be deducted or set off under section 353(1) of that Act by virtue of paragraph (a) of subsection (5) of section 354 of that Act (relief for bridging loans etc) in any case where—

(a) the loan on which the interest is payable is the loan referred to in that paragraph as “the first-mentioned loan; and

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- (b) the loan referred to in paragraph (b) of that subsection as “the other loan was made before 6th April 1991.
- (4) The amendments made by subsection (2) above shall not apply in relation to an amount of interest which is relevant loan interest (within the meaning of section 369 of that Act) by virtue of section 371 of that Act (second loans) in any case where—
  - (a) the loan on which the interest is payable is the loan referred to in subsection (1) of that section as “the first loan; and
  - (b) the loan which is, for the purposes of that subsection, “the other loan was made before 6th April 1991.
- (5) Where the loan mentioned in paragraph (b) of subsection (3) above or, as the case may be, of subsection (4) above was made on or after 6th April 1991, it shall be treated for the purposes of the subsection in question as made before that date if it is proved by written evidence—
  - (a) that the loan was made in pursuance of an offer made before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, and
  - (b) that the loan was used to defray money applied in pursuance of a binding contract entered into before that date.
- (6) The enactments mentioned in Schedule 6 to this Act shall have effect for the year 1991-92 and subsequent years of assessment with the amendments there specified.
- (7) Subsections (1) to (5) above shall have effect in relation to payments of interest made on or after 6th April 1991 (whenever falling due).

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

C2 S. 27(1)(2) excluded (27.7.1993) by 1993 c. 34, s. 57(7).

**28 Mortgage interest relief: caravans.**

- (1) Section 354(3) of the Taxes Act 1988 (interest eligible for relief in the case of a caravan only if the caravan is large or certain conditions presupposing domestic rating are met) shall cease to have effect.
- (2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

VALID FROM 25/07/1991

*Benefits in kind*

**29 Car benefits.**

- (1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

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**“PART I**

**TABLES OF FLAT RATE CASH EQUIVALENTS**

**TABLE A**

*Cars with an original market value up to £19,250 and having a cylinder capacity*

<b><i>Cylinder capacity of car in cubic centimetres</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<i>Under 4 years</i>	<i>4 years or more</i>
1400 or less	£2,050	£1,400
More than 1400 but not more than 2000	£2,650	£1,800
More than 2000	£4,250	£2,850

**TABLE B**

*Cars with an original market value up to £19,250 and not having a cylinder capacity*

<b><i>Original market value of car</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<i>Under 4 years</i>	<i>4 years or more</i>
Less than £6,000	£2,050	£1,400
£6,000 or more but less than £8,500	£2,650	£1,800
£8,500 or more but not more than £19,250	£4,250	£2,850

**TABLE C**

*Cars with an original market value of more than £19,250*

<b><i>Original market value of car</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<i>Under 4 years</i>	<i>4 years or more</i>

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More than £19,250 but not more than £29,000	£5,500	£3,700
More than £29,000	£8,900	£5,900”

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

**30 Mobile telephones.**

(1) In section 154(2) of the Taxes Act 1988, in paragraph (b) (which excludes from the general charge on benefits in kind any benefits chargeable under the provisions there specified) after the words “section 157, 158, there shall be inserted “159A, ”.

(2) After section 159 of that Act there shall be inserted—

**“159A Mobile telephones.**

(1) Where in any year in the case of a person employed in employment to which this Chapter applies a mobile telephone is made available (without any transfer of the property in it) either to that person or to others who are members of his family or household, and—

(a) it is so made available by reason of his employment and it is in that year available for his or their private use, and

(b) the benefit of the mobile telephone is not (apart from this section) chargeable to tax as the employee’s income,

there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.

(2) The cash equivalent of a benefit taxable under this section in any year shall be £200 for each mobile telephone made available in that year, but subject to the following provisions of this section.

(3) If for any year—

(a) there is no private use of the mobile telephone, or

(b) the employee is required to, and does, make good to the person providing the benefit the full cost of any private use of the mobile telephone,

then the cash equivalent of the benefit for that year is nil.

(4) If the mobile telephone is unavailable for any part of a year, the cash equivalent of the benefit for that year shall be reduced by an amount which bears to that specified in subsection (2) above for that year the proportion which the number of days in the year on which the mobile telephone is unavailable bears to 365.

(5) For the purposes of subsection (4) above, a mobile telephone is to be regarded as “unavailable on any day if, and only if—

(a) it is not made available as mentioned in subsection (1) above until after that day, or

(b) it ceases to be so available before that day, or

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- (c) it is incapable of being used at all throughout a period of not less than 30 consecutive days of which that day is one.
- (6) Where different mobile telephones are made available on different days in a year, the employee shall be treated for the purposes of this section as if the same mobile telephone (or, in a case where two or more mobile telephones are made available concurrently, the same mobile telephones) had been made available on each of those days.
- (7) The Treasury may by order taking effect from the beginning of any year commencing after the making of the order increase or further increase the amount specified in subsection (2) above.
- (8) For the purposes of this section—
- (a) “mobile telephone means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a telephone which is connected to a public telecommunication system (within the meaning of the Telecommunications Act 1984) but which is not physically connected to a land-line and—
- (i) includes any such apparatus provided in connection with a car, notwithstanding that the car is made available as mentioned in section 157, but
- (ii) does not include a cordless telephone or a telepoint telephone, whether or not provided in connection with a car;
- (b) “cordless telephone means wireless telegraphy apparatus—
- (i) designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a wireless extension to a telephone, and
- (ii) used only as such an extension to a telephone that is physically connected to a land-line;
- (c) “telepoint telephone means wireless telegraphy apparatus used for the purpose of a short-range radio communications service utilising frequencies between 864 and 868 megahertz (inclusive);
- (d) “private use, in relation to a mobile telephone, means any use of the telephone to make calls, other than calls made wholly, exclusively and necessarily in the performance of the duties of the employment;
- (e) “full cost, in relation to any private use of a mobile telephone, means the aggregate of—
- (i) the cost of any telephone calls which constitute private use of the mobile telephone; and
- (ii) any other cost of the benefit provided, determined in accordance with the provisions of section 156(2) and (5) to (7) as they would apply if the benefit were chargeable to tax under section 154;
- (f) an employee who accepts a call on the footing that the cost of the call will be charged to the person providing the benefit shall be treated as if the employee had made the call.”
- (3) The amendments made by this section shall have effect for the year 1991-92 and subsequent years of assessment.



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**31 Beneficial loans: increase of de minimis limit.**

- (1) In section 161(1) of the Taxes Act 1988 (no charge for beneficial loan if cash equivalent does not exceed £200) for “£200 there shall be substituted “£300 ”.
- (2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

VALID FROM 25/07/1991

*Vocational training*

**32 Relief.**

- (1) This section applies where—
  - (a) on or after 6th April 1992 an individual resident in the United Kingdom makes a payment in respect of a qualifying course of vocational training,
  - (b) the payment is made in respect of an allowable expense,
  - (c) the payment is made in connection with the individual’s own training,
  - (d) at the time the payment is made, the individual has not received in relation to the course, and is not entitled to receive in relation to it, any public financial assistance of a description specified in regulations made by the Treasury for the purposes of this paragraph, and
  - (e) the individual is not entitled to claim any relief or deduction in respect of the payment under any other provision of the Income Tax Acts.
- (2) The payment shall be deducted from or set-off against the income of the individual for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.
- (3) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (2) above shall be given in accordance with subsections (4) and (5) below.
- (4) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.
- (5) The person to whom the payment is made—
  - (a) shall accept the amount paid after deduction in discharge of the individual’s liability to the same extent as if the deduction had not been made, and
  - (b) may, on making a claim, recover from the Board an amount equal to the amount deducted.
- (6) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
  - (a) an individual who makes, in respect of a qualifying course of vocational training, a payment in respect of an allowable expense shall cease to be and be treated as not having been entitled to relief under subsection (2) above in

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- respect of the payment or such part of it as may be determined in accordance with the regulations; and
- (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
- (7) Regulations under subsection (6) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
- (8) In subsection (1)(a) above, the reference to an individual resident in the United Kingdom includes an individual performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.
- (9) For the purposes of this section, a payment made in respect of a qualifying course of vocational training is made in respect of an allowable expense if—
- (a) it is made in respect of fees payable in connection with undertaking the course, including fees payable for assessment purposes, or
- (b) it is made in respect of fees payable in connection with the making, as a result of having undertaken the course, of any entry in an official register or any award.
- (10) In this section, “qualifying course of vocational training means any programme of activity capable of counting towards a qualification—
- (a) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications, or
- (b) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council,
- except a qualification at the highest of the levels defined by the Council referred to in paragraph (a) or (b) above (as the case may be).

### **33 Section 32: supplementary.**

- (1) The Board may by regulations—
- (a) provide that a claim under section 32(2) or (5)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;
- (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 32 above, for persons who provide vocational training courses to give, in such circumstances as may be prescribed, certificates of payment in such form as may be prescribed to such persons as may be prescribed;
- (c) provide that a person who provides (or has at any time provided) training courses which are (or were) qualifying courses of vocational training for the purposes of section 32 above shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board’s inspection documents (of a prescribed kind) relating to such courses;
- (d) provide that persons of such description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about training courses which

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- are qualifying courses of vocational training for the purposes of section 32 above;
- (e) make provision generally as to administration in connection with section 32 above.
- (2) The words “Regulations under section 33 of the Finance Act 1991 ” shall be added at the end of each column in the Table in section 98 of the <sup>M25</sup>Taxes Management Act 1970 (penalties for failure to furnish information etc.).
- (3) The following provisions of the <sup>M26</sup>Taxes Management Act 1970, namely—
- (a) section 29(3)(c) (excessive relief),
  - (b) section 30 (tax repaid in error etc.),
  - (c) section 88 (interest), and
  - (d) section 95 (incorrect return or accounts),
- shall apply in relation to the payment of an amount claimed under section 32(5)(b) above to which the claimant was not entitled as if it had been income tax repaid as a relief which was not due.
- (4) In sections 257B(2), 257D(8) and 265(3) of the Taxes Act 1988, after paragraph (d) there shall be inserted “, or
- (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”
- (5) In subsection (1) above, “prescribed means prescribed by or, in relation to form, under the regulations.

#### Marginal Citations

**M25** 1970 c. 9.

**M26** 1970 c. 9.

VALID FROM 25/07/1991

### *Retirement benefits schemes*

#### **34 Conditions for approval: amendments.**

- (1) Section 590 of the Taxes Act 1988 (conditions for approval of retirement benefits schemes) shall be amended as follows.
- (2) In subsection (3)(a) for the words “or, if the employee is a woman, 55, and not later than 70” there shall be substituted the words “and not later than 75 ”.
- (3) The following subsection shall be inserted after subsection (4)—
- “(4A) In subsection (3)(c) above “benefits does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security.”
- (4) This section shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed.

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### 35 Cessation of approval.

The following section shall be inserted after section 591 of the Taxes Act 1988—

#### “591A Effect on approved schemes of regulations under section 591.

- (1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 ( “section 591 regulations) which contain provisions restricting the Board’s discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme ( “relevant provisions”).
- (2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—
  - (a) contains a provision of a prohibited description, or
  - (b) does not contain a provision of a required description,
 unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.
- (3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.
- (4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.
- (5) In this section—
  - (a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;
  - (b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591.”

### 36 Cessation of approval: general provisions.

(1) The following section shall be inserted after section 591A of the Taxes Act 1988—

#### “591B Cessation of approval: general provisions.

- (1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their

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approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.

(2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—

- (a) the alteration has been approved by the Board, or
- (b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class.”

(2) Accordingly, in section 590 of the Taxes Act 1988 subsections (5) and (6) shall be omitted.

(3) The amendments made by subsections (1) and (2) above shall be deemed always to have had effect.

(4) The <sup>M27</sup>Finance Act 1970 shall be deemed always to have had effect—

- (a) with the omission of section 19(3) and (4), and
- (b) with the insertion after section 20 of a section 20A in the same form as section 591B of the Taxes Act 1988 (with the omission before 17th March 1987 of the words from “(which shall not” to “whichever is the later”).

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**Marginal Citations**

M27 1970 c. 24.

VALID FROM 25/07/1991

*Profit-related pay, share schemes etc.*

**37 Profit-related pay: increased relief.**

- (1) In section 171(1) of the Taxes Act 1988 (one half of certain profit-related pay exempt from income tax) for “One half there shall be substituted “The whole ”.
- (2) This section shall have effect in relation to profit-related pay paid by reference to profit periods beginning on or after 1st April 1991.

**38 Employee share schemes: non-discrimination.**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In Part III of Schedule 9 (requirements applicable to savings-related share option schemes) in paragraphs 19(b) and 20 for “pensionable age” there shall be substituted “the specified age ”.
- (3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for

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“pensionable age” there shall be substituted “the relevant age”, and at the end of each of those paragraphs there shall be inserted—

“In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991 was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age.”.

- (4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of “shares” there shall be inserted—

“ “specified age, in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;”.

- (5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

“8A (1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.

(2) The age specified—

- (a) must be the same for men and women, and  
 (b) must be not less than 60 and not more than 75.”

- (6) Subsections (2) and (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

### **39 Approved share option schemes: price at which shares may be acquired.**

- (1) In Schedule 9 to the Taxes Act 1988 (requirements by reference to which share option schemes approved) for paragraph 29 there shall be substituted—

“29 (1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

- (a) must be stated at the time the right is obtained, and  
 (b) except where stated under provision included in the scheme pursuant to sub-paragraph (2) below, must not be manifestly less than the market value of shares of the same class at the material time.

(2) The scheme may provide that, if sub-paragraph (3) below applies, scheme shares may be acquired by the exercise of a right obtained under the scheme at a price which is not manifestly less than 85 per cent. of the market value of shares of the same class at the material time.

(3) This sub-paragraph applies if the conditions specified in sub-paragraph (4)(a) and, as the case may be, (b) or (c) below, are met—

- (a) where at the time the right is obtained the scheme is not a group scheme, as respects the grantor;

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- (b) where at the time the right is obtained the scheme is a group scheme, as respects each company to which the scheme is expressed to extend at that time.
- (4) The conditions are—
- (a) that the company has established, or is at the time the right is obtained a participating company in relation to, a scheme which is at that time an approved savings-related share option scheme or an approved profit sharing scheme (a “qualifying scheme);
  - (b) where there is only one qualifying scheme, that every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence;
  - (c) where there is more than one qualifying scheme, that, in the case of each of those schemes, every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence.
- (5) In determining whether the condition specified in sub-paragraph (4)(a) above is met, the withdrawal of approval under paragraph 3 above with effect from a time before the right is obtained shall be disregarded if the withdrawal takes place retrospectively from a time after the right is obtained.
- (6) For the purposes of sub-paragraph (4)(b) and (c) above, an employee has been informed of the existence of a scheme by an appropriate person if he has been informed by one or more of the following—
- (a) a company by virtue of employment with which the employee is eligible to participate in the scheme,
  - (b) the grantor, and
  - (c) where the scheme under which the right to acquire the shares is obtained is a group scheme, any other company which is a participating company in relation to that scheme.
- (7) The scheme may provide for such variation of the price at which scheme shares may be acquired as may be necessary to take account of any variation in the share capital of which the scheme shares form part.
- (8) In this paragraph, references to the material time are to the time the right to acquire the scheme shares is obtained or, if the Board and the grantor agree in writing, such earlier time or times as may be provided in the agreement.”
- (2) Section 185 of that Act (tax reliefs for approved share option schemes) shall be amended as mentioned in subsections (3) to (6) below.
- (3) In subsection (2) (exemption from tax in respect of receipt under approved scheme of right to acquire shares) for “Subject to subsections (4) and (6) below” there shall be substituted “Subject to subsections (6) to (6B) below ”.

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(4) In subsection (4) (which relates to certain rights to acquire shares obtained under a savings-related share option scheme) for “Subsections (2) and (3) above” there shall be substituted “Subsection (3) above”.

(5) For subsection (6) there shall be substituted—

“(6) Subsection (6A) below applies where—

- (a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and
- (b) the price at which he may acquire shares by exercising the right is not applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9.

(6A) Where the aggregate of—

- (a) the amount or value of any consideration given by him for obtaining the right, and
- (b) the price at which he may acquire the shares by exercising the right, is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(6B) Subsection (6A) above shall also apply where—

- (a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and
- (b) the price at which he may acquire shares by exercising the right is applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9;

but with the substitution for “the market value” of “85 per cent. of the market value”.

(6) In subsections (7) and (8), for “(6)” there shall be substituted “(6A)”.

(7) Subsections (1), (5) and (6) above shall come into force on 1st January 1992.

(8) Subsections (3) and (4) above shall apply in relation to rights obtained on or after 1st January 1992.

#### Commencement Information

**I7** S. 39 partly in force at Royal Assent; s. 39(1),(5) and (6) in force at 01.01.1992.

#### 40 Savings-related share option schemes.

(1) In Part III of Schedule 9 to the Taxes Act 1988 (requirements applicable to savings-related share option schemes) in paragraph 24(2)(a) (scheme not to permit monthly amount of contributions linked to schemes to exceed £150) for “£150 there shall be substituted “£250”.

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



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#### **41 Profit sharing schemes.**

- (1) In section 187(2) of the Taxes Act 1988, in the definition of “relevant amount” (limit on the value of shares that may be appropriated to a participant in a year of assessment) for “not less than £2,000 and not more than £6,000” there shall be substituted “not less than £3,000 and not more than £8,000”.
- (2) This section shall apply for the year 1991-92 and subsequent years of assessment.

#### **42 Costs of establishing share option or profit sharing schemes: relief.**

The following section shall be inserted after section 84 of the Taxes Act 1988—

##### **“84A Costs of establishing share option or profit sharing schemes: relief.**

- (1) Subsection (2) below applies where—
  - (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or
  - (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.
- (2) In such a case the expenditure—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
  - (a) subsection (2) above applies, and
  - (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).
- (4) References in this section to approving are to approving under Schedule 9.
- (5) This section applies where the expenditure is incurred on or after 1st April 1991.”

#### **43 Costs of establishing employee share ownership trusts: relief.**

The following section shall be inserted after section 85 of the Taxes Act 1988—

##### **“85A Costs of establishing employee share ownership trusts: relief.**

- (1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.

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- (2) In such a case the expenditure—
- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
- (a) subsection (2) above applies, and
  - (b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,
- for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).
- (4) In this section “qualifying employee share ownership trust shall be construed in accordance with Schedule 5 to the Finance Act 1989.
- (5) For the purposes of this section the trust is established when the deed under which it is established is executed.
- (6) This section applies where the expenditure is incurred on or after 1st April 1991.”

#### **44 Priority share allocations for employees etc.**

- (1) In relation to offers made on or after 16th January 1991, section 68 of the <sup>M28</sup>Finance Act 1988 (which provides for the benefits derived from priority rights in share offers to be disregarded in certain circumstances) shall have effect, and be deemed at all times on and after that date to have had effect, with the amendments specified in subsections (2) to (8) below.
- (2) In paragraph (a) of subsection (1), for the words “an offer” there shall be substituted the words “a bona fide offer”.
- (3) After that subsection there shall be inserted—
- “(1ZA) A case falls within this subsection if—
- (a) there is a bona fide offer to the public of a combination of shares in two or more companies at a fixed price or by tender ( “the public offer);
  - (b) there is at the same time an offer ( “the employee offer) of shares, or of a combination of shares, in any one or more, but not all, of those companies—
    - (i) to directors or employees, or
    - (ii) to directors or employees and to other persons,
 (whether the directors or employees are directors or employees of any of those companies, or of any other company or person); and
  - (c) any of those directors or employees is entitled, by reason of his office or employment, to an allocation of shares under the employee

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offer in priority to any allocation to members of the public under the public offer.

(1ZB) In any case falling within subsection (1ZA) above—

- (a) the public offer and the employee offer shall be regarded for the purposes of subsection (1) above as together constituting a single offer of shares to the public, notwithstanding the difference in the shares to which each offer relates;
- (b) the reference to “the shares in paragraph (b) of that subsection shall be taken as a reference to any of the shares which, in consequence of paragraph (a) above, are to be regarded as subject to that single offer; and
- (c) in the following provisions of this section references to the offer or to shares subject to the offer shall be construed accordingly.”

(4) For subsection (1A) there shall be substituted—

“(1A) Where, disregarding the amount or value of any registrant discount made to the director or employee in respect of the shares of the company (or, in a case falling within subsection (1ZA) above, of the company in question), the price payable by him for the shares of that company which are allocated to him under the offer—

- (a) in a case not falling within subsection (1ZA) above, is less than the fixed price or the lowest price successfully tendered, or
- (b) in a case falling within that subsection, is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of that company,

subsection (1) above shall not apply to the benefit (if any) represented by the difference in price.”

(5) After subsection (2B) there shall be inserted—

“(2C) In a case falling within subsection (1ZA) above, the condition in paragraph (a) of subsection (2) above shall be taken to be satisfied in relation to the offer if, and only if, it is separately satisfied with respect to the shares in each one of the companies which are subject to that offer; and for this purpose only, any reference in that paragraph or in subsection (2A) or (2B) above to shares is a reference to shares in the particular company in question.”

(6) In subsection (3A) (saving where the allocations of directors or employees are larger than those of other persons) after the words “the company”, where first occurring, there shall be inserted the words “(or, in a case falling within subsection (1ZA) above, any one or more of the companies to which the offer relates) ”.

(7) At the end of subsection (5) (definitions) there shall be added—

“ “the public offer and “the employee offer have the meaning given by paragraphs (a) and (b) of subsection (1ZA) above.”

(8) After that subsection there shall be inserted—

“(5A) For the purposes of this section, there is a “registrant discount in respect of the shares of a company in any case where—

- (a) in connection with the offer, members of the public who comply with such requirements as may be imposed in that behalf are, or may

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- become, entitled to a discount in respect of the whole or some part of the shares of that company which are allocated to them; and
- (b) at least 40 per cent. of the shares of that company which are allocated to members of the public other than employees and directors are allocated to individuals who are or become entitled either to that discount or to some other benefit of similar value for which they may elect as an alternative to the discount; and
  - (c) directors or employees who either—
    - (i) subscribe for shares under the offer (or, in a case falling within subsection (1ZA) above, under the public offer) as members of the public, or
    - (ii) subscribe for shares under the employee offer, as directors or employees,

and who comply (or, in the case of a requirement to register, are taken under the terms of the offer to comply) with the same requirements as are mentioned in paragraph (a) above, are, or may become, entitled to the same discount in respect of the shares of the company as any other members of the public to whom shares of that company are allocated under the offer;

and any reference in this section to the amount or value of the registrant discount made to a director or employee is a reference to the amount of any such discount made to him as is mentioned in paragraph (c) above or, as the case may be, the value of any such other benefit as is mentioned in paragraph (b) above which is conferred upon him as an alternative to the discount.

- (5B) For the purposes of this section, in a case falling within subsection (1ZA) above “the appropriate notional price for the shares of any of the companies subject to the offer is such price as—
  - (a) had the shares of that company, and of each of the other companies, instead of being subject to the offer, been subject to separate offers to the public in respect of each company at fixed prices, and
  - (b) had those separate offers been made at the time at which the public offer was in fact made,

might reasonably have been expected to be the fixed price for the shares of that company under the separate offer of those shares; but where subsection (5C) below applies, the amount determined in accordance with this subsection as the notional price for the shares of any company shall be varied in accordance with that subsection.

- (5C) If the amounts determined in accordance with subsection (5B) above as the appropriate notional prices for the shares of each of the companies subject to the public offer are such that, had the price for the combination of shares subject to the public offer been determined by aggregating the appropriate notional price (as so determined) for each one of the shares comprised in the combination, the price for the combination would have been different from the actual fixed price or (as the case may be) lowest successfully tendered price, then those amounts shall each be varied by multiplying them by the fraction of which—
  - (a) the numerator is the actual fixed or lowest successfully tendered price for the combination of shares subject to the public offer; and

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(b) the denominator is the different price mentioned above;  
and those amounts, as so varied, shall be the appropriate notional prices for the purposes of this section.”

(9) In section 77 of that Act (scope of provisions about unapproved employee share schemes) in subsection (1), for the words “Subject to subsections (2) and (3) below” there shall be substituted the words “Subject to subsections (2) to (4) below”, and after subsection (3) (exemption where the acquisition is made in pursuance of an offer to the public) there shall be added—

“(4) Where, in a case falling within subsection (1ZA) of section 68 above, subsection (1) of that section—

(a) applies or applied in relation to such a benefit as is there mentioned,  
or

(b) would so apply or have applied, had there been any such benefit,  
any acquisition made on or after 16th January 1991 in pursuance of any of the offers which, in that case, fall to be regarded by virtue of subsection (1ZB) of that section as together constituting a single offer of shares to the public for the purposes of subsection (1) of that section shall be regarded for the purposes of subsection (3) above as an acquisition made in pursuance of an offer to the public.”

(10) The amendments made by subsection (9) above shall be deemed to have come into force on 16th January 1991.

#### Marginal Citations

M28 1988 c. 39.

VALID FROM 25/07/1991

### *Foreign earnings*

#### **45 Seafarers.**

(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings) in paragraph 3(2A) (seafarers) for “90 there shall be substituted “183 ” and for “one quarter there shall be substituted “one half”.

(2) Subject to subsection (3) below, this section shall apply for the purpose of deciding whether the relevant period and the earlier qualifying period referred to in paragraph 3(2) of Schedule 12 to the Taxes Act 1988 are to be treated as a single period in a case where at least one of the intervening days falls after 5th April 1991.

(3) This section shall apply for the purpose of charging tax for the year 1991-92 or any later year of assessment.

#### **46 Workers in Kuwait or Iraq.**

(1) This section applies if—

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**Changes to legislation:** Finance Act 1991 is up to date with all changes known to be in force on or before 13 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) a person was in Kuwait or Iraq at any time in the period of 62 days ending with 2nd August 1990,
  - (b) he was at that time engaged in performing the duties of an office or employment which were to be performed to a substantial extent in Kuwait or Iraq,
  - (c) he returned to the United Kingdom after that time,
  - (d) the period of absence from the United Kingdom which ends with his return is not, and is not part of, a qualifying period consisting of at least 365 days, and
  - (e) he satisfies the Board (or the Commissioners on appeal) that, having regard to the circumstances, it is likely that that period of absence would have been part of such a qualifying period but for events leading up to or arising from the invasion of Kuwait on 2nd August 1990.
- (2) In such a case, so much of the period before the day of his return to the United Kingdom as the Board are satisfied would have been part of a qualifying period consisting of at least 365 days (but for those events) shall be treated as a qualifying period consisting of at least 365 days.
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.
- (4) In the case of employment as a seafarer, this section shall have effect as if “62 days” read “90 days”.
- (5) In this section—
- (a) “qualifying period means a qualifying period for the purposes of section 193(1) of the Taxes Act 1988 (foreign earnings);
  - (b) “employment as a seafarer has the same meaning as in paragraph 3(2A) of Schedule 12 to that Act (further provisions about foreign earnings).

VALID FROM 25/07/1991

*Insurance companies and friendly societies*

**47 Investor protection schemes.**

- (1) In section 76 of the Taxes Act 1988, in subsection (7) (which treats certain levies as expenses of management of insurance companies) after the word “under there shall be inserted “(a) ” and after the words “Policyholders Protection Act 1975 there shall be inserted the words “or
- (b) a levy imposed in pursuance of a scheme established by rules under section 54 of the 1986 Act (compensation fund for unsatisfied claims).”.
- (2) After that subsection there shall be inserted—
- “(7A) The Treasury may by regulations make provision for any sums paid by a company under a prescribed levy imposed under a prescribed investor protection scheme established under the rules of a prescribed recognised self-regulating organisation to be treated for the purposes of this section as part of the company’s expenses of management; and, without prejudice to

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the generality of the foregoing, regulations under this subsection may, in particular—

- (a) provide for only a prescribed part of any sums so paid to be so treated;
- (b) provide for sums paid before, as well as after, the coming into force of the regulations to be so treated; and
- (c) make different provision for different cases or in relation to different levies, schemes or organisations.”

(3) For subsection (8) of that section (definitions) there shall be substituted—

“(8) In this section—

“the 1986 Act means the Financial Services Act 1986;

“acquisition expenses means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989;

“authorised person has the same meaning as it has in the 1986 Act by virtue of section 207(1) of that Act;

“investment business has the same meaning as it has in the 1986 Act by virtue of section 1(2) of that Act;

“investor includes a person who is an investor for the purposes of the 1986 Act;

“investor protection scheme means a scheme established under the rules of a recognised self-regulating organisation for purposes which consist of or include the compensating of investors in cases where persons, or persons of some class or description, who are or have been authorised persons, are, or are likely to be, unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their investment businesses;

“prescribed means specified in regulations made by the Treasury under subsection (7A) above;

“recognised self-regulating organisation has the same meaning as it has in the 1986 Act;

and other expressions have the same meaning as in Chapter I of Part XII.”

(4) The amendments made by subsection (1) above shall have effect in relation to levies imposed, and sums paid, before or after the coming into force of that subsection.

#### **48 Assimilation of basic life assurance business and general annuity business.**

Schedule 7 to this Act shall have effect.

#### **49 Pension business: payments on account of tax credits and deducted tax.**

(1) After section 438 of the Taxes Act 1988 (pension business: exemption from tax) there shall be inserted—

**“438A Pension business: payments on account of tax credits and deducted tax.**

Schedule 19AB shall have effect.”

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- (2) Schedule 8 to this Act (which makes provision for and in connection with the making of payments to insurance companies on account of tax borne by deduction and tax credits in respect of income from assets referable to their pension business) shall have effect.
- (3) This section shall have effect in relation to accounting periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint.

#### Subordinate Legislation Made

**P2** [S. 49\(3\)](#) power fully exercised (16.7.1992): 2.10.1992 appointed day by [S.I. 1992/1746](#)

#### Commencement Information

**I8** [S. 49](#) came into force at Royal Assent (25.7.1991) with effect in relation to accounting period beginning on or after such day as the Treasury may appoint: 2.10.1992 appointed by [S.I. 1992/1746, art. 2](#)

### 50 Friendly societies.

Schedule 9 to this Act (which makes provision about friendly societies) shall have effect.

VALID FROM 25/07/1991

### *Building societies*

### 51 Qualifying shares.

Schedule 10 to this Act (which makes provision about certain kinds of building society share) shall have effect.

### 52 Marketable securities.

- (1) Schedule 11 to this Act (which makes provision about the deduction of income tax in the case of marketable securities issued by building societies) shall have effect.
- (2) In section 477A of the Taxes Act 1988 (corporation tax treatment of payments by building societies) after subsection (3) there shall be inserted—
- “(3A) Subsection (3B) below applies in the case of a dividend or interest payable in respect of any security (other than a qualifying certificate of deposit) which is quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest becomes payable.
- (3B) Where the amount payable by way of dividend or interest represents more than a reasonable commercial return for the use of the principal to which the security relates, the amount deductible in respect of the dividend or interest under subsection (3)(a) above shall not exceed an amount equal to the amount which would have represented a reasonable commercial return for the use of that principal.



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(3C) For the purposes of subsection (3B) above, no amount shall be regarded as representing the principal to which a security relates in so far as it exceeds any new consideration which has been received by the society for the issue of the security.”

(3) Subsection (2) above shall apply in relation to dividends or interest becoming payable on or after the day on which this Act is passed.

### **53 Income Tax (Building Societies) Regulations 1986.**

(1) Section 343(1A) of the <sup>M29</sup>Income and Corporation Taxes Act 1970 (building societies) shall be deemed to have conferred power to make all the provisions in fact contained in the <sup>M30</sup>Income Tax (Building Societies) Regulations 1986 (the regulations).

(2) Where a provision of the regulations requires a building society to pay to the Board a sum calculated by reference to the reduced rate and the basic rate, subsection (3) below shall apply to the extent that the sum is one in respect of payments or credits made in the period beginning with 1st March in any year and ending with 5th April in the same year.

(3) The provision shall be deemed always to have had effect as if the reduced and basic rates concerned were those for the year of assessment in which the period falls.

(4) In relation to a building society which commenced proceedings to challenge the validity of the regulations before 18th July 1986, this section shall not have effect to the extent that the regulations apply (or purport to apply) to payments or credits made before 6th April 1986.

#### **Marginal Citations**

**M29** 1970 c. 10.

**M30** S.I. 1986/482.

VALID FROM 25/07/1991

### *Securities*

#### **54 New issues.**

Schedule 12 to this Act (which contains provisions about securities issued after an issue of securities of the same kind) shall have effect.

#### **55 Purchase and sale of securities: options.**

(1) In section 731 of the Taxes Act 1988 (scope of bondwashing provisions) the following subsections shall be inserted after subsection (4)—

“(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as

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effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm's length terms.

(4B) For the purposes of subsection (4A) above an option is a “qualifying option if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that subsection to the time of the abandonment or other disposal a reference to the time of exercise.

(4C) In subsection (4A) above the reference to arm's length terms is to terms—

- (a) agreed between persons dealing at arm's length, or
- (b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing.”

(2) This section shall apply where the subsequent sale by the first buyer takes place on or after the day on which this Act is passed.

## 56 Bondwashing.

(1) In section 732 of the Taxes Act 1988, after subsection (2) (exemption for market makers) there shall be inserted—

“(2A) Subsection (1) above shall not apply in prescribed circumstances if—

- (a) the first buyer is—
  - (i) a prescribed recognised clearing house, or
  - (ii) a member, of a prescribed class or description, of a prescribed recognised investment exchange, and
- (b) the subsequent sale is carried out by the first buyer after a prescribed date and in the ordinary course of his business.”

(2) At the end of that section there shall be added—

“(7) For the purposes of subsection (2A) above—

“prescribed means prescribed in regulations made by the Treasury;

“recognised clearing house means a recognised clearing house within the meaning of the Financial Services Act 1986;

“recognised investment exchange means a recognised investment exchange within the meaning of that Act.”

## 57 Stock lending.

(1) Section 129 of the Taxes Act 1988 (stock lending) shall be amended as mentioned in subsections (2) and (3) below.

(2) The following subsection shall be inserted after subsection (2)—

“(2A) Subject to subsection (4) below—

- (a) this section also applies where an arrangement in addition to those mentioned in subsections (1) and (2) above, and similar to that mentioned in subsection (2) above, is entered into as part of a chain

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of arrangements all having the effect of enabling A to fulfil his contract, and

(b) it is immaterial how many separate arrangements there are in the chain.”

(3) In subsection (3) after “(2) there shall be inserted “or (2A) ”.

(4) In section 149B(9) of the <sup>M31</sup>Capital Gains Tax Act 1979 (which refers to section 129 of the Taxes Act 1988) after “(2) there shall be inserted “or (2A) ”.

(5) This section shall apply to transfers made after such date as is specified for this purpose by regulations under section 129 of the Taxes Act 1988.

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#### Marginal Citations

**M31** 1979 c. 14.

### 58 Manufactured dividends and interest.

(1) After section 736 of the Taxes Act 1988 there shall be inserted—

**“736A Manufactured dividends and interest.**

Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities.”

(2) The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified.

(3) This section shall have effect in relation to payments made on or after such day as the Treasury may specify for this purpose by regulations made by statutory instrument and different days may be so appointed for different provisions or different purposes.

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#### Subordinate Legislation Made

- P3** [S. 58\(3\)](#) power partly exercised (4.2.1992): 26.2.1992 appointed day for specified provisions and purposes by [S.I. 1992/173](#)  
[S. 58\(3\)](#) power partly exercised (5.6.1992): 30.6.1992 appointed day for specified provisions and purposes by [S.I. 1992/1346](#)  
[S. 58\(3\)](#) power partly exercised (21.4.1993): 22.4.1993 appointed day for specified provisions and purposes by [S.I. 1993/933](#).

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#### Commencement Information

- I9** [S. 58](#): s. 58 came into force at Royal Assent (25.7.1991) with effect as mentioned in s. 58(3) in relation to payments made on or after such day or days as the Treasury may specify:  
26.2.1992 appointed for specified provisions and purposes by [S.I. 1992/173](#), [regs. 2](#).  
30.6.1992 appointed for specified provisions and purposes by [S.I. 1992/1346](#), [regs. 2-4](#).  
22.4.1993 appointed for specified provisions and purposes by [S.I. 1993/933](#), [regs. 2-4](#).

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VALID FROM 25/07/1991

### *Capital allowances*

#### **59 Interaction with VAT capital goods scheme.**

- (1) The <sup>M32</sup>Capital Allowances Act 1990 shall have effect with the amendments specified in Schedule 14 to this Act.
- (2) The amendments made by that Schedule shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1990.

#### **Marginal Citations**

M32 1990 c. 1.

#### **60 Toll roads.**

- (1) The Capital Allowances Act 1990 shall be amended as follows.
- (2) Part I (industrial buildings and structures) shall be amended as mentioned in subsections (3) to (6) below.
- (3) In section 3 (writing-down allowances) there shall be inserted at the end—
  - “(5) For the purposes of this section, a person entitled to charge tolls in respect of a road shall be treated as having an interest in the road.”
- (4) In section 18 (definition of “industrial structure) in subsection (1), after paragraph (d) there shall be inserted—
  - “(da) for the purposes of a toll road undertaking; or”.
- (5) In section 20 (meaning of “relevant interest) after subsection (4) there shall be inserted—
  - “(5) For the purposes of subsections (1) and (2) above, in their application to expenditure incurred on the construction of a toll road, the right to charge tolls in respect of the road shall not be treated as an interest in the road.
  - (6) Where, in the case of expenditure incurred on the construction of a toll road, the person who incurred the expenditure—
    - (a) was not for the purposes of subsections (1) and (2) above entitled to an interest in the road when he incurred the expenditure, but
    - (b) was at that time entitled to charge tolls in respect of the road,
 “the relevant interest means, in relation to that expenditure, the right to charge tolls in respect of the road.”
- (6) In section 21 (interpretation) after subsection (5) there shall be inserted—
  - “(5A) For the purposes of this Part, the carrying on of a toll road undertaking shall be treated as the carrying on of an undertaking by way of trade; and accordingly, references in this Part (except sections 17 and 18) to a trade

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shall be treated as including references to an undertaking treated by virtue of this subsection as carried on by way of trade.

(5B) For the purposes of this Part, a person carrying on a toll road undertaking shall be treated as occupying for the purposes of the undertaking any toll road comprised in it.”

(7) Part VIII (supplementary provisions) shall be amended as mentioned in subsections (8) and (9) below.

(8) In section 140 (income tax allowances and charges in taxing a trade etc.) at the end there shall be inserted—

“(11) In the application of this section to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade.”

(9) In section 144 (corporation tax allowances and charges in taxing a trade) at the end there shall be inserted—

“(4) In the application of subsection (2) above to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade.”

(10) This section shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1991.

## **61 Hiring motor cars.**

(1) Section 35 of the <sup>M33</sup>Capital Allowances Act 1990 (motor cars) shall be amended as mentioned in subsections (2) and (3) below.

(2) In subsection (2) (reduction of allowance for hiring cars whose retail price when new exceeds £8,000) at the end there shall be inserted the words “ ; but this subsection shall have effect subject to subsection (3) below. ”

(3) The following subsections shall be inserted after subsection (2)—

“(3) Subsection (2) above shall not apply where the hiring is under a hire-purchase agreement under which there is an option to purchase exercisable on the payment of a sum equal to not more than 1 per cent. of the retail price of the motor car when new.

(4) In subsection (3) above “hire-purchase agreement has the meaning given by section 784(6) of the principal Act.”

(4) This section shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

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### **Marginal Citations**

**M33** 1990 c. 1.

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VALID FROM 25/07/1991

### *Oil industry*

#### **62 Expenditure on and under abandonment guarantees.**

- (1) To the extent that, by virtue of paragraph (hh) of subsection (1) of section 3 of the <sup>M34</sup>Oil Taxation Act 1975 (as set out in section 103(2) of this Act), expenditure incurred on or after 19th March 1991 by a participator in an oil field is allowable for the purposes of petroleum revenue tax under the said section 3, that expenditure shall be allowed as a deduction in computing the participator's ring fence income.
- (2) Expressions used in subsection (1) above and the following provisions of this section have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any purposes of tax as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (4) In any case where—
  - (a) a payment made by the guarantor under the abandonment guarantee is not immediately applied in meeting any expenditure, and
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,
 any reference in subsection (3) above or section 63 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.
- (5) In subsections (3) and (4) above—
  - (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 105 of this Act; and
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act.

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

**C3** S. 62 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

#### **Marginal Citations**

**M34** 1975 c. 22.

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### 63 Relief for reimbursement expenditure under abandonment guarantees.

- (1) This section applies in any case where—
- (a) on or after 19th March 1991 a payment (in this section referred to as “the guarantee payment) is made by the guarantor under an abandonment guarantee; and
  - (b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and
  - (c) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability.
- (2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 62(4) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 of this Act and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—
- (a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and
  - (b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.
- (3) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall, by virtue of this section, be allowed as a deduction in computing the relevant participator’s ring fence income; and no part of the expenditure which is so allowed shall be otherwise deductible or allowable by way of relief for any purposes of tax.
- (5) Subject to subsection (6) below, of the reimbursement expenditure incurred in any accounting period by the relevant participator, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$Ax \frac{B}{C}$$

where—

- ”A” is the reimbursement expenditure incurred in the accounting period;
- ”B” is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in computing his ring fence income; and

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”C” is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

- (6) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure shall not exceed whichever is the less of “B” and “C” in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier accounting period.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable; and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 62(3) above is not to be regarded as expenditure incurred by the relevant participator).
- (8) In this section—
- (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 3 of the 1975 Act;
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act; and
  - (c) other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

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

C4 S. 63 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**64 Relief for expenditure incurred by a participator in meeting defaulter’s abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure).
- (2) In this section “default payment, “the defaulter and “qualifying participator have the same meaning as in paragraph 2A of Schedule 5 to the 1975 Act and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) In this section, the amount which is attributed to the qualifying participator as mentioned in subsection (1)(b) above (whether representing the whole or only a part of the default payment) is referred to as the additional abandonment expenditure.
- (4) Relief by way of capital allowance or, as the case may be, a deduction in computing ring fence income shall be available to the qualifying participator by virtue of this



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section in respect of the additional abandonment expenditure in any case where any such relief or deduction would have been available to the defaulter if—

- (a) the defaulter had incurred the additional abandonment expenditure; and
  - (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.
- (5) The basis of qualification for or entitlement to any relief or deduction which is available to the qualifying participator by virtue of this section shall be determined on the assumption that the conditions in paragraphs (a) and (b) of subsection (4) above are fulfilled but, subject to that, any such relief or deduction shall be available in like manner as if the additional abandonment expenditure had been incurred by the qualifying participator for the purposes of the ring fence trade carried on by him.

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

C5 S. 64 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**65 Reimbursement by defaulter in respect of certain abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and
  - (c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;
- and in this section “default payment, “the defaulter and “qualifying participator have the same meaning as in the said paragraph 2A and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (2) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (3) Subject to subsection (7) below, reimbursement expenditure shall be allowed as a deduction in computing the defaulter's ring fence income.
- (4) Subject to subsection (7) below, reimbursement expenditure received by the qualifying participator shall be treated as a receipt (in the nature of income) of his ring fence trade for the relevant accounting period.
- (5) For the purposes of subsection (4) above, the relevant accounting period is the accounting period in which the reimbursement expenditure is received by the qualifying participator or, if the qualifying participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.

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- (6) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the qualifying participator may be made at any time not later than six years after the end of the calendar year in which the reimbursement expenditure is so received.
- (7) In relation to a particular default payment, reimbursement expenditure incurred at any time—
- (a) shall be allowed as mentioned in subsection (3) above, and
  - (b) shall be taken into account in computing the qualifying participator's ring fence income by virtue of subsection (4) above,
- only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.
- (8) The incurring of reimbursement expenditure shall not be regarded, by virtue of section 153 of the <sup>M35</sup>Capital Allowances Act 1990 (subsidies, contributions etc.), as the meeting of the expenditure of the qualifying participator in making the default payment.

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

C6 S. 65 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**Marginal Citations**

M35 1990 c. 1.

**66 Restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.**

- (1) In section 497 of the Taxes Act 1988 (restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.), in subsection (2) after the words “resident in the United Kingdom” there shall be inserted the words “or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme”.
- (2) After subsection (2) of that section there shall be inserted the following subsections—
- “(2A) For the purposes of subsection (2) above, a distribution ( “the relevant distribution) is made pursuant to a substitution scheme if—
- (a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and
  - (b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and
  - (c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.

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(2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section.”

#### 67 Oil licences.

(1) In section 64(6)(c) of the <sup>M36</sup>Finance Act 1988 (definition of the expression “the appropriate legislation relating to capital allowances for the purposes of section 62 of that Act, which relates to disposals of oil licences) for “Part IV of the Capital Allowances Act 1990 there shall be substituted “Parts IV and VII of the Capital Allowances Act 1990 ”.

(2) This section shall have effect in relation to disposals on or after the day on which this Act is passed.

#### Marginal Citations

M36 1988 c. 39.

### Miscellaneous

VALID FROM 25/07/1991

#### 68 Gifts to educational establishments.

(1) For section 84 of the Taxes Act 1988 (payments for technical education) there shall be substituted the following—

##### “84 Gifts to educational establishments.

(1) This section applies where a person carrying on a trade, profession or vocation ( “the donor) makes a gift for the purposes of a designated educational establishment of—

(a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or

(b) an article used by the donor in the course of his trade, profession or vocation—

(i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and

(ii) in respect of which he has claimed an allowance under that Part of that Act.

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(2) For the purposes of this section, an article “qualifies as machinery or plant in the hands of an educational establishment if, and only if, it is an article such that—

- (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
- (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and
- (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.

(3) Where this section applies—

- (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and
- (b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;

but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

(4) In any case where—

- (a) relief is given under subsection (3) above in respect of the gift of an article, and
- (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,

the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) In this section “designated educational establishment means any educational establishment designated, or of a category designated,—

- (a) as respects Great Britain, in regulations made by the Secretary of State; or
- (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;

and any such regulations may make different provision for different areas.

(6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—

- (a) in the case of an establishment in Great Britain, to the Secretary of State, or

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- (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
  - (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.”
- (2) The amendment made by subsection (1) above shall have effect with respect to gifts made on or after 19th March 1991.

VALID FROM 25/07/1991

## **69 Expenses of entertainers.**

- (1) Section 201A of the Taxes Act 1988 (deduction of fees paid by entertainer to employment agency) shall be amended as follows.
- (2) In subsection (1)(a) after “subsection (2)” there shall be inserted “or (2A) ”.
- (3) The following subsection shall be inserted after subsection (2)—

“(2A) Fees fall within this subsection if—

  - (a) they are paid by the employee in pursuance of an arrangement under which a bona fide co-operative society agrees, or the members of such a society agree, to act as agent of the employee in connection with the employment,
  - (b) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and
  - (c) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned.”
- (4) The following subsection shall be inserted after subsection (3)—

“(3A) Subsection (3) of section 1 of the Industrial and Provident Societies Act 1965 (co-operative society does not include profit-making society) shall apply for the purposes of subsection (2A)(a) above as it applies for the purposes of that section.”
- (5) The following subsection shall be inserted after subsection (4)—

“(4A) Subject to subsection (4) above, a deduction by virtue of this section as regards a particular employment and a particular year of assessment may be based on fees falling within subsection (2) above or fees falling within subsection (2A) above, or both.”

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- (6) The amendments made by this section shall apply for the year 1990—91 and subsequent years of assessment.
- (7) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

VALID FROM 25/07/1991

**70 Personal equity plans.**

In section 333 of the Taxes Act 1988 (personal equity plans) in subsection (3) (regulations) the following paragraphs shall be inserted after paragraph (f)—

- “(g) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations;
- (h) provide that the Board may register a plan as being of a particular kind;
- (i) make different provision as to different kinds of plan;
- (j) provide for investment by an individual under more than one plan in the same year of assessment.”

VALID FROM 25/07/1991

**71 Donations to charity.**

- (1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.
- (2) In consequence of subsection (1) above, in section 338(2) of that Act, for “to sections 339 and 339A” there shall be substituted “to section 339”.
- (3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.
- (4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—
  - (a) in subsections (1) and (2), after the words “in that period”, in the first place where they occur, there were inserted “and before 19th March 1991”; and
  - (b) in subsection (3)(b), after “that section” there were inserted “in respect of payments made before 19th March 1991”.
- (5) In section 25 of the <sup>M37</sup>Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect.
- (6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

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### Marginal Citations

M37 1990 c. 29.

VALID FROM 25/07/1991

## 72 Deduction of trading losses.

- (1) Where under section 380 of the Taxes Act 1988 (set-off of trading losses against general income) a person makes a claim for relief for a year of assessment in respect of an amount ( “the trading loss) which is available for relief under that section, he may in the notice by which the claim is made make a claim under this subsection for the relevant amount for the year to be determined.
- (2) The relevant amount for the year is so much of the trading loss as—
  - (a) cannot be set off against the claimant’s income for the year, and
  - (b) has not already been taken into account for the purpose of giving relief (under section 380 or this section or otherwise) for any other year.
- (3) Where the claim under subsection (1) above is finally determined, the relevant amount for the year shall be treated for the purposes of capital gains tax as an allowable loss accruing to the claimant in the year; but the preceding provisions of this subsection shall not apply to so much of the relevant amount as exceeds the maximum amount.
- (4) The maximum amount is the amount on which the claimant would be chargeable to capital gains tax for the year, disregarding section 5(1) of the <sup>M38</sup>Capital Gains Tax Act 1979 and the effect of this section.
- (5) In ascertaining the maximum amount, no account shall be taken of any event—
  - (a) occurring after the date on which the claim under subsection (1) above is finally determined, and
  - (b) in consequence of which the amount referred to in subsection (4) above is reduced by virtue of any enactment relating to capital gains tax.
- (6) An amount treated as an allowable loss by virtue of this section shall not be allowed as a deduction from chargeable gains accruing to a person in any year of assessment beginning after he has ceased to carry on the trade, profession, vocation or employment in which the relevant trading loss was sustained.
- (7) For the purposes of this section, the claim under subsection (1) above shall not be deemed to be finally determined until the relevant amount for the year can no longer be varied, whether by the Commissioners on appeal or on the order of any court.
- (8) References in sections 382(3), 383(6), (7) and (8) and 385(1) of the Taxes Act 1988 to relief under section 380 of that Act shall be construed as including references to relief under this section.
- (9) This section shall apply in relation to losses sustained in the year 1991-92 and subsequent years of assessment.

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### Marginal Citations

M38 1979 c. 14.

VALID FROM 25/07/1991

### 73 Relief for company trading losses.

- (1) After section 393 of the Taxes Act 1988 (losses other than terminal losses) there shall be inserted—

**“393A Losses: set off against profits of the same, or an earlier, accounting period.**

- (1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—
- (a) of that accounting period, and
  - (b) if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;
- and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.
- (2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.
- (3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—
- (a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or
  - (b) it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part;
- but this subsection is without prejudice to section 397.
- (4) For the purposes of subsection (3) above—
- (a) the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and



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- (b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—
- (a) to be made to the company by way of discharge or repayment of tax, and
- (b) to be so made for an accounting period ending on or after 1st April 1991,
- shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.
- (6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.
- (7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.
- (8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.
- (9) For the purposes of this section—
- (a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;
- (b) “trading income means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and
- (c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.
- (10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.
- (11) In any case where—
- (a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or
- (b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is

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treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,

then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of “five years” for “two years”.”

- (2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.
- (3) Schedule 15 to this Act shall have effect.
- (4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.
- (5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

#### 74 Trade unions and employers’ associations.

- (1) Section 467 of the Taxes Act 1988 (trade unions and employers’ associations) shall be amended as follows.
- (2) In subsection (1) (exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity)—
  - (a) for “£3,000” there shall be substituted “£4,000 ”, and
  - (b) for “£625” there shall be substituted “£825 ”.
- (3) In subsection (3) (matters to be disregarded in applying subsection (1)) for “£625” there shall be substituted “£825 ”.
- (4) After subsection (3) there shall be inserted—
 

“(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order.”
- (5) In subsection (4) (definition of “trade union”)—
  - (a) in paragraphs (a) and (b), for “Registrar of Friendly Societies” there shall be substituted “Certification Officer ”; and
  - (b) for “and” at the end of paragraph (b) there shall be substituted—
    - “(ba) any trade union within the meaning of the Trade Union Act 1871 registered in Northern Ireland under section 6 of that Act; and”.
- (6) Subsections (2) and (3) above shall have effect in relation to income or gains which are applicable and applied as mentioned in section 467 of the Taxes Act 1988 on or after 1st April 1991.

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(7) Subsection (5) above shall be deemed always to have had effect.

#### Commencement Information

**I10** S. 74 in force at Royal Assent except s. 74(5) which is retrospective to 5.4.1988 being the commencement of s. 467, 1988 c.1

VALID FROM 25/07/1991

#### 75 Audit powers in relation to non-residents.

The following section shall be inserted after section 482 of the Taxes Act 1988—

##### “482A Audit powers in relation to non-residents.

- (1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) (“audit powers”).
- (2) Regulations under subsection (1) above may in particular—
  - (a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;
  - (b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;
  - (c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;
  - (d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and
  - (e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.
- (3) Regulations under subsection (1) above may—
  - (a) make different provision for different cases; and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.
- (4) In this section “deposit-taker has the meaning given by section 481(2).”

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## 76 Capital element in annuities.

(1) Section 656 of the Taxes Act 1988 (purchased life annuities other than retirement annuities) shall have effect, and be deemed always to have had effect, with the addition of the following subsections—

“(7) In using the prescribed tables of mortality to determine—

- (a) the expected term of an annuity for the purposes of subsection (2) (a) above, or
- (b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,

the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.

(8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.

(9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary.”

(2) Section 230 of the <sup>M39</sup>Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for “(2)(a)” and “(4)(c)”, in each place where they occur, of “(2A)(a)” and “(3)(c)” respectively.

(3) Section 27 of the <sup>M40</sup>Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of “(3)(c)” for “(4)(c)” in both places where it occurs.

### Marginal Citations

**M39** 1970 c. 10.

**M40** 1956 c. 54.

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VALID FROM 01/04/1991

## 77 Definition of “normal commercial loan.

- (1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—

“(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—

- (a) shall not be treated as depending to any extent on the results of the company’s business or any part of it by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the results of the company’s business or any part of it improving, and
- (b) shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the value of any of the company’s assets increasing.

(5F) Sub-paragraph (5H) below applies where—

- (a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and
- (b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

- (a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,
- (b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and
- (c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it.”

- (2) In relation to the application of paragraph 1(5) of that Schedule (definition of “normal commercial loan) for the purposes of section 64(2) of the <sup>M41</sup>Finance Act 1984 (definition of “corporate bond), this section shall have effect—

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- (a) so far as concerns the application of section 64(2) for the purposes of section 136A of the <sup>M42</sup>Capital Gains Tax Act 1979, in relation to claims on or after 1st April 1991, and
  - (b) so far as concerns any other application of section 64(2), in relation to disposals on or after that date (and, in relation to such disposals, shall be regarded as always having had effect).
- (3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.

#### Marginal Citations

**M41** 1984 c. 43.

**M42** 1979 c. 14.

VALID FROM 25/07/1991

#### 78 Sharing of transmission facilities.

- (1) This section applies to any agreement relating to the sharing of transmission facilities—
- (a) to which the parties are national broadcasting companies,
  - (b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and
  - (c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.
- (2) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement, both parties shall be treated for the purposes of corporation tax on chargeable gains as if the asset acquired by the party to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other.
- (3) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement and the asset is one which the party making the disposal acquired on a part disposal by the party to whom the disposal under the agreement is made, then in applying subsection (2) above—
- (a) section 35 of the <sup>M43</sup>Capital Gains Tax Act 1979 shall be deemed to have had effect in relation to the part disposal with the omission of subsection (4),
  - (b) the amount or value of the consideration for the part disposal shall be taken to have been nil, and
  - (c) if the disposal under the agreement is one to which section 96(2) of the <sup>M44</sup>Finance Act 1988 applies, the market value of the asset on 31st March 1982 shall be taken to have been nil.
- (4) Where under an agreement to which this section applies one party to the agreement disposes of machinery or plant to another party to the agreement, the <sup>M45</sup>Capital Allowances Act 1990 shall apply—

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- (a) in the case of the party making the disposal, as if the disposal value of the machinery or plant for the purposes of section 24 of that Act were equal to the capital expenditure incurred by that party on its provision, and
  - (b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the machinery or plant were equal to the capital expenditure so incurred.
- (5) In subsection (4) above, references to machinery or plant include a share in machinery or plant.
- (6) In section 68 of the <sup>M46</sup>Finance Act 1985 (modification of indexation allowance) in subsection (7A) (list of no gain/no loss provisions) the word “and at the end of paragraph (f) shall be omitted and after paragraph (g) there shall be inserted—  
“(h) section 78(2) of the Finance Act 1991.”
- (7) In Schedule 8 to the <sup>M47</sup>Finance Act 1988 (rebasings to 1982) in paragraph 1(3) (list of no gain/no loss provisions) the word “and at the end of paragraph (g) shall be omitted and after paragraph (h) there shall be inserted “and  
(i) section 78(2) of the Finance Act 1991.”
- (8) In this section, “national broadcasting company means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

#### Marginal Citations

- M43** 1979 c. 14.
- M44** 1988 c. 39.
- M45** 1990 c. 1.
- M46** 1985 c. 54.
- M47** 1988 c. 39.

VALID FROM 25/07/1991

#### **79 Abolition of CRT: consequential amendment.**

- (1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for “section 476” there shall be substituted “section 477A ”.
- (2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.

VALID FROM 25/07/1991

#### **80 Interest on certain debentures.**

Paragraph 8(2) of Schedule 11 to the <sup>M48</sup>Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and

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be deemed always to have had effect, with the addition after paragraph (b) of the words—

“ and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture. ”

**Marginal Citations**

M48 1989 c. 29.

VALID FROM 25/07/1991

**81 Agents acting for non-residents.**

- (1) Section 78 of the <sup>M49</sup>Taxes Management Act 1970 (method of charging non-residents) shall be amended as mentioned in subsections (2) to (4) below.
- (2) In subsection (3) (meaning of investment transactions) the following paragraph shall be substituted for paragraph (a)—
  - “(a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land.”
- (3) The following subsection shall be inserted after subsection (3)—
 

“(3A) For the purposes of subsection (3) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.”
- (4) Subsection (4) (provision about investment transactions does not apply to profits or gains which constitute income of an offshore fund) shall be omitted.
- (5) This section shall apply—
  - (a) for the year 1991-92 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 1991, in the case of profits or gains chargeable to corporation tax.

**Marginal Citations**

M49 1970 c. 9.



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VALID FROM 25/07/1991

## 82 Certificates of non-liability to tax.

- (1) In the <sup>M50</sup>Taxes Management Act 1970, the following section shall be inserted after section 99—

### “99A Certificates of non-liability to income tax.

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or  
(b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.”

- (2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.  
(3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.

### Marginal Citations

M50 1970 c. 9.

## CHAPTER II

### CAPITAL GAINS

### Commencement Information

I11 Chapter II partly in force at 1.12.1988 due to retrospective effect of ss. 95 & 96

VALID FROM 25/07/1991

### Settlements

## 83 Trustees ceasing to be resident in U.K.

- (1) This section applies if the trustees of a settlement become at any time (the relevant time) neither resident nor ordinarily resident in the United Kingdom.  
(2) The trustees shall be deemed for all purposes of the <sup>M51</sup>Capital Gains Tax Act 1979—

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- (a) to have disposed of the defined assets immediately before the relevant time, and
  - (b) immediately to have reacquired them, at their market value at that time.
- (3) Subject to subsections (4) and (5) below, the defined assets are all assets constituting settled property of the settlement immediately before the relevant time.
- (4) If immediately after the relevant time—
- (a) the trustees carry on a trade in the United Kingdom through a branch or agency, and
  - (b) any assets are situated in the United Kingdom and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency, the assets falling within paragraph (b) above shall not be defined assets.
- (5) Assets shall not be defined assets if—
- (a) they are of a description specified in any double taxation relief arrangements, and
  - (b) were the trustees to dispose of them immediately before the relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.
- (6) Section 115 of the <sup>M52</sup>Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the trustees—
- (a) have disposed of the old assets, or their interest in them, before the relevant time, and
  - (b) acquire the new assets, or their interest in them, after that time, unless the new assets are excepted from this subsection by subsection (7) below.
- (7) If at the time when the new assets are acquired—
- (a) the trustees carry on a trade in the United Kingdom through a branch or agency, and
  - (b) any new assets are situated in the United Kingdom and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency,
- the assets falling within paragraph (b) above shall be excepted from subsection (6) above.
- (8) In this section—
- “double taxation relief arrangements means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979);
- “the old assets and “the new assets have the same meanings as in section 115 of the Capital Gains Tax Act 1979.
- (9) This section applies where the relevant time falls on or after 19th March 1991.

#### Marginal Citations

M51 1979 c. 14.

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**M52** 1979 c. 14.

#### **84 Death of trustee: special rules.**

- (1) Subsection (2) below applies where—
  - (a) section 83 above applies as a result of the death of a trustee of the settlement, and
  - (b) within the period of six months beginning with the death, the trustees of the settlement become resident and ordinarily resident in the United Kingdom.
- (2) That section shall apply as if the defined assets were restricted to such assets (if any) as—
  - (a) would be defined assets apart from this section, and
  - (b) fall within subsection (3) or (4) below.
- (3) Assets fall within this subsection if they were disposed of by the trustees in the period which—
  - (a) begins with the death, and
  - (b) ends when the trustees become resident and ordinarily resident in the United Kingdom.
- (4) Assets fall within this subsection if—
  - (a) they are of a description specified in any double taxation relief arrangements,
  - (b) they constitute settled property of the settlement at the time immediately after the trustees become resident and ordinarily resident in the United Kingdom, and
  - (c) were the trustees to dispose of them at that time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.
- (5) Subsection (6) below applies where—
  - (a) at any time (whether occurring before or on or after 19th March 1991) the trustees of a settlement become resident and ordinarily resident in the United Kingdom as a result of the death of a trustee of the settlement, and
  - (b) section 83 above applies as regards the trustees of the settlement in circumstances where the relevant time (within the meaning of that section) falls within the period of six months beginning with the death.
- (6) That section shall apply as if the defined assets were restricted to such assets (if any) as—
  - (a) would be defined assets apart from this section, and
  - (b) fall within subsection (7) below.
- (7) Assets fall within this subsection if—
  - (a) the trustees acquired them in the period beginning with the death and ending with the relevant time, and
  - (b) they acquired them as a result of a disposal in respect of which relief is given under section 126 of the <sup>M53</sup>Capital Gains Tax Act 1979 or in relation to which section 147A(3) of that Act applies.

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- (8) In this section “double taxation relief arrangements means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

#### Marginal Citations

M53 1979 c. 14.

### 85 Past trustees: liability for tax.

- (1) This section applies where—
- (a) section 83 above applies as regards the trustees of a settlement (the migrating trustees), and
  - (b) any capital gains tax which is payable by the migrating trustees by virtue of section 83(2) above is not paid within six months from the time when it became payable.
- (2) The Board may, at any time before the end of the period of three years beginning with the time when the amount of the tax is finally determined, serve on any person to whom subsection (3) below applies a notice—
- (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable;
  - (b) stating particulars of any interest payable on the tax, any amount remaining unpaid and the date when it became payable;
  - (c) requiring that person to pay the amount of the unpaid tax, or the aggregate amount of the unpaid tax and the unpaid interest, within thirty days of the service of the notice.
- (3) This subsection applies to any person who, at any time within the relevant period, was a trustee of the settlement, except that it does not apply to any such person if—
- (a) he ceased to be a trustee of the settlement before the end of the relevant period, and
  - (b) he shows that, when he ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the United Kingdom.
- (4) Any amount which a person is required to pay by a notice under this section may be recovered from him as if it were tax due and duly demanded of him; and he may recover any such amount paid by him from the migrating trustees.
- (5) A payment in pursuance of a notice under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (6) For the purposes of this section—
- (a) where the relevant time (within the meaning of section 83 above) falls within the period of twelve months beginning with 19th March 1991, the relevant period is the period beginning with that date and ending with that time;
  - (b) in any other case, the relevant period is the period of twelve months ending with the relevant time.

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## 86 Trustees ceasing to be liable to U.K. tax.

- (1) This section applies if the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the time concerned) trustees who fall to be regarded for the purposes of any double taxation relief arrangements—
  - (a) as resident in a territory outside the United Kingdom, and
  - (b) as not liable in the United Kingdom to tax on gains accruing on disposals of assets (relevant assets) which constitute settled property of the settlement and fall within descriptions specified in the arrangements.
- (2) The trustees shall be deemed for all purposes of the <sup>M54</sup>Capital Gains Tax Act 1979—
  - (a) to have disposed of their relevant assets immediately before the time concerned, and
  - (b) immediately to have reacquired them, at their market value at that time.
- (3) In this section “double taxation relief arrangements means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).
- (4) This section applies where the time concerned falls on or after 19th March 1991.

### Marginal Citations

M54 1979 c. 14.

## 87 Acquisition by dual resident trustees.

- (1) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where—
  - (a) the new assets are, or the interest in them is, acquired by the trustees of a settlement,
  - (b) at the time of the acquisition the trustees are resident and ordinarily resident in the United Kingdom and fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom,
  - (c) the assets are of a description specified in the arrangements, and
  - (d) were the trustees to dispose of the assets immediately after the acquisition, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.
- (2) In this section—

“double taxation relief arrangements means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the <sup>M55</sup>Capital Gains Tax Act 1979);

“the new assets has the same meaning as in section 115 of the Capital Gains Tax Act 1979.
- (3) This section applies where the new assets are, or the interest in them is, acquired on or after 19th March 1991.

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### Marginal Citations

M55 1979 c. 14.

## 88 Disposal of settled interest.

- (1) Subject to subsections (3) and (8) below, subsection (2) below applies where—
  - (a) section 83 above applies as regards the trustees of a settlement,
  - (b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that section 88(1) of the <sup>M56</sup>Finance Act 1981 prevents section 58(1) of the Capital Gains Tax Act 1979 applying, and
  - (c) the interest was created for his benefit, or he otherwise acquired it, before the relevant time.
- (2) For the purpose of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—
  - (a) disposed of it immediately before the relevant time, and
  - (b) immediately reacquired it,
 at its market value at that time.
- (3) Subsection (2) above shall not apply if section 86 above applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell before the time when the interest was created for the benefit of the person disposing of it or when he otherwise acquired it.
- (4) Subsection (6) below applies where—
  - (a) section 83 above applies as regards the trustees of a settlement,
  - (b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that section 88(1) of the Finance Act 1981 prevents section 58(1) of the Capital Gains Tax Act 1979 applying,
  - (c) the interest was created for his benefit, or he otherwise acquired it, before the relevant time, and
  - (d) section 86 above applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell in the relevant period.
- (5) The relevant period is the period which—
  - (a) begins when the interest was created for the benefit of the person disposing of it or when he otherwise acquired it, and
  - (b) ends with the relevant time.
- (6) For the purpose of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—
  - (a) disposed of it immediately before the time found under subsection (7) below, and
  - (b) immediately reacquired it,
 at its market value at that time.
- (7) The time is—

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- (a) the time concerned (where there is only one such time), or
- (b) the earliest time concerned (where there is more than one because section 86 above applied more than once).

(8) Subsection (2) above shall not apply where subsection (6) above applies.

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**Marginal Citations**

**M56** 1981 c. 35.

**89 Non-resident settlements where settlor has an interest.**

(1) Schedule 16 to this Act (which relates to certain settlements in which the settlor has an interest) shall have effect; and accordingly the amendments in subsections (2) and (3) below shall have effect.

(2) In section 80 of the <sup>M57</sup>Finance Act 1981 (gains of non-resident settlements chargeable on beneficiaries) the following subsection shall be inserted after subsection (2)—

“(2A) Where as regards the same settlement and for the same year of assessment—

- (a) chargeable gains, whether of one amount or of two or more amounts, are treated as accruing by virtue of paragraph 2 of Schedule 16 to the Finance Act 1991 (gains of non-resident settlements chargeable on settlor), and

- (b) an amount falls to be computed under subsection (2) above, the amount so computed shall be treated as reduced by the amount, or aggregate of the amounts, mentioned in paragraph (a) above.”

(3) In Schedule 10 to the <sup>M58</sup>Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) in paragraph 5 (right of recovery) the following sub-paragraph shall be inserted after sub-paragraph (2)—

“(3) In a case where—

- (a) gains are treated as accruing to a person in a year under paragraph 2 of Schedule 16 to the Finance Act 1991, and

- (b) gains are treated as accruing to the same person under paragraph 1 above in the same year,

sub-paragraph (2) above shall have effect subject to paragraph 2(b) of that Schedule (gains treated as forming highest part of chargeable gains).”

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**Marginal Citations**

**M57** 1981 c. 35.

**M58** 1988 c. 39.

**90 Settlements: beneficiaries charged on capital payments.**

Schedule 17 to this Act (which relates to settlements whose beneficiaries are charged to tax in respect of capital payments) shall have effect.

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**91 Settlements: further provisions about beneficiaries.**

Schedule 18 to this Act (which contains further provisions about beneficiaries under settlements) shall have effect.

**92 Settlements with foreign element: miscellaneous.**

- (1) Section 126C of the <sup>M59</sup>Capital Gains Tax Act 1979 (relief for gifts of business assets: emigration of controlling trustees) shall cease to have effect.
- (2) In section 79 of the <sup>M60</sup>Finance Act 1981 (emigration of donee) in subsection (1) (a) for the words from “or the to “any disposal there shall be substituted “or under section 147A of that Act in respect of a disposal to an individual ”.
- (3) In section 88 of the Finance Act 1981 (disposal of interests in non-resident settlements) subsections (2) to (6) shall cease to have effect.
- (4) In section 58 of the <sup>M61</sup>Finance Act 1986 (gifts into dual resident trusts) subsection (5) shall cease to have effect.
- (5) Subsections (1) and (3) above apply where the trustees become neither resident nor ordinarily resident in the United Kingdom on or after 19th March 1991.
- (6) Subsection (2) above applies where the transferee becomes neither resident nor ordinarily resident in the United Kingdom on or after 19th March 1991.
- (7) Subsection (4) above applies where the time subsequent to the relevant disposal, and referred to in section 58(5)(b) of the Finance Act 1986, falls on or after 19th March 1991.

**Marginal Citations**

**M59** 1979 c. 14.

**M60** 1981 c. 35.

**M61** 1986 c. 41.

VALID FROM 25/07/1991

*Private residence*

**93 Meaning of permitted area.**

- (1) In section 101 of the Capital Gains Tax Act 1979 (relief on disposal of private residence) in subsections (2) and (3) for the words “one acre there shall be substituted the words “ 0.5 of a hectare ”.
- (2) This section shall apply in relation to disposals on or after 19th March 1991.



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#### **94 Amount of relief.**

- (1) In section 102 of the Capital Gains Tax Act 1979 (amount of relief on disposal of private residence) in subsections (1) and (2)(a) for “twenty-four months there shall be substituted “thirty-six months ”.
- (2) In that section, the following subsections shall be inserted after subsection (4)—
  - “(5) Where at any time the number of months specified in subsections (1) and (2) (a) above is thirty-six, the Treasury may by order amend those subsections by substituting references to twenty-four for the references to thirty-six in relation to disposals on or after such date as is specified in the order.
  - (6) Subsection (5) above shall also have effect as if “thirty-six (in both places) read “twenty-four and as if “twenty-four read “thirty-six.
  - (7) Any power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (3) In section 80 of the <sup>M62</sup>Finance Act 1980 (amount of relief on disposal of private residence let as residential accommodation) in subsection (1)(b) for “£20,000 there shall be substituted “£40,000 ”.
- (4) Subsections (1) and (3) above shall apply in relation to disposals on or after 19th March 1991.

#### **Marginal Citations**

**M62** 1980 c. 48.

### *Miscellaneous*

#### **95 Housing for Wales.**

- (1) In section 342 of the <sup>M63</sup>Income and Corporation Taxes Act 1970 (disposals of land between Housing Corporation and housing associations) and section 342A of that Act (disposals by Housing Corporation and certain housing associations) the words “or Housing for Wales in each place where they occur (which were inserted by the <sup>M64</sup>Housing Act 1988 consequentially on the establishment of Housing for Wales) shall be omitted and those sections shall instead be amended as follows.
- (2) In section 342, the words from “Where to “that party shall become subsection (1) and the remaining words shall become subsection (2).
- (3) In subsection (2) of that section, for “In this section there shall be substituted “In subsection (1) above ”.
- (4) In that section, there shall be inserted at the end—
  - “(3) This section shall also have effect with the substitution of the words “Housing for Wales for the words “the Housing Corporation and “the Corporation, in each place where they occur.”
- (5) In section 342A, after subsection (1) there shall be inserted—

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“(1A) Subsection (1) above shall also have effect with the substitution of the words “Housing for Wales for the words “the Housing Corporation and “the Corporation, in each place where they occur.”

(6) This section shall be deemed to have come into force on 1st December 1988.

**Marginal Citations**

**M63** 1970 c. 10.

**M64** 1988 c. 50.

**96 Scottish Homes.**

(1) In section 342 of the Income and Corporation Taxes Act 1970, there shall be inserted at the end—

“(4) This section shall also have effect with the substitution of the words “Scottish Homes for the words “the Housing Corporation and “the Corporation, in each place where they occur.”

(2) In section 342A of that Act, after subsection (1A) there shall be inserted—

“(1B) Subsection (1) above shall also have effect with the substitution of the words “Scottish Homes for the words “the Housing Corporation and “the Corporation, in each place where they occur.”

(3) This section shall be deemed to have come into force on 1st December 1988.

VALID FROM 25/07/1991

**97 Foreign assets: delayed remittances.**

(1) In section 13 of the <sup>M65</sup>Capital Gains Tax Act 1979 (foreign assets: delayed remittances) in subsection (3)(b) for “income arose there shall be substituted “assets were situated at the time of the disposal ”.

(2) This section shall apply in relation to disposals on or after 19th March 1991.

**Marginal Citations**

**M65** 1979 c. 14.

VALID FROM 25/07/1991

**98 Corporate bonds.**

(1) Section 64 of the <sup>M66</sup>Finance Act 1984 shall be amended as follows.

(2) In subsection (2) (which defines “corporate bond for the purposes of section 64 of the <sup>M67</sup>Finance Act 1984 and accordingly for the purposes of certain other enactments

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including, by virtue of section 64(1) of the <sup>M68</sup>Capital Gains Tax Act 1979, that Act), in paragraph (b) the words from “as defined to “1973 shall be omitted.

(3) After that subsection there shall be inserted—

“(2A) In subsection (2)(b) above “normal commercial loan has the meaning which would be given by sub-paragraph (5) of paragraph 1 of Schedule 18 to the Taxes Act 1988 if for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words “corporate bonds (within the meaning of section 64 of the Finance Act 1984).”

(4) This section shall have effect—

(a) so far as concerns the application of section 64 for the purposes of section 136A of the Capital Gains Tax Act 1979, in relation to claims on or after 19th March 1991, and

(b) so far as concerns any other application of section 64, in relation to disposals on or after that date (and, in relation to such disposals, shall be regarded as always having had effect).

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**Marginal Citations**

**M66** 1984 c. 43.

**M67** 1984 c. 43.

**M68** 1979 c. 14.

**99 Indexation.**

(1) In section 68 of the <sup>M69</sup>Finance Act 1985 (modification of indexation allowance) in subsection (7A) there shall be added after paragraph (h) the words “; and  
(i) paragraph 2(1) of Schedule 12 to the Finance Act 1990.”

(2) In Schedule 19 to the Finance Act 1985 (indexation) in paragraph 16(3) after “under there shall be inserted “Chapter II of Part IV of the Finance Act 1981 or”.

(3) Subsection (1) above shall be deemed to have come into force on 26th July 1990.

(4) Subsection (2) above shall apply in relation to disposals on or after 19th March 1991.

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**Commencement Information**

**I12** S. 99 wholly in force at Royal assent; s. 99(1) in force at 26.07.1990.

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**Marginal Citations**

**M69** 1985 c. 54.

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VALID FROM 25/07/1991

**100 Relief on certain business etc. disposals by persons over 55 or who retire under that age for ill health.**

- (1) Sections 69 and 70 of, and Schedule 20 to, the <sup>M70</sup>Finance Act 1985 (which give relief on certain disposals by persons over 60 or who retire under that age on grounds of ill health) shall be amended in accordance with the following provisions of this section.
- (2) The words “the age of 55 ” shall be substituted for the words “the age of 60 wherever occurring in—
  - (a) section 69(1)(a) and (b), (4)(b) and (6)(b);
  - (b) section 70(1)(a) and (b), (2)(c), (4)(c) and (5)(c); and
  - (c) paragraph 5(2) and (4) of Schedule 20.
- (3) In paragraph 13(1) of Schedule 20—
  - (a) in paragraph (a) (full relief up to the appropriate percentage of £125,000) for “£125,000 there shall be substituted “£150,000 ”; and
  - (b) in paragraph (b) (half relief on the excess, up to the appropriate percentage of £500,000) for “£125,000 and “£500,000 there shall be substituted “£150,000 ” and “£600,000 ” respectively.
- (4) The amendments made by this section shall apply in relation to disposals on or after 19th March 1991.

**Marginal Citations**

**M70** 1985 c. 54.

VALID FROM 25/07/1991

**101 Amendments of rebasing provisions.**

- (1) Schedule 9 to the <sup>M71</sup>Finance Act 1988 (deferred charges on gains before 31st March 1982) shall be amended as follows.
- (2) In paragraph 1(b) (reduction of gain) after “within paragraph there shall be inserted “2A or ”.
- (3) In sub-paragraph (1) of paragraph 2 (charges rolled-over or held-over) for “sub-paragraph (2) there shall be substituted “sub-paragraphs (2) to (2B) ”.
- (4) After sub-paragraph (2) of that paragraph there shall be inserted—
  - “(2A) Where the disposal takes place on or after 19th March 1991, this Schedule does not apply if the amount of the deduction would have been less had relief by virtue of a previous application of this Schedule been duly claimed.
  - (2B) Where—
    - (a) the asset was acquired on or after 19th March 1991,

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- (b) the deduction is partly attributable to a claim by virtue of section 117(3) of the Capital Gains Tax Act 1979 (roll-over into non-depreciating asset instead of into depreciating asset), and
- (c) the claim applies to the asset,
- this Schedule does not apply by virtue of this paragraph.”
- (5) After paragraph 2 there shall be inserted—
- “2A
- (1) This paragraph applies where this Schedule would have applied on a disposal but for paragraph 2(2B) above.
- (2) This Schedule applies on the disposal if paragraph 3 below would have applied had—
- (a) section 117(2) of the Capital Gains Tax Act 1979 (postponement of charge where depreciating asset acquired as replacement for business asset) continued to apply to the gain carried forward as a result of the claim by virtue of section 117(3) of that Act, and
- (b) the time of the disposal been the time when that gain was treated as accruing by virtue of section 117(2) of that Act.”
- (6) In sub-paragraph (1) of paragraph 3 (postponed charges) for “sub-paragraph (3) there shall be substituted “sub-paragraphs (3) and (4) ”.
- (7) In sub-paragraph (2)(e) of that paragraph the words from “(postponement to “asset) shall be omitted.
- (8) After sub-paragraph (3) of that paragraph there shall be inserted—
- “(4) Where a gain is treated as accruing in consequence of an event occurring on or after 19th March 1991, this Schedule does not apply if—
- (a) the gain is attributable (whether directly or indirectly and whether in whole or part) to the disposal of an asset on or after 6th April 1988, or
- (b) the amount of the gain would have been less had relief by virtue of a previous application of this Schedule been duly claimed.”
- (9) In sub-paragraph (1)(a) of paragraph 8 for “which ends when there shall be substituted “in which ”.
- (10) Subsection (9) above shall apply in relation to claims made on or after 19th March 1991.

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**Marginal Citations**

M71 1988 c. 39.

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VALID FROM 25/07/1991

### 102 Traded options: closing purchases.

- (1) This section applies where, on or after the day on which this Act is passed, a person (“the grantor) who has granted a traded option (“the original option) closes it out by acquiring a traded option of the same description (“the second option).
- (2) Any disposal by the grantor involved in closing out the original option shall be disregarded for the purposes of capital gains tax or, as the case may be, corporation tax on chargeable gains.
- (3) The incidental costs to the grantor of making the disposal constituted by the grant of the original option shall be treated for the purposes of Chapter II of Part II of the Capital Gains Tax Act 1979 (computation of gains and losses) as increased by an amount equal to the aggregate of—
  - (a) the amount or value of the consideration, in money or money’s worth, given by him or on his behalf wholly and exclusively for the acquisition of the second option, and
  - (b) the incidental costs to him of that acquisition.
- (4) In this section “traded option has the meaning given by section 137(9)(b) of the <sup>M72</sup>Capital Gains Tax Act 1979.

#### Marginal Citations

M72 1979 c. 14.

VALID FROM 25/07/1991

## PART III

### OIL TAXATION

*Abandonment etc.*

### 103 Allowance of certain expenditure relating to abandonment, decommissioning assets, etc.

- (1) Section 3 of the principal Act (allowance of certain expenditure) shall be amended in accordance with subsections (2) to (6) below.
- (2) With respect to expenditure incurred on or after 19th March 1991, in subsection (1), after paragraph (h) there shall be inserted the following paragraph—
 

“(hh) obtaining an abandonment guarantee, as defined in section 104 of the Finance Act 1991”.
- (3) With respect to expenditure incurred after 30th June 1991, in subsection (1), for paragraph (i) there shall be substituted the following paragraphs—

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- “(i) closing down, decommissioning, abandoning or wholly or partially dismantling or removing any qualifying asset;
- (j) carrying out qualifying restoration work consequential upon the closing down of the field or any part of it.”

(4) After subsection (1) there shall be inserted the following subsections—

“(1A) In this section “qualifying asset has the same meaning as in the Oil Taxation Act 1983; and, in the case of a qualifying asset which was leased or hired, the reference in subsection (1)(i) above to decommissioning includes a reference to carrying out any restoration or similar work which is required to be carried out to comply with the terms of the contract of lease or hire.

(1B) In subsection (1)(j) above “qualifying restoration work, in relation to a participator in an oil field, means—

- (a) restoring (including landscaping) land on which a qualifying asset is or was situated; or
- (b) restoring the seabed (including the subsoil thereof) on which a qualifying asset is or was situated.

(1C) In any case where—

- (a) expenditure is incurred by a participator for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and
- (b) the participator is or was a participator in two or more oil fields and the qualifying asset which is relevant to the incurring of that expenditure is, at the end of the claim period concerned, a qualifying asset in respect of more than one of those oil fields,

the expenditure shall be apportioned between those oil fields in such manner as is just and reasonable.

(1D) Without prejudice to any apportionment under subsection (1C) above, in any case where—

- (a) any expenditure incurred by a participator would, apart from this subsection, be regarded as wholly incurred for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and
- (b) the qualifying asset which is relevant to the incurring of that expenditure has at some time been used otherwise than in connection with an oil field,

only such portion of the expenditure as it is just and reasonable to apportion to the use in connection with an oil field shall be regarded as allowable for any of the purposes referred to in paragraph (a) above.”

(5) After subsection (5A) there shall be inserted the following subsection—

“(5B) Expenditure incurred by a participator in an oil field shall be taken to be incurred for the purpose mentioned in paragraph (hh) of subsection (1) above if, and only if,—

- (a) it consists of fees, commission or incidental costs incurred wholly and exclusively for the purposes of obtaining an abandonment guarantee; and

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- (b) the abandonment guarantee is obtained in order to comply with a term of a relevant agreement relating to that field under which the participator is required to provide security (whether or not specifically in the form of an abandonment guarantee) in respect of his liabilities to contribute to field abandonment costs;

and expressions used in this subsection shall be construed in accordance with section 104 of the Finance Act 1991.”

- (6) In subsection (6) (apportionment of expenditure)—

- (a) at the beginning there shall be inserted “Without prejudice to any apportionment under subsection (1C) or subsection (1D) above ”; and  
 (b) after the words “subsections (1) and (5) above there shall be inserted “other than paragraph (hh) of subsection (1) ”.

- (7) In section 10 of the principal Act (exempt gas)—

- (a) in subsection (2) for the words “and (i) of subsection (1) there shall be substituted “(hh), (i) and (j) of subsection (1) and subsection (1D) ”;  
 (b) in subsection (3) for the words “paragraph (a), (b), (c) or (i) there shall be substituted “any of paragraphs (a), (b), (c), (hh), (i) and (j) ”; and  
 (c) in subsection (3)(b) for the words “paragraph (i) there shall be substituted “paragraph (hh), (i) or (j) ”.

- (8) So far as they relate to the paragraph (hh) inserted by subsection (2) above, the amendments in subsections (5) to (7) above have effect with respect to expenditure incurred on or after 19th March 1991 and, subject to that, the amendments in subsections (4) to (7) above have effect with respect to expenditure incurred after 30th June 1991.

#### **104 Abandonment guarantees.**

- (1) Subject to subsection (2) below, for the purposes of section 3 of the principal Act and sections 105 and 106 below, an abandonment guarantee is a contract under which a person ( “the guarantor) undertakes to make good any default by a participator in an oil field ( “the relevant participator) in meeting the whole or any part of those liabilities of his which—

- (a) arise under a relevant agreement relating to that field; and  
 (b) are liabilities to contribute to field abandonment costs;

and such a contract is an abandonment guarantee regardless of the form of the undertaking of the guarantor and, in particular, whether or not it is expressed as a guarantee or arises under a letter of credit, a performance bond or any other instrument.

- (2) For the purposes of section 3 of the principal Act and section 106 (but not section 105) below a contract is not an abandonment guarantee—

- (a) unless it is entered into in good faith and on terms reasonably appropriate to the nature and extent of the guarantee; or  
 (b) if the guarantor undertakes any liability beyond that of making good any such default as is referred to in subsection (1) above; or  
 (c) if it can be revoked by the guarantor otherwise than on account of some fraud, misrepresentation or other fault on the part of the relevant participator occurring prior to the making of the contract; or



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- (d) if, subject to subsection (3) below, the guarantor is, or is a person connected with, a participator in one or more oil fields.
- (3) Paragraph (d) of subsection (2) above does not apply if—
- (a) the main business carried on by the guarantor is such that it is in the ordinary course of that business to provide guarantees; and
  - (b) the relevant participator is not connected with the guarantor;
- and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this subsection and subsection (2) above.
- (4) Without prejudice to the generality of paragraph (a) of subsection (2) above, a contract shall not be regarded as entered into in good faith if, as a result of any arrangement, the liability to make good any such default as is referred to in subsection (1) above will be met, directly or indirectly, by such a person that, if he were the guarantor under the contract, the contract could not be an abandonment guarantee by virtue of paragraph (d) of subsection (2) above.
- (5) In this section and in section 3(5B) of the principal Act—
- (a) in relation to an oil field, a “relevant agreement means a joint operating agreement, a unitisation agreement (within the meaning of paragraph 1(1) of Schedule 17 to the <sup>M73</sup>Finance Act 1980) or an agreement entered into by some or all of the parties to a joint operating agreement or such a unitisation agreement; and
  - (b) in relation to an oil field, “field abandonment costs means costs incurred in closing down the field or any part of it, together with any costs incurred in discharging any continuing liabilities resulting directly from that closure.

#### Marginal Citations

M73 1980 c. 48.

### 105 Restriction of expenditure relief by reference to payments under abandonment guarantees.

- (1) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any of the purposes of the principal Act as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (2) In any case where—
- (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure, and
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,
- any reference in subsection (1) above or section 106 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to

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so much of the expenditure for which the relevant participant is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.

- (3) In subsections (1) and (2) above “the guarantor and “the relevant participant have the same meaning as in subsection (1) of section 104 above.

#### **106 Relief for reimbursement expenditure under abandonment guarantees.**

- (1) This section applies in any case where—
- (a) on or after 19th March 1991 a payment (in this section referred to as “the guarantee payment) is made by the guarantor under an abandonment guarantee; and
  - (b) by virtue of the making of the guarantee payment, the relevant participant becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and
  - (c) in any claim period (in this section referred to as “the relevant period) expenditure is incurred, or consideration in money’s worth is given, by the relevant participant in or towards meeting that liability.
- (2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 105(2) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participant which fall within paragraphs (a) and (b) of subsection (1) of section 104 above and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—
- (a) any liability of the relevant participant to repay that sum shall be excluded in determining the total liability of the relevant participant which falls within subsection (1)(b) above; and
  - (b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participant as mentioned in subsection (1)(c) above.
- (3) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the relevant participant for the purpose of obtaining an abandonment guarantee.
- (5) Subject to subsection (6) below, of the reimbursement expenditure which is incurred in the relevant period, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$Ax \frac{B}{C}$$

where—

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“A” is the reimbursement expenditure incurred in the relevant period;  
“B” is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have constituted expenditure allowable under section 3 of the principal Act; and  
“C” is the total of the sums which, at or before the end of the relevant period, the participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

- (6) In relation to the guarantee payment, the total of the reimbursement expenditure (whether incurred in one or more claim periods) which constitutes qualifying expenditure shall not exceed whichever is the less of “B” and “C” in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier claim period.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable; and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 105 above is not to be regarded as expenditure incurred by the relevant participator).
- (8) In this section “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 above.

**107 Allowance of expenditure of participator meeting defaulter’s field abandonment expenditure.**

- (1) In Schedule 5 to the principal Act (procedure for allowance of expenditure) at the beginning of paragraph (b) of sub-paragraph (4) of paragraph 2 (claim must state the shares, by reference to their respective interests in the oil field, in which participators propose to divide expenditure) there shall be inserted “Subject to paragraph 2A below”.
- (2) After paragraph 2 of Schedule 5 to the principal Act there shall be inserted the following paragraph—

“2A (1) This paragraph applies where—

- (a) a claim is made under this Schedule for the allowance of any expenditure which is incurred after 30th June 1991 and is allowable for an oil field by virtue of paragraph (i) or paragraph (j) of subsection (1) of section 3 of this Act (in this paragraph referred to as “the abandonment expenditure);
- (b) a participator (in this paragraph referred to as “the defaulter) has defaulted on his liability under a relevant agreement to make a payment towards the abandonment expenditure;
- (c) at the end of the claim period for which the claim is made, the defaulter still has an interest in the oil field which falls to be taken into account in determining, under paragraph 2(4)(b) above, the shares of each of the participators in the abandonment expenditure;

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- (d) the participators (other than any who have defaulted as mentioned in paragraph (b) above) have taken all reasonable steps by way of legal remedy to secure that the defaulter meets the whole of the liability referred to in paragraph (b) above and to enforce any guarantee or other security provided in respect of that liability; and
  - (e) one or more of those participators has paid an amount in or towards meeting the whole or any part of the payment for which the defaulter was liable as mentioned in paragraph (b) above.
- (2) For the purposes of this paragraph, a participator is to be regarded as defaulting on his liability to make a payment as mentioned in sub-paragraph (1)(b) above if he has failed to make the payment in full on the date on which it becomes due under the relevant agreement and either—
- (a) on the sixtieth day after that due date any of the payment remains unpaid; or
  - (b) before that sixtieth day the participator’s interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of his failure to meet his liability.
- (3) In this paragraph—
- (a) “relevant agreement has the meaning given by section 104(5)(a) of the Finance Act 1991;
  - (b) “the sum in default means so much of the payment referred to in sub-paragraph (1)(b) above as has neither been paid by the defaulter nor met by virtue of any such guarantee or security as is referred to in sub-paragraph (1)(d) above;
  - (c) the “default payment means the amount which the qualifying participator has paid as mentioned in sub-paragraph (1)(e) above; and
  - (d) a “qualifying participator means a participator who falls within sub-paragraph (1)(e) above and who is not connected with the defaulter, applying section 839 of the Taxes Act (connected persons) for the purposes of this paragraph.
- (4) For the purposes of paragraphs 2(4)(b) and 3(1)(c) of this Schedule, there shall be attributed to a qualifying participator (as an addition to the share of the abandonment expenditure referable to his own interest in the oil field) whichever is the less of—
- (a) the default payment; and
  - (b) subject to sub-paragraph (5) below, that portion of the sum in default which, in accordance with the relevant agreement, the qualifying participator is required to meet in the event of a failure by the defaulter to meet his liability to pay in full the payment referred to in sub-paragraph (1)(b) above.
- (5) If, in the case of any oil field, there are only two participators and one of them is the defaulter, the portion referred to in sub-paragraph (4)(b) above is the whole.
- (6) Where this paragraph applies, account shall, in the first instance, be taken under paragraph 2(4)(b) above of the whole of the defaulter’s

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interest in the oil field in determining the share of the abandonment expenditure which, apart from sub-paragraph (4) above, is to be attributed to each of the other participators; but the amount of the abandonment expenditure which, apart from this paragraph, would be attributed to the defaulter by reference to his interest in the oil field shall be reduced (or, as the case may be, extinguished) by deducting therefrom any expenditure attributed to the other participators under sub-paragraph (4) above.”

#### **108 Reimbursement by defaulter in respect of certain abandonment expenditure.**

- (1) This section applies in any case where—
  - (a) paragraph 2A of Schedule 5 to the principal Act (as set out in section 107 above) applies; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and
  - (c) expenditure is incurred, or consideration in money’s worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;and expressions used in this section have the same meaning as in the said paragraph 2A.
- (2) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (3) Subject to subsection (5) below, in relation to the defaulter, reimbursement expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the defaulter for purposes falling within paragraph (i) of subsection (1) of section 3 of that Act.
- (4) Subject to subsection (5) below, in computing under section 2 of the principal Act the assessable profit or allowable loss accruing to the qualifying participator from the oil field concerned in any chargeable period, the positive amounts for the purposes of that section (as specified in subsection (3)(a) thereof) shall be taken to include any reimbursement expenditure received by the qualifying participator in that period.
- (5) In relation to a particular default payment, reimbursement expenditure incurred at any time—
  - (a) shall be treated as mentioned in subsection (3) above, and
  - (b) shall be taken to be included as mentioned in subsection (4) above,only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.
- (6) A claim by the defaulter for the allowance of reimbursement expenditure by virtue of subsection (3) above shall be made under Schedule 6 to the principal Act (instead of under Schedule 5); and, for this purpose only, Schedule 6 to that Act shall have

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effect as if, in sub-paragraph (1) of paragraph 1, the words from “if the participator” onwards were omitted.

- (7) The incurring of reimbursement expenditure shall not be regarded, by virtue of paragraph 8 of Schedule 3 to the principal Act (certain subsidised expenditure to be disregarded), as the meeting of the expenditure of the qualifying participator in making the default payment.

### *Penalties*

#### **109 PRT: proceedings for penalties.**

- (1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax) the Table in paragraph 1(1) shall be amended as follows.
- (2) The following shall be substituted for the entries relating to section 100 of the <sup>M74</sup>Taxes Management Act 1970—

“Section 100C(1)	For the words from “General” to the end substitute “Special Commissioners for any penalty”.
(2)	Before “Commissioners” insert “Special”.
(3)	Before “Commissioners” insert “Special”.
(4)	
(5)”.	

- (3) The following shall be substituted for the entries relating to section 103 of the <sup>M75</sup>Taxes Management Act 1970—

“Section 103(1)	For the words from the beginning to “court—” substitute “Where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, proceedings for the penalty may be commenced before the Special Commissioners—”.
(4)	For the words from the beginning to “court,” substitute “Proceedings for a penalty to which subsection (1) above does not apply may be commenced before the Special Commissioners”.

#### **Marginal Citations**

**M74** 1970 c. 9.

**M75** 1970 c. 9.

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VALID FROM 25/07/1991

## PART IV

### STAMP DUTY AND STAMP DUTY RESERVE TAX

#### 110 Stamp duty abolished in certain cases.

- (1) This section applies where—
  - (a) apart from this section stamp duty under any of the headings mentioned in subsection (3) below would be chargeable on an instrument to which this section applies, and
  - (b) the condition mentioned in subsection (4) below is fulfilled.
- (2) In such a case stamp duty under the heading concerned shall not be chargeable on the instrument.
- (3) The headings are the following headings in Schedule 1 to the <sup>M76</sup>Stamp Act 1891—
  - (a) the heading “conveyance or transfer on sale;
  - (b) the heading “conveyance or transfer of any kind not hereinbefore described;
  - (c) the heading beginning “declaration of any use or trust;
  - (d) the heading beginning “disposition in Scotland of any property;
  - (e) the heading “exchange or excambion;
  - (f) the heading “partition or division;
  - (g) the heading “release or renunciation of any property, or of any right or interest in any property;
  - (h) the heading “surrender.
- (4) The condition is that the property concerned consists entirely of exempt property; and as regards the heading “exchange or excambion the reference here to the property concerned is to all property subject to any part of the exchange.
- (5) For the purposes of this section exempt property is property other than—
  - (a) land,
  - (b) an interest in the proceeds of the sale of land held on trust for sale, or
  - (c) a licence to occupy land.
- (6) This section applies to—
  - (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (7) For the purposes of this section the abolition day is such day as may be appointed under section 111(1) of the <sup>M77</sup>Finance Act 1990 (abolition of stamp duty for securities etc).

#### Marginal Citations

M76 1891 c. 39.

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**M77** 1990 c. 29.

## **111 Stamp duty reduced in certain cases.**

- (1) This section applies where—
  - (a) stamp duty under the heading “conveyance or transfer on sale in Schedule 1 to the<sup>M78</sup> Stamp Act 1891 is chargeable on an instrument to which this section applies, and
  - (b) part of the property concerned consists of exempt property.
- (2) In such a case—
  - (a) the consideration in respect of which duty would be charged (apart from this section) shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of exempt property and the part which does not, and
  - (b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not exempt property.
- (3) In this section “exempt property has the same meaning as in section 110 above.
- (4) This section applies to—
  - (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

### **Marginal Citations**

**M78** 1891 c. 39.

## **112 Apportionment of consideration for stamp duty purposes.**

- (1) Subsection (2) below applies where part of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of exempt property.
- (2) Section 58(1) shall have effect as if “the parties think fit” read “is just and reasonable”.
- (3) Subsection (4) below applies where—
  - (a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of exempt property, and
  - (b) both or (as the case may be) all the relevant persons are connected with one another.
- (4) Section 58(2) shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and



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such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration.”

- (5) In a case where subsection (2) or (4) above applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—
- (a) the consideration had been apportioned in a manner that is just and reasonable, and
  - (b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).
- (6) In this section “exempt property has the same meaning as in section 110 above.
- (7) For the purposes of subsection (3) above—
- (a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;
  - (b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.
- (8) This section applies where the contract concerned is made on or after the abolition day.
- (9) In this section “the abolition day has the same meaning as in section 110 above.

### **113 Certification of instruments for stamp duty purposes.**

- (1) Section 34 of the <sup>M79</sup>Finance Act 1958 and section 7 of the <sup>M80</sup>Finance Act (Northern Ireland) 1958 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (certification of instrument at a particular amount) the following paragraph shall be substituted for paragraph (a)—
- “(a) any sale or contract or agreement for the sale of exempt property shall be disregarded; and”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4)—
- “(4A) In subsection (4) above “exempt property has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

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#### **Marginal Citations**

**M79** 1958 c. 56.

**M80** 1958 c. 14 (N.I.).

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#### 114 Acquisition under statute: exempt property.

- (1) Section 36 of the <sup>M81</sup>Finance Act 1949 and section 9 of the <sup>M82</sup>Finance Act (Northern Ireland) 1949 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (goods not affected by section 12 of the <sup>M83</sup>Finance Act 1895, which relates to duty on property acquired under statute) for the words “goods, wares or merchandise” (in each place where they occur) there shall be substituted the words “exempt property”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4)—
  - “(5) In subsection (4) above “exempt property has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies where the Act mentioned in section 12 of the Finance Act 1895, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

##### Marginal Citations

- M81** 1949 c. 47.  
**M82** 1949 c. 15 (N.I.)  
**M83** 1895 c. 16.

VALID FROM 01/01/1992

#### 115 Northern Ireland bank notes: duty abolished.

- (1) In its application to Northern Ireland, the <sup>M84</sup>Stamp Act 1891 shall have effect with the omission from Schedule 1 of the heading “bank note.
- (2) The licences required to be taken out under the <sup>M85</sup>Bankers’ Composition (Ireland) Act 1828 (licences for bankers in Northern Ireland issuing certain promissory notes) are hereby abolished.
- (3) This section takes effect on 1st January 1992.

##### Marginal Citations

- M84** 1891 c. 39.  
**M85** 1828 c. 30.

#### 116 Investment exchanges and clearing houses: stamp duty.

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
  - (a) would (apart from the regulations) give rise to a charge to stamp duty,

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- (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange [<sup>F1</sup>or clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange or clearing house, and]
  - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Regulations under this section—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons;
  - (b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient;
  - (c) may make different provision for different circumstances;
  - (d) may make any provision in such way as the Treasury think fit (whether by amending enactments or otherwise).
- (4) In this section—
- (a) “prescribed means prescribed by the regulations,
  - (b) “recognised investment exchange means a recognised investment exchange within the meaning of the <sup>M86</sup>Financial Services Act 1986, and
  - (c) “recognised clearing house means a recognised clearing house within the meaning of that Act.

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**Textual Amendments**

**F1** Words in s. 116(1)(b) substituted (retrospectively) by [Finance Act 2010 \(c. 15\), s. 65](#)

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**Marginal Citations**

**M86** [1986 c. 60.](#)

## 117 Investment exchanges and clearing houses: SDRT.

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
- (a) would (apart from the regulations) give rise to a charge to stamp duty reserve tax,
  - (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange [<sup>F2</sup>or clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange or clearing house, and]
  - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty reserve tax shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Subsections (3) and (4) of section 116 above shall apply for the purposes of this section as they apply for the purposes of that.

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### Textual Amendments

**F2** Words in s. 117(1)(b) substituted (retrospectively) by [Finance Act 2010 \(c. 15\), s. 65](#)

VALID FROM 25/07/1991

## PART V

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **118 Designated international organisations: miscellaneous exemptions.**

(1) The following section shall be inserted after section 582 of the Taxes Act 1988—

**“582A Designated international organisations: miscellaneous exemptions.**

- (1) The Treasury may by order designate for the purposes of any one or more of subsections (2) to (6) below any international organisation of which the United Kingdom is a member; and in those subsections “designated means designated under this subsection.
- (2) Section 43 shall not apply in the case of payment made by an organisation designated for the purposes of this subsection.
- (3) Section 123(2) and paragraph 6(1)(b) of Schedule 3 shall have effect as if “foreign dividends did not include any interest, dividends or other annual payments payable out of or in respect of the stocks, funds, shares or securities of an organisation designated for the purposes of this subsection.
- (4) Section 349(1) shall not apply in the case of a payment of an amount payable by an organisation designated for the purposes of this subsection.
- (5) Section 349(2) shall not apply in the case of interest payable by—
  - (a) an organisation designated for the purposes of this subsection, or
  - (b) a partnership of which such an organisation is a member.
- (6) An organisation designated for the purposes of this subsection shall not be a person to whom section 560(2) applies.”

(2) In section 828(4) of that Act (Treasury orders not subject to annulment in pursuance of a resolution of the House of Commons) after “377(8),” there shall be inserted “582A(1), ”.

#### **119 Trading funds.**

(1) The <sup>M87</sup>Government Trading Funds Act 1973 shall be amended as follows.

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(2) In section 2 (assets and liabilities of funds) in subsections (1)(b) and (2) the words “at values or amounts determined by him in accordance with Treasury directions” shall be omitted.

(3) In that section, the following subsection shall be inserted after subsection (2)—

“(2A) The values or amounts of assets and liabilities which are the subject of provision under subsection (1) or (2) above shall be determined by the responsible Minister in accordance with Treasury directions.”

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**Marginal Citations**

M87 1973 c. 63.

## 120 National savings: date of issue of repayment warrants etc.

(1) Where—

- (a) a payment in respect of certificates to which subsection (2) below applies has been made by means of a repayment warrant,
- (b) the warrant was posted before 11th February 1991,
- (c) the amount of the payment depended to any extent on the date of issue of the warrant, and
- (d) that date was taken to be the expected date of receipt of the warrant or of a notice advising of the warrant’s availability,

the amount shall to that extent be deemed to have been properly calculated.

(2) This subsection applies to—

- (a) war savings certificates issued under section 1 of the <sup>M88</sup>War Loan Act 1915 or section 58 of the <sup>M89</sup>Finance Act 1916, or
- (b) national savings certificates issued under section 59 of the <sup>M90</sup>Finance Act 1920, section 7 of the <sup>M91</sup>National Debt Act 1958 or section 12 of the <sup>M92</sup>National Loans Act 1968

(3) Subsection (1) above shall not apply where the amount of the payment would have been greater had it been calculated on the basis that the date of issue of the warrant was the date on which it was posted.

(4) Where—

- (a) an amount has been reinvested in certificates to which subsection (2) above applies,
- (b) the new certificates were posted before 11th February 1991,
- (c) the amount reinvested depended to any extent on the date of issue of the new certificates, and
- (d) that date was taken to be the expected date of receipt of the certificates,

the amount shall to that extent be deemed to have been properly calculated.

(5) Subsection (4) above shall not apply where the amount reinvested would have been greater had it been calculated on the basis that the date of issue of the new certificates was the date on which they were posted.

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- (6) Where for any month before December 1989 the amount of the prize fund for a premium savings bond draw depended to any extent on the date of issue of a repayment warrant, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.
- (7) Where the amount of a payment made, before the day on which this Act is passed, in respect of interest on—
- (a) a deposit (other than an investment deposit) made in a post office savings bank, or
  - (b) an ordinary deposit with the National Savings Bank,
- depended to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.
- (8) Where the amount of a payment made, on or after the day on which this Act is passed, in respect of interest on an ordinary deposit with the National Savings Bank depends to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to be properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.

#### Marginal Citations

- M88** 1915 c. 55.  
**M89** 1916 c. 24.  
**M90** 1920 c. 18.  
**M91** 1958 c. 6.  
**M92** 1968 c. 13.

### 121 Pools payments to support games etc.

- (1) This section applies to any payment which, in consequence of the reduction in pool betting duty effected by section 5 above, is made—
- (a) by a person liable to pay that duty, and
  - (b) to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.
- (2) Where a person carrying on a trade makes a payment to which this section applies, the payment may be deducted in computing for tax purposes the profits or gains of the trade.
- (3) A payment to which this section applies shall not be regarded as an annual payment.
- (4) Where a payment to which this section applies is made, the sum received by the trustees and any assets representing it (but not any income or gains arising from them) shall not be relevant property for the purposes of Chapter III of Part III of the <sup>M93</sup>Inheritance Tax Act 1984.

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**Marginal Citations**

**M93** 1984 c. 51.

*General*

**122 Interpretation etc.**

- (1) In this Act “the Taxes Act 1988 means the <sup>M94</sup>Income and Corporation Taxes Act 1988.
- (2) Part II of this Act, so far as it relates to capital gains tax, shall be construed as one with the <sup>M95</sup>Capital Gains Tax Act 1979.
- (3) Part III of this Act shall be construed as one with Part I of the <sup>M96</sup>Oil Taxation Act 1975 and in that Part of this Act “the principal Act means that Act.

**Marginal Citations**

**M94** 1988 c. 1.

**M95** 1979 c. 14.

**M96** 1975 c. 22.

**123 Repeals.**

The enactments specified in Schedule 19 to this Act (which include certain provisions which are already spent) 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.

**124 Short title.**

This Act may be cited as the Finance Act 1991.

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## SCHEDULES

### SCHEDULE 1

Section 1.

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

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 2 per cent.	12.06
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	20.09
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	28.12
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	36.17
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	44.20
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	120.54
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	199.04
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 18 per cent.	207.89
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	239.80
Wine or made-wine of a strength exceeding 22 per cent.	239.80plus £18.96 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.”

VALID FROM 01/05/1993

### SCHEDULE 2

Section 7.

#### AMENDMENTS RELATING TO BEER DUTY

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**Status:** Point in time view as at 19/03/1991. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 01/10/1991

## SCHEDULE 3

Section 10.

## MODIFICATION OF ENACTMENTS EXTENDED TO NORTHERN IRELAND

## PART I

## THE VEHICLES (EXCISE) ACT 1971

*Introduction*

1 The <sup>M101</sup>Vehicles (Excise) Act 1971 shall be amended as follows.

**Marginal Citations**

M101 1971 c. 10.

*Excise duty on, and licensing of, mechanically propelled vehicles*

2 In section 1 (charge of duty) in subsection (1) for “Great Britain there shall be substituted “the United Kingdom”.

*Exemptions from duty*

3 In section 4 (exemptions from duty of certain descriptions of vehicles) at the end there shall be added the following subsection—

“(3) In its application to Northern Ireland, this section shall have effect as if—

(a) in paragraph (b) of subsection (1) for “a local authority there were substituted “the Fire Authority for Northern Ireland and for “their there were substituted “its;

(b) in paragraph (j) of that subsection for “local authority’s there were substituted “district council’s;

(c) in subsection (2)—

(i) in the definition of “fire engine, for “the Fire Services Act 1947 there were substituted “the Fire Services (Northern Ireland) Order 1984;

(ii) in the definition of “weight unladen, for “section 190(2) of the Road Traffic Act 1988 there were substituted “Article 2(3) of the Road Traffic (Northern Ireland) Order 1981;

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	<p>(iii) in the definition of “local authority’s watering vehicle, for “local authority’s there were substituted “district council’s and for the words “local authority, in each place where they occur, there were substituted “district council; and</p> <p>(iv) in the definition of “street lighting authority, for “local authority or Minister there were substituted “Northern Ireland department.”</p>
4	<p>In section 5 (exemptions from duty in connection with vehicle testing, etc.) at the end there shall be added the following subsection—</p> <p>“(4) In its application to Northern Ireland, this section shall have effect as if—</p> <p>(a) in subsection (2) for the word “Minister’s there were substituted “Department’s; and</p> <p>(b) for subsection (3) there were substituted the following subsection—</p> <p>(”) In this section—</p> <p>“authorised person means an inspector of vehicles within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1981;</p> <p>“compulsory test means an examination to obtain a vehicle test certificate under Article 33 of the Road Traffic (Northern Ireland) Order 1981 without which a vehicle licence cannot be obtained for the vehicle under this Act, or an examination to obtain a goods vehicle certificate, public service vehicle licence or certificate of inspection under Article 53, 60(1) or 67 respectively of that Order;</p> <p>“the relevant certificate means a vehicle test certificate, a goods vehicle certificate, a public service vehicle licence (those expressions having the same meanings as they have in the Road Traffic (Northern Ireland) Order 1981) a certificate of inspection within the meaning of Article 67(2) of that Order, a type approval certificate within the meaning of Article 31A of that Order or a Department’s approval certificate within the meaning of that Article.””</p>
5	<p>(1) In section 7 (miscellaneous exemptions from duty)—</p> <p>(a) in paragraph (b) of subsection (2) after “1978 there shall be inserted “or Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972 ”, and</p> <p>(b) in paragraph (c) of that subsection after “subsection there shall be inserted “subsection (2C) below ”.</p> <p>(2) In subsection (2A) of that section in the definition of “appointee after “1975 there shall be inserted “or the Social Security (Northern Ireland) Act 1975 ”.</p>

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(3) After subsection (2B) of that section there shall be inserted the following subsections—

“(2C) A mechanically propelled vehicle suitable for use by persons having a particular disability that so incapacitates them in the use of their limbs that they have to be driven and cared for by a full-time constant attendant and registered in the name of such a disabled person under this Act shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of that disabled person or by reason of its being kept for such use where—

- (a) the disabled person is sufficiently disabled to be eligible under the Health and Personal Social Services (Northern Ireland) Order 1972 for an invalid tricycle but too disabled to drive it; and
- (b) no vehicle exempted from duty under subsection (2) above is (or by virtue of that subsection is deemed to be) registered in his name under this Act.

(2D) Subsection (2C) above applies only in relation to Northern Ireland.”

(4) In subsection (4A) of that section at the end there shall be added “or a health and social services body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991 or a Health and Social Services Trust established under that Order”.

(5) Subsection (5) of that section shall be omitted.

*Liability to pay duty and consequences of non-payment*

6 (1) In section 9 (additional liability for keeping unlicensed vehicle) in subsection (5) after “1948 there shall be inserted “or the Probation Act (Northern Ireland) 1950”.

(2) At the end of that section there shall be added the following subsection—

“(9) In its application to Northern Ireland, this section shall have effect as if for subsection (7) there were substituted the following subsection—

- (”) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.””

7 In section 13 (temporary licences) in subsection (2A) after “body, where it occurs for the first time, there shall be inserted “(other than a Northern Ireland department)”.

8 In section 18 (alteration of vehicle or its use) at the end there shall be added the following subsection—

“(10) In its application to Northern Ireland, this section shall have effect as if—

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- (a) for subsection (8) there were substituted the following subsection—
- (“) Where duty has been paid under this Act in respect of a vehicle either—
- (a) as an agricultural tractor under Schedule 3, or
- (b) as a farmer’s goods vehicle under Schedule 4,
- duty at a higher rate shall not become chargeable in respect of that vehicle by reason only that it is used by the person in whose name it is registered for conveying to or from any agricultural land in his occupation livestock owned by him in connection with the agricultural activities carried on by him on that land; but this subsection shall not have effect in relation to a vehicle used for conveying any livestock which for the time being is part of the stock in trade of a dealer in cattle and is conveyed in the course of his business as such dealer.”; and
- (b) subsection (9) were omitted.”
- 9 (1) In section 18A (additional liability in relation to alteration of vehicle or its use) in subsection (10) after “1973 there shall be inserted “or the Probation Act (Northern Ireland) 1950 ”.
- (2) After subsection (12) of that section there shall be inserted the following subsection—
- “(12A) In its application to Northern Ireland, this section shall have effect as if—
- (a) in subsections (3) and (5) for “plated weight, in each place, there were substituted “relevant maximum weight or, as the case may be, relevant maximum train weight;
- (b) in subsection (6) for “plated with the higher plated weight there were substituted “rated at the higher relevant maximum weight or, as the case may be, the higher relevant maximum train weight; and
- (c) for subsection (11) there were substituted the following subsections—
- (“) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.
- (11A) In this section “relevant maximum weight and “relevant maximum train weight have the same meaning as in Schedule 4 to this Act.””
- 10 (1) Section 18B (combined transport of goods) shall be amended as follows.
- (2) In subsection (2), for “Great Britain there shall be substituted “the United Kingdom ”.
- (3) At the end there shall be inserted the following subsection—

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- “(5) In its application to Northern Ireland, this section shall have effect as if—
- (a) for “plated gross weight, in each place, there were substituted “relevant maximum weight; and
  - (b) for “plated train weight, in each place, there were substituted “relevant maximum train weight.”

*Registration and registration marks, etc.*

- 11 In section 22 (failure to fix, and obscuration of, marks and signs) at the end there shall be added the following subsection—

“(4) In its application to Northern Ireland, subsection (1) above shall have effect as if for paragraph (b) of the proviso there were substituted the following paragraph—

- (”) in a case where the charge relates to a vehicle to which Article 34 of the Road Traffic (Northern Ireland) Order 1981 applies by virtue of paragraph (2)(b) thereof, that he had no opportunity of so registering the vehicle and that the vehicle was being driven on a road for the purposes of or in connection with its examination under Article 33 of the said Order of 1981 in circumstances in which its use is exempted from paragraph (1) of the said Article 34 by regulations under paragraph (5) thereof.”

*Miscellaneous*

- 12 In section 27 (duty to give information) at the end there shall be added the following subsection—

“(4) In its application to Northern Ireland, subsection (1)(a) above shall have effect as if for “a chief officer of police there were substituted “the Chief Constable of the Royal Ulster Constabulary.”

- 13 After section 28 (institution of proceedings in England and Wales) there shall be inserted the following section—

**“28A Institution of proceedings in Northern Ireland.**

Section 28 of this Act shall also apply in relation to the institution of proceedings in Northern Ireland, but as if—

- (a) for any reference in that section to England and Wales there were substituted a reference to Northern Ireland; and
- (b) in subsection (4) of that section for the words from the beginning to “county court there were substituted “In a court of summary jurisdiction or before a county court.”

- 14 In section 31 (admissibility of records as evidence) at the end there shall be added the following subsection—

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“(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2) for “subsection (1) of section 10 of the Civil Evidence Act 1968 there were substituted “subsection (1) of section 6 of the Civil Evidence Act (Northern Ireland) 1971.”

15 In section 32 (evidence of admissions in certain proceedings) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

“(2) Subsection (1) above shall apply in Northern Ireland as if—

- (a) for the words “England and Wales there were substituted “Northern Ireland; and
- (b) for the words from “rules to “1949 there were substituted “magistrates’ courts rules as defined in Article 2(3) of the Magistrates’ Courts (Northern Ireland) Order 1981.”

16 In section 34 (fixing amount payable on pleas of guilty by absent accused) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

“(2) In its application to Northern Ireland, subsection (1) above shall have effect as if—

- (a) for “section 12(2) of the Magistrates’ Courts Act 1980 and “the said section 12(2) there were substituted “Article 24(2) of the Magistrates’ Courts (Northern Ireland) Order 1981 and “the said Article 24(2) respectively; and
- (b) for the words from “or in to “1980 there were substituted “or by affidavit or in the manner prescribed by magistrates’ courts rules as defined by Article 2(3) of the Magistrates’ Courts (Northern Ireland) Order 1981.”

17 In section 35 (application of fines etc.) in subsection (2) after “Scotland there shall be inserted “or Northern Ireland”.

*Supplementary*

18 In section 37 (regulations), at the end of paragraph (a) of subsection (1) there shall be inserted the words “and for different parts of the United Kingdom”.

19 In section 40 (short title, etc.) for subsection (3) there shall be substituted—

“(3) This Act extends to Northern Ireland.”

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### Schedules

20 In Part I of Schedule 1 (annual rate of duty on certain mechanically propelled vehicles) after paragraph 3 there shall be added the following paragraph—

“4 In its application to Northern Ireland, this Part of this Schedule shall have effect as if—

- (a) in paragraph 2(a), for “1933 there were substituted “1935; and
- (b) in paragraph 3, in the definition of “weight unladen, for “section 190(2) of the Road Traffic Act 1988 there were substituted “Article 2(3) of the Road Traffic (Northern Ireland) Order 1981.”

21 In Schedule 2 (annual rates of duty on hackney carriages) at the end of Part I there shall be added the following paragraph—

- “5
- (1) A vehicle falling within this Schedule shall not be chargeable with duty at the rate appropriate to a hackney carriage unless a licence granted under Article 61 of the Road Traffic (Northern Ireland) Order 1981 is in force with respect to that vehicle.
  - (2) This paragraph applies only to Northern Ireland.”

22 In Schedule 4 (annual rates of duty on goods vehicles) at the end of Part I there shall be added the following paragraph—

- “16
- (1) This Schedule shall apply to Northern Ireland subject to the following modifications.
  - (2) Any reference to a plated gross weight or a plated train weight shall be construed as if it were a reference to a relevant maximum weight or a relevant maximum train weight.
  - (3) Paragraph 5 above shall have effect as if for sub-paragraph (1) there were substituted the following paragraph—
    - (”) This paragraph applies to a goods vehicle—
      - (a) which has a relevant maximum weight or a relevant maximum train weight exceeding 3,500 kilograms or, in the case of a vehicle which has neither a relevant maximum weight nor a relevant maximum train weight, a design weight exceeding 3,500 kilograms; and
      - (b) which is for the time being authorised for use on roads by virtue of an order under Article 29(3) of the Road Traffic (Northern Ireland) Order 1981 (authorisation of special vehicles).”

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(4) Paragraph 9 above shall have effect as if for sub-paragraphs (1) and (2) there were substituted the following sub-paragraphs—

(”) Any reference in this Schedule to the relevant maximum weight of a goods vehicle or trailer is a reference—

(a) where the vehicle or trailer is required by regulations under Article 28 of the Road Traffic (Northern Ireland) Order 1981 to have a maximum gross weight in Great Britain for the vehicle or trailer marked on a plate attached to the vehicle or trailer, to the maximum gross weight in Great Britain marked on such a plate;

(b) where a vehicle or trailer on which the maximum gross weight in Great Britain is marked by the same means as would be required by regulations under the said Article 28 if those regulations applied to the vehicle or trailer, to the maximum gross weight in Great Britain so marked on the vehicle or trailer;

(c) where a maximum gross weight is not marked on a vehicle or trailer as mentioned in paragraph (a) above, to the notional maximum gross weight of the vehicle or trailer ascertained in accordance with the Goods Vehicles (Ascertainment of Maximum Gross Weights) Regulations (Northern Ireland) 1976 (or any regulations replacing those regulations, whether with or without amendments).

(2) Any reference in this Schedule to the relevant maximum train weight of a vehicle is a reference to the maximum gross weight which may not be exceeded in Great Britain for an articulated vehicle consisting of the vehicle in question and any semi-trailer which may be drawn by it.”

(5) Paragraph 15(1) above shall have effect as if in the definition of “unladen weight for the words from “the Road to “that Act there were substituted “the Road Traffic (Northern Ireland) Order 1981 by virtue of Article 2(3) of that Order.”

23

In Schedule 4A (duty on vehicles used for carrying or drawing exceptional loads) at the end there shall be added the following paragraph—

“5 In its application to Northern Ireland, this Schedule shall have effect as if—

(a) in paragraph 1 above for the words referring to section 44 of the Road Traffic Act 1988 there were substituted “Article 29(3) of the Road Traffic (Northern Ireland) Order 1981;

(b) in paragraph 4 above—

(i) in the definition of “exceptional load for the words referring to section 41 of the Road Traffic Act 1988 there were substituted “Article 28 of the Road Traffic (Northern Ireland) Order 1981; and



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- (ii) in the definition of “specified amount for the words from “Road Traffic to “that Act there were substituted “Road Traffic (Northern Ireland) Order 1981 have the same meanings as in that Order.”

## PART II

### SECTION 11 OF THE FINANCE ACT 1976

24 In section 11 of the <sup>M102</sup>Finance Act 1976, for subsection (5) there shall be substituted the following subsection—

“(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2)—

(a) for paragraph (b) there were substituted the following paragraph—

(”) the relevant maximum weight or, as the case may be, the relevant maximum train weight of the vehicle;”

and

(b) in paragraph (c) for the words “plated weights there were substituted “relevant maximum weight or, as the case may be, such relevant maximum train weight.”

#### Marginal Citations

M102 1976 c. 40.

VALID FROM 25/07/1991

## SCHEDULE 4

Section 11.

### REGISTERED EXCISE DEALERS AND SHIPPERS

After Part VIIIA of the <sup>M103</sup>Customs and Excise Management Act 1979 there shall be inserted—

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## “PART VIII B

### REGISTERED EXCISE DEALERS AND SHIPPERS

#### **Registered excise dealers and shippers.**

100(G) For the purpose of administering, collecting or protecting the revenues derived from duties of excise, the Commissioners may by regulations under this section (in this Act referred to as “registered excise dealers and shippers regulations)—

- (a) confer or impose such powers, duties, privileges and liabilities as may be prescribed in the regulations upon any person who is or has been a registered excise dealer and shipper; and
  - (b) impose on persons other than registered excise dealers and shippers, or in respect of any goods of a class or description specified in the regulations, such requirements or restrictions as may by or under the regulations be prescribed with respect to registered excise dealers and shippers or any activities carried on by them.
- (2) The Commissioners may approve, and enter in a register maintained by them for the purpose, any revenue trader who applies for registration under this section and who appears to them to satisfy such requirements for registration as they may think fit to impose.
  - (3) In the customs and excise Acts “registered excise dealer and shipper means a revenue trader approved and registered by the Commissioners under this section.
  - (4) The Commissioners may approve and register a person under this section for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under the regulations prescribe.
  - (5) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval or registration of any person under this section.
  - (6) The regulations may make provision for treating revenue traders as approved and registered under this section in cases where they are members of a group of companies (within the meaning of the regulations) which is approved and registered in accordance with the regulations.

#### **Registered excise dealers and shippers regulations.**

- 100(H) (a) regulating the approval and registration of persons as registered excise dealers and shippers and the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject;
- (b) regulating any activities carried on by or for a registered excise dealer and shipper and, in particular, the importation, exportation, buying, selling, loading, unloading, delivery, movement, holding, deposit, security, treatment or removal of, or the carrying out of operations on, or the effecting of any other transaction relating to, any goods of a class or description subject to a duty of excise;
- (c) authorising a registered excise dealer and shipper to carry out or arrange for the carrying out of any prescribed activity falling within paragraph (b) above in relation to goods chargeable with a duty of excise which has not been

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- paid, but subject to prescribed conditions or restrictions and to prescribed requirements for the payment of the unpaid duty;
- (d) exempting registered excise dealers and shippers from compliance with such provisions made by or under the customs and excise Acts as may be prescribed, or applying such provisions in relation to registered excise dealers and shippers with prescribed modifications or adaptations, or applying in relation to registered excise dealers and shippers such substitute provisions as may be prescribed in place of any such provisions;
  - (e) requiring, except as otherwise permitted by the Commissioners, goods which are subject to a duty of excise that has not been paid and which are not consigned to an excise warehouse—
    - (i) to be consigned to a registered excise dealer and shipper; and
    - (ii) to be accompanied by such documents in such form and such manner and containing such particulars as may be prescribed;
  - (f) imposing on a registered excise dealer and shipper liability for the payment of duties of excise chargeable on any goods or, in prescribed cases, imposing joint and several liability for the payment of any such duties on a registered excise dealer and shipper and some other person specified in the regulations who, if not a registered excise dealer and shipper, would have been liable for their payment apart from this paragraph;
  - (g) for securing and collecting any duty of excise for the payment of which a registered excise dealer and shipper is or may be liable;
  - (h) for determining, in relation to goods which are the subject of a transaction involving a registered excise dealer and shipper, the duties of excise chargeable, the rates of those duties and the persons liable to pay them and the time at which and manner in which payment is to be made and, in that connection, prescribing the method of charging the duties;
  - (j) permitting payment of excise duty by a registered excise dealer and shipper to be deferred, subject to compliance with prescribed conditions;
  - (k) for relieving registered excise dealers and shippers from liability to pay excise duty on goods in prescribed circumstances;
  - (l) for cases where a registered excise dealer and shipper acts as agent for some other person (whether a registered excise dealer and shipper or not);
  - (m) requiring registered excise dealers and shippers to keep and make available for inspection such records relating to their activities as such as may be prescribed;
  - (n) for goods in the United Kingdom which are liable to a duty of excise which has not been paid to be subject to forfeiture for any breach of—
    - (i) registered excise dealers and shippers regulations, so far as relating to goods chargeable with a duty of excise which has not been paid, or
    - (ii) any condition or restriction imposed by or under any such regulations so far as so relating.
- (2) Registered excise dealers and shippers regulations may make different provision for persons or goods of different classes or descriptions, for different circumstances and for different cases.
- (3) In this section “prescribed means prescribed in registered excise dealers and shippers regulations or prescribed by the Commissioners under any such regulations.

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### **Contravention of regulations etc.**

100J If any person contravenes any provision of registered excise dealers and shippers regulations or fails to comply with any condition or restriction which the Commissioners impose upon him under section 100G above or by or under any such regulations, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale and any goods in respect of which the offence was committed shall be liable to forfeiture.”

#### **Marginal Citations**

M103 1979 c. 2.

VALID FROM 25/07/1991

## SCHEDULE 5

Section 12.

### PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

After Part IX of the <sup>M104</sup>Customs and Excise Management Act 1979 there shall be inserted—

#### “PART IXA

### PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

#### **Duty of revenue traders to keep records.**

- 118A) The Commissioners may by regulations require every revenue trader—
- (a) to keep such records as may be prescribed in the regulations; and
  - (b) to preserve those records for such period not exceeding six years as may be prescribed in the regulations or for such lesser period as the Commissioners may require.
- (2) Regulations under this section—
- (a) may make different provision for different cases; and
  - (b) may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Any duty imposed under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve.
- (4) Where any information is preserved in accordance with subsection (3) above, a copy of any document forming part of the records in question shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

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- (5) The Commissioners may, as a condition of approving under subsection (3) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (6) A statement contained in a document produced by a computer shall not by virtue of subsection (4) above be admissible in evidence—
- (a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act 1968;
  - (b) in criminal proceedings in England and Wales, except in accordance with sections 69 and 70 of the Police and Criminal Evidence Act 1984 and Part II of the Criminal Justice Act 1988;
  - (c) in civil proceedings in Scotland, except in accordance with sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;
  - (d) in criminal proceedings in Scotland, except in accordance with the said sections 13 and 14, which shall, for the purposes of this section, apply with the necessary modifications to such proceedings;
  - (e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971; and
  - (f) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988.
- (7) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under—
- (a) section 5(4) of the Civil Evidence Act 1968,
  - (b) section 13(4) of the Law Reform (Miscellaneous Provisions) Scotland Act 1968, or
  - (c) section 2(4) of the Civil Evidence Act (Northern Ireland) 1971.

#### **Duty of revenue traders and others to furnish information and produce documents.**

118B) Every revenue trader shall—

- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to—
  - (i) any goods or services supplied by or to him in the course or furtherance of a business, or
  - (ii) any goods in the importation or exportation of which he is concerned in the course or furtherance of a business,
 as they may reasonably specify; and
- (b) upon demand made by an officer, produce or cause to be produced for inspection by that officer—
  - (i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require, and
  - (ii) at such time as the officer may reasonably require,
 any documents relating to the goods or services or to the supply, importation or exportation.

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- (2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from a revenue trader—
  - (a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but
  - (b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (3) For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course or furtherance of any business shall be taken to include—
  - (a) any profit and loss account and balance sheet, and
  - (b) any records required to be kept by virtue of section 118A above, relating to that business.
- (4) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.
- (5) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed.
- (6) Where a lien is claimed on a document produced under subsection (2) above, the removal of the document under subsection (5) above shall not be regarded as breaking the lien.
- (7) Where a document removed by an officer under subsection (5) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
- (8) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

#### **Entry and search of premises and persons.**

- 118(1) For the purpose of exercising any powers under the customs and excise Acts an officer may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an officer has reasonable cause to believe that any premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with a duty of excise and that any such goods are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.
  - (3) If a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied on information on oath—
    - (a) that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises, or
    - (b) that evidence of the commission of such an offence is to be found there,

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he may issue a warrant in writing authorising, subject to subsections (6) and (7) below, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant and search them.

- (4) Any officer who enters premises under the authority of a warrant under subsection (3) above may—
- (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;
- but no woman or girl shall be searched by virtue of this subsection except by a woman.
- (5) In subsections (3) and (4) above “a fraud offence means an offence under any provision of section 167(1), 168 or 170 below.
- (6) The powers conferred by a warrant under this section shall not be exercisable—
- (a) by more than such number of officers as may be specified in the warrant; nor
  - (b) outside such times of day as may be so specified; nor
  - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.
- (7) An officer seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—
- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
  - (b) if at the time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy shall be supplied to that person; and
  - (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

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

- 118(1) Where, on an application by an officer, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with a duty of excise is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this section.
- (2) An order under this section is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

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- (a) give an officer access to it, and
  - (b) permit an officer to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of seven days beginning with the date of the order or the end of such longer period as the order may specify.
- (3) The reference in subsection (2)(a) above to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer to take copies of it or to make extracts from it.
  - (4) Where the recorded information consists of information contained in a computer, an order under this section shall have effect as an order to produce the information in a form in which it is visible and legible and, if the officer wishes to remove it, in a form in which it can be removed.
  - (5) This section is without prejudice to sections 118B and 118C above.

**Procedure when documents etc. are removed.**

- 118E) An officer who removes anything in the exercise of a power conferred by or under section 118C or 118D above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The officer shall provide the record within a reasonable time from the making of the request for it.
  - (3) Subject to subsection (7) below, if a request for permission to be granted access to anything which—
    - (a) has been removed by an officer, and
    - (b) is retained by the Commissioners for the purposes of investigating an offence,
 is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.
  - (4) Subject to subsection (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
    - (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it, or
    - (b) photograph or copy it, or cause it to be photographed or copied.
  - (5) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.
  - (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
  - (7) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes



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of which it was removed has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—
    - (i) the investigation of which he is in charge; or
    - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.

#### **Failure of officer to comply with requirements under section 118E.**

118F) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 118E above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

- (2) An application under subsection (1) above shall be made—
  - (a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 118E above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
  - (b) in any other case, by the person who has such custody or control.
- (3) In this section “the appropriate judicial authority means—
  - (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates’ Courts (Northern Ireland) Order 1981.
- (4) Any application for an order under this section—
  - (a) in England and Wales, shall be made by way of complaint; or
  - (b) in Northern Ireland, shall be made by way of civil proceedings on complaint.
- (5) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (rules and orders regulating procedure of courts etc and assignment of business to particular courts) shall apply as if any reference in those provisions to any enactment included a reference to this section.

#### **Offences under Part IXA.**

118G If any person fails to comply with any requirement imposed under section 118A(1) or section 118B above, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale.”

#### **Marginal Citations**

M104 1979 c.2.

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VALID FROM 25/07/1991

SCHEDULE 6 Section 27.

RESTRICTION OF HIGHER RATE RELIEF: BENEFICIAL LOANS ETC

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VALID FROM 25/07/1991

SCHEDULE 7 Section 48.

BASIC LIFE ASSURANCE AND GENERAL ANNUITY BUSINESS

.....

VALID FROM 25/07/1991

SCHEDULE 8 Section 49.

PENSION BUSINESS: PAYMENTS ON ACCOUNT  
OF TAX CREDITS AND DEDUCTED TAX

.....

VALID FROM 25/07/1991

SCHEDULE 9 Section 50.

FRIENDLY SOCIETIES

.....

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VALID FROM 25/07/1991	
SCHEDULE 10	Section 51.
BUILDING SOCIETIES: QUALIFYING SHARES	
.....	

VALID FROM 25/07/1991	
SCHEDULE 11	Section 52.
BUILDING SOCIETIES: MARKETABLE SECURITIES	
.....	

VALID FROM 25/07/1991	
SCHEDULE 12	Section 54.
SECURITIES: NEW ISSUES	
.....	

VALID FROM 26/02/1992	
SCHEDULE 13	Section 58.
MANUFACTURED DIVIDENDS AND INTEREST	
<i>The new arrangements</i>	
1	After Schedule 23 to the Taxes Act 1988 there shall be inserted—
	“SCHEDULE 23A
	Section 736A.
MANUFACTURED DIVIDENDS AND INTEREST	
<i>Interpretation</i>	
1	(1) In this Schedule—

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“approved stock lending arrangement means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129 and in relation to which that section and section 149B(9) of the 1979 Act apply;

“dividend manufacturer has the meaning given by paragraph 2(1) below;

“dividend manufacturing regulations means regulations made by the Treasury under this Schedule;

“interest manufacturer has the meaning given by paragraph 3(1) below;

“manufactured dividend, “manufactured interest and “manufactured overseas dividend shall be construed respectively in accordance with paragraphs 2, 3 and 4 below, as shall references to the gross amount thereof;

“market maker, in relation to any shares, stock or other securities, means a person who—

- (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell shares, stock or other securities of the kind concerned at a price specified by him, and
- (b) is recognised as doing so by the Council of the Stock Exchange, but subject to any regulations under sub-paragraph (2) below;

“overseas dividend means any interest, dividend or other annual payment payable in respect of any overseas securities;

“overseas dividend manufacturer has the meaning given by paragraph 4(1) below;

“overseas securities means—

- (a) shares, stock or other securities issued by a government or public or local authority of a territory outside the United Kingdom or by any other body of persons not resident in the United Kingdom; and
- (b) quoted Eurobonds held in a recognised clearing system, within the meaning of section 124;

“overseas tax means tax under the law of a territory outside the United Kingdom;

“overseas tax credit means any such credit under the law of a territory outside the United Kingdom in respect of overseas tax as corresponds to a tax credit;

“prescribed means prescribed in dividend manufacturing regulations;

“recognised clearing house means a recognised clearing house within the meaning of the Financial Services Act 1986;

“recognised investment exchange means a recognised investment exchange within the meaning of that Act;

“securities includes any loan stock or similar security;

“transfer includes any sale or other disposal;

“unapproved manufactured payment, subject to any regulations under sub-paragraph (2) below, means—

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- (a) any manufactured dividend, manufactured interest or manufactured overseas dividend paid in connection with an unapproved stock lending arrangement, and
- (b) any manufactured dividend or manufactured interest not falling within paragraph (a) above which is paid in respect of United Kingdom securities or United Kingdom equities by a person other than one who is—
  - (i) a market maker in relation to United Kingdom securities or United Kingdom equities of the kind in question, or
  - (ii) in such circumstances as may be prescribed, a member, of a prescribed class or description, of a prescribed recognised investment exchange, or
  - (iii) in such circumstances as may be prescribed, a prescribed recognised clearing house, and which is so paid otherwise than in connection with an approved stock lending arrangement;

“unapproved stock lending arrangement means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129, but which, in consequence of regulations under subsection (4) of that section, is not an approved stock lending arrangement;

“United Kingdom equities means shares of any company resident in the United Kingdom;

“United Kingdom securities means securities of the government of the United Kingdom, of any public or local authority in the United Kingdom or of any company or other body resident in the United Kingdom, but does not include quoted Eurobonds held in a recognised clearing system, within the meaning of section 124, or United Kingdom equities.

- (2) Dividend manufacturing regulations may amend sub-paragraph (1) above—
  - (a) by changing the definition for the time being of “market maker”; or
  - (b) by changing the definition for the time being of “unapproved manufactured payment”.

#### *Manufactured dividends on United Kingdom equities*

- 2 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (the “dividend manufacturer”) is required to pay to the other (“the recipient”) an amount representative of a dividend on the equities; and in this Schedule the “manufactured dividend means any payment which the dividend manufacturer makes in discharge of that requirement.
- (2) If, in a case where this paragraph applies, the dividend manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the manufactured dividend shall be treated as if it were a dividend of, and paid by, the dividend manufacturer (and shall accordingly be a distribution of the dividend manufacturer for those purposes).

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- (3) If, in a case where this paragraph applies, the dividend manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the dividend manufacturer) the manufactured dividend shall for all purposes of the Tax Acts be treated in relation to the recipient and all persons claiming title through or under him—
- (a) as if the manufactured dividend were a dividend on the United Kingdom equities,
  - (b) as if any amount required in consequence of section 737 to be deducted by the dividend manufacturer on account of income tax in respect of the gross amount of the manufactured dividend were required to be accounted for by him as advance corporation tax in respect of the dividend, and
  - (c) as if any certificate of deduction of tax required in consequence of that section to be issued in connection with the manufactured dividend were the tax credit certificate that would have been issued had the manufactured dividend in fact been a dividend on the United Kingdom equities.
- (4) For the purposes of sub-paragraph (3)(b) above, the gross amount of a manufactured dividend is the aggregate of the amount of the manufactured dividend and the amount of the tax credit that would have been issued in respect thereof had the manufactured dividend in fact been a dividend on the United Kingdom equities.

*Manufactured interest on United Kingdom securities*

- 3 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom securities, one of the parties (the “interest manufacturer”) is required to pay to the other ( “the recipient”) an amount representative of a periodical payment of interest on the securities; and in this Schedule the “manufactured interest means any payment which the interest manufacturer makes in discharge of that requirement.
- (2) If, in a case where this paragraph applies, the interest manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the gross amount of the manufactured interest shall be treated as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.
- (3) If, in a case where this paragraph applies, the interest manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the interest manufacturer) the gross amount of the manufactured interest shall for all purposes of the Tax Acts be treated in relation to the recipient, and all persons claiming title through or under him, as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.
- (4) For the purposes of this paragraph the gross amount of any manufactured interest is an amount equal to the gross amount of that periodical payment of interest of which the manufactured interest is representative, as mentioned in sub-paragraph (1) above.

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### *Manufactured overseas dividends*

- 4 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of overseas securities, one of the parties (the “overseas dividend manufacturer”) is required to pay to the other (“the recipient”) an amount representative of an overseas dividend on the overseas securities; and in this Schedule the “manufactured overseas dividend means any payment which the overseas dividend manufacturer makes in discharge of that requirement.
- (2) Subject to sub-paragraph (3) below, where this paragraph applies the gross amount of the manufactured overseas dividend shall be treated for all purposes of the Tax Acts as an annual payment, within section 349, but—
- (a) the amount which is to be deducted from that gross amount on account of income tax shall be an amount equal to the relevant withholding tax on that gross amount; and
  - (b) in the application of sections 338(4)(a) and 350(4) in relation to manufactured overseas dividends the references to Schedule 16 shall be taken as references to dividend manufacturing regulations;
- and paragraph (a) above is without prejudice to any further amount required to be deducted under dividend manufacturing regulations by virtue of sub-paragraph (8) below.
- (3) If, in a case where this paragraph applies, the overseas dividend manufacturer is not resident in the United Kingdom and the manufactured overseas dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, sub-paragraph (2) above shall not apply; but if the manufactured overseas dividend is received by a person resident in the United Kingdom (the “United Kingdom recipient”), then unless the United Kingdom recipient shows either—
- (a) that the overseas dividend manufacturer was entitled to payment of the overseas dividend as the registered holder of the overseas securities, or
  - (b) that the overseas dividend manufacturer was entitled to payment of the overseas dividend directly or indirectly from a person from whom he acquired the overseas securities, or to whom he transferred them, and who was so entitled to the payment,
- the United Kingdom recipient shall account for and pay an amount of tax in respect of the manufactured overseas dividend equal to that which the overseas dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom; and any reference in this Schedule to an amount deducted under sub-paragraph (2) above includes a reference to an amount of tax accounted for and paid under this sub-paragraph.
- (4) Where a manufactured overseas dividend is paid after deduction of the amount required by sub-paragraph (2) above, or where the amount of tax required under sub-paragraph (3) above in respect of such a dividend has been accounted for and paid, then for all purposes of the Tax Acts as they

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apply in relation to persons resident in the United Kingdom or to persons not so resident but carrying on business through a branch or agency in the United Kingdom—

- (a) the manufactured overseas dividend shall be treated in relation to the recipient, and all persons claiming title through or under him, as if it were an overseas dividend of an amount equal to the gross amount of the manufactured overseas dividend, but paid after the withholding therefrom, on account of overseas tax, of the amount deducted under sub-paragraph (2) above; and
  - (b) the amount so deducted shall accordingly be treated in relation to the recipient, and all persons claiming title through or under him, as an amount so withheld instead of as an amount on account of income tax.
- (5) For the purposes of this paragraph—
- (a) “relevant withholding tax, in relation to the gross amount of a manufactured overseas dividend, means an amount of tax representative of—
    - (i) the amount (if any) that would have been deducted by way of overseas tax from an overseas dividend on the overseas securities of the same gross amount as the manufactured overseas dividend; and
    - (ii) the amount of the overseas tax credit (if any) in respect of such an overseas dividend;
  - (b) the gross amount of a manufactured overseas dividend is an amount equal to the gross amount of that overseas dividend of which the manufactured overseas dividend is representative, as mentioned in sub-paragraph (1) above; and
  - (c) the gross amount of an overseas dividend is an amount equal to the aggregate of—
    - (i) so much of the overseas dividend as remains after the deduction of the overseas tax (if any) chargeable on it;
    - (ii) the amount of the overseas tax (if any) so deducted; and
    - (iii) the amount of the overseas tax credit (if any) in respect of the overseas dividend.
- (6) Dividend manufacturing regulations may make provision with respect to the rates of relevant withholding tax which are to apply in relation to manufactured overseas dividends in relation to different overseas territories, but in prescribing those rates the Treasury shall have regard to—
- (a) the rates at which overseas tax would have fallen to be deducted, and
  - (b) the rates of overseas tax credits,
- in overseas territories, or in the particular overseas territory, in respect of payments of overseas dividends on overseas securities.
- (7) Dividend manufacturing regulations may make provision for a person who, in any chargeable period, is an overseas dividend manufacturer to be entitled in prescribed circumstances to set off against each other, in accordance with the regulations—



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- (a) overseas tax in respect of any overseas dividends, or amounts deducted under sub-paragraph (2) above from any manufactured overseas dividends, received by him in that chargeable period, and
  - (b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period,
- and account to the Board for, or as the case may be, claim credit in respect of, the balance.
- (8) Dividend manufacturing regulations may also make provision for cases where a manufactured overseas dividend is paid or otherwise dealt with in circumstances such that, had it been an overseas dividend in respect of the overseas securities, it would have been—
- (a) a relevant foreign dividend, within the meaning of section 123,
  - (b) a foreign dividend, within the meaning of that section,
  - (c) interest on a quoted Eurobond held in a recognised clearing system, within the meaning of section 124, or
  - (d) an overseas public revenue dividend, within the meaning of Part III,
- and, notwithstanding anything in sub-paragraph (2) or (3) above, any such regulations may provide for deductions of an amount determined by reference to the gross amount of the manufactured overseas dividend to be made from the manufactured overseas dividend on account of income tax similar to the deductions that would, in the case of an overseas dividend, be made under subsection (2) or (3) of section 123 or under Part III, as the case may be, and for Parts III and IV of Schedule 3 to apply with prescribed modifications in relation thereto.

*Dividends and interest passing through the market*

- 5 (1) Sub-paragraph (2) below applies in any case where, under a contract or other arrangements for the transfer of securities, a party ( “the payment manufacturer) who satisfies the following condition, that is to say, that he is entitled either—
- (a) to a dividend or a periodical payment of interest as the registered holder of the securities, or
  - (b) to payment, whether directly or indirectly, of any such dividend or interest from a person from whom he acquired the securities or to whom he transferred them,
- is required to pay to the other party ( “the recipient) an amount representative of that dividend or interest; and in this paragraph the “manufactured payment means any payment which the payment manufacturer makes in discharge of that requirement.
- (2) Where this sub-paragraph applies—
- (a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment,
  - (b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the recipient and not as the income of the payment manufacturer, and

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(c) the manufactured payment shall not be regarded as the income of the recipient,

but this sub-paragraph is subject to sub-paragraphs (3) and (4) below.

(3) In any case where—

(a) any dividend or interest would, apart from the application or, as the case may be, the subsequent application of this sub-paragraph, be treated by virtue of any provision of this paragraph as the income of a person (the “subsequent manufacturer”) who is a party to a further contract or other arrangements for the transfer of securities, and

(b) under that contract or those arrangements, the subsequent manufacturer is required to pay to the other party (the “subsequent recipient”) an amount representative of the dividend or interest (the “subsequent manufactured payment),

sub-paragraph (4) below shall apply instead of sub-paragraph (2) above (and, on any second or subsequent application of this sub-paragraph, instead of sub-paragraph (4) below as it last applied).

(4) Where this sub-paragraph applies—

(a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment or any subsequent manufactured payment;

(b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the subsequent recipient (or, on a second or subsequent application of sub-paragraph (3) above, the last of them) and not as the income of any other person; and

(c) neither the manufactured payment nor any subsequent manufactured payment shall be regarded as the income of the recipient or of any subsequent recipient;

but this sub-paragraph is subject to any subsequent application of sub-paragraph (3) above.

(5) Notwithstanding anything in sub-paragraphs (1) to (4) above, in any case where—

(a) the dividend or interest is an overseas dividend,

(b) the payment manufacturer or a subsequent manufacturer is resident in the United Kingdom but the recipient or a subsequent recipient is not so resident, and

(c) the rates of overseas tax or overseas tax credit applicable to the overseas dividend in relation to the payment manufacturer or subsequent manufacturer falling within paragraph (b) above are different from what they would have been in relation to the recipient or subsequent recipient falling within that paragraph, had the overseas dividend been paid directly to him,

dividend manufacturing regulations may, in such cases as may be prescribed, make provision for tax to be charged on, or for credit in respect of tax to be given to, such one of the manufacturers falling within paragraph (b) above as may be determined in accordance with the regulations, at such rates as may be so determined.

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- (6) Any reference in this paragraph to securities is a reference to United Kingdom equities, United Kingdom securities or overseas securities.

*Unapproved manufactured payments*

- 6 (1) This paragraph applies where a person makes an unapproved manufactured payment.
- (2) Where the unapproved manufactured payment is a manufactured dividend paid by a company, any advance corporation tax paid by the company in respect of the manufactured dividend—
- (a) shall not be set against any liability of the company to corporation tax as mentioned in section 239;
  - (b) shall not be surrendered under, or otherwise treated as mentioned in, section 240; and
  - (c) shall not be utilised in any other way for the purposes of the Tax Acts;
- and no franked investment income of a company shall be used to frank (within the meaning of section 241(5)) the manufactured dividend.
- (3) Where the unapproved manufactured payment is manufactured interest paid by a company—
- (a) relief shall not be given to the company under any provision of the Tax Acts in respect of any amount which the company is required to deduct from the payment on account of income tax; and
  - (b) the company shall not be entitled under paragraph 5(1) of Schedule 16 to claim to set income tax borne by deduction from payments received by it against the income tax which it is liable to pay in respect of the payment of manufactured interest.
- (4) Where the unapproved manufactured payment is a manufactured overseas dividend—
- (a) relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the payment on account of income tax; and
  - (b) a person shall not be entitled under or by virtue of this Schedule to set—
    - (i) overseas tax in respect of overseas dividends received by him, or
    - (ii) an amount deducted under paragraph 4(2) above in respect of manufactured overseas dividends received by him,against any income tax which he is liable to pay in respect of the payment of the manufactured overseas dividend.
- (5) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, franked investment income of a company has been used to frank a manufactured dividend which is an unapproved manufactured payment, he may make an assessment on the dividend manufacturer under sub-paragraph (3) of paragraph 3 of Schedule 13 and that sub-paragraph

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shall accordingly apply in relation to the amount of advance corporation tax in question.

- (6) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, income tax on income received by an interest manufacturer has been set against an amount deducted by the interest manufacturer on account of income tax on a payment of manufactured interest which is an unapproved manufactured payment, the inspector may make an assessment on the interest manufacturer under paragraph 4 of Schedule 16 and that paragraph shall accordingly apply in relation to the amount of income tax in question.
- (7) In this paragraph “relief means relief by way of—
- (a) deduction in computing profits or gains; or
  - (b) deduction or set off against income or total profits.

*Irregular manufactured payments*

- 7 (1) Except where paragraph 5(2) or (4) above applies, in any case where (apart from this paragraph)—
- (a) an amount paid by way of manufactured dividend would exceed the amount of the dividend of which it is representative, or
  - (b) the aggregate of—
    - (i) an amount paid by way of manufactured interest or manufactured overseas dividend, and
    - (ii) the tax required to be accounted for in connection with the making of that payment,
 would exceed the gross amount (as determined in accordance with paragraph 3 or 4 above) of the interest or overseas dividend of which it is representative, as the case may be,
- the payment shall, to the extent of an amount equal to the excess, not be regarded for the purposes of this Schedule as made in discharge of the requirement referred to in paragraph 2(1), 3(1) or 4(1) above, as the case may be, but shall instead to that extent be taken for all purposes of the Tax Acts to constitute a separate fee for entering into the contract or other arrangements under which it was made, notwithstanding anything in paragraphs 2 to 4 above.
- (2) Dividend manufacturing regulations may make provision in such circumstances and for such purposes of the Tax Acts as may be prescribed for such a fee as is mentioned in sub-paragraph (1) above to be treated as paid in any case that would fall within that sub-paragraph, apart from paragraph 5 above; and, without prejudice to the generality of the foregoing, any such regulations may in particular provide—
- (a) for the amount of the fee to be determined in accordance with the regulations, and
  - (b) for such of the persons mentioned in that paragraph as may be prescribed to be treated as paying or, as the case may be, as receiving the fee,
- and it is immaterial for the purposes of paragraph (b) above whether or not the person prescribed would, apart from paragraph 5 above, have been regarded by virtue of sub-paragraph (1) above as paying or receiving a

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fee, or as paying it to, or receiving it from, any other person prescribed under paragraph (b) above.

(3) For the purpose of giving relief under any provision of the Tax Acts in a case falling within paragraph 3(1) or 4(1) above where (apart from this paragraph) the aggregate referred to in sub-paragraph (1)(b) above would be less than the gross amount there mentioned—

- (a) the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be an amount equal to the aggregate referred to in sub-paragraph (1)(b) above, except where paragraph 6 above applies, and
- (b) where paragraph 6 above applies, the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be only the amount referred to in sub-paragraph (1)(b)(i) above,

notwithstanding anything in paragraph 3, 4 or 6 above.

(4) In this paragraph “relief means relief by way of—

- (a) deduction in computing profits or gains; or
- (b) deduction or set off against income or total profits.

*Dividend manufacturing regulations: general*

8 (1) Dividend manufacturing regulations may make provision for—

- (a) such manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed, or
- (b) such dividend manufacturers, interest manufacturers or overseas dividend manufacturers as may be prescribed,

to be treated in prescribed circumstances otherwise than as mentioned in paragraph 2, 3 or 4 above for the purposes of such provisions of the Tax Acts as may be prescribed.

(2) Dividend manufacturing regulations may make provision with respect to—

- (a) the accounts and other records which are to be kept,
- (b) the vouchers which are to be issued or produced,
- (c) the returns which are to be made,
- (d) the manner in which amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax are to be accounted for and paid,

by dividend manufacturers, interest manufacturers or overseas dividend manufacturers in connection with the manufacturing of dividends, interest or overseas dividends.

(3) Dividend manufacturing regulations may—

- (a) make provision for prescribed provisions of the Management Act to apply in relation to manufactured dividends, manufactured interest or manufactured overseas dividends with such modifications, specified in the regulations, as the Treasury think fit;

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(b) make such further provision with respect to the administration, assessment, collection and recovery of amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax as the Treasury think fit.

(4) Dividend manufacturing regulations may make different provision for different cases.”

*Power to obtain information in connection with dealings in securities*

2 In Schedule 18 to the <sup>M115</sup>Finance Act 1986, in paragraph 9(1)(b) (power by regulations to substitute for section 21(1) of the Management Act provision that the Board may exercise the powers conferred by section 21 in such circumstances as may be specified) after the words “conferred by section 21 there shall be inserted the words “in relation to such persons (whether market makers or not) and ”.

**Marginal Citations**

M115 1986 c. 41.

*Manufactured dividends etc: amendments of section 737*

3 (1) Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (1) there shall be substituted—

“(1) Subject to the provisions of this section and of Schedule 23A, where, under a contract or other arrangements for the transfer of securities, one of the parties (the “dividend manufacturer) is required to pay to the other an amount representative of a periodical payment of interest on the securities, section 350(1) and Schedule 16 shall apply as if the payment by the dividend manufacturer (the “manufactured dividend) were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to income tax.”

(3) For subsection (3) there shall be substituted—

“(3) Subsection (1) above shall not apply in any case where—

- (a) the dividend manufacturer is a company resident in the United Kingdom; or
- (b) the manufactured dividend is a manufactured overseas dividend, within the meaning of Schedule 23A.”

(4) Subsection (4) (purchase of securities by dividend manufacturer resident in the United Kingdom from person not so resident) shall cease to have effect; and for subsection (5) (dividend manufacturers not resident in the United Kingdom) there shall be substituted—

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“(5) Where the dividend manufacturer in relation to the contract or other arrangements mentioned in subsection (1) above is not resident in the United Kingdom and the manufactured dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, that subsection shall not apply; but if the manufactured dividend is received by a person resident in the United Kingdom (the “United Kingdom recipient), then unless the United Kingdom recipient shows either—

- (a) that the dividend manufacturer was entitled to payment of the dividend as the registered holder of the securities, or
- (b) that the dividend manufacturer was entitled to payment of the dividend directly or indirectly from a person from whom he acquired the securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall be assessable and chargeable with an amount of income tax in respect of the manufactured dividend equal to that which the dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom.”

(5) After that subsection there shall be inserted—

“(5A) Where this section applies in relation to a manufactured dividend, relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the manufactured dividend on account of income tax; and in this subsection “relief means relief by way of—

- (a) deduction in computing profits or gains; or
- (b) deduction or set off against income or total profits.”

(6) In subsection (6) (definitions)—

- (a) for the definitions of “broker and “market maker there shall be substituted—

“ “dividend manufacturing regulations means regulations made by the Treasury under Schedule 23A;

“prescribed means prescribed in dividend manufacturing regulations;

“recognised investment exchange means a recognised investment exchange within the meaning of the Financial Services Act 1986;”  
and

- (b) after the definition of “securities there shall be inserted—

“ “transfer includes any sale or other disposal;”.

(7) After subsection (7) there shall be inserted—

“(7A) Where the dividend manufacturer—

- (a) is not resident in the United Kingdom but carries on a trade through a branch or agency in the United Kingdom, or
- (b) is a member, of a prescribed class or description, of a prescribed recognised investment exchange,

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dividend manufacturing regulations may make provision for this section and such other provisions of the Tax Acts as may be prescribed to apply with prescribed modifications in connection with the manufactured dividend or any tax required to be deducted or accounted for in respect of it.

(7B) Without prejudice to the generality of subsection (7A) above, dividend manufacturing regulations made by virtue of that subsection may, in particular, include provision—

- (a) entitling the dividend manufacturer to any prescribed relief to which he would not otherwise be entitled;
- (b) denying the dividend manufacturer any prescribed relief to which he would otherwise be entitled;
- (c) prescribing the manner in which amounts required to be deducted or accounted for on account of tax are to be accounted for and paid;

and, without prejudice to the generality of paragraph (c) above, any regulations made for the purpose specified in that paragraph may include provision, in a case falling within subsection (7A)(a) above, for the manufactured dividend to be a relevant payment for the purposes of Schedule 16 and for that Schedule to apply in relation to it with such modifications as may be prescribed.”

*Consequential provisions*

4

In section 738 of that Act, subsection (2) (which confers power to amend the definitions of “broker and “market maker in section 737(6)) shall cease to have effect; and in subsection (4)—

- (a) for the words “subsections (2) and there shall be substituted the word “subsection ”; and
- (b) for the words “contract for the sale of securities there shall be substituted the words “contract or other arrangements for the transfer of securities ”.

VALID FROM 25/07/1991

SCHEDULE 14

Section 59.

CAPITAL ALLOWANCES: VAT CAPITAL GOODS SCHEME

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VALID FROM 25/07/1991	
SCHEDULE 15	Section 73.
RELIEF FOR COMPANY TRADING LOSSES	
.....	

VALID FROM 25/07/1991	
SCHEDULE 16	Section 89.
SETTLEMENTS: SETTLORS	
.....	

VALID FROM 25/07/1991	
SCHEDULE 17	Section 90.
SETTLEMENTS: BENEFICIARIES	
.....	

VALID FROM 25/07/1991	
SCHEDULE 18	Section 91.
SETTLEMENTS: BENEFICIARIES (MISCELLANEOUS)	
.....	

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VALID FROM 20/03/1991

SCHEDULE 19

Section 123.

REPEALS

**Commencement Information**

**I15** Sch. 19 partly in force at 1.12.1988 due to commencement of Part VI

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