



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### [<sup>F1</sup>PART 1

#### CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

### [<sup>F1</sup>CHAPTER 1

#### CAPITAL GAINS TAX

##### Textual Amendments

- F1** Pt. 1 substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), [Sch. 1 para. 2](#)

#### *Charge to capital gains tax*

### **1 Capital gains tax**

- (1) Capital gains tax is charged for a tax year on chargeable gains accruing in the year to a person on the disposal of assets.
- (2) As a result of section 4 of CTA 2009, capital gains tax is not charged on gains accruing to a company, but corporation tax is chargeable instead in accordance with—
  - (a) section 2 of CTA 2009,
  - (b) Chapter 2 of this Part, and
  - (c) other relevant provisions of the Corporation Tax Acts.
- (3) Capital gains tax is charged on the total amount of chargeable gains accruing to a person in a tax year after deducting—
  - (a) any allowable losses accruing to the person in the tax year, and

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- (b) so far as not previously deducted under this subsection, any allowable losses accruing to the person in any previous tax year.

### *Territorial scope of charge*

#### **1A Territorial scope**

- (1) A person who is UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of assets wherever situated.
- (2) In the case of individuals who are UK resident for a tax year, see also—
  - (a) Schedule 1 (foreign gains accruing to individuals to whom the remittance basis applies),
  - (b) section 1G (cases where the tax year is a split year),
  - (c) sections 1M and 1N (temporary periods of non-residence),
  - (d) Chapter 3 (gains of non-UK resident close companies attributed to individuals), and
  - (e) sections 86, 87, 87K, 87L and 89(2) (gains of non-UK resident trustees attributed to individuals).
- (3) A person who is not UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of—
  - (a) assets situated in the United Kingdom that have a relevant connection to the person's UK branch or agency and are disposed of at a time when the person has that branch or agency (see section 1B),
  - (b) assets not within paragraph (a) that are interests in UK land (see section 1C), and
  - (c) assets (wherever situated) not within paragraph (a) or (b) that derive at least 75% of their value from UK land where the person has a substantial indirect interest in that land (see section 1D and Schedule 1A).
- (4) For the purposes of this Chapter a person is “UK resident” for a tax year if the person is resident in the United Kingdom during any part of the tax year.
- (5) For the relevant residence rules—
  - (a) in the case of individuals, see Schedule 45 to the Finance Act 2013 (which provides that individuals meeting the applicable tests for a tax year are taken to be resident for the whole of the year),
  - (b) in the case of the personal representatives of deceased individuals, see section 62(3), and
  - (c) in the case of trustees of settlements, see section 69.

#### **1B Non-UK residents: UK branch or agency**

- (1) For the purposes of section 1A(3)(a) a person has a UK branch or agency at any time if, at that time, the person carries on a trade, profession or vocation in the United Kingdom through a branch or agency there.
- (2) For the purposes of section 1A(3)(a) an asset has a relevant connection to a person's UK branch or agency if—

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- (a) it is, or was, used in or for the purposes of the trade, profession or vocation at or before the time of the disposal,
  - (b) it is, or was, used or held for the purposes of the branch or agency at or before that time, or
  - (c) it is acquired for use by or for the purposes of the branch or agency.
- (3) Section 1A(3)(a) does not apply to a person who, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from income tax for the tax year in respect of the profits or gains of the branch or agency.
- (4) In the case of a profession or vocation carried on by a person, an asset does not have a relevant connection to the person's UK branch or agency if—
- (a) the asset was only used in or for the purposes of the profession or vocation before 14 March 1989, or
  - (b) the asset was only used or held for the purposes of the branch or agency before that date.
- (5) In this Act, unless the context otherwise requires, “branch or agency”—
- (a) means any factorship, agency, receivership, branch or management, but
  - (b) does not include any person within any of the exemptions under sections 835G to 835K of ITA 2007 (persons who are not UK representatives).

## **1C Non-UK residents: disposing of an “interest in UK land”**

- (1) For the purposes of section 1A(3)(b) an “interest in UK land” means—
- (a) an estate, interest, right or power in or over land in the United Kingdom, or
  - (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land in the United Kingdom, other than an excluded interest.
- (2) The following interests are “excluded interests”—
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
  - (b) a licence to use or occupy land,
  - (c) in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and
  - (d) such other descriptions of interest or right in relation to land in the United Kingdom as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within subsection (2)(a) if it is—
- (a) a rentcharge, or
  - (b) in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.
- (4) The grant of an option by a person binding the person to dispose of an interest in UK land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in UK land by the person for the purposes of section 1A(3)(b).
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In this section—

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“franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and

“land” includes—

- (a) buildings and structures, and
- (b) land under the sea or otherwise covered by water.

#### **1D Non-UK residents: assets deriving 75% of value from UK land etc**

- (1) For the purposes of section 1A(3)(c) the following questions are determined in accordance with the provision made by Schedule 1A—
  - (a) whether the asset being disposed of derives at least 75% of its value from UK land, and
  - (b) whether the person making the disposal has a substantial indirect interest in the UK land at the time of the disposal.
- (2) The provision made by Schedule 1A is not to be taken as affecting the meaning of “substantial” in other contexts.

#### *Deduction of allowable losses*

#### **1E Losses deductible only when within scope of tax etc**

- (1) A loss is not an allowable loss if it accrues in a tax year at a time when, had a gain accrued instead, the gain would not have been chargeable to capital gains tax under this Act for the tax year (and see also sections 16(2) and 16A).
- (2) In addition, the only allowable losses that qualify for deduction from chargeable gains under section 1A(3) (non-UK residents) are those accruing to the person on disposals of assets within that subsection.
- (3) An allowable loss counts for the purposes of subsection (2) even if it accrues in a tax year in which the person was UK resident.
- (4) No allowable losses may be deducted from chargeable gains treated as accruing to an individual as a result of section 87, 87K, 87L or 89(2) (read, where appropriate, with section 1M).
- (5) If—
  - (a) amounts (or elements of amounts) treated as accruing to an individual as a result of section 86 relate to different settlements, and
  - (b) the deduction of allowable losses does not reduce the amounts or elements to nil,
 the deduction applicable to each amount is the proportion that the amount concerned bears to the total of the amounts.
- (6) The deduction of allowable losses also has effect subject to Schedule 1 (UK resident individuals not domiciled in UK).
- (7) For the only case in which an allowable loss accruing in a tax year may be carried back to an earlier tax year, see section 62 (death).

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## **1F Allowable losses to be used in most beneficial way etc**

- (1) Allowable losses may (subject to express provision to the contrary) be deducted from gains in whichever way is most beneficial to a person chargeable to capital gains tax.
- (2) Accordingly, an allowable loss may be deducted from a chargeable gain irrespective of the rate of tax at which the gain would otherwise have been charged.
- (3) Allowable losses that are deducted from gains may not be deducted any further than is necessary to eliminate the gains.
- (4) No part of an allowable loss may be relieved under this Act more than once.
- (5) So far as an amount has been relieved under the Income Tax Acts, it may not be further relieved under this Act.

*UK resident individuals with split tax years*

## **1G Gains accruing to UK resident individuals in split years**

- (1) If, as respects any individual, a tax year is a split year, sections 1A(1) and 1E have effect subject to the modifications made by this section.
- (2) Gains accruing to the individual in the overseas part of the tax year are chargeable to capital gains tax only if they accrue on the disposal of assets within section 1A(3).
- (3) Losses are deductible from gains accruing to the individual in the overseas part of the tax year on the disposal of assets within section 1A(3)(b) or (c) only if the losses accrue to the individual on the disposal of—
  - (a) assets that are within section 1A(3)(b) or (c), or
  - (b) assets that would be within section 1A(3)(b) or (c) if they did not have a relevant connection to the individual's UK branch or agency.
- (4) But losses accruing in the overseas part of the tax year on disposals of assets within section 1A(3)(b) or (c) are (so far as not deducted as mentioned in subsection (3)) deductible from gains accruing in the UK part of the tax year.

*Rates of CGT*

## **1H The main rates of CGT**

- (1) This section makes provision about the rates at which capital gains tax is charged but has effect subject to—
  - (a) section 169N (<sup>F2</sup>business asset disposal relief): rate of 10%, and
  - (b) section 169VC (investors' relief: rate of 10%).
- (2) Chargeable gains accruing in a tax year to an individual that are—
  - (a) residential property gains (see Schedule 1B), or
  - (b) carried interest gains (see subsections (9) to (11)),are charged to capital gains tax at a rate of 18% or 28%.
- (3) Other chargeable gains accruing in a tax year to an individual are charged to capital gains tax at a rate of 10% or 20%.

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- (4) The question as to which of the rates applies to the gains concerned is determined by section 1I (income taxed at higher rates or gains exceeding unused basic rate band).
- (5) Chargeable gains accruing in a tax year to the personal representatives of a deceased individual that are—
- (a) residential property gains, or
  - (b) carried interest gains,
- are charged to capital gains tax at a rate of 28%.
- (6) Other chargeable gains accruing in a tax year to the personal representatives of a deceased individual are charged to capital gains tax at a rate of 20%.
- (7) Residential property gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 28%.
- (8) Other chargeable gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 20%.
- (9) For the purposes of this section chargeable gains are “carried interest gains” if they accrue to an individual (“X”)—
- (a) under section 103KA(2) or (3) (investment management services),<sup>F3</sup>...  
 [ under section 103KFA(3) (gains on deemed carried interest where election  
<sup>F4</sup>(aa) made), or]
  - (b) as a result of carried interest arising to X under arrangements not involving a partnership under which X performs investment management services directly or indirectly in respect of an investment scheme.
- (10) A gain is not a carried interest gain under subsection (9)(b) if the carried interest constitutes a co-investment repayment or return.
- (11) Expressions used in subsection (9) or (10) have the same meaning as they have in Chapter 5 of Part 3.

#### Textual Amendments

- F2** Words in Act substituted (with effect for the tax year 2020-21 and subsequent tax years) by [Finance Act 2020 \(c. 14\), Sch. 3 paras. 7\(2\)\(a\), 8](#) (with [Sch. 3 para. 7\(3\)](#))
- F3** Word in [s. 1H\(9\)\(a\)](#) omitted (11.7.2023) (with effect for the tax year 2022-23 and subsequent tax years) by virtue of [Finance \(No. 2\) Act 2023 \(c. 30\), s. 42\(3\)\(a\)\(4\)](#)
- F4** [S. 1H\(9\)\(aa\)](#) inserted (with effect for the tax year 2022-23 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\), s. 42\(3\)\(b\)\(4\)](#)

## 11 Income taxed at higher rates or gains exceeding unused basic rate band

- (1) If any of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged—
- (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (2) If—

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- (a) none of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, but
  - (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,  
the excess (“the higher rate excess”) is charged at the rate of 28%(so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).
- (3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).
- (4) If—
  - (a) the gains consist of or include gains (“entrepreneur or investor gains”) chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
  - (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band,  
that unused part is used fully against those gains.
- (5) The effect of so doing is that other gains comprised in the higher rate excess are then charged—
  - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band—
  - (a) so much of that unused part as is equal to that total amount is used against those gains, and
  - (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.
- (7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to—
  - (a) any residential property gains or carried interest gains, or
  - (b) any other gains.
- (8) The effect of the allocation is that the gains to which the allocation is made are charged—
  - (a) at the rate of 18%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 10% (if they are other kinds of gains).
- (9) Any gains to which no allocation is made are charged—
  - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).

## **1J Section 1I: definitions and other supplementary provision**

- (1) For the purposes of section 1I—
  - a “higher income tax rate” means—
    - (a) the higher rate or the default higher rate,

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- (b) the savings higher rate, or
  - (c) the dividend upper rate, and
  - “the unused part of the individual's basic rate band” means the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (2) If an individual is entitled to relief for a tax year under section 539 of ITTOIA 2005 (contracts for life insurance) by reference to the amount of a deficiency, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of the deficiency.
- (3) If, as a result of section 669(1) and (2) of ITTOIA 2005 (inheritance tax on accrued income), there is a reduction in the residuary income of an estate for a tax year that reduces an individual's income by any amount, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of that reduction in the individual's income.
- (4) If an individual has life insurance gains for a tax year, the individual's Step 3 income for the tax year is treated for the purposes of this section as if the amount of those gains were limited to—
- (a) the annual equivalent within the meaning of section 536(1) of ITTOIA 2005, or
  - (b) the total annual equivalent within the meaning of section 537 of that Act, as the case may be.
- (5) If—
- (a) an individual has life insurance gains for a tax year,
  - (b) relief is given under section 535 of ITTOIA 2005 for the tax year, and
  - (c) the calculation under section 536(1) or 537 of that Act for the tax year does not involve the higher rate,
- the individual is treated for the purposes of section 11 as if none of the individual's income were chargeable to income tax at the higher rate, the default higher rate or the dividend upper rate.
- (6) In the application of section 11 in the case of any individual it is to be assumed that the individual is not a Scottish or Welsh taxpayer.
- (7) In this section—
- “the individual's Step 3 income” means so much of the individual's total income for the tax year as is left after taking Step 3 under section 23 of ITA 2007 (income tax liability calculation), and
  - “life insurance gains”, in relation to an individual, means the amount or amounts treated as the individual's income as a result of section 465 of ITTOIA 2005 (gains from contracts for life insurance).
- (8) Expressions used in this section which have a meaning when used in the Income Tax Acts have the same meaning in this section.



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### *Annual exempt amount*

#### **1K Annual exempt amount**

- (1) If an individual is (or, apart from this section, would be) chargeable to capital gains tax for a tax year on chargeable gains, the annual exempt amount for the year is to be deducted from those gains (but no further than necessary to eliminate them).
- (2) The annual exempt amount for a tax year is [<sup>F5</sup>£6,000].
- (3) The annual exempt amount may not be deducted from chargeable gains to which paragraph 2 of Schedule 1 applies (foreign gains of non-UK domiciled individuals accruing in one year and remitted in later year).
- (4) The deduction of the annual exempt amount—
  - (a) is made after the deduction of allowable losses accruing in the tax year, but
  - (b) is made before the deduction of allowable losses accruing in a previous tax year or, if section 62 applies, in a subsequent tax year.
- (5) The annual exempt amount may be deducted from gains in whatever way is most beneficial to a person chargeable to capital gains tax (irrespective of the rate of tax at which the gains would otherwise have been charged).
- (6) An individual is not entitled to an annual exempt amount for a tax year if section 809B of ITA 2007 (claim for remittance basis) applies to the individual for the year.
- (7) For the tax year in which an individual dies and for the next two tax years, this section applies to the individual's personal representatives as if references to the individual were to those personal representatives.
- (8) This section applies in relation to trustees in accordance with the provision made by Schedule 1C.

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#### **Textual Amendments**

**F5** Sum in s. 1K(2) substituted (for the tax year 2023-24) by [Finance Act 2023 \(c. 1\), s. 8\(2\)\(3\)](#)

#### **<sup>F6</sup>1L Increasing annual exempt amount to reflect increases in CPI**

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#### **Textual Amendments**

**F6** [S. 1L](#) omitted (for the tax year 2023-24 and subsequent tax years) by virtue of [Finance Act 2023 \(c. 1\), s. 8\(6\)\(9\)](#)

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

**C1** [S. 1L](#) excluded (6.4.2021 for the tax years 2021-22, 2022-23, 2023-24, 2024-25 and 2025-26) by [Finance Act 2021 \(c. 26\), s. 40](#)

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### *Temporary periods of non-residence*

#### **1M Temporary non-residents**

- (1) If, in the case of the disposal of an asset by an individual who is temporarily non-resident—
- (a) a gain or loss accrues to the individual in the temporary period of non-residence, and
  - (b) the asset is not excluded from this subsection by section 1N (certain assets acquired in that period),
- the gain or loss is treated instead as accruing to the individual in the period of return.
- (2) If—
- (a) a gain is, as a result of subsection (1), treated as accruing to an individual in a tax year for which the remittance basis applies to the individual,
  - (b) the tax year consists of or includes the period of return, and
  - (c) the gain was remitted to the United Kingdom in the temporary period of non-residence,
- the gain is treated instead as remitted to the United Kingdom in the period of return.
- (3) If—
- (a) an individual is temporarily non-resident, and
  - (b) a gain would, as a result of section 86, have accrued to the individual in a tax year falling wholly or partly in the temporary period of non-residence if the individual had been resident in the United Kingdom for that year,
- the gain is treated instead as accruing to the individual in the period of return (but see also section 86A).
- (4) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (5) Nothing in this section is to affect a gain or loss which, apart from this section, would be chargeable to capital gains tax or would be an allowable loss.
- (6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—
- “the period of return”
  - “temporarily non-resident”
  - “the temporary period of non-residence”.
- (7) In this section the reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

#### **1N Section 1M(1): assets acquired in temporary period of non-residence**

- (1) An asset is excluded from section 1M(1) if—
- (a) it was acquired by the individual in the temporary period of non-residence,
  - (b) the acquisition was otherwise than by means of a disqualifying no gain/no loss disposal,

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- (c) there is no reduction in the consideration for the acquisition under section 23(4)(b) or (5)(b), 152(1)(b), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b) by reference to a UK resident disposal, and
  - (d) the asset is not an interest created by or arising under a settlement.
- (2) This exclusion does not apply in the case of an asset (“the new asset”) if—
- (a) on a disposal of the new asset a gain or loss is treated as a result of 116(10) or (11), 134 or 154(2) or (4) as accruing (ignoring section 1M),
  - (b) the gain or loss is calculated by reference to another asset (“the old asset”), and
  - (c) the new asset is one that meets the conditions for exclusion but the old asset does not.
- (3) For the purposes of this section “a UK resident disposal” means a disposal by a person (“P”) of an asset which was acquired by P at a time when—
- (a) P was resident in the United Kingdom, and
  - (b) P was not Treaty non-resident.
- (4) For the purposes of this section “a disqualifying no gain/no loss disposal” means a UK resident disposal to which section 58, 73 or 258(4) applies.

#### *Interpretation*

### **10 Definitions used in Chapter**

In this Chapter any reference to a person who is, or is not, “UK resident” is to be read in accordance with section 1A(4).]

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

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

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

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)