

## SCHEDULES

### SCHEDULE 1

Section 3.

#### APPLICATION OF EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

- 1 (1) For any year of assessment during the whole or part of which settled property is held on trusts which secure that, during the lifetime of a mentally disabled person or a person in receipt of attendance allowance or of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—
- (a) not less than half of the property which is applied is applied for the benefit of that person, and
  - (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person,
- section 3(1) to (6) shall apply to the trustees of the settlement as they apply to an individual.
- (2) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement); and the reference in that sub-paragraph to the lifetime of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.
- (3) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 3 to the exempt amount for the year there were substituted references to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing the exempt amount for the year by the number of settlements in the group.
- (4) For the purposes of sub-paragraph (3) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (5) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-paragraph (3) above shall apply to it as if the number by which the exempt amount for the year is to be divided were the number of settlements in the largest group.
- (6) In this paragraph—
- “mentally disabled person” means a person who by reason of mental disorder within the meaning of the Mental Health Act 1983 is incapable of administering his property or managing his affairs;

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“attendance allowance” means an allowance under section 64 of the Social Security Contributions and Benefits Act 1992 or section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“disability living allowance” means a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

“settlor” and “excluded settlement” have the same meanings as in paragraph 2 below.

- (7) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.
- 2 (1) For any year of assessment during the whole or part of which any property is settled property, not being a year of assessment for which paragraph 1(1) above applies, section 3(1) to (6) shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.
- (2) In subsections (1) and (5) for “the exempt amount for the year” there shall be substituted “one-half of the exempt amount for the year”.
- (3) Section 3(6) shall apply only to the trustees of a settlement made before 7th June 1978 and, in relation to such trustees, shall have effect with the substitution for “the exempt amount for the year” and “twice the exempt amount for the year” of “one-half of the exempt amount for the year” and “the exempt amount for the year” respectively.
- (4) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, sub-paragraph (2) above shall have effect as if for the reference to one-half of the exempt amount for the year there were substituted a reference to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing one-half of the exempt amount for the year by the number of settlements in the group.
- (5) For the purposes of sub-paragraph (4) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made after 6th June 1978 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (6) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-paragraph (4) above shall apply to it as if the number by which one-half of the exempt amount for the year is to be divided were the number of settlements in the largest group.
- (7) In this paragraph “settlor” has the meaning given by section 681(4) of the Taxes Act and includes, in the case of a settlement arising under a will or intestacy, the testator or intestate and “excluded settlement” means—
- (a) any settlement the trustees of which are not for the whole or any part of the year of assessment treated under section 69(1) as resident and ordinarily resident in the United Kingdom; and
  - (b) any settlement the property comprised in which—

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- (i) is held for charitable purposes only and cannot become applicable for other purposes; or
  - (ii) is held for the purposes of any such scheme or fund as is mentioned in sub-paragraph (8) below.
- (8) The schemes and funds referred to in sub-paragraph (7)(b)(ii) above are funds to which section 615(3) of the Taxes Act applies, schemes and funds approved under section 620 or 621 of that Act, sponsored superannuation schemes as defined in section 624 of that Act and exempt approved schemes and statutory schemes as defined in Chapter I of Part XIV of that Act.
- (9) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.

## SCHEDULE 2

Section 35.

### ASSETS HELD ON 6TH APRIL 1965

#### PART I

##### QUOTED SECURITIES

###### *Deemed acquisition at 6th April 1965 value*

- 1 (1) This paragraph applies—
- (a) to shares and securities which on 6th April 1965 had quoted market values on a recognised stock exchange, or which had such quoted market values at any time in the period of 6 years ending on 6th April 1965, and
  - (b) to rights of unit holders in any unit trust scheme the prices of which are published regularly by the managers of the scheme.
- (2) For the purposes of this Act it shall be assumed, wherever relevant, that any assets to which this paragraph applies were sold by the owner, and immediately reacquired by him, at their market value on 6th April 1965.
- (3) This paragraph shall not apply in relation to a disposal of shares or securities of a company by a person to whom those shares or securities were issued as an employee either of the company or of some other person on terms which restrict his rights to dispose of them.

###### *Restriction of gain or loss by reference to actual cost*

- 2 (1) Subject to paragraph 4 below and section 109(4), paragraph 1(2) above shall not apply in relation to a disposal of assets—
- (a) if on the assumption in paragraph 1(2) a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue if paragraph 1(2) did not apply, or
  - (b) if on the assumption in paragraph 1(2) a loss would so accrue and either a smaller loss or a gain would accrue if paragraph 1(2) did not apply,

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and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the preceding provisions of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately reacquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

- (2) For the purpose of—
- (a) identifying shares or securities held on 6th April 1965 with shares or securities previously acquired, and
  - (b) identifying the shares or securities held on that date with shares or securities subsequently disposed of, and distinguishing them from shares or securities acquired subsequently,

so far as that identification is needed for the purposes of sub-paragraph (1) above, and so far as the shares or securities are of the same class, shares or securities acquired at a later time shall be deemed to be disposed of before shares or securities acquired at an earlier time.

- (3) Sub-paragraph (2) above has effect subject to section 105.

- 3 (1) Where—
- (a) a disposal was made out of quoted securities before 20th March 1968, and
  - (b) by virtue of paragraph 2 of Schedule 7 to the Finance Act 1965 some of the quoted securities out of which the disposal was made were acquired before 6th April 1965 and some later,

then in computing the gain accruing on any disposal of quoted securities the question of what remained undisposed of on the earlier disposal shall be decided on the footing that paragraph 2 of that Schedule did not apply as respects that earlier disposal.

- (2) The rules of identification in paragraph 2(2) above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

#### *Election for pooling*

- 4 (1) This paragraph applies in relation to quoted securities as respects which an election under paragraphs 4 to 7 of Schedule 5 to the 1979 Act had not been made before the operative date, within the meaning of Part II of Schedule 13 to the Finance Act 1982, (so that they do not constitute a 1982 holding within the meaning of section 109), but does not apply in relation to relevant securities within the meaning of section 108.
- (2) If a person so elects, quoted securities covered by the election shall be excluded from paragraph 2 above, so that paragraph 1(2) above is not excluded by that paragraph as respects those securities, and sub-paragraphs (3) to (7) (which re-enact section 65 of the 1979 Act) apply.
- (3) Subject to section 105, any number of quoted securities of the same class held by one person in one capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset (in this paragraph referred to as a holding) growing or diminishing on the occasions on which additional securities of the class in question are acquired, or some of the securities of the class in question are disposed of.
- (4) Without prejudice to the generality of sub-paragraph (3) above, a disposal of quoted securities in a holding, other than the disposal outright of the entire holding, is a

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

- (5) Securities shall not be treated for the purposes of this paragraph as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange, but shall be treated in accordance with this paragraph notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.
- (6) This paragraph shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
- (7) Nothing in this paragraph shall be taken as affecting the manner in which the market value of any asset is to be ascertained.
- (8) An election made by any person under this paragraph shall be as respects all disposals made by him at any time, including disposals made before the election but after 19th March 1968—
- (a) of quoted securities of kinds other than fixed-interest securities and preference shares, or
  - (b) of fixed-interest securities and preference shares,
- and references to the quoted securities covered by an election shall be construed accordingly.

Any person may make both of the elections.

- (9) An election under this paragraph shall not cover quoted securities which the holder acquired on a disposal after 19th March 1968 in relation to which either section 58 or 171(1) applies, but this paragraph shall apply to the quoted securities so held if the person who made the original disposal (that is to say the wife or husband of the holder, or the other member of the group of companies) makes an election covering quoted securities of the kind in question.

For the purpose of identifying quoted securities disposed of by the holder with quoted securities acquired by him on a disposal in relation to which either section 58 or 171(1) applies, so far as they are of the same class, quoted securities acquired at an earlier time shall be deemed to be disposed of before quoted securities acquired at a later time.

- (10) For the avoidance of doubt it is hereby declared—
- (a) that where a person makes an election under this paragraph as respects quoted securities which he holds in one capacity, that election does not cover quoted securities which he holds in another capacity, and
  - (b) that an election under this paragraph is irrevocable.
- (11) An election under this paragraph shall be made by notice to the inspector not later than the expiration of 2 years from the end of the year of assessment or accounting period of a company in which the first relevant disposal is made, or such further time as the Board may allow.

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- (12) Subject to paragraph 5 below, in this paragraph the “first relevant disposal”, in relation to each of the elections referred to in sub-paragraph (8) of this paragraph, means the first disposal after 19th March 1968 by the person making the election of quoted securities of the kind covered by that election.
- (13) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

*Election by principal company of group*

- 5 (1) In the case of companies which at the relevant time are members of a group of companies—
- (a) an election under paragraph 4 above by the company which at that time is the principal company of the group shall have effect also as an election by any other company which at that time is a member of the group, and
  - (b) no election under that paragraph may be made by any other company which at that time is a member of the group.
- (2) In this paragraph “the relevant time”, in relation to a group of companies, and in relation to each of the elections referred to in paragraph 4(8) above, is the first occasion after 19th March 1968 when any company which is then a member of a group disposes of quoted securities of a kind covered by that election, and for the purposes of paragraph 4(11) above that occasion is, in relation to the group, “the first relevant disposal”.
- (3) This paragraph shall not apply in relation to quoted securities of either kind referred to in paragraph 4(8) above which are owned by a company which, in some period after 19th March 1968 and before the relevant time, was not a member of the group if in that period it had made an election under paragraph 4 above in relation to securities of that kind (or was treated by virtue of this paragraph, in relation to another group, as having done so), or had made a disposal of quoted securities of that kind and did not make an election within the time limited by paragraph 4(11) above.
- (4) This paragraph shall apply notwithstanding that a company ceases to be a member of the group at any time after the relevant time.
- (5) In this paragraph “company” and “group” shall be construed in accordance with section 170(2) to (9).

*Pooling at value on 6th April 1965: exchange of securities etc.*

- 6 (1) Where a person who has made only one of the elections under paragraph 4 above disposes of quoted securities which, in accordance with Chapter II of Part IV, are to be regarded as being or forming part of a new holding, the election shall apply according to the nature of the quoted securities disposed of, notwithstanding that under that Chapter the new holding is to be regarded as the same asset as the original holding and that the election would apply differently to the original holding.
- (2) Where the election does not cover the disposal out of the new holding but does cover quoted securities of the kind comprised in the original holding, then in computing the gain accruing on the disposal out of the new holding (in accordance with paragraph 3 above) the question of what remained undisposed of on any disposal out of the

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original holding shall be decided on the footing that paragraph 3 above applied to that earlier disposal.

- (3) In the converse case (that is to say, where the election covers the disposal out of the new holding, but does not cover quoted securities of the kind comprised in the original holding) the question of how much of the new holding derives from quoted securities held on 6th April 1965 and how much derives from other quoted securities, shall be decided as it is decided for the purposes of paragraph 3 above.

#### *Underwriters*

- 7 No election under paragraph 4 above shall cover quoted securities comprised in any underwriter's premiums trust fund, or premiums trust fund deposits, or personal reserves, being securities comprised in funds to which section 206 applies.

#### *Interpretation of paragraphs 3 to 7*

- 8 (1) In paragraphs 3 to 7 above—  
“quoted securities” means assets to which paragraph 1 above applies,  
“fixed interest security” means any security as defined by section 132,  
“preference share” means any share the holder whereof has a right to a dividend at a fixed rate, but has no other right to share in the profits of the company.
- (2) If and so far as the question whether at any particular time a share was a preference share depends on the rate of dividends payable on or before 5th April 1973, the reference in the definition of “preference share” in sub-paragraph (1) above to a dividend at a fixed rate includes a dividend at a rate fluctuating in accordance with the standard rate of income tax.

## **PART II**

### LAND REFLECTING DEVELOPMENT VALUE

- 9 (1) Subject to paragraph 17(2) of Schedule 11, this Part of this Schedule shall apply in relation to a disposal of an asset which is an interest in land situated in the United Kingdom—
- (a) if, but for this paragraph, the expenditure allowable as a deduction in computing the gain accruing on the disposal would include any expenditure incurred before 6th April 1965, and
- (b) if the consideration for the asset acquired on the disposal exceeds the current use value of the asset at the time of the disposal, or if any material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the asset.
- (2) For the purposes of this Act, it shall be assumed that, in relation to the disposal and, if it is a part disposal, in relation to any subsequent disposal of the asset which is an interest in land situated in the United Kingdom, that asset was sold by the person making the disposal, and immediately reacquired by him, at its market value on 6th April 1965.
- (3) Sub-paragraph (2) above shall apply also in relation to any prior part disposal of the asset and, if tax has been charged, or relief allowed, by reference to that part

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disposal on a different footing, all such adjustments shall be made, whether by way of assessment or discharge or repayment of tax, as are required to give effect to the provisions of this sub-paragraph.

- (4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—
- (a) on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of this Act) if it did not apply, or
  - (b) if on the assumption in sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if that sub-paragraph did not apply,
- and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately reacquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.
- (5) For the purposes of this Part of this Schedule—
- (a) “interest in land” means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other’s ability to grant the estate, interest or right in question, except that it does not include the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land, or, in Scotland, the interest of a creditor in a charge or security of any kind over land; and
  - (b) “land” includes buildings.
- 10 (1) For the purposes of this Part of this Schedule, the current use value of an interest in land shall be ascertained in accordance with the following provisions of this Part, and in this Part the time as at which current use value is to be ascertained is referred to as “the relevant time”.
- (2) Subject to the following provisions of this Part of this Schedule, the current use value of an interest in land at the relevant time is the market value of that interest at that time calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land other than any material development thereof which, being authorised by planning permission in force at that time, was begun before that time.
- In relation to any material development which was begun before 18th December 1973 this sub-paragraph shall have effect with the omission of the words from “other than” to “before that time”.
- (3) In this paragraph “planning permission” has the same meaning as in the Town and Country Planning Act 1990, or, in Scotland, the Town and Country Planning (Scotland) Act 1972, or, in Northern Ireland, the Planning (Northern Ireland) Order 1991, and in determining for the purposes of this paragraph what material development of any land was authorised by planning permission at a time when there was in force in respect of the land planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters), any such development of the land which at that time—



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- (a) was authorised by that permission without any requirement as to subsequent approval; or
    - (b) not being so authorised, had been approved in the manner applicable to that planning permission,but no other material development, shall for those purposes be taken to have been authorised by that permission at that time.
  - (4) Where the value to be ascertained is the current use value of an interest in land which has been disposed of by way of a part disposal of an asset (“the relevant asset”) consisting of an interest in land, the current use value at the relevant time of the interest disposed of shall be the relevant fraction of the current use value of the relevant asset at that time, calculated on the same assumptions as to the lawfulness or otherwise of any material development as fall to be made under this Part in calculating the current use value at that time of the interest disposed of.
  - (5) For the purposes of sub-paragraph (4) above “the relevant fraction” means that fraction of the sums mentioned in paragraph (6) below which under subsection (2) of section 42 is, or would but for subsection (4) of that section be, allowable as a deduction in computing the amount of the gain accruing on the part disposal.
  - (6) The sums referred to in sub-paragraph (5) above are the sums which, if the entire relevant asset had been disposed of at the time of the part disposal, would be allowable by virtue of section 38(1)(a) and (b) as a deduction in computing the gain accruing on that disposal of the relevant asset.
  - (7) Sub-paragraphs (4) to (6) above shall not apply—
    - (a) in the case of a disposal of an interest in land by way of a part disposal if, on making the disposal, the person doing so no longer has any interest in the land which is subject to that interest; or
    - (b) in a case to which the following provisions of this paragraph apply.
  - (8) In computing any gain accruing to a person on a part disposal of an interest in land resulting under subsection (1) of section 22 from the receipt as mentioned in paragraph (a), (c) or (d) of that subsection of a capital sum, the current use value at the relevant time of the interest out of which the part disposal was made shall be taken to be what it would have been at that time if the circumstances which caused the capital sum to be received had not arisen.
- 11 (1) The current use value of an interest in land which is either—
- (a) a freehold interest which is subject to a lease or an agreement for a lease, or
  - (b) an interest under a lease or agreement for a lease,
- shall be ascertained without regard to any premium required under the lease or agreement for a lease or any sublease, or otherwise under the terms subject to which the lease or sublease was or is to be granted, but with regard to all other rights under the lease or prospective lease (and, for the current use value of an interest under a lease subject to a sublease, under the sublease).
- (2) If under sub-paragraph (1) above an interest under a lease or agreement for a lease would have a negative value, the current use value of the interest shall be nil.
  - (3) If a lease is granted out of any interest in land after 17th December 1973, then, in computing any gain accruing on any disposal of the reversion on the lease made while the lease subsists, the current use value of the reversion at any time after the grant of the lease shall not exceed what would have been at that time the current use

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value of the interest in the land of the person then owning the reversion if that interest had not been subject to the lease.

- (4) In the application of this paragraph to Scotland, “freehold” means the estate or interest of the proprietor of the dominium utile or, in the case of property other than feudal property, of the owner, and “reversion” means the interest of the landlord in property subject to a lease.
- 12 In computing any gain accruing to a person on a disposal of a lease which is a wasting asset, the current use value of the lease at the time of its acquisition by the person making the disposal shall be the fraction—
- $$\frac{A}{B}$$
- of what its current use value at that time would be apart from this paragraph, where—
- A is equal to so much of the expenditure attributable to the lease under section 38(1)(a) and (b) as is not under paragraph 1 of Schedule 8 excluded therefrom for the purposes of the computation of the gain accruing on the disposal, and
- B is equal to the whole of the expenditure which would be so attributable to the lease for those purposes apart from the said paragraph 1.
- 13 (1) In this Part of this Schedule, “material development”, in relation to any land, means the making of any change in the state, nature or use of the land, but the doing of any of the following things in the case of any land shall not be taken to involve material development of the land, that is to say—
- (a) the carrying out of works for the maintenance, improvement, enlargement or other alteration of any building, so long as the cubic content of the original building is not exceeded by more than one-tenth;
  - (b) the carrying out of works for the rebuilding, as often as occasion may require, of any building which was in existence at the relevant time, or of any building which was in existence in the period of 10 years immediately preceding the day on which that time falls but was destroyed or demolished before the relevant time, so long as (in either case) the cubic content of the original building is not exceeded by more than one-tenth;
  - (c) the use of any land for the purposes of agriculture or forestry, the use for any of those purposes of any building occupied together with land so used, and the carrying out on any land so used of any building or other operations required for the purposes of that use;
  - (d) the carrying out of operations on land for, or the use of land for, the display of an advertisement, announcement or direction of any kind;
  - (e) the carrying out of operations for, or the use of the land for, car parking, provided that such use shall not exceed 3 years;
  - (f) in the case of a building or other land which at the relevant time was used for a purpose falling within any class specified in sub-paragraph (4) below or which, being unoccupied at that time, was last used for any such purpose, the use of that building or land for any other purpose falling within the same class;
  - (g) in the case of a building or other land which at the relevant time was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building

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- used for that purpose at the relevant time or, as the case may be, one-tenth of the area of the land so used at that time;
- (h) in the case of land which at the relevant time was being temporarily used for a purpose other than the purpose for which it was normally used, the resumption of the use of the land for the last-mentioned purpose;
  - (i) in the case of land which was unoccupied at the relevant time, the use of the land for the purpose for which it was last used before that time.

References in this paragraph to the cubic content of a building are references to that content as ascertained by external measurement.

- (2) For the purposes of sub-paragraph (1)(a) and (b)—
  - (a) where 2 or more buildings are included in a single development the whole of that development may be regarded as a single building, and where 2 or more buildings result from the redevelopment of a single building the new buildings may together be regarded as a single building, but 2 or more buildings shall not be treated as included in a single development unless they are or were comprised in the same curtilage; and
  - (b) in determining whether or not the cubic content of the original building has been exceeded by more than one-tenth, the cubic content of the building after the carrying out of the works in question shall be treated as reduced by the amount (if any) by which so much of that cubic content as is attributable to one or more of the matters mentioned in sub-paragraph (3) below exceeds so much of the cubic content of the original building as was attributable to one or more of the matters so mentioned.
- (3) The matters referred to in sub-paragraph (2)(b) are the following, that is to say—
  - (a) means of escape in case of fire;
  - (b) car-parking or garage space;
  - (c) accommodation for plant providing heating, air-conditioning or similar facilities.
- (4) The classes of purposes mentioned in sub-paragraph (1)(f) are the following—
  - Class A—Use as a dwelling-house or for the purpose of any activities which are wholly or mainly carried on otherwise than for profit, except use for a purpose falling within Class B, C or E.
  - Class B—Use as an office or retail shop.
  - Class C—Use as a hotel, boarding-house or guest-house, or as premises licensed for the sale of intoxicating liquors for consumption on the premises.
  - Class D—Use for the purpose of any activities wholly or mainly carried on for profit, except—
    - (a) use as a dwelling-house or for the purposes of agriculture or forestry; and
    - (b) use for a purpose falling within Class B, C or E.
  - Class E—Use for any of the following purposes, namely—
    - (a) the carrying on of any process for or incidental to any of the following purposes, namely—
      - (i) the making of any article or of any part of any article, or the production of any substance;

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- (ii) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolishing of any article; or
      - (iii) without prejudice to (i) or (ii) above, the getting, dressing or treatment of minerals,
    - being a process carried on in the course of a trade or business other than agriculture or forestry, but excluding any process carried on at a dwelling-house or retail shop;
    - (b) storage purposes (whether or not involving use as a warehouse or repository) other than storage purposes ancillary to a purpose falling within Class B or C.
- 14 (1) For the purposes of this Part, material development shall be taken to be begun on the earliest date on which any specified operation comprised in the material development is begun.
- (2) In this paragraph “specified operation” means any of the following, that is to say—
- (a) any work of construction in the course of the erection of a building;
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
  - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in (b) above;
  - (d) any operation in the course of laying out or constructing a road or part of a road;
  - (e) any change in the use of any land.
- (3) Subject to sub-paragraph (4) below, material development shall for the purposes of this Part of this Schedule not be treated as carried out after a particular date if it was begun on or before that date.
- (4) If, in the case of any land—
- (a) material development thereof was begun on or before 17th December 1973 but was not completed on or before that date, and
  - (b) the development was on that date to any extent not authorised by planning permission (within the meaning of paragraph 10(3) above) then in force,
- then, for the purposes of this Part of this Schedule, so much of the development carried out after that date as was not so authorised on that date shall be treated as begun on the earliest date after 17th December 1973 on which any specified operation comprised therein is begun, and shall accordingly be treated as material development of the land carried out after 17th December 1973.
- 15 In this Part of this Schedule, unless the context otherwise requires—
- “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;
- “article” means an article of any description;

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“building” includes part of a building and references to a building may include references to land occupied therewith and used for the same purposes;

“forestry” includes afforestation;

“minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;

“retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on;

“substance” means any natural or artificial substance or material, whether in solid or liquid form or in the form of a gas or vapour.

### PART III

#### OTHER ASSETS

##### *Apportionment by reference to straightline growth of gain or loss over period of ownership*

- 16 (1) This paragraph applies subject to Parts I and II of this Schedule.
- (2) On the disposal of assets by a person whose period of ownership began before 6th April 1965 only so much of any gain accruing on the disposal as is under this paragraph to be apportioned to the period beginning with 6th April 1965 shall be a chargeable gain.
- (3) Subject to the following provisions of this Schedule, the gain shall be assumed to have grown at a uniform rate from nothing at the beginning of the period of ownership to its full amount at the time of the disposal so that, calling the part of that period before 6th April 1965, P, and the time beginning with 6th April 1965 and ending with the time of the disposal T, the fraction of the gain which is a chargeable gain is—
- $$\frac{F}{P+T},$$
- (4) If any of the expenditure which is allowable as a deduction in the computation of the gain is within section 38(1)(b)—
- the gain shall be attributed to the expenditure, if any, allowable under section 38(1)(a) as one item of expenditure, and to the respective items of expenditure under section 38(1)(b) in proportion to the respective amounts of those items of expenditure,
  - sub-paragraph (3) of this paragraph shall apply to the part of the gain attributed to the expenditure under section 38(1)(a),
  - each part of the gain attributed to the items of expenditure under section 38(1)(b) shall be assumed to have grown at a uniform rate from nothing at the time when the relevant item of expenditure was first reflected in the value of the asset to the full amount of that part of the gain at the time of the disposal,

so that, calling the respective proportions of the gain E(0), E(1), E(2) and so on (so that they add up to unity) and calling the respective periods from the times when the items under section 38(1)(b) were reflected in the value of the asset to 5th April

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1965 P(1), P(2) and so on, and employing also the abbreviations in sub-paragraph (3) above, the fraction of the gain which is a chargeable gain is—

$$E(0) \frac{T}{P+T} + E(1) \frac{T}{P(1)+T} + E(2) \frac{T}{P(2)+T} \text{ and so on.}$$

and so on.

- (5) In a case within sub-paragraph (4) above where there is no initial expenditure (that is no expenditure under section 38(1)(a)) or that initial expenditure is, compared with any item of expenditure under section 38(1)(b), disproportionately small having regard to the value of the asset immediately before the subsequent item of expenditure was incurred, the part of the gain which is not attributable to the enhancement of the value of the asset due to any item of expenditure under section 38(1)(b) shall be deemed to be attributed to expenditure incurred at the beginning of the period of ownership and allowable under section 38(1)(a), and the part or parts of the gain attributable to expenditure under section 38(1)(b) shall be reduced accordingly.
- (6) The beginning of the period over which a gain, or part of a gain, is under sub-paragraphs (3) and (4) above to be treated as growing shall not be earlier than 6th April 1945, and this sub-paragraph shall have effect notwithstanding any provision in this Schedule or elsewhere in this Act.
- (7) If in pursuance of section 42 an asset's market value at a date before 6th April 1965 is to be ascertained, sub-paragraphs (3) to (5) above shall have effect as if that asset had been on that date sold by the owner, and immediately reacquired by him, at that market value.
- (8) If in pursuance of section 42 an asset's market value at a date on or after 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if—
- (a) the asset on that date had been sold by the owner, and immediately reacquired by him, at that market value, and
  - (b) accordingly, the computation of any gain on a subsequent disposal of that asset shall be computed—
    - (i) by apportioning in accordance with this paragraph the gain or loss over a period ending on that date (the date of the part disposal), and
    - (ii) by bringing into account the entire gain or loss over the period from the date of the part disposal to the date of subsequent disposal.
- (9) For the purposes of this paragraph the period of ownership of an asset shall, where under section 43 account is to be taken of expenditure in respect of an asset from which the asset disposed of was derived, or where it would so apply if there were any relevant expenditure in respect of that other asset, include the period of ownership of that other asset.
- (10) If under this paragraph part only of a gain is a chargeable gain, the fraction in section 223(2) shall be applied to that part instead of to the whole of the gain.

*Election for valuation at 6th April 1965*

- 17 (1) If the person making a disposal so elects, paragraph 16 above shall not apply in relation to that disposal and it shall be assumed, both for the purposes of computing the gain accruing to that person on the disposal, and for all other purposes both in relation to that person and other persons, that the assets disposed of, and any assets of

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which account is to be taken in relation to the disposal under section 43, being assets which were in the ownership of that person on 6th April 1965, were on that date sold, and immediately reacquired, by him at their market value on 6th April 1965.

- (2) Sub-paragraph (1) above shall not apply in relation to a disposal of assets if on the assumption in that sub-paragraph a loss would accrue on that disposal to the person making the disposal and either a smaller loss or a gain would accrue if sub-paragraph (1) did not apply, but in a case where this sub-paragraph would otherwise substitute a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately reacquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

The displacement of sub-paragraph (1) above by this sub-paragraph shall not be taken as bringing paragraph 16 above into operation.

- (3) An election under this paragraph shall be made by notice to the inspector given within 2 years from the end of the year of assessment or accounting period of a company in which the disposal is made or such further time as the Board may by notice allow.
- (4) For the avoidance of doubt it is hereby declared that an election under this paragraph is irrevocable.
- (5) An election may not be made under this paragraph as respects, or in relation to, an asset the market value of which at a date on or after 6th April 1965, and before the date of the disposal to which the election relates, is to be ascertained in pursuance of section 42.

*Unquoted shares, commodities etc.*

- 18 (1) This paragraph has effect as respects shares held by any person on 6th April 1965 other than quoted securities within the meaning of paragraph 8 above and shares as respects which an election is made under paragraph 17 above.
- (2) For the purpose of—
- (a) identifying the shares so held on 6th April 1965 with shares previously acquired, and
  - (b) identifying the shares so held on that date with shares subsequently disposed of, and distinguishing them from shares acquired subsequently,
- so far as the shares are of the same class, shares bought at a later time shall be deemed to have been disposed of before shares bought at an earlier time.
- (3) Sub-paragraph (2) above has effect subject to section 105.
- (4) Shares shall not be treated for the purposes of this paragraph as being of the same class unless if dealt with on a recognised stock exchange they would be so treated, but shall be treated in accordance with this paragraph notwithstanding that they are identified in a different way by a disposal or by the transfer or delivery giving effect to it.
- (5) This paragraph, without sub-paragraph (4), shall apply in relation to any assets, other than shares, which are of a nature to be dealt with without identifying the particular assets disposed of or acquired.

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*Reorganisation of share capital, conversion of securities etc.*

- 19 (1) For the purposes of this Act, it shall be assumed that any shares or securities held by a person on 6th April 1965 (identified in accordance with paragraph 18 above) which, in accordance with Chapter II of Part IV, are to be regarded as being or forming part of a new holding were sold and immediately reacquired by him on 6th April 1965 at their market value on that date.
- (2) If, at any time after 5th April 1965, a person comes to have, in accordance with Chapter II of Part IV, a new holding, paragraph 16(3) to (5) above shall have effect as if—
- (a) the new holding had at that time been sold by the owner, and immediately reacquired by him, at its market value at that time, and
  - (b) accordingly, the amount of any gain on a disposal of the new holding or any part of it shall be computed—
    - (i) by apportioning in accordance with paragraph 16 above the gain or loss over a period ending at that time, and
    - (ii) by bringing into account the entire gain or loss over the period from that time to the date of the disposal.
- (3) This paragraph shall not apply in relation to a reorganisation of a company's share capital if the new holding differs only from the original shares in being a different number, whether greater or less, of shares of the same class as the original shares.

## PART IV

### MISCELLANEOUS

#### *Capital allowances*

- 20 If under any provision in this Schedule it is to be assumed that any asset was on 6th April 1965 sold by the owner, and immediately reacquired by him, sections 41 and 47 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the owner in providing the asset, and so made for the year 1965-66 or for any subsequent year of assessment, as if it were made in respect of the expenditure which, on that assumption, was incurred by him in reacquiring the asset on 7th April 1965.

#### *Assets transferred to close companies*

- 21 (1) This paragraph has effect where—
- (a) at any time, including a time before 7th April 1965, any of the persons having control of a close company, or any person who is connected with a person having control of a close company, has transferred assets to the company, and
  - (b) paragraph 16 above applies in relation to a disposal by one of the persons having control of the company of shares or securities in the company, or in relation to a disposal by a person having, up to the time of disposal, a substantial holding of shares or securities in the company, being in either case a disposal after the transfer of the assets.
- (2) So far as the gain accruing to the said person on the disposal of the shares is attributable to a profit on the assets so transferred, the period over which the gain is



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to be treated under paragraph 16 above as growing at a uniform rate shall begin with the time when the assets were transferred to the company, and accordingly a part of a gain attributable to a profit on assets transferred on or after 6th April 1965 shall all be a chargeable gain.

- (3) This paragraph shall not apply where a loss, and not a gain, accrues on the disposal.

*Husbands and wives*

- 22 Where section 58 is applied in relation to a disposal of an asset by a man to his wife, or by a man's wife to him, then in relation to a subsequent disposal of the asset (not within that section) the one making the disposal shall be treated for the purposes of this Schedule as if the other's acquisition or provision of the asset had been his or her acquisition or provision of it.

*Compensation and insurance money*

- 23 Where section 23(4)(a) applies to exclude a gain which, in consequence of this Schedule, is not all chargeable gain, the amount of the reduction to be made under section 23(4)(b) shall be the amount of the chargeable gain and not the whole amount of the gain; and in section 23(5)(b) for the reference to the amount by which the gain is reduced under section 23(5)(a) there shall be substituted a reference to the amount by which the chargeable gain is proportionately reduced under section 23(5)(a).

SCHEDULE 3

Section 35.

ASSETS HELD ON 31ST MARCH 1982

*Previous no gain/no loss disposals*

- 1 (1) Where—
- (a) a person makes a disposal, not being a no gain/no loss disposal, of an asset which he acquired after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal,
- he shall be treated for the purposes of section 35 as having held the asset on 31st March 1982.
- (2) For the purposes of this paragraph a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues to the person making the disposal.
- 2 (1) Sub-paragraph (2) below applies where a person makes a disposal of an asset acquired by him on or after 6th April 1988 in circumstances in which section 58 or 171 applied.
- (2) Where this sub-paragraph applies—
- (a) an election under section 35(5) by the person making the disposal shall not cover the disposal, but

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- (b) the making of such an election by the person from whom the asset was acquired shall cause the disposal to fall outside subsection (3) of that section (so that subsection (2) of that section is not excluded by it) whether or not the person making the disposal makes such an election.
- (3) Where the person from whom the asset was acquired by the person making the disposal himself acquired it on or after 6th April 1988 in circumstances in which section 58 or 171 applied, an election made by him shall not have the effect described in sub-paragraph (2)(b) above but an election made by—
  - (a) the last person by whom the asset was acquired after 5th April 1988 otherwise than in such circumstances, or
  - (b) if there is no such person, the person who held the asset on 5th April 1988, shall have that effect.

*Capital allowances*

- 3      If under section 35 it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately reacquired by him, sections 41 and 47 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in reacquiring the asset on 31st March 1982.

*Part disposals etc.*

- 4      (1) Where, in relation to a disposal to which section 35(2) applies, section 42 has effect by reason of an earlier disposal made after 31st March 1982 and before 6th April 1988, the sums to be apportioned under section 42 shall for the purposes of the later disposal be ascertained on the assumption stated in section 35(2).
- (2) In any case where—
- (a) subsection (2) of section 35 applies in relation to the disposal of an asset,
  - (b) if that subsection did not apply, section 23(2), 122(4), 133(4) or 244 would operate to disallow expenditure as a deduction in computing a gain accruing on the disposal, and
  - (c) the disallowance would be attributable to the reduction of the amount of the consideration for a disposal made after 31st March 1982 but before 6th April 1988,
- the amount allowable as a deduction on the disposal shall be reduced by the amount which would be disallowed if section 35(2) did not apply.

*Assets derived from other assets*

- 5      Section 35 shall have effect with the necessary modifications in relation to a disposal of an asset which on 31st March 1982 was not itself held by the person making the disposal, if its value is derived from another asset of which account is to be taken in relation to the disposal under section 43.

*Apportionment of pre-1965 gains and losses*

- 6      In a case where because of paragraph 16 of Schedule 2 only part of a gain or loss is a chargeable gain or allowable loss, section 35(3)(a) and (b) shall have effect as

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if the amount of the gain or loss that would accrue if subsection (2) did not apply were equal to that part.

*Elections under section section 35(5): excluded disposals*

- 7 (1) An election under section 35(5) shall not cover disposals such as are specified in sub-paragraph (2) below.
- (2) The disposals mentioned in sub-paragraph (1) above are disposals of, or of an interest in—
- (a) plant or machinery,
  - (b) an asset which the person making the disposal has at any time held for the purposes of or in connection with—
    - (i) a trade consisting of the working of a source of mineral deposits, or
    - (ii) where a trade involves (but does not consist of) such working, the part of the trade which involves such working, or
  - (c) a licence under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964; or
  - (d) shares which, on 31st March 1982, were unquoted and derived their value, or the greater part of their value, directly or indirectly from oil exploration or exploitation assets situated in the United Kingdom or a designated area or from such assets and oil exploration or exploitation rights taken together;
- but a disposal does not fall within paragraph (a) or (b) above unless a capital allowance in respect of any expenditure attributable to the asset has been made to the person making the disposal or would have been made to him had he made a claim.
- (3) For the purposes of sub-paragraph (2)(d) above,—
- (a) “shares” includes stock and any security, as defined in section 254(1) of the Taxes Act; and
  - (b) shares (as so defined) were unquoted on 31st March 1982 if, on that date, they were neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market;
- but nothing in this paragraph affects the operation, in relation to such unquoted shares, of sections 126 to 130.
- (4) In sub-paragraph (2)(d) above—
- “designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964;
  - “oil exploration or exploitation assets” shall be construed in accordance with sub-paragraphs (5) and (6) below; and
  - “oil exploration or exploitation rights” means rights to assets to be produced by oil exploration or exploitation activities (as defined in sub-paragraph (6) below) or to interests in or to the benefit of such assets.
- (5) For the purposes of sub-paragraph (2)(d) above an asset is an oil exploration or exploitation asset if either—
- (a) it is not a mobile asset and is being or has at some time been used in connection with oil exploration or exploitation activities carried on in the United Kingdom or a designated area; or
  - (b) it is a mobile asset which has at some time been used in connection with oil exploration or exploitation activities so carried on and is dedicated to an oil

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field in which the company whose shares are disposed of by the disposal, or a person connected with that company, is or has been a participator;

and, subject to sub-paragraph (6) below, expressions used in paragraphs (a) and (b) above have the same meaning as if those paragraphs were included in Part I of the Oil Taxation Act 1975.

- (6) In the preceding provisions of this paragraph “oil exploration or exploitation activities” means activities carried on in connection with—
- (a) the exploration of land (including the seabed and subsoil) in the United Kingdom or a designated area, as defined in sub-paragraph (4) above, with a view to searching for or winning oil; or
  - (b) the exploitation of oil found in any such land;
- and in this sub-paragraph “oil” has the same meaning as in Part I of the Oil Taxation Act 1975.
- (7) Where the person making the disposal acquired the asset on a no gain/no loss disposal, the references in sub-paragraph (2) above to that person are references to the person making the disposal, the person who last acquired the asset otherwise than on a no gain/no loss disposal or any person who subsequently acquired the asset on such a disposal.
- (8) In this paragraph—
- (a) “source of mineral deposits” shall be construed in accordance with section 121 of the 1990 Act, and
  - (b) references to a no gain/no loss disposal shall be construed in accordance with paragraph 1 above.

*Elections under section 35(5): groups of companies*

- 8 (1) A company may not make an election under section 35(5) at a time when it is a member but not the principal company of a group unless the company did not become a member of the group until after the relevant time.
- (2) Subject to sub-paragraph (3) below, an election under section 35(5) by a company which is the principal company of a group shall have effect also as an election by any other company which at the relevant time is a member of the group.
- (3) Sub-paragraph (2) above shall not apply in relation to a company which, in some period after 5th April 1988 and before the relevant time, is not a member of the group if—
- (a) during that period the company makes a disposal to which section 35 applies, and
  - (b) the period during which an election under subsection (5) of that section could be made expires without such an election having been made.
- (4) Sub-paragraph (2) above shall apply in relation to a company notwithstanding that the company ceases to be a member of the group at any time after the relevant time except where—
- (a) the company is an outgoing company in relation to the group, and
  - (b) the election relating to the group is made after the company ceases to be a member of the group.

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- (5) In relation to a company which is the principal company of a group the reference in section 35(6) to the first relevant disposal is a reference to the first disposal to which that section applies by a company which is—
- (a) a member of the group but not an outgoing company in relation to the group, or
  - (b) an incoming company in relation to the group.
- 9 (1) In paragraph 8 above “the relevant time”, in relation to a group of companies, is—
- (a) the first time when any company which is then a member of the group, and is not an outgoing company in relation to the group, makes a disposal to which section 35 applies,
  - (b) the time immediately following the first occasion when a company which is an incoming company in relation to the group becomes a member of the group,
  - (c) the time when an election is made by the principal company,
- whichever is earliest.
- (2) In paragraph 8 above and this paragraph—
- “incoming company”, in relation to a group of companies, means a company which—
- (a) makes its first disposal to which section 35 applies at a time when it is not a member of the group, and
  - (b) becomes a member of the group before the end of the period during which an election under section 35(5) could be made in relation to it and at a time when no such election has been made, and
- “outgoing company”, in relation to a group of companies, means a company which ceases to be a member of the group before the end of the period during which an election under section 35(5) could be made in relation to it and at a time when no such election has been made.
- (3) Section 170 shall have effect for the purposes of paragraph 8 above and this paragraph as for those of sections 170 to 181.

#### SCHEDULE 4

Section 36.

#### DEFERRED CHARGES ON GAINS BEFORE 31ST MARCH 1982

##### *Reduction of deduction or gain*

- 1 Where this Schedule applies—
- (a) in a case within paragraph 2 below, the amount of the deduction referred to in that paragraph, and
  - (b) in a case within paragraph 3 or 4 below, the amount of the gain referred to in that paragraph,
- shall be one half of what it would be apart from this Schedule.

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*Charges rolled-over or held-over*

- 2 (1) Subject to sub-paragraphs (2) to (4) below, this Schedule applies on a disposal, not being a no gain/no loss disposal, of an asset if—
- (a) the person making the disposal acquired the asset after 31st March 1982,
  - (b) a deduction falls to be made by virtue of any of the enactments specified in sub-paragraph (5) below from the expenditure which is allowable in computing the amount of any gain accruing on the disposal, and
  - (c) the deduction is attributable (whether directly or indirectly and whether in whole or in part) to a chargeable gain accruing on the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) This Schedule does not apply where, by reason of the previous operation of this Schedule, the amount of the deduction is less than it otherwise would be.
- (3) 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.
- (4) Where—
- (a) the asset was acquired on or after 19th March 1991,
  - (b) the deduction is partly attributable to a claim by virtue of section 154(4), and
  - (c) the claim applies to the asset,
- this Schedule does not apply by virtue of this paragraph.
- (5) The enactments referred to in sub-paragraph (1) above are sections 23(4) and (5), 152, 162, 165 and 247 of this Act and section 79 of the Finance Act 1980.
- 3 (1) This paragraph applies where this Schedule would have applied on a disposal but for paragraph 2(4) above.
- (2) This Schedule applies on the disposal if paragraph 4 below would have applied had—
- (a) section 154(2) continued to apply to the gain carried forward as a result of the claim by virtue of section 154(4), and
  - (b) the time of the disposal been the time when that gain was treated as accruing by virtue of section 154(2).

*Postponed charges*

- 4 (1) Subject to sub-paragraphs (3) to (5) below, this Schedule applies where—
- (a) a gain is treated as accruing by virtue of any of the enactments specified in sub-paragraph (2) below, and
  - (b) that gain is attributable (whether directly or indirectly and whether in whole or in part) to the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) The enactments referred to in sub-paragraph (1) above are sections 116(10) and (11), 134, 140, 154(2), 168 (as modified by section 67(6)), 178(3), 179(3) and 248(3).
- (3) Where a gain is treated as accruing by virtue of section 178(3) or 179(3), this Schedule applies only if the asset was acquired by the chargeable company (within the meaning of section 178 or 179) before 6th April 1988.
- (4) Where a gain is treated as accruing in consequence of an event, this Schedule does not apply if—

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- (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.
- (5) None of sections 134, 140(4), 154(2) and 248(3) shall apply in consequence of an event occurring on or after 6th April 1988 if its application would be directly attributable to the disposal of an asset on or before 31st March 1982.

*Previous no gain/no loss disposals*

- 5       Where—
- (a) a person makes a disposal of an asset which he acquired on or after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset on or after 31st March 1982 was a no gain/no loss disposal,
- he shall be treated for the purposes of paragraphs 2(1)(c) and 4(1)(b) above as having acquired the asset before 31st March 1982.
- 6       (1) Sub-paragraph (2) below applies where—
- (a) a person makes a disposal of an asset which he acquired on or after 31st March 1982,
  - (b) the disposal by which he acquired the asset was a no gain/no loss disposal, and
  - (c) a deduction falling to be made as mentioned in paragraph (b) of sub-paragraph (1) of paragraph 2 above which was attributable as mentioned in paragraph (c) of that sub-paragraph was made—
    - (i) on that disposal, or
    - (ii) where one or more earlier no gain/no loss disposals of the asset have been made on or after 31st March 1982 and since the last disposal of the asset which was not a no gain/no loss disposal, on any such earlier disposal.
- (2) Where this sub-paragraph applies the deduction shall be treated for the purposes of paragraph 2 above as falling to be made on the disposal mentioned in sub-paragraph (1)(a) above and not on the no gain/no loss disposal.
- 7       For the purposes of this Schedule a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues to the person making the disposal.

*Assets derived from other assets*

- 8       The references in paragraphs 2(1)(c) and 4(1)(b) above to the disposal of an asset acquired by a person before 31st March 1982 include references to the disposal of an asset which was not acquired by the person before that date if its value is derived from another asset which was so acquired and of which account is to be taken in relation to the disposal under section 43.

*Claims*

- 9       (1) No relief shall be given under this Schedule unless a claim is made—

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- (a) in the case of a gain treated as accruing by virtue of section 178(3) or 179(3) to a company which ceases to be a member of a group, within the period of 2 years beginning at the end of the accounting period in which the company ceases to be a member of the group,
  - (b) in any other case, within the period of 2 years beginning at the end of the year of assessment or accounting period in which the disposal in question is made, or the gain in question is treated as accruing,
- or within such longer period as the Board may by notice allow.
- (2) A claim under sub-paragraph (1) above shall be supported by such particulars as the inspector may require for the purpose of establishing entitlement to relief under this Schedule and the amount of relief due.

## SCHEDULE 5

Section 86.

### ATTRIBUTION OF GAINS TO SETTLORS WITH INTEREST IN NON-RESIDENT OR DUAL RESIDENT SETTLEMENT

#### *Construction of section 86(1)(e)*

- 1 (1) In construing section 86(1)(e) as regards a particular year of assessment, the effect of sections 3 and 77 to 79 shall be ignored.
- (2) In construing section 86(1)(e) as regards a particular year of assessment—
- (a) any deductions provided for by section 2(2) shall be made in respect of disposals of any of the settled property originating from the settlor, and
  - (b) section 16(3) shall be assumed not to prevent losses accruing to trustees in one year of assessment from being allowed as a deduction from chargeable gains accruing in a later year of assessment (so far as not previously set against gains).
- (3) In a case where—
- (a) the trustees hold shares in a company which originate from the settlor, and
  - (b) under section 13 gains or losses would be treated as accruing to the trustees in a particular year of assessment by virtue of the shares if the assumption as to residence specified in section 86(3) were made,
- the gains or losses shall be taken into account in construing section 86(1)(e) as regards that year as if they had accrued by virtue of disposals of settled property originating from the settlor.
- (4) Where, as regards a particular year of assessment, there would be an amount under section 86(1)(e) (apart from this sub-paragraph) and the trustees fall within section 86(2)(b), the following rules shall apply—
- (a) assume that the references in section 86(1)(e) and sub-paragraphs (2)(a) and (3) above to settled property originating from the settlor were to such of it as constitutes protected assets;
  - (b) assume that the reference in sub-paragraph (3)(a) above to shares originating from the settlor were to such of them as constitute protected assets;
  - (c) find the amount (if any) which would be arrived at under section 86(1)(e) on those assumptions;



- (d) if no amount is so found there shall be deemed to be no amount for the purposes of section 86(1)(e);
  - (e) if an amount is found under paragraph (c) above it must be compared with the amount arrived at under section 86(1)(e) apart from this sub-paragraph. and the smaller of the 2 shall be taken to be the amount arrived at under section 86(1)(e).
- (5) Sub-paragraphs (2) to (4) above shall have effect subject to sub-paragraphs (6) and (7) below.
- (6) The following rules shall apply in construing section 86(1)(e) as regards a particular year of assessment (“the year concerned”) in a case where the trustees fall within section 86(2)(a)—
- (a) if the conditions mentioned in section 86(1) are not fulfilled as regards the settlement in any year of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before the year concerned;
  - (b) if the conditions mentioned in section 86(1) are fulfilled as regards the settlement in any year or years of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before that year (or the first of those years) so falling,
- but nothing in the preceding provisions of this sub-paragraph shall prevent deductions being made in respect of losses accruing in a year of assessment in which the conditions mentioned in section 86(1)(a) to (d) and (f) are fulfilled as regards the settlement.
- (7) In construing section 86(1)(e) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991, no account shall be taken of disposals made before 19th March 1991 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).
- (8) For the purposes of sub-paragraph (4) above assets are protected assets if—
- (a) they are of a description specified in the arrangements mentioned in section 86(2)(b), and
  - (b) were the trustees to dispose of them at any 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.
- (9) For the purposes of sub-paragraph (8) above—
- (a) the assumption as to residence specified in section 86(3) shall be ignored;
  - (b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;
  - (c) if different assets are identified by reference to different relevant times, all of them are protected assets.

*Test whether settlor has interest*

- 2 (1) For the purposes of section 86(1)(d) a settlor has an interest in a settlement if—
- (a) any relevant property which is or may at any time be comprised in the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever,

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- (b) any relevant income which arises or may arise under the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever, or
- (c) any defined person enjoys a benefit directly or indirectly from any relevant property which is comprised in the settlement or any relevant income arising under the settlement;

but this sub-paragraph is subject to sub-paragraphs (4) to (6) below.

- (2) For the purposes of sub-paragraph (1) above—
  - (a) relevant property is property originating from the settlor,
  - (b) relevant income is income originating from the settlor.
- (3) For the purposes of sub-paragraph (1) above each of the following is a defined person—
  - (a) the settlor,
  - (b) the settlor's spouse;
  - (c) any child of the settlor or of the settlor's spouse;
  - (d) the spouse of any such child;
  - (e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;
  - (f) a company associated with a company falling within paragraph (e) above.
- (4) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of—
  - (a) the bankruptcy of some person who is or may become beneficially entitled to the property,
  - (b) any assignment of or charge on the property being made or given by some such person,
  - (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
  - (d) the death under the age of 25 or some lower age of some person who would be beneficially entitled to the property on attaining that age.
- (5) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when some person is alive and under the age of 25 if during that person's life none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of that person becoming bankrupt or assigning or charging his interest in the property concerned.
- (6) Sub-paragraphs (4) and (5) above apply for the purposes of paragraph (b) of sub-paragraph (1) above as they apply for the purposes of paragraph (a), reading "income" for "property".
- (7) In sub-paragraph (3) above "child" includes a step-child.
- (8) For the purposes of sub-paragraph (3) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

- (9) For the purposes of sub-paragraph (3) above the question whether a company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) In sub-paragraphs (8) and (9) “participator” has the meaning given by section 417(1) of the Taxes Act.

*Exceptions from section 86*

- 3           Section 86 does not apply if the settlor dies in the year.
- 4           (1) This paragraph applies where for the purposes of section 86(1)(d) the settlor has no interest in the settlement at any time in the year except for one of the following reasons, namely, that—
- (a) property is, or will or may become, applicable for the benefit of or payable to one of the persons falling within paragraph 2(3)(b) to (d) above,
- (b) income is, or will or may become, applicable for the benefit of or payable to one of those persons, or
- (c) one of those persons enjoys a benefit from property or income.
- (2) This paragraph also applies where sub-paragraph (1) above is fulfilled by virtue of 2 or all of paragraphs (a) to (c) being satisfied by reference to the same person.
- (3) Where this paragraph applies, section 86 does not apply if the person concerned dies in the year.
- (4) In a case where—
- (a) this paragraph applies, and
- (b) the person concerned falls within paragraph 2(3)(b) or (d) above,
- section 86 does not apply if during the year the person concerned ceases to be married to the settlor or child concerned (as the case may be).
- 5           (1) This paragraph applies where for the purposes of section 86(1)(d) the settlor has no interest in the settlement at any time in the year except for the reason that there are 2 or more persons, each of whom—
- (a) falls within paragraph 2(3)(b) to (d) above, and
- (b) stands to gain for the reason stated in sub-paragraph (2) below.
- (2) The reason is that—
- (a) property is, or will or may become, applicable for his benefit or payable to him,
- (b) income is, or will or may become, applicable for his benefit or payable to him,
- (c) he enjoys a benefit from property or income, or
- (d) 2 or all of paragraphs (a) to (c) above apply in his case.
- (3) Where this paragraph applies, section 86 does not apply if each of the persons concerned dies in the year.

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*Right of recovery*

- 6 (1) This paragraph applies where any tax becomes chargeable on, and is paid by, a person in respect of gains treated as accruing to him in a year under section 86(4).
- (2) The person shall be entitled to recover the amount of the tax from any person who is a trustee of the settlement.
- (3) For the purposes of recovering that amount, the person shall also be entitled to require an inspector to give him a certificate specifying—
- (a) the amount of the gains concerned, and
  - (b) the amount of tax paid,
- and any such certificate shall be conclusive evidence of the facts stated in it.

*Meaning of “settlor”*

- 7 For the purposes of section 86 and this Schedule, a person is a settlor in relation to a settlement if the settled property consists of or includes property originating from him.

*Meaning of “originating”*

- 8 (1) References in section 86 and this Schedule to property originating from a person are references to—
- (a) property provided by that person;
  - (b) property representing property falling within paragraph (a) above;
  - (c) so much of any property representing both property falling within paragraph (a) above and other property as, on a just apportionment, can be taken to represent property so falling.
- (2) References in this Schedule to income originating from a person are references to—
- (a) income from property originating from that person;
  - (b) income provided by that person.
- (3) Where a person who is a settlor in relation to a settlement makes reciprocal arrangements with another person for the provision of property or income, for the purposes of this paragraph—
- (a) property or income provided by the other person in pursuance of the arrangements shall be treated as provided by the settlor, but
  - (b) property or income provided by the settlor in pursuance of the arrangements shall be treated as provided by the other person (and not by the settlor).
- (4) For the purposes of this paragraph—
- (a) where property is provided by a qualifying company controlled by one person alone at the time it is provided, that person shall be taken to provide it;
  - (b) where property is provided by a qualifying company controlled by 2 or more persons (taking each one separately) at the time it is provided, those persons shall be taken to provide the property and each one shall be taken to provide an equal share of it;
  - (c) where property is provided by a qualifying company controlled by 2 or more persons (taking them together) at the time it is provided, the persons who are participators in the company at the time it is provided shall be taken to

provide it and each one shall be taken to provide so much of it as is attributed to him on the basis of a just apportionment;

but where a person would be taken to provide less than one-twentieth of any property by virtue of paragraph (c) above and apart from this provision, he shall not be taken to provide any of it by virtue of that paragraph.

- (5) For the purposes of sub-paragraph (4) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.
- (6) For the purposes of this paragraph references to property representing other property include references to property representing accumulated income from that other property.
- (7) For the purposes of this paragraph property or income is provided by a person if it is provided directly or indirectly by the person.
- (8) For the purposes of this paragraph the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) In this paragraph “participator” has the meaning given by section 417(1) of the Taxes Act.
- (10) The preceding provisions of this paragraph shall apply to determine whether shares originate from the settlor for the purposes of paragraph 1(3)(a) above as they apply to determine whether property of any kind originates from a person.

#### *Qualifying settlements, and commencement*

- 9 (1) A settlement created on or after 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—
  - (a) the year of assessment in which it is created, and
  - (b) subsequent years of assessment.
- (2) A settlement created before 19th March 1991, and as regards which any of the 4 conditions set out in sub-paragraphs (3) to (6) below becomes fulfilled, is a qualifying settlement for the purposes of section 86 and this Schedule in—
  - (a) the year of assessment in which any of those conditions becomes fulfilled, and
  - (b) subsequent years of assessment.
- (3) The first condition is that on or after 19th March 1991 property or income is provided directly or indirectly for the purposes of the settlement—
  - (a) otherwise than under a transaction entered into at arm’s length, and
  - (b) otherwise than in pursuance of a liability incurred by any person before that date;

but if the settlement’s expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored for the purposes of this condition if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement’s income for the year.

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- (4) The second condition is that—
- (a) the trustees become on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (5) The third condition is that on or after 19th March 1991 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.
- (6) The fourth condition is that—
- (a) on or after 19th March 1991 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and
  - (b) the person concerned is not one who (looking only at the terms of the settlement immediately before 19th March 1991) would be capable of enjoying a benefit from the settlement on or after that date.
- (7) Each of the following persons falls within this sub-paragraph—
- (a) a settlor;
  - (b) the spouse of a settlor;
  - (c) any child of a settlor or of a settlor’s spouse;
  - (d) the spouse of any such child;
  - (e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;
  - (f) a company associated with a company falling within paragraph (e) above.
- (8) In sub-paragraph (7) above “child” includes a step-child.
- (9) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (11) In sub-paragraphs (9) and (10) “participator” has the meaning given by section 417(1) of the Taxes Act.

#### *Information*

- 10 An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time as he may direct (which must not be less than 28 days beginning with the day the notice is given) such particulars as he thinks necessary for the purposes of section 86 and this Schedule and specifies in the notice.

- 11 (1) This paragraph applies if—
- (a) a settlement has been created before 19th March 1991,
  - (b) on or after that date a person transfers property to the trustees otherwise than under a transaction entered into at arm's length and otherwise than in pursuance of a liability incurred by any person before that date,
  - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
  - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.
- (2) Before the expiry of the period of 12 months beginning with the relevant day, the transferor shall deliver to the Board a return which—
- (a) identifies the settlement, and
  - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the later of—
- (a) the day on which the transfer is made, and
  - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 12 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created, and
  - (b) at that time fulfils the condition mentioned in sub-paragraph (4) below,
- shall, before the expiry of the period of 3 months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.
- (3) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
  - (b) at that time does not fulfil the condition mentioned in sub-paragraph (4) below, and
  - (c) fulfils that condition at a later time,
- shall, before the expiry of the period of 12 months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.
- (4) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (5) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.

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- (6) For the purposes of sub-paragraph (2) above the relevant day is the later of—
  - (a) the day on which the settlement is created, and
  - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- (7) For the purposes of sub-paragraph (3) above the relevant day is the later of—
  - (a) the day on which the person first fulfils the condition after the settlement is created, and
  - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 13 (1) This paragraph applies if—
  - (a) the trustees of a settlement become at any time (“the relevant time”) on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (“the relevant time”) on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of 12 months beginning with the relevant day, deliver to the Board a return specifying—
  - (a) the day on which the settlement was created,
  - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the later of—
  - (a) the day when the relevant time falls, and
  - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 14 (1) Nothing in paragraph 11, 12 or 13 above shall require information to be contained in the return concerned to the extent that—
  - (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 11, 12 or 13 above shall require a return to be delivered if—
  - (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.



## SCHEDULE 6

Sections 163, 164.

### RETIREMENT RELIEF ETC.

#### PART I

##### INTERPRETATION

- 1 (1) This paragraph and paragraphs 2 and 3 below have effect for the purposes of this Schedule and sections 163 and 164.
- (2) In the provisions referred to above—
- “commercial association of companies” means a company together with such of its associated companies, within the meaning of section 416 of the Taxes Act, as carry on businesses which are of such a nature that the businesses of the company and the associated companies taken together may be reasonably considered to make up a single composite undertaking;
- “family company” means, in relation to an individual, a company the voting rights in which are—
- (i) as to not less than 25 per cent. exercisable by the individual, or
- (ii) as to more than 50 per cent. exercisable by the individual or a member of his family and, as to not less than 5 per cent. exercisable by the individual himself;
- “family” means, in relation to an individual, the husband or wife of the individual and a relative of the individual or of the individual’s husband or wife and, for this purpose, “relative” means brother, sister, ancestor or lineal descendant;
- “full-time working director”, in relation to one or more companies, means a director who is required to devote substantially the whole of his time to the service of that company or, as the case may be, those companies taken together, in a managerial or technical capacity;
- “group of companies” means a company which has one or more 51 per cent. subsidiaries, together with those subsidiaries;
- “holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 51 per cent. subsidiaries;
- “permitted period” means a period of one year or such longer period as the Board may, in any particular case, by notice allow;
- “trade”, “profession”, “vocation”, “office” and “employment” have the same meaning as in the Income Tax Acts;
- “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;
- “trading group” means a group of companies the business of whose members, taken together, consists wholly or mainly of the carrying on of a trade or trades.
- (3) For the purposes of sub-paragraph (2) above, voting rights exercisable by trustees of a settlement are to be treated as voting rights exercisable by a member of the family of an individual if—
- (a) the individual or any member of his family is a beneficiary under the settlement; and

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- (b) no one, other than the individual or a member of his family, is for the time being entitled under the settlement to receive any capital or income of the settled property; and
  - (c) the terms of the settlement are such that no one other than the individual or a member of his family can become entitled to capital or income except upon the failure (for whatever reason) of the individual or a member of his family to become so entitled.
- (4) Any reference in sub-paragraph (3) above to a person being or becoming entitled to any capital or income of the settled property includes a reference to a person—
  - (a) whose entitlement is subject to a power which could be so exercised as to require all or any of the capital or income in question to be paid to some other person; or
  - (b) whose entitlement depends upon his exercising a power in his own favour.
- 2 (1) For the purposes of the provisions referred to in paragraph 1(1) above, where, as part of a reorganisation, within the meaning of section 126, there is a disposal of shares or securities of a company and, apart from this sub-paragraph, the shares disposed of and the new holding (as defined in that section) would fall to be treated, by virtue of section 127, as the same asset, section 127 shall not apply if the individual concerned so elects or, in the case of a trustees' disposal, if the trustees and the individual concerned jointly so elect; and an election under this sub-paragraph shall be made by notice given to the Board not more than 2 years after the end of the year of assessment in which the disposal occurred.
- (2) In sub-paragraph (1) above, the reference to a reorganisation, within the meaning of section 126, includes a reference to an exchange of shares or securities which is treated as such a reorganisation by virtue of section 135(3).
- 3 (1) A person who has been concerned in the carrying on of a business shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
  - (a) that he has ceased to be engaged in and, by reason of ill-health, is incapable of engaging in work of the kind which he previously undertook in connection with that business; and
  - (b) that he is likely to remain permanently so incapable.
- (2) In sub-paragraph (1) above, the reference to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership carrying on the business; and the business which is relevant for the purposes of the provisions referred to in paragraph 1(1) above is that referred to—
  - (a) in subsection (3) or subsection (4) of section 163 in relation to a material disposal of business assets;
  - (b) in subsection (5) of section 164 in relation to a trustees' disposal; and
  - (c) in subsection (7) of section 164 in relation to an associated disposal.
- (3) A person who has been a full-time working director of a company or of two or more companies shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
  - (a) that he has ceased to serve and, by reason of ill-health, is incapable of serving that company or, as the case may be, those companies in a managerial or technical capacity; and

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- (b) that he is likely to remain permanently incapable of serving in such a capacity that company or those companies (as the case may be) or any other company engaged in business of a kind carried on by that company or those companies.
  - (4) In relation to an employee's disposal, a person who has been exercising any office or employment shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
    - (a) that he has ceased to exercise and, by reason of ill-health, is incapable of exercising that office or employment; and
    - (b) that he is likely to remain permanently so incapable.
- 4 (1) In this Schedule—
- (a) “material disposal of business assets” has the same meaning as in section 163;
  - (b) “employee's disposal” means a disposal falling within subsection (1) of section 164;
  - (c) “trustees' disposal” means a disposal falling within subsection (3) of section 164 and, in relation to such a disposal, “the qualifying beneficiary” has the meaning assigned to it by paragraph (b) of that subsection;
  - (d) “associated disposal” has the meaning assigned to it by section 164(7);
- and “qualifying disposal” means any of the disposals referred to in paragraphs (a) to (d) above.
- (2) Any reference in this Schedule to the qualifying period is a reference to the period of at least one year which—
- (a) in relation to a material disposal of business assets, is referred to in subsection (3), subsection (4)(a) or subsection (5) (as the case may require) of section 163;
  - (b) in relation to an employee's disposal, is referred to in section 164(2)(a);
  - (c) in relation to a trustees' disposal, is referred to in subsection (4) or subsection (5) (as the case may require) of section 164;
- and, in relation to an associated disposal, any reference in this Schedule to the qualifying period is a reference to that period which is the qualifying period in relation to the material disposal of business assets with which the associated disposal is associated in accordance with section 164(7).
- (3) In relation to a qualifying disposal, any reference in this Schedule to the amount available for relief is a reference to the amount determined in accordance with paragraphs 13 to 16 below.

## PART II

### THE OPERATION OF THE RELIEF

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

- 5 (1) Relief in accordance with this Schedule shall not be given in respect of any disposal unless the qualifying period relating to that disposal ends on or after 6th April 1985.
- (2) Except in the case of a disposal which is made by an individual who has attained the age of 55, relief in accordance with this Schedule shall be given only on the making

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of a claim not later than 2 years after the end of the year of assessment in which the disposal occurred.

- (3) In the case of a trustees' disposal, relief in accordance with this Schedule shall be given only on a claim made jointly by the trustees and the beneficiary concerned.
- (4) Where a claim for relief in accordance with this Schedule is dependent upon an individual having retired on ill-health grounds below the age of 55, the claim shall be made to the Board.

#### *Gains qualifying for relief*

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

- (3) For the purposes of sub-paragraph (2) above—
- (a) any reference to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and
  - (b) subject to paragraph (c) below, every asset is a chargeable asset except one, on the disposal of which by the member of the group concerned immediately before the end of the qualifying period no gain accruing to that member would be a chargeable gain; and
  - (c) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.
- (4) Where the whole of the ordinary share capital of a 51 per cent. subsidiary of the holding company is not owned directly or indirectly by that company, then, for the purposes of sub-paragraph (2) above, the value of the chargeable assets and chargeable business assets of that subsidiary shall be taken to be reduced by multiplying it by a fraction of which the denominator is the whole of the ordinary share capital of the subsidiary and the numerator is the amount of that share capital owned, directly or indirectly, by the holding company.
- (5) Expressions used in sub-paragraph (4) above have the same meaning as in section 838 of the Taxes Act (subsidiaries).
- 9 (1) If, in the case of a trustees' disposal, there is, in addition to the qualifying beneficiary, at least one other beneficiary who, at the end of the qualifying period, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares, securities or asset which is the subject matter of the disposal, only the relevant proportion of the gain which accrues to the trustees on the disposal shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.
- (2) For the purposes of sub-paragraph (1) above, the relevant proportion is that which, at the end of the qualifying period, the qualifying beneficiary's interest in the income of the part of the settled property comprising the shares, securities or asset in question bears to the interests in that income of all the beneficiaries (including the qualifying beneficiary) who then have interests in possession in that part.
- (3) The reference in sub-paragraph (2) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.
- 10 (1) If, in the case of an associated disposal—
- (a) the asset in question was in use for the purposes of a business as mentioned in section 164(7)(c) for only part of the period in which it was in the ownership of the individual making the disposal, or
  - (b) for any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 164(7)(c), the individual making the disposal was not concerned in the carrying on of that business (whether personally, as a member of a partnership or as a full-time working director of any such company as is referred to in section 163(3)(b)), or
  - (c) for the whole or any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 164(7)(c), its availability for that use was dependent upon the payment of rent,

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only such part of the gain which accrues on the disposal as appears to the Board to be just and reasonable shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.

- (2) In determining how much of a gain it is just and reasonable to bring into account as mentioned in sub-paragraph (1) above, the Board shall have regard to the length of the period the asset was in use as mentioned in that sub-paragraph and the extent to which any rent paid was less than the amount which would have been payable in the open market for the use of the asset.
- (3) In sub-paragraphs (1) and (2) above “rent” includes any form of consideration given for the use of the asset.
- 11 (1) This paragraph applies where—
- (a) there is a material disposal of business assets or a trustees' disposal which (in either case) consists of a disposal which the individual or trustees is or are treated as making by virtue of section 122 in consideration of a capital distribution; and
  - (b) the capital distribution consists wholly of chargeable business assets of the company or partly of such assets and partly of money or money's worth.
- (2) Where the capital distribution consists wholly of chargeable business assets, no relief shall be given under this Schedule in respect of the gains accruing on the disposal.
- (3) Where the capital distribution consists only partly of chargeable business assets, the gains accruing on the disposal (aggregated as mentioned in paragraph 7(1)(a) or paragraph 8(1)(a) above) shall be reduced for the purposes of this Schedule by multiplying them by the fraction—
- $$\frac{A}{B}$$
- where—
- A is the part of the capital distribution which does not consist of chargeable business assets; and
- B is the entire capital distribution;
- and it shall be to that reduced amount of aggregated gains that, in accordance with sub-paragraph (1)(b) of paragraph 7 or, as the case may be, paragraph 8 above, the appropriate proportion determined under sub-paragraph (2) of that paragraph shall be applied.
- (4) Any question whether or to what extent a capital distribution consists of chargeable business assets shall be determined by reference to the status of the assets immediately before the end of the qualifying period.
- 12 (1) Subject to paragraphs 9 to 11 above, in arriving at the aggregate gains under any of paragraphs 6, 7(1) and 8(1) above—
- (a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act fixing the amount of chargeable gains, and
  - (b) any allowable loss which accrues on the qualifying disposal concerned shall be deducted,
- and the provisions of this Schedule shall not affect the computation of the amount of any allowable loss.

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- (2) Subject to the following provisions of this paragraph, in paragraphs 6 to 11 above, “chargeable business asset” means an asset (including goodwill but not including shares or securities or other assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—
  - (a) the individual concerned; or
  - (b) that individual’s family company; or
  - (c) a member of a trading group of which the holding company is that individual’s family company; or
  - (d) a partnership of which the individual concerned is a member.
- (3) An asset is not a chargeable business asset if, on the disposal of it, no gain which might accrue would be a chargeable gain.
- (4) In relation to a trustees’ disposal, references in sub-paragraph (2) above to the individual shall be construed as references to the beneficiary concerned.
- (5) Sub-paragraph (6) below applies if—
  - (a) a qualifying disposal falling within paragraph 7 or paragraph 8 above is a disposal which the individual or trustees concerned is or are treated as making by virtue of section 122 in consideration of a capital distribution; and
  - (b) not later than 2 years after the end of the year of assessment in which the individual or the trustees received the capital distribution, the individual or trustees by notice to the inspector elects or elect that that sub-paragraph should apply.
- (6) If, in a case where this sub-paragraph applies in relation to a qualifying disposal, any part of the assets of the company concerned consists, as at the end of the qualifying period, of the proceeds of the sale of an asset sold not more than 6 months before the end of that period, then, sub-paragraph (2) above and paragraph 7 or, as the case may be, paragraph 8 above shall have effect as if, at that time—
  - (a) the asset remained the property of the company and was in use for the purposes for which it was used before its sale; and
  - (b) the proceeds of sale of the asset did not form part of the assets of the company.

*The amount available for relief: the basic rule*

- 13 (1) Subject to the following provisions of this Part of this Schedule, on a qualifying disposal by an individual the amount available for relief by virtue of sections 163 and 164 is an amount equal to the aggregate of—
- (a) so much of the gains qualifying for relief as do not exceed the appropriate percentage of £150,000; and
  - (b) one half of so much of those gains as exceed the appropriate percentage of £150,000 but do not exceed that percentage of £600,000;
- and for the purposes of this sub-paragraph “the appropriate percentage” is a percentage determined according to the length of the qualifying period which is appropriate to the disposal on a scale rising arithmetically from 10 per cent. where that period is precisely one year to 100 per cent. where it is 10 years.
- (2) In sub-paragraph (1) above “the gains qualifying for relief” means, in relation to any qualifying disposal, so much of the gains accruing on that disposal (aggregated under

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paragraph 6, 7(1)(a) or 8(1)(a) above) as would, by virtue of this Schedule, not be chargeable gains if—

- (a) sub-paragraph (1) above had specified as the amount available for relief a fixed sum in excess of those aggregate gains; and
  - (b) paragraphs 14 to 16 below were disregarded.
- (3) The amount available for relief by virtue of section 164 on a trustees' disposal shall be determined, subject to sub-paragraph (4) below, in accordance with sub-paragraph (1) above on the assumption that the trustees' disposal is a qualifying disposal by the qualifying beneficiary.
- (4) If, on the same day, there is both a trustees' disposal and a material disposal of business assets by the qualifying beneficiary, the amount available for relief shall be applied to the beneficiary's disposal in priority to the trustees' disposal.

*Aggregation of earlier business periods*

- 14 (1) If, apart from this paragraph, the qualifying period appropriate to a qualifying disposal (“the original qualifying period”) would be less than 10 years but throughout some period (“the earlier business period”) which—
- (a) ends not earlier than 2 years before the beginning of the original qualifying period, and
  - (b) falls, in whole or in part, within the period of 10 years ending at the end of the original qualifying period,
- the individual making the disposal or, as the case may be, the relevant beneficiary was concerned in the carrying on of another business (“the previous business”) then, for the purpose of determining the amount available for relief on the qualifying disposal, the length of the qualifying period appropriate to that disposal shall be redetermined on the assumptions and subject to the provisions set out below.
- (2) For the purposes of the redetermination referred to in sub-paragraph (1) above, it shall be assumed that the previous business is the same business as the business at retirement and, in the first instance, any time between the end of the earlier business period and the beginning of the qualifying period shall be disregarded (so that those 2 periods shall be assumed to be one continuous period).
- (3) The reference in sub-paragraph (1) above to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership or, if the business was owned by a company, then as a full-time working director of that company or, as the case may be, of any member of the group or commercial association of which it is a member; and the reference in sub-paragraph (2) above to the business at retirement is a reference to that business which, in relation to the qualifying disposal, is referred to—
- (a) in subsection (3), subsection (4) or subsection (5) of section 163 where the qualifying disposal is a material disposal of business assets;
  - (b) in subsection (5) of section 164 where that disposal is a trustees' disposal; and
  - (c) in subsection (7) of section 164 where that disposal is an associated disposal.
- (4) Any extended qualifying period resulting from the operation of subparagraph (2) above shall not begin earlier than the beginning of the period of 10 years referred to in sub-paragraph (1)(b) above.



- (5) If the earlier business period ended before the beginning of the original qualifying period, any extended qualifying period which would otherwise result from the operation of the preceding provisions of this paragraph shall be reduced by deducting therefrom a period equal to that between the ending of the earlier business period and the beginning of the original qualifying period.
- (6) Where there is more than one business which qualifies as the previous business and, accordingly, more than one period which qualifies as the earlier business period, this paragraph shall apply first in relation to that one of those businesses in which the individual in question was last concerned and shall then again apply (as if any extended qualifying period resulting from the first application were the original qualifying period) in relation to the next of those businesses and so on.

*Relief given on earlier disposal*

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

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- (a) if the earlier disposal took place on or after 6th April 1988, the amount of the underlying gains relieved on that disposal is the aggregate of—
    - (i) so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13(1)(a) above, not chargeable gains; and
    - (ii) twice the amount of so much of those gains as were, by virtue of paragraph 13(1)(b) above, not chargeable gains; and
  - (b) if the earlier disposal took place before 6th April 1988, the amount of the underlying gains relieved on that disposal (or on each such disposal) is so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13 of Schedule 20 to the Finance Act 1985, not chargeable gains.
- (5) Where there are 2 or more earlier disposals and at least one of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above, the aggregate amount of the underlying gains relieved on all those disposals shall be determined as follows—
- (a) it shall be assumed for the purposes of paragraph (b) below—
    - (i) that the amount which resulted from the calculation under sub-paragraph (3)(a) above on the last of those disposals (“the last disposal”) was the amount of the gains qualifying for relief on that disposal which were, by virtue of this Schedule, not chargeable gains (the “gains actually relieved”);
    - (ii) that the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) was that period as extended in accordance with sub-paragraph (3)(a)(ii) above; and
    - (iii) that the last disposal was the only earlier disposal;
  - (b) there shall then be ascertained in accordance with paragraph 13(1) above (but on the assumptions in paragraph (a) above)—
    - (i) how much of the gains actually relieved would, by virtue of paragraph 13(1)(a) above, not have been chargeable gains; and
    - (ii) how much of those gains would, by virtue of paragraph 13(1)(b) above, not have been chargeable gains; and
  - (c) the aggregate amount of the underlying gains relieved on all the earlier disposals is the sum of—
    - (i) the amount ascertained under paragraph (b)(i) above; and
    - (ii) twice the amount ascertained under paragraph (b)(ii) above.
- (6) In this paragraph “the gains qualifying for relief” has the meaning given by paragraph 13(2) above.
- (7) References in this paragraph to relief given under this Schedule include references to relief given under section 34 of the Finance Act 1965 or section 124 of the 1979 Act; and—
- (a) in relation to relief given under either of those sections, paragraph (b) of sub-paragraph (1) above shall have effect as if, for the words from “which was” onwards, there were substituted “made by the individual”; and
  - (b) for the purpose of determining the limit in sub-paragraph (3) above where the earlier disposal (or any of the earlier disposals) was a disposal in respect of which relief was given under either of those sections—
    - (i) the underlying gains relieved on that disposal shall (subject to sub-paragraph (5) above) be taken to be gains of an amount equal to the

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relief given under the section in question in respect of that disposal;  
and

- (ii) the reference in sub-paragraph (3)(a)(ii) above to the qualifying period appropriate to the earlier disposal shall be taken to be a reference to the qualifying period within the meaning of the section in question.

*Aggregation of spouse's interest in the business*

- 16 (1) In any case where—
- (a) an individual makes a material disposal of business assets, and
  - (b) the subject matter of that disposal (whether business, assets or shares or securities) was acquired, in whole or in part, from that individual's spouse, and
  - (c) that acquisition was either under the will or intestacy of the spouse or by way of lifetime gift and in the year of assessment in which occurred the spouse's death or, as the case may be, the lifetime gift, the individual and his spouse were living together, and
  - (d) as a result of the acquisition the individual acquired the whole of the interest in the business, assets, shares or securities concerned which, immediately before the acquisition or, as the case may be, the spouse's death, was held by the spouse, and
  - (e) not later than 2 years after the end of the year of assessment in which the material disposal occurred, the individual elects that this paragraph should apply,
- the period which, apart from this paragraph, would be the qualifying period appropriate to that disposal shall be extended by assuming that, in the conditions which under section 163 are the relevant conditions applicable to the disposal, any reference to the individual were a reference either to the individual or his spouse.
- (2) An election under sub-paragraph (1)(e) above shall be made by notice to the inspector.
- (3) Where the acquisition referred to in sub-paragraph (1)(c) above was by way of lifetime gift, the amount available for relief on the material disposal concerned, having regard to the extension of the qualifying period under sub-paragraph (1) above, shall not exceed the limit specified in sub-paragraph (4) below.
- (4) The limit referred to in sub-paragraph (3) above is the amount which would have been available for relief on the material disposal if—
- (a) the lifetime gift had not occurred; and
  - (b) the material disposal had been made by the spouse; and
  - (c) anything done by the individual in relation to the business concerned after the lifetime gift was in fact made had been done by the spouse.

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## SCHEDULE 7

Section 165.

### RELIEF FOR GIFTS OF BUSINESS ASSETS

#### PART I

##### AGRICULTURAL PROPERTY AND SETTLED PROPERTY

###### *Agricultural property*

- 1 (1) This paragraph applies where—
- (a) there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of Chapter II of Part V of the Inheritance Tax Act 1984 (inheritance tax relief for agricultural property), and
  - (b) apart from this paragraph, the disposal would not fall within section 165(1) by reason only that the agricultural property is not used for the purposes of a trade carried on as mentioned in section 165(2)(a).
- (2) Where this paragraph applies, section 165(1) shall apply in relation to the disposal if the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

###### *Settled property*

- 2 (1) If—
- (a) the trustees of a settlement make a disposal otherwise than under a bargain at arm's length of an asset within sub-paragraph (2) below, and
  - (b) a claim for relief under section 165 is made by the trustees and the person who acquires the asset (“the transferee”) or, where the trustees of a settlement are also the transferee, by the trustees making the disposal alone,
- then, subject to sections 165(3), 166, 167 and 169, section 165(4) shall apply in relation to the disposal.
- (2) An asset is within this sub-paragraph if—
- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—
    - (i) the trustees making the disposal, or
    - (ii) a beneficiary who had an interest in possession in the settled property immediately before the disposal, or
  - (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—
    - (i) the shares or securities are neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
    - (ii) not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the trustees at the time of the disposal.

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- (3) Where section 165(4) applies by virtue of this paragraph, references to the trustees shall be substituted for the references in section 165(4)(a) to the transferor; and where it applies in relation to a disposal which is deemed to occur by virtue of section 71(1) or 72(1) section 165(7) shall not apply.
- 3 (1) This paragraph applies where—
- (a) there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of Chapter II of Part V of the Inheritance Tax Act 1984, and
  - (b) apart from this paragraph, the disposal would not fall within paragraph 2(1)(a) above by reason only that the agricultural property is not used for the purposes of a trade as mentioned in paragraph 2(2)(a) above.
- (2) Where this paragraph applies paragraph 2(1) above shall apply in relation to the disposal if the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

## PART II

### REDUCTIONS IN HELD-OVER GAIN

#### *Application and interpretation*

- 4 (1) The provisions of this Part of this Schedule apply in cases where a claim for relief is made under section 165.
- (2) In this Part of this Schedule—
- (a) “the principal provision” means section 165(2), or, as the case may require, sub-paragraph (2) of paragraph 2 above,
  - (b) “shares” includes securities,
  - (c) “the transferor” has the same meaning as in section 165 except that, in a case where paragraph 2 above applies, it refers to the trustees mentioned in that paragraph, and
  - (d) “unrelieved gain”, in relation to a disposal, has the same meaning as in section 165(7).
- (3) In this Part of this Schedule—
- (a) any reference to a disposal of an asset is a reference to a disposal which falls within subsection (1) of section 165 by virtue of subsection (2)(a) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(a) of that paragraph, and
  - (b) any reference to a disposal of shares is a reference to a disposal which falls within subsection (1) of section 165 by virtue of subsection (2)(b) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(b) of that paragraph.

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- (4) In relation to a disposal of an asset or of shares, any reference in the following provisions of this Part of this Schedule to the held-over gain is a reference to the held-over gain on that disposal as determined under subsection (6) or, where it applies, subsection (7) of section 165.

*Reductions peculiar to disposals of assets*

- 5 (1) If, in the case of a disposal of an asset, the asset was not used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision throughout the period of its ownership by the transferor, the amount of the held-over gain shall be reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the number of days in that period of ownership during which the asset was so used, and

B is the number of days in that period.

- (2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).
- 6 (1) If, in the case of a disposal of an asset, the asset is a building or structure and, over the period of its ownership by the transferor or any substantial part of that period, part of the building or structure was, and part was not, used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision, there shall be determined the fraction of the unrelieved gain on the disposal which it is just and reasonable to apportion to the part of the asset which was so used, and the amount of the held-over gain (as reduced, if appropriate, under paragraph 5 above) shall be reduced by multiplying it by that fraction.
- (2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

*Reduction peculiar to disposal of shares*

- 7 (1) If in the case of a disposal of shares assets which are not business assets are included in the chargeable assets of the company whose shares are disposed of, or, where that company is the holding company of a trading group, in the group's chargeable assets, and either—

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- (a) at any time within the period of 12 months before the disposal not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the transferor, or
- (b) the transferor is an individual and, at any time within that period, the company is his family company,

the amount of the held-over gain shall be reduced by multiplying it by the fraction—

$$\frac{\mathbf{A}}{\mathbf{B}}$$

where—

A is the market value on the date of the disposal of those chargeable assets of the company or of the group which are business assets, and

B is the market value on that date of all the chargeable assets of the company, or as the case may be of the group.

(2) For the purposes of this paragraph—

- (a) an asset is a business asset in relation to a company or a group if it is or is an interest in an asset used for the purposes of a trade, profession or vocation carried on by the company, or as the case may be by a member of the group; and
- (b) an asset is a chargeable asset in relation to a company or a group at any time if, on a disposal at that time, a gain accruing to the company, or as the case may be to a member of the group, would be a chargeable gain.

(3) Where the shares disposed of are shares of the holding company of a trading group, then for the purposes of this paragraph—

- (a) the holding by one member of the group of the ordinary share capital of another member shall not count as a chargeable asset, and
- (b) if the whole of the ordinary share capital of a 51 per cent. subsidiary of the holding company is not owned directly or indirectly by that company, the value of the chargeable assets of the subsidiary shall be taken to be reduced by multiplying it by the fraction—

$$\frac{\mathbf{A}}{\mathbf{B}}$$

where—

A is the amount of the ordinary share capital of the subsidiary owned directly or indirectly by the holding company, and

B is the whole of that share capital.

(4) Expressions used in sub-paragraph (3) above have the same meanings as in section 838 of the Taxes Act.

*Reduction where gain partly relieved by retirement relief*

8 (1) If, in the case of a disposal of an asset—

- (a) the disposal is of a chargeable business asset and is comprised in a disposal of the whole or part of a business in respect of gains accruing on which the transferor is entitled to relief under Schedule 6, and
- (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under the preceding provisions of this Part of this

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- Schedule) would exceed the amount of the chargeable gain which, apart from section 165 would accrue on the disposal,  
the amount of that held-over gain shall be reduced by the amount of the excess.
- (2) In sub-paragraph (1) above “chargeable business asset” has the same meaning as in Schedule 6.
- (3) If, in the case of a disposal of shares,—
- (a) the disposal is or forms part of a disposal of shares in respect of the gains accruing on which the transferor is entitled to relief under Schedule 6, and
  - (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under paragraph 7 above) would exceed an amount equal to the relevant proportion of the chargeable gain which, apart from section 165, would accrue on the disposal,  
the amount of that held-over gain shall be reduced by the amount of the excess.
- (4) In sub-paragraph (3) above “the relevant proportion”, in relation to a disposal falling within paragraph (a) of that sub-paragraph, means the appropriate proportion determined under Schedule 6 in relation to the aggregate sum of the gains which accrue on that disposal.

## SCHEDULE 8

Section 240.

### LEASES

#### *Leases of land as wasting assets: curved line restriction of allowable expenditure*

- 1 (1) A lease of land shall not be a wasting asset until the time when its duration does not exceed 50 years.
- (2) If at the beginning of the period of ownership of a lease of land it is subject to a sublease not at a rackrent and the value of the lease at the end of the duration of the sublease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under section 38(1)(a) in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sublease.
- (3) In the case of a wasting asset which is a lease of land the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by section 46, be a rate fixed in accordance with the Table below.
- (4) Accordingly, for the purposes of the computation of the gain accruing on a disposal of a lease, and given that—
- (a) the percentage derived from the Table for the duration of the lease at the beginning of the period of ownership is P(1),
  - (b) the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under section 38(1)(b) is first reflected in the nature of the lease is P(2), and
  - (c) the percentage so derived for the duration of the lease at the time of the disposal is P(3),
- then—



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- (i) there shall be excluded from the expenditure attributable to the lease under section 38(1)(a) a fraction equal to—

$$\frac{P(1) - P(3)}{P(1)},$$

, and

- (ii) there shall be excluded from any item of expenditure attributable to the lease under section 38(1)(b) a fraction equal to—

$$\frac{P(2) - P(3)}{P(2)}.$$

- (5) This paragraph applies notwithstanding that the period of ownership of the lease is a period exceeding 50 years and, accordingly, no expenditure shall be written off under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.
- (6) Section 47 shall apply in relation to this paragraph as it applies in relation to section 46.

TABLE

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50 (or more)	100
49	99.657
48	99.289
47	98.902
46	98.490
45	98.059
44	97.595
43	97.107
42	96.593
41	96.041
40	95.457
39	94.842
38	94.189
37	93.497
36	92.761
35	91.981
34	91.156
33	90.280
32	89.354

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31	88.371
30	87.330
29	86.226
28	85.053
27	83.816
26	82.496
25	81.100
24	79.622
23	78.055
22	76.399
21	74.635
20	72.770
19	70.791
18	68.697
17	66.470
16	64.116
15	61.617
14	58.971
13	56.167
12	53.191
11	50.038
10	46.695
9	43.154
8	39.399
7	35.414
6	31.195
5	26.722
4	21.983
3	16.959
2	11.629
1	5.983
0	0

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If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one-twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

*Premiums for leases*

- 2 (1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.
- (2) In applying section 42 to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.
- 3 (1) This paragraph applies in relation to a lease of land.
- (2) Where under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period in relation to which the sum is payable.
- (3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.
- (4) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, then subject to sub-paragraph (5) below, both the landlord and the tenant shall be treated as if that premium were, or were part of, the consideration for the grant of the lease due at the time when the lease was granted, and the gain accruing to the landlord on the disposal by way of grant of the lease shall be recomputed and any necessary adjustments of tax, whether by way of assessment for the year in which the premium is deemed to have been received, or by way of discharge or repayment of tax, made accordingly.
- (5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed 50 years, this Schedule shall apply as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sublease covered by the period in respect of which the premium is deemed to have been paid as if that consideration were expenditure incurred by the sublessee and attributable to that part of the sublease under section 38(1)(b).
- (6) Where under sub-paragraph (2) above a premium is deemed to have been received as consideration for the surrender of a lease the surrender of the lease shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium which is consideration for the surrender of the lease shall be regarded as consideration for a separate transaction consisting of the disposal by the landlord of his interest in the lease.
- (7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

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*Subleases out of short leases*

- 4 (1) In the computation of the gain accruing on the part disposal of a lease which is a wasting asset by way of the grant of a sublease for a premium the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) shall be apportioned in accordance with this paragraph, and section 42 shall not apply.
- (2) Out of each item of the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) there shall be apportioned to what is disposed of—
- (a) if the amount of the premium is not less than what would be obtainable by way of premium for the said sublease if the rent payable under that sublease were the same as the rent payable under the lease, the fraction which, under paragraph 1(3) of this Schedule, is to be written off over the period which is the duration of the sublease, and
  - (b) if the amount of the premium is less than the said amount so obtainable, the said fraction multiplied by a fraction equal to the amount of the said premium divided by the said amount so obtainable.
- (3) If the sublease is a sublease of part only of the land comprised in the lease this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) which is the same as the proportion which the value of the land comprised in the sublease bears to the value of that and the other land comprised in the lease; and the remainder of that expenditure shall be apportioned to what remains undisposed of.

*Exclusion of premiums taxed under Schedule A etc.*

- 5 (1) Where by reference to any premium income tax has become chargeable under section 34 of the Taxes Act on any amount, that amount out of the premium shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal for which the premium is consideration except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (2) Where by reference to any premium in respect of a sublease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed 50 years, income tax has become chargeable under section 34 of the Taxes Act on any amount that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (3) Subject to subsection (4) below, where income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount a sum of that amount shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (4) If what is disposed of is the remainder of a lease or a sublease out of a lease the duration of which does not exceed 50 years, sub-paragraph (3) shall not apply but the amount there referred to shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Act apart from this sub-paragraph

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and sub-paragraph (3), but not so as to convert the gain into a loss, or to increase any loss.

- (5) References in sub-paragraphs (1) and (2) above to a premium include references to a premium deemed to have been received under subsection (4) or (5) of section 34 of the Taxes Act (which correspond to paragraph 3(2) and (3) of this Schedule).
  - (6) Section 37 shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation of the gain by reference to any amount chargeable to tax under section 348 or 349 of the Taxes Act.
- 6
- (1) If under section 37(4) of the Taxes Act (allowance where, by the grant of a sublease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sublease, the amount of any loss accruing to him on the disposal by way of the grant of the sublease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sublease (and without regard to whether relief is thereby effectively given over the term of the sublease), but not so as to convert the loss into a gain, or to increase any gain.
  - (2) Nothing in section 37 of this Act shall be taken as applying in relation to any amount on which tax is paid under section 35 of the Taxes Act (charge on assignment of lease granted at undervalue).
  - (3) If any adjustment is made under section 36(2)(b) of the Taxes Act on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this paragraph or paragraph 5 above.
- 7
- If under section 34(2) and (3) of the Taxes Act income tax is chargeable on any amount, as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to him as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under section 38(1)(b).

#### *Duration of leases*

- 8
- (1) In ascertaining for the purposes of this Act the duration of a lease of land the following provisions shall have effect.
  - (2) Where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the landlord.
  - (3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date.
  - (4) Sub-paragraph (3) applies in particular where the lease provides for the rent to go up after a given date, or for the tenant's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date, by notice given by the tenant, and those provisions render it unlikely that the lease will continue beyond that date.

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

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- (5) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the tenant, but subject to any right of the landlord by notice to determine the lease.
- (6) It is hereby declared that the question what is the duration of a lease is to be decided, in relation to the grant or any disposal of the lease, by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.

*Leases of property other than land*

- 9 (1) Paragraphs 2, 3, 4 and 8 of this Schedule shall apply in relation to leases of property other than land as they apply to leases of land, but subject to any necessary modifications.
- (2) Where by reference to any capital sum within the meaning of section 785 of the Taxes Act (leases of assets other than land) any person has been charged to income tax on any amount, that amount out of the capital sum shall be deducted from any gain accruing on the disposal for which that capital sum is consideration, as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or increase any loss.
- (3) In the case of a lease of a wasting asset which is movable property the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

*Interpretation*

- 10 (1) In this Act, unless the context otherwise requires “lease”—
  - (a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined,
  - (b) in relation to any description of property other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, property,
 and “lessor”, “lessee” and “rent” shall be construed accordingly.
- (2) In this Schedule “premium” includes any like sum, whether payable to the intermediate or a superior landlord, and for the purposes of this Schedule any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as the other sufficient consideration for the payment is shown to have been given.
- (3) In the application of this Schedule to Scotland “premium” includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sublease.

SCHEDULE 9

Section 288.

GILT-EDGED SECURITIES

**PART I**

GENERAL

- 1 For the purposes of this Act “gilt-edged securities” means the securities specified in Part II of this Schedule, and such stocks and bonds issued under section 12 of the National Loans Act 1968, denominated in sterling and issued after 15th April 1969, as may be specified by order made by the Treasury.
- 2 The Treasury shall cause particulars of any order made under paragraph 1 above to be published in the London and Edinburgh Gazettes as soon as may be after the order is made.
- 3 Section 14(b) of the Interpretation Act 1978 (implied power to amend orders made by statutory instrument) shall not apply to the power of making orders under paragraph 1 above.

**PART II**

EXISTING GILT-EDGED SECURITIES

*Stocks and bonds charged on the National Loans Fund*

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12 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1992
8%	Treasury Loan 1992
10%	Treasury Stock 1992
3%	Treasury Stock 1992
12 <sup>1</sup> / <sub>4</sub> %	Exchequer Stock 1992
13 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1992
10 <sup>1</sup> / <sub>2</sub> %	Treasury Convertible Stock 1992
2%	Index-linked Treasury Stock 1992
12 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1993
6%	Funding Loan 1993
13 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1993
10%	Treasury Loan 1993
8 <sup>1</sup> / <sub>4</sub> %	Treasury Stock 1993
14 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1994
12 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1994
9%	Treasury Loan 1994

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

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10%	Treasury Loan 1994
13½%	Exchequer Stock 1994
8½%	Treasury Stock 1994
8½%	Treasury Stock 1994 “A”
2%	Index-linked Treasury Stock 1994
3%	Exchequer Gas Stock 1990-95
12%	Treasury Stock 1995
10¼%	Exchequer Stock 1995
12¾%	Treasury Loan 1995
9%	Treasury Loan 1992-96
15¼%	Treasury Loan 1996
13¼%	Exchequer Loan 1996
14%	Treasury Stock 1996
2%	Index-linked Treasury Stock 1996
10%	Conversion Stock 1996
13¼%	Treasury Loan 1997
10½%	Exchequer Stock 1997
8¾%	Treasury Loan 1997
8¾%	Treasury Loan 1997 “B”
8¾%	Treasury Loan 1997 “C”
15%	Exchequer Stock 1997
6¾%	Treasury Loan 1995-98
15½%	Treasury Loan 1998
12%	Exchequer Stock 1998
12%	Exchequer Stock 1998 “A”
9¾%	Exchequer Stock 1998
9¾%	Exchequer Stock 1998 “A”
9½%	Treasury Loan 1999
10½%	Treasury Stock 1999
12¼%	Exchequer Stock 1999
12¼%	Exchequer Stock 1999 “A”
12¼%	Exchequer Stock 1999 “B”
2½%	Index-linked Treasury Convertible Stock 1999
10¼%	Conversion Stock 1999



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

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9%	Conversion Stock 2000
9%	Conversion Stock 2000 “A”
13%	Treasury Stock 2000
8½%	Treasury Loan 2000
14%	Treasury Stock 1998-2001
2½%	Index-linked Treasury Stock 2001
9¾%	Conversion Stock 2001
10%	Treasury Stock 2001
9½%	Conversion Loan 2001
12%	Exchequer Stock 1999-2002
12%	Exchequer Stock 1999-2002 “A”
9½%	Conversion Stock 2002
10%	Conversion Stock 2002
9%	Exchequer Stock 2002
9¾%	Treasury Stock 2002
13¾%	Treasury Stock 2000-2003
13¾%	Treasury Stock 2000-2003 “A”
2½%	Indexed-linked Treasury Stock 2003
9¾%	Conversion Loan 2003
10%	Treasury Stock 2003
3½%	Funding Stock 1999-2004
11½%	Treasury Stock 2001-2004
9½%	Conversion Stock 2004
10%	Treasury Stock 2004
12½%	Treasury Stock 2003-2005
12½%	Treasury Stock 2003-2005 “A”
10½%	Exchequer Stock 2005
9½%	Conversion Stock 2005
9½%	Conversion Stock 2005 “A”
8%	Treasury Loan 2002-2006
8%	Treasury Loan 2002-2006 “A”
2%	Indexed-linked Treasury Stock 2006
9¾%	Conversion Stock 2006
11¾%	Treasury Stock 2003-2007
11¾%	Treasury Stock 2003-2007 “A”

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

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8½%	Treasury Loan 2007
13½%	Treasury Stock 2004-2008
9%	Treasury Loan 2008
9%	Treasury Loan 2008 “A”
2½%	Indexed-linked Treasury Stock 2009
8%	Treasury Stock 2009
2½%	Indexed-linked Treasury Stock 2011
9%	Conversion Loan 2011
5½%	Treasury Stock 2008-2012
2½%	Indexed-linked Treasury Stock 2013
7¾%	Treasury Loan 2012-2015
2½%	Treasury Stock 1986-2016
2½%	Indexed-linked Treasury Stock 2016
2½%	Indexed-linked Treasury Stock 2016 “A”
12%	Exchequer Stock 2013-2017
2½%	Indexed-linked Treasury Stock 2020
2½%	Indexed-linked Treasury Stock 2024
2½%	Annuities 1905 or after
2¾%	Annuities 1905 or after
2½%	Consolidated Stock 1923 or after
4%	Consolidated Loan 1957 or after
3½%	Conversion Loan 1961 or after
2½%	Treasury Stock 1975 or after
3%	Treasury Stock 1966 or after
3½%	War Loan 1952 or after
10%	Conversion Stock 1996 “A”
10%	Conversion Stock 1996 “B”
12%	Exchequer Stock 1998 “B”
9%	Conversion Stock 2000 “B”
13%	Treasury Stock 2000 “A”
10%	Treasury Stock 2001 “A”
10%	Treasury Stock 2001 “B”
9¾%	Treasury Stock 2002 “A”
9¾%	Treasury Stock 2002 “B”
10%	Treasury Stock 2003 “A”

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

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9½%	Conversion Stock 2004 “A”
9%	Treasury Loan 2008 “B”
9%	Treasury Loan 2008 “C”
9%	Conversion Loan 2011 “A”

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*Securities issued by certain public corporations and guaranteed by the Treasury*

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3%	North of Scotland Electricity Stock 1989-92
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SCHEDULE 10

Section 290.

CONSEQUENTIAL AMENDMENTS

*Post Office Act 1969 c. 48*

- 1 In section 74 of the Post Office Act 1969 for “Capital Gains Tax Act 1979” there shall be substituted “Taxation of Chargeable Gains Act 1992”.

*Taxes Management Act 1970 c. 9*

- 2 (1) The Taxes Management Act 1970 shall have effect subject to the following amendments.
- (2) In sections 11(1)(b), 27(1), 47(1), 57(1)(a), 78(3)(b), 111 and 119(4) for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”.
- (3) In section 12(2)—
- (a) for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”;
  - (b) for “19(4)” there shall be substituted “51(1)”;
  - (c) for “71” there shall be substituted “121”;
  - (d) for “130, 131 or 133” there shall be substituted “263, 268 or 269”;
  - (e) for “128(6)” there shall be substituted “262(6)”.
- (4) In section 25(9) for “sections 64, 93 and 155(1) of the Capital Gains Tax Act 1979” there shall be substituted “sections 99 and 288(1) of the 1992 Act.”
- (5) The following section shall be substituted for section 28—
- “**28** (1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company falls within section 13 of the 1992 Act and whether any chargeable gains have accrued to that company in respect of which the person to whom the notice is given is liable to capital gains tax under that section.
- (2) For the purposes of this section “company” and “shares” shall be construed in accordance with sections 99 and 288(1) of the 1992 Act.”

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- (6) In section 30(2)(a) and (3)(a) for “47 of the Finance (No.2) Act 1975” there shall be substituted “283 of the 1992 Act”.
- (7) In section 31(3)(c) for “38 of the Finance Act 1973” there shall be substituted “276 of the 1992 Act”.
- (8) In section 86(4) for “7 of the Capital Gains Tax Act 1979” there shall be substituted “7 of the 1992 Act”.
- (9) In section 87A(3) for the words from “section 267(3C)” to “1979” there shall be substituted “137(4), 139(7) or 179(11) of the 1992 Act or section 96(8) of the Finance Act 1990”.

This sub-paragraph shall come into force on the day appointed under section 95 of the Finance (No.2) Act 1987 for the purposes of section 85 of that Act.

- (10) In section 98—
  - (a) in column 1 of the Table—
    - (i) for “149D of the Capital Gains Tax Act 1979” there shall be substituted “151 of the 1992 Act”;
    - (ii) for “6(9) of Schedule 1 to the Capital Gains Tax Act 1979” there shall be substituted “2(9) of Schedule 1 to the 1992 Act”;
    - (iii) for “84 of the Finance Act 1981” there shall be substituted “98 of the 1992 Act”;
    - (iv) for “Paragraph 7(1) of Schedule 10 to the Finance Act 1988” there shall be substituted “Section 79(6) of the 1992 Act”;
    - (v) for “39 of the Finance Act 1990” there shall be substituted “235 of the 1992 Act”;
    - (vi) for “12 of Schedule 16 to the Finance Act 1991” there shall be substituted “10 of Schedule 5 to the 1992 Act”; and
  - (b) in column 2 of the Table—
    - (i) for “149D of the Capital Gains Tax Act 1979” there shall be substituted “151 of the 1992 Act”; and
    - (ii) for “13 to 16 of Schedule 16 to the Finance Act 1991” there shall be substituted “11 to 14 of Schedule 5 to the 1992 Act”.
- (11) In section 118(1)—
  - (a) in the definition of “chargeable gain” for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”; and
  - (b) in paragraph (b) of the definition of “the Taxes Acts” for “the Capital Gains Tax Act 1979” there shall be substituted “the Taxation of Chargeable Gains Act 1992” and
  - (c) immediately after that definition there shall be inserted—“the 1992 Act” means the Taxation of Chargeable Gains Act 1992.

*Finance Act 1973 c. 51*

- 3 (1) In section 38(2) of the Finance Act 1973 for “In this section and in Schedule 15 to this Act” there shall be substituted “Schedule 15 to this Act shall have effect and in that Schedule”.

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- (2) In paragraphs 2 and 4 of Schedule 15 to that Act for “38 of this Act” there shall be substituted “276 of the Taxation of Chargeable Gains Act 1992”.

*British Aerospace Act 1980 c. 26*

- 4 In section 12(2) of the British Aerospace Act 1980 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*British Telecommunications Act 1981 c. 38*

- 5 In section 82(1) for “Capital Gains Tax Act 1979” and “Schedule 5” there shall be substituted respectively “Taxation of Chargeable Gains Act 1992” and “Schedule 2”.

*Value Added Tax Act 1983 c. 55*

- 6 In Group 11 of Schedule 6 to the Value Added Tax Act 1983 for “section 147(2) of the Capital Gains Tax Act 1979” there shall be substituted “section 258(2) of the Taxation of Chargeable Gains Act 1992”.

*Telecommunications Act 1984 c. 12*

- 7 In section 72(2) of the Telecommunications Act 1984 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*Inheritance Tax Act 1984 c. 51*

- 8 (1) The Inheritance Tax Act shall have effect subject to the following amendments.
- (2) In section 31(4G)(b) for “147 of the Capital Gains Tax Act 1979” there shall be substituted “258 of the 1992 Act”.
- (3) In section 79(2) for “147 of the Capital Gains Tax Act” and “147” (where it secondly appears) there shall be substituted respectively “258 of the 1992 Act” and “258”.
- (4) In section 97—
- (a) the amendments made by section 138(6) of the Finance Act 1989 shall continue to have effect notwithstanding the repeal by this Act of that provision; and
- (b) for “273(1) of the Taxes Act 1970”, “272 of the Taxes Act 1970” and “273 to 281” there shall be substituted respectively “171(1) of the 1992 Act”, “170 of the 1992 Act” and “171 to 181”.
- (5) In sections 107(4), 113A(6) and 124A(6) for “77 to 86 of the Capital Gains Tax Act 1979” there shall be substituted “126 to 136 of the 1992 Act”.
- (6) In section 135 for “section 78 of the Capital Gains Tax Act 1979”, “84”, “77(1)”, “82”, “85”, “86”, “78”, “93” and “77(1) of the Capital Gains Tax Act 1979” there shall be substituted respectively “127 of the 1992 Act”, “134”, “126(1)”, “132”, “135”, “136”, “127”, “99” and “126(1)”.

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- (7) In section 138 for “3 to the Capital Gains Tax Act 1979” there shall be substituted “8 to the 1992 Act”.
- (8) In section 165 for “Capital Gains Tax Act 1979” and “59” shall be substituted “1992 Act” and “282”.
- (9) In section 183 for “section 78 of the Capital Gains Tax Act 1979”, “77(1)”, “82”, “85”, “86”, “78”, “93” and “77(1) of the Capital Gains Tax Act 1979” there shall be substituted respectively “127 of the 1992 Act”, “126(1)”, “132”, “135”, “136”, “127”, “99” and “126(1)”.
- (10) In section 187 for “153 of the Capital Gains Tax Act 1979” shall be substituted “274 of the 1992 Act”.
- (11) In section 194 for “3 to the Capital Gains Tax Act 1979” there shall be substituted “8 to the 1992 Act”.
- (12) In section 270 for “Capital Gains Tax Act 1979” and “63” there shall be substituted “1992 Act” and “286”.
- (13) In section 272 at the end there shall be added “and  
“the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”

*Finance Act 1985 c. 54*

- 9 In section 81 for “Capital Gains Tax Act 1979” there shall be substituted “Taxation of Chargeable Gains Act 1992”.

*Trustee Savings Bank Act 1985 c. 58*

- 10 (1) In paragraph 2 of Schedule 2 to the Trustee Savings Bank Act 1985—
  - (a) for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”; and
  - (b) for “5 to the Act of 1979” there shall be substituted “2 to the 1992 Act”.
- (2) In paragraph 3 of that Schedule—
  - (a) for “II of Part II of the Act of 1979” there shall be substituted “III of Part II of the 1992 Act”; and
  - (b) for “12 of Schedule 5 to the Act of 1979” there shall be substituted “16 of Schedule 2 to the 1992 Act”.
- (3) In paragraph 4 of that Schedule—
  - (a) for “Act of 1979” (in three places) there shall be substituted “1992 Act”;
  - (b) for “134” and “26” there shall be substituted respectively “251” and “30”; and
  - (c) for “278 of the Taxes Act” (in both places) there shall be substituted “178 or 179 of the 1992 Act”.
- (4) In paragraph 9—
  - (a) at the end of sub-paragraph (1) there shall be added—  
““the 1992 Act” means the Taxation of Chargeable Gains Act 1992;”  
and
  - (b) in sub-paragraph (2) for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”.

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*Transport Act 1985 c. 67*

- 11 In section 130—
- (a) in subsection (3) for “Capital Gains Tax Act 1979” and “5” there shall be substituted “Taxation of Chargeable Gains Act 1992” and “2”; and
  - (b) in subsection (4) for “278 of the Income and Corporation Taxes Act 1970” there shall be substituted “178 or 179 of the Taxation of Chargeable Gains Act 1992”.

*Airports Act 1986 c. 31*

- 12 In section 77(2) of the Airports Act 1986 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*Gas Act 1986 c. 44*

- 13 In section 60(2) of the Gas Act 1986 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*Income and Corporation Taxes Act 1988 c. 1*

- 14 (1) The Income and Corporation Taxes Act 1988 shall have effect subject to the following amendments.
- (2) In section 11(2) for paragraph (b) there shall be substituted—
    - “(b) such chargeable gains as are, by virtue of section 10(3) of the 1992 Act, to be, or be included in, the company’s chargeable profits,”
  - (3) In section 56(5) for “82 of the 1979 Act” there shall be substituted “132 of the 1992 Act”.
  - (4) In section 119(1) after “122” there shall be inserted “and section 201 of the 1992 Act”.
  - (5) In section 122(4)(a) for “subsection (1)(b) above” there shall be substituted “section 201(1) of the 1992 Act”.
  - (6) After section 126 there shall be inserted—

**“126A Charge to tax on appropriation of securities and bonds**

- (1) In any case where—
  - (a) any specified securities were held by a company in such circumstances that any gain or loss on their disposal would, apart from section 115 of the 1992 Act, have been taken into account in determining the company’s liability to corporation tax on chargeable gains, and
  - (b) those securities are subsequently appropriated by the company in such circumstances that if they were disposed of after the appropriation, any profit accruing on their disposal would be brought into account in computing the company’s income for corporation tax,

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then for the purposes of corporation tax any loss incurred by the company on the disposal of those securities shall not exceed the loss which would have been incurred on that disposal if the amount or value of the consideration for the acquisition of the securities had been equal to their market value at the time of the appropriation.

(2) In any case where—

- (a) any specified securities were held by a company in such circumstances that any profit accruing on their disposal would be brought into account in computing the company's income for corporation tax, and
- (b) those securities are subsequently appropriated by the company in such circumstances that any gain accruing on their disposal would, by virtue of section 115 of the 1992 Act, be exempt from corporation tax on chargeable gains,

then for the purposes of corporation tax the company shall be treated as if, immediately before the appropriation, it had sold and repurchased the specified securities at their market value at the time of the appropriation.

(3) In this section “specified securities” means gilt-edged securities or qualifying corporate bonds.”

- (7) In section 128 for “72 of the Finance Act 1985” and “(2A)” there shall be substituted respectively “143 of the 1992 Act” and “(3)”.
- (8) In section 129(4) for “149B(9) of the 1979 Act” there shall be substituted “271(9) of the 1992 Act”.
- (9) In section 137(1)(b) and (2) for “1979” there shall be substituted “1992”.
- (10) In section 139(14) for “32A(4) of the 1979 Act” there shall be substituted “120(4) of the 1992 Act”.
- (11) In sections 140(3) and 162(10)(d) for “1979” and “150” there shall be substituted respectively “1992” and “272”.
- (12) In section 185—
  - (a) in subsection (3)(b) for “29A(1) of the 1979 Act” there shall be substituted “17(1) of the 1992 Act”; and
  - (b) in subsection (7) for “32(1)(a) of the 1979 Act” there shall be substituted “38(1)(a) of the 1992 Act”.
- (13) In section 187(2) for “1979 Act” (in the definition of “market value”) and “77(1)(b) of the 1979 Act” (in the definition of “new holding”) there shall be substituted respectively “1992 Act” and “126(1)(b) of the 1992 Act”.
- (14) In section 220 for “52 of the 1979 Act” (in subsection (2)) and “1979” (in subsection (9)) there shall be substituted respectively “69 of the 1992 Act” and “1992”.
- (15) In section 245B(1)(c) for “273(1) of the Taxes Act 1970” there shall be substituted “171(1) of the 1992 Act”.
- (16) In section 251 for “150(3) of the 1979 Act” and “152 of the 1979 Act” there shall be substituted respectively “272(3) of the 1992 Act” and “273 of the 1992 Act”.



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- (17) In sections 299 and 305 for “77(2)(a) of the 1979 Act” and “78” there shall be substituted respectively “126(2)(a) of the 1992 Act” and “127”.
- (18) In section 312 for “86(1) of the 1979 Act” and “150 of the 1979 Act” there shall be substituted respectively “136(1) of the 1992 Act” and “272 of the 1992 Act”.
- (19) In section 399—
- (a) in subsection (1) for “72(1) of the Finance Act 1985” there shall be substituted “143(1) of the 1992 Act”, and
  - (b) in subsection (5) for “72 of the Finance Act 1985” and “(2A)” there shall be substituted “143 of the 1992 Act” and “143(3)” respectively.
- (20) In section 400—
- (a) in subsection (2)(e) for “345” there shall be substituted “8 of the 1992 Act”; and
  - (b) in subsection (6) for “42 of the 1979” there shall be substituted “50 of the 1992”.
- (21) In section 438(8) for “149B(1)(h) of the 1979 Act” there shall be substituted “271(1)(h) of the 1992 Act”.
- (22) In section 440—
- (a) in subsection (3) for “273 or 274 of the 1970 Act” there shall be substituted “171 or 173 the 1992 Act”; and
  - (b) in subsection (5) for “1979” there shall be substituted “1992”.
- (23) In section 440A—
- (a) in subsection (5) for “66 of the 1979 Act” there shall be substituted “105 of the 1992 Act”; and
  - (b) for subsection (6) there shall be substituted—
    - “(6) In this section—
    - “1982 holding” has the same meaning as in section 109 of the 1992 Act;
    - “new holding” has the same meaning as in section 104(3) of that Act; and
    - “securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or or acquired.”
- (24) In section 442 for “1979 Act” there shall be substituted “1992 Act”.
- (25) In section 444A(8) for “88 of the 1979 Act” there shall be substituted “138 of the 1992 Act”.
- (26) In section 450(6) for “31 or 33 of the 1979” there shall be substituted “37 or 39 of the 1992”.
- (27) In section 473—
- (a) in subsections (2) and (5) for “77 to 86 of the 1979” and “84” there shall be substituted respectively “126 to 136 of the 1992” and “134”;
  - (b) in subsection (6) for “82 of the 1979 Act”, “86(7), 93 or 139” and “77 to 86” there shall be substituted respectively “132 of the 1992 Act”, “136(3), 147 or 99” and “126 to 136”;

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- (c) in subsection (7) for “85 or 86 of the 1979” and “87(1)” there shall be substituted “135 or 136 of the 1992” and “137(1)” respectively.
- (28) In section 477B(5) for “64(3E) of the Finance Act 1984” there shall be substituted “117(4) of the 1992 Act”.
- (29) In section 484(2) for “270(4) of the 1970 Act” there shall be substituted “126A(1)”.
- (30) In subsection (1) of section 502 in the definition of “ring fence profits” for “same meaning as in section 79(5) of the Finance Act 1984” there shall be substituted “meaning given by subsection (1A) below” and at the end of that subsection there shall be inserted—
- “(1A) Where in accordance with section 197(3) of the 1992 Act a person has an aggregate gain for any chargeable period, that gain and his ring fence income (if any) for that period together constitute his ring fence profits for the purposes of this Chapter.”
- (31) In section 505(3), (5)(b) and (6) for “145 of the 1979 Act” there shall be substituted “256 of the 1992 Act”.
- (32) In section 513(3) for “272(5) of the 1970 Act” there shall be substituted “170(12) of the 1992 Act”.
- (33) In section 574(1) for “1979” there shall be substituted “1992”.
- (34) In section 575—
- (a) in subsection (1)(c) for “22(2) of the 1979 Act” there shall be substituted “24(2) of the 1992 Act”;
  - (b) in subsection (2) for “78 of the 1979 Act”, in both places, there shall be substituted “127 of the 1992 Act”; and
  - (c) in subsection (3) for “85 or 86 of the 1979 Act” and “87” there shall be substituted “135 or 136 of the 1992 Act” and “137”.
- (35) In section 576—
- (a) in subsection (2) for “26 of the 1979 Act” and “(4)” there shall be substituted “30 of the 1992 Act” and “(5)”; and
  - (b) in subsection (5)—
    - (i) for the definition of “holding” there shall be substituted—
 

““holding” means any number of shares of the same class held by one person in one capacity, growing or diminishing as shares of that class are acquired or disposed of, but shares shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange, and subsection (4) of section 104 of the 1992 Act shall apply for the purposes of this definition as it applies for the purposes of subsection (1) of that section;”
    - (ii) for “the first proviso to section 79(1) of the 1979 Act” there shall be substituted “paragraph (a) or (b) of section 128(2)”; and
    - (iii) for “155(2) of the 1979 Act” there shall be substituted “288(3) of the 1992 Act”.
- (36) In section 710—

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- (a) in subsection (2A) for “64(3E) of the Finance Act 1984” there shall be substituted “117(4) of the 1992 Act”; and
  - (b) in subsection (13) for “82 of the 1979” shall be substituted “132 of the 1992”.
- (37) In section 715(8) for “5(1) of Schedule 1 to the 1979”, “12(3) of the 1979” and “18(4) of the 1979” there shall be substituted respectively “1(1) of Schedule 1 to the 1992”, “10(6) of the 1992” and “275 of the 1992”.
- (38) In section 723(8) for “18(4) of the 1979” there shall be substituted “275 of the 1992”.
- (39) In section 727(2) for “149B(9) of the 1979” there shall be substituted “271(9) of the 1992”.
- (40) In section 731(4B) for “(9) of section 137 of the 1979 Act” there shall be substituted “(8) of section 144 of the 1992 Act”.
- (41) In section 734(2) for “72(5)(b) of the 1979 Act” there shall be substituted “122(5)(b) of the 1992 Act”.
- (42) In section 740(6)(a) for “80 or 81(2) of the Finance Act 1981” there shall be substituted “87 or 89(2) of the 1992 Act”.
- (43) In section 757—
- (a) in subsection (1) for “78 of the 1979” there shall be substituted “127 of the 1992”;
  - (b) in subsection (2) for “1979” there shall be substituted “1992”;
  - (c) in subsections (3) and (4) for “49 of the 1979” there shall be substituted “62 of the 1992”;
  - (d) in subsection (5) for “85”, “1979” and “86” there shall be substituted respectively “135”, “1992” and “136”;
  - (e) in subsection (6) for “85(3) of the 1979” there shall be substituted “135(3) of the 1992”; and
  - (f) in subsection (7) for “Chapter II of Part II of the 1979” there shall be substituted “Chapter III of Part II of the 1992”.
- (44) In section 758—
- (a) in subsection (5) for “78 of the 1979” there shall be substituted “127 of the 1992”; and
  - (b) in subsection (6) for “78 of the 1979”, “85”, “78 as” and “82” there shall be substituted respectively “127 of the 1992”, “135”, “127 as” and “132”.
- (45) In section 759(9) for “1979” and “150(4)” there shall be substituted “1992” and “272(5)”.
- (46) In section 760(4) for “78 of the 1979” there shall be substituted respectively “127 of the 1992”.
- (47) In section 761—
- (a) in subsection (2) for “2 and 12 of the 1979 Act” there shall be substituted “2(1) and 10 of the 1992 Act”;
  - (b) in subsection (3) for “12 of the 1979 Act” there shall be substituted “10 of the 1992 Act” and at the end of that subsection there shall be inserted “and subsection (3) of that section (which makes similar provision in relation to

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- corporation tax) shall have effect with the omission of the words “situated in the United Kingdom”;
- (c) in subsection (5) for “14 of the 1979 Act” there shall be substituted “12 of the 1992 Act”;
  - (d) in subsections (6) and (7)(a) and (b) for “1979” there shall be substituted “1992”.
- (48) In section 762—
- (a) in subsection (1) for “15 of the 1979 Act” there shall be substituted “13 of the 1992 Act”;
  - (b) in subsection (2)—
    - (i) for “80 to 84 of the Finance Act 1981” there shall be substituted “87 to 90 and 96 to 98 of the 1992 Act”;
    - (ii) in paragraph (a) for “80(5)” there shall be substituted “87(6)”;
    - (iii) in paragraph (b) for the words from the beginning to “1979” there shall be substituted “in section 87(2) of the 1992 Act for the words “tax under section 2(2)””;
    - (iv) in paragraph (c) for “80(6)” there shall be substituted “87(7)”;
    - (v) in paragraph (d) for “80(8) and 83(6)” there shall be substituted “87(10) and 97(6)”;
  - (c) in subsection (3) for “80(5) of the Finance Act 1981” there shall be substituted “87(6) of the 1992 Act”; and
  - (d) in subsection (4) for “80 of the Finance Act 1981” there shall be substituted “87 of the 1992 Act”.
- (49) In section 763—
- (a) for “the 1979 Act disposal”, in each place, there shall be substituted “the 1992 Act disposal”;
  - (b) in subsections (1) and (6) for “1979” there shall be substituted “1992”;
  - (c) in subsection (2) for “31(1)” there shall be substituted “37(1)”;
  - (d) in subsection (3) for “computation under Chapter II of Part II of the 1979 Act of any gain” there shall be substituted “computation of the gain”;
  - (e) in subsection (4) for “35” there shall be substituted “42”;
  - (f) in subsection (5) for “123” there shall be substituted “162”; and
  - (g) in subsection (6) for “79” there shall be substituted “128”.
- (50) In section 776(9) for “101 to 105 of the 1979” and “103(3)” there shall be substituted respectively “222 to 226 of the 1992” and “224(3)”.
- (51) In section 777 in subsections (11) and (12) for “122 of the 1979” and “31 and 33 of the 1979” there shall be substituted “161 of the 1992” and “37 and 39 of the 1992” respectively.
- (52) In section 824(8) for “47 of the Finance (No.2) Act 1975” there shall be substituted “283 of the 1992 Act”.
- (53) In section 831—
- (a) at the end of subsection (3) there shall be inserted—
    - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”;
    - and
  - (b) in subsection (5) for “1979” there shall be substituted “1992”.

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- (54) In section 832(1) in the definition of “chargeable gain” for “1979” there shall be substituted “1992”.
- (55) In section 842(4) for “64, 93 and 155(1) of the 1979 Act” there shall be substituted “99 and 288 of the 1990 Act”.
- (56) In section 843(2) for “10 of the 1979 Act” there shall be substituted “277 of the 1990 Act”.
- (57) In Schedule 4—
- (a) in paragraphs 1(8), 19 and 20 for “1979” there shall be substituted “1992”;
  - (b) in paragraph 2(4) for “82 of the 1979”, “85(3) of the 1979” and “86(1)” there shall be substituted respectively “132 of the 1992”, “135(3) of the 1992” and “136(1)”;
  - (c) in paragraph 7 for “1979” (in both places) there shall be substituted “1992” and for “49(1)(b)”, “82”, “86(1)”, “85(3)” and “78” there shall be substituted respectively “62(1)(b)”, “132”, “136(1)”, “135(3)” and “127”; and
  - (d) in paragraph 12 for “88 of the Finance Act 1982” there shall be substituted “108 of the 1992 Act”.
- (58) In paragraph 5(7) of Schedule 10 for “1979” there shall be substituted “1992”.
- (59) In paragraph 12(2) of Schedule 20 for “145 of the 1979” there shall be substituted “256 of the 1992”.
- (60) In paragraph 7 of Schedule 22 for “149B(1)(g) of the 1979” there shall be substituted “271(1)(g) of the 1992”.
- (61) In Schedule 23A for “149B(9) of the 1979 Act” there shall be substituted “271(9) of the 1992 Act”.
- (62) In paragraph 3 of Schedule 26 for “II of Part II of the 1979” there shall be substituted “III of Part II of the 1992”.
- (63) In Schedule 28—
- (a) in paragraph 2 for “1979” and “Chapter III of Part III of the Finance Act 1982” there shall be substituted respectively “1992” and “the 1992 Act”;
  - (b) in paragraph 3—
    - (i) for “paragraph 2 of Schedule 13 to the Finance Act 1982” there shall be substituted “section 56(2) of the 1992 Act”;
    - (ii) for “123 of the 1979 Act” there shall be substituted “162 of the 1992 Act”;
    - (iii) in sub-paragraph (3) for the words from “section” to “shall” there shall be substituted “section 165 or 260 of the 1992 Act (relief for gifts) the claim shall”;
    - (iv) for “31(1) of the 1979 Act” there shall be substituted “37(1) of the 1992 Act”; and
    - (v) for “29 of the 1979 Act” there shall be substituted “16 of the 1992 Act”;
  - (c) in paragraphs 4(3)(b) and 8(3) for “86(5) of or Schedule 13 to the Finance Act 1982” and “86(5)(b) of or Schedule 13 to the Finance Act 1982” there shall be substituted “56, 57, 131 or 145 of the 1992 Act” and for “1979” there shall be substituted “1992”.

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*British Steel Act 1988 c. 35*

- 15 In section 11(2) of the British Steel Act 1988 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*Finance Act 1988 c. 39*

- 16 (1) The Finance Act 1988 shall have effect subject to the following amendments.
- (2) In section 50(4) for “3 to the Capital Gains Tax Act 1979” there shall be substituted “8 to the Taxation of Chargeable Gains Act 1992”.
- (3) In section 68(4) for “29A(1) of the Capital Gains Tax Act 1979” there shall be substituted “17(1) of the Taxation of Chargeable Gains Act 1992”.
- (4) In section 82(3)—
- (a) for “78 to 81 of the Capital Gains Tax Act 1979” there shall be substituted “127 to 130 of the Taxation of Chargeable Gains Act 1992”; and
  - (b) for “78”, “79(1)” and “79(2)” there shall be substituted respectively “127”, “128(1) and (2)” and “128(3)”.
- (5) In section 84 for “32(1)(a) of the Capital Gains Tax Act 1979” there shall be substituted “38(1)(a) of the Taxation of Chargeable Gains Act 1992”.
- (6) In section 132(6) for “272 of the Taxes Act 1970” there shall be substituted “170 of the Taxation of Chargeable Gains Act 1992”.
- (7) In paragraph 6(2) of Schedule 12 for “72 of the Capital Gains Tax Act 1979” there shall be substituted “122 of the Taxation of Chargeable Gains Act 1992”.

*Health and Medicines Act 1988 c. 49*

- 17 In section 6(2) of the Health and Medicines Act 1988 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “170(12) of the Taxation of Chargeable Gains Act 1992”.

*Water Act 1989 c. 15*

- 18 In section 95 of the Water Act 1989—
- (a) in subsection (4) for “Capital Gains Tax Act 1979 (“the 1979 Act”)” there shall be substituted “Taxation of Chargeable Gains Act 1992 (“the 1992 Act”)”;
  - (b) in subsection (5) for “1979” there shall be substituted “1992”; and
  - (c) in subsection (6) for “134 of the 1979” there shall be substituted “251 of the 1992”.

*Finance Act 1989 c. 26*

- 19 (1) In section 69(9) of the Finance Act 1989 for “85(1) of the Capital Gains Tax Act 1979” and “77” there shall be substituted “135(1) of the Taxation of Chargeable Gains Act 1992” and “126”.
- (2) In section 70(2) of that Act for “Capital Gains Tax Act 1979” and “32(1)(a)” there shall be substituted “Taxation of Chargeable Gains Act 1992” and “38(1)(a)”.

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- (3) In section 158(2) of that Act in paragraph (a) for “section 47(1) of the Finance (No.2) Act 1975” there shall be substituted “section 283(1) of the Taxation of Chargeable Gains Act 1992”.
- (4) In section 178(2) of that Act for paragraph (i) there shall be substituted—  
“(i) section 283 of the Taxation of Chargeable Gains Act 1992;”
- (5) In Schedule 5 to that Act in paragraphs 8 and 11 for “85(1) of the Capital Gains Tax Act 1979” and “77” there shall be substituted “135(1) of the Taxation of Chargeable Gains Act 1992” and “126”.
- (6) In Schedule 11 to that Act—
  - (a) in paragraph 1(8)(c) for “Capital Gains Tax Act 1979” there shall be substituted “Taxation of Chargeable Gains Act 1992”; and
  - (b) in paragraph 19 for “88 of the Finance Act 1982” there shall be substituted “108 of the Taxation of Chargeable Gains Act 1992”.

*Electricity Act 1989 c. 29*

- 20 (1) In paragraph 2 of Schedule 11 to the Electricity Act 1989 for “278 of the Income and Corporation Taxes Act 1970” and “272 of the Income and Corporation Act 1970” there shall be substituted respectively “178 or 179 of the 1992 Act” and “170 of the 1992 Act”; and at the end of that paragraph there shall be added—  
“**2A** In this Schedule “the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”
- (2) In paragraph 3 of that Schedule for “117 of the Capital Gains Tax Act 1979” and “117” (where it secondly appears) there shall be substituted “154 of the 1992 Act” and “154”.
- (3) In paragraphs 4 and 5 of that Schedule for “Capital Gains Tax Act 1979” (in each place) there shall be substituted “1992 Act”.

*Capital Allowances Act 1990 c. 1*

- 21 (1) The following section shall be inserted in the Capital Allowances Act 1990 after section 118—

**“118A Disposals of oil licences relating to undeveloped areas**

- (1) If, at the time of the material disposal of a licence, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—
  - (a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or
  - (b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,the value of that consideration shall be treated as nil for the purposes of this Part and Part VII.

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- (2) For the purposes of this section “material disposal” means a disposal (including a part disposal) other than a disposal in relation to which sections 157 and 158 of this Act have effect.
  - (3) If a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another material disposals of two or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (1)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those two or more licences.
  - (4) Expressions used in this section and in section 194 of the Taxation of Chargeable Gains Act 1992 have the same meaning in this section as they have in that.”
- (2) In section 138 of that Act the following subsection shall be inserted after subsection (7)—
- “(7A) Where the relevant event is the material disposal of a licence for the purposes of section 118A, subsection (4) above shall have effect subject to that section.”

*Finance Act 1990 c. 29*

- 22 (1) The Finance Act 1990 shall have effect subject to the following amendments.
- (2) In section 116(5) for “150(1) to (3) and 152 of the Capital Gains Tax Act 1979” there shall be substituted “272(1) to (4) and 273 of the Taxation of Chargeable Gains Act 1992”.
  - (3) In section 120 for “27 of the Capital Gains Tax Act 1979” there shall be substituted “28 of the Taxation of Chargeable Gains Act 1992”.
  - (4) In paragraph 24 of Schedule 10 for “88 of the Finance Act 1982” there shall be substituted “108 of the Taxation of Chargeable Gains Act 1992”.
  - (5) In Schedule 12—
    - (a) in paragraph 2—
      - (i) for “the Capital Gains Tax Act 1979 (“the 1979 Act”)” there shall be substituted “the Taxation of Chargeable Gains Act 1992 (“the 1992 Act”)”;
      - (ii) for “5” there shall be substituted “2”; and
      - (iii) for “134 of the 1979” there shall be substituted “251 of the 1992”;
    - (b) in paragraphs 4, 5 and 6 for “1979” there shall be substituted “1992”;
    - (c) in paragraph 7 for “115 to 119 of the 1979” there shall be substituted “152 to 156 of the 1992”; and
    - (d) in paragraph 10 for the definition of “the 1979 Act” there shall be substituted—
 

““the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”



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*Finance Act 1991 c. 31.*

- 23 In section 72(4) of the Finance Act 1991 for “5(1) of the Capital Gains Tax Act 1979” there shall be substituted “3(1) of the Taxation of Chargeable Gains Act 1992”.

*Ports Act 1991 c. 52*

- 24 (1) In section 16 of the Ports Act 1991 for “Capital Gains Tax Act 1979” and “29A(1)” there shall be substituted respectively “1992 Act” and “17(1)”.
- (2) In section 17 of that Act—
- (a) for “1979” (wherever it occurs) there shall be substituted “1992”;
  - (b) in subsection (6) for “278(3) or (3C) of the Income and Corporation Taxes Act 1970” there shall be substituted “178(3) or (5) or 179(3) or (6) of the 1992 Act”;
  - (c) in subsection (7)—
    - (i) for paragraph (a) there shall be substituted—
      - “(a) “the relevant six-year limit” means in relation to section 178(3) or 179(3) the six year period mentioned in section 178(1) or 179(1) and in relation to section 178(5) or 179(6) the six year period mentioned in 178(5)(a) or 179(6)(a); and”;
      - and
      - (ii) in paragraph (b) for “278(3)”, “278(3C)” and “subsection (3D) of that section” there shall be substituted “178(3) or 179(3)”, “178(5) or 179(6)” and “section 178(6) or 179(7)” respectively; and
    - (d) in subsection (13) for “272 to 281 of the Income and Corporation Taxes Act 1970”, “(1E) and (1F) of section 272” and “(1E)” there shall be substituted “170 to 181 of the 1992 Act”, “(7) and (8) of section 170” and “(7)” respectively.
- (3) In section 18 of that Act—
- (a) in subsections (2) and (8) for “1979” there shall be substituted “1992”;
  - (b) in subsection (4) for “267(1) or 273(1) of the Income and Corporation Taxes Act 1970” there shall be substituted “139(1) or 171(1) of the 1992 Act”.
- (4) In section 20 of that Act for “27 of the Capital Gains Tax Act 1979” there shall be substituted “28 of the 1992 Act”.
- (5) In section 35 of that Act—
- (a) in subsection (3) for “Capital Gains Tax Act 1979” there shall be substituted “1992 Act”; and
  - (b) in subsection (6) for “278 of the Income and Corporation Taxes Act 1970” and “273 to 281” there shall be substituted “178 or 179 of the 1992 Act” and “171 to 181”.
- (6) In section 40(1) of that Act there shall be added at the end “and  
“the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”

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*British Technology Group Act 1991 c. 66*

- 25 In section 12(2) of the British Technology Group Act 1991 for “345 of the Income and Corporation Taxes Act 1988” there shall be substituted “8 of the Taxation of Chargeable Gains Act 1992”.

SCHEDULE 11

Section 290.

TRANSITIONAL PROVISIONS AND SAVINGS

**PART I**

VALUATION

*Preliminary*

- 1 (1) This Part of this Schedule has effect in cases where the market value of an asset at a time before the commencement of this Act is material to the computation of a gain under this Act; and in this Part any reference to an asset includes a reference to any part of an asset.
- (2) Where sub-paragraph (1) above applies, the market value of an asset (or part of an asset) at any time before the commencement of this Act shall be determined in accordance with sections 272 to 274 but subject to the following provisions of this Part.
- (3) In any case where section 274 applies in accordance with sub-paragraph (2) above the reference in that section to inheritance tax shall be construed as a reference to capital transfer tax.

*Gifts and transactions between connected persons before 20th March 1985*

- 2 (1) Where sub-paragraph (1) above applies for the purpose of determining the market value of any asset at any time before 20th March 1985 (the date when section 71 of the Finance Act 1985, now section 19, replaced section 151 of the 1979 Act, which is reproduced below) sub-paragraphs (2) to (4) below shall apply.
- (2) Except as provided by sub-paragraph (4) below section 19 shall not apply in relation to transactions occurring before 20th March 1985.
- (3) If a person is given, or acquires from one or more persons with whom he is connected, by way of 2 or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Act their market value shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.
- (4) Where—
- (a) one or more transactions occurred on or before 19th March 1985 and one or more after that date, and

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- (b) had all the transactions occurred before that date sub-paragraph (3) above would apply, and had all the transactions occurred after that date section 19 would have applied,

then those transactions which occurred on or before that date and not more than 2 years before the first of those which occurred after that date shall be treated as material transactions for the purposes of section 19.

*Valuation of assets before 6th July 1973*

- 3 Section 273 shall apply for the purposes of determining the market value of any asset at any time before 6th July 1973 (the date when the provisions of section 51(1) to (3) of the Finance Act 1973, which are now contained in section 273, came into force) notwithstanding that the asset was acquired before that date or that the market value of the asset may have been fixed for the purposes of a contemporaneous disposal, and in paragraphs 4 and 5 below a “section 273 asset” is an asset to which section 273 applies.
- 4 (1) This paragraph applies if, in a case where the market value of a section 273 asset at the time of its acquisition is material to the computation of any chargeable gain under this Act—
- (a) the acquisition took place on the occasion of a death occurring after 30th March 1971 and before 6th July 1973, and
  - (b) by virtue of paragraph 9 below, the principal value of the asset for the purposes of estate duty on that death would, apart from this paragraph, be taken to be the market value of the asset at the date of the death for the purposes of this Act.
- (2) If the principal value referred to in sub-paragraph (1)(b) above falls to be determined as mentioned in section 55 of the Finance Act 1940 or section 15 of the Finance (No.2) Act (Northern Ireland) 1946 (certain controlling shareholdings to be valued on an assets basis), nothing in section 273 shall affect the operation of paragraph 9 below for the purpose of determining the market value of the asset at the date of the death.
- (3) If sub-paragraph (2) above does not apply, paragraph 9 below shall not apply as mentioned in sub-paragraph (1)(b) above and the market value of the asset on its acquisition at the date of the death shall be determined in accordance with sections 272 (but with the same modifications as are made by paragraphs 7 and 8 below) and 273.
- 5 (1) In any case where—
- (a) before 6th July 1973 there has been a part disposal of a section 273 asset (“the earlier disposal”), and
  - (b) by virtue of any enactment, the acquisition of the asset or any part of it was deemed to be for a consideration equal to its market value, and
  - (c) on or after 6th July 1973 there is a disposal (including a part disposal) of the property which remained undisposed of immediately before that date (“the later disposal”),
- sub-paragraph (2) below shall apply in computing any chargeable gain accruing on the later disposal.
- (2) Where this sub-paragraph applies, the apportionment made by virtue of paragraph 7 of Schedule 6 to the Finance Act 1965 (corresponding to section 42 of this Act) on the

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occasion of the earlier disposal shall be recalculated on the basis that section 273(3) of this Act was in force at the time and applied for the purposes of the determination of—

- (a) the market value referred to in sub-paragraph (1)(b) above, and
- (b) the market value of the property which remained undisposed of after the earlier disposal, and
- (c) if the consideration for the earlier disposal was, by virtue of any enactment, deemed to be equal to the market value of the property disposed of, that market value.

*Valuation of assets on 6th April 1965*

- 6
- (1) For the purpose of ascertaining the market value of any shares or securities in accordance with paragraph 1(2) of Schedule 2, section 272 shall have effect subject to the provisions of this paragraph.
  - (2) Subsection (3)(a) shall have effect as if for the words, “one-quarter” there were substituted the words “one-half”, and as between the amount under paragraph (a) and the amount under paragraph (b) of that subsection the higher, and not the lower, amount shall be chosen.
  - (3) Subsection (5) shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount halfway between the buying and selling prices.
  - (4) Where the market value of any shares or securities not within section 272(3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under sub-paragraph (2) above.

*References to the London Stock Exchange before 25th March 1973 and Exchange Control restrictions before 13th December 1979*

- 7
- (1) For the purposes of ascertaining the market value of an asset before 25th March 1973 section 272(3) and (4) shall have effect subject to the following modifications—
    - (a) for “listed in The Stock Exchange Daily Official List” and “quoted in that List” there shall be substituted respectively “quoted on the London Stock Exchange” and “so quoted”;
    - (b) for “The Stock Exchange Daily Official List” there shall be substituted “the Stock Exchange Official Daily List”;
    - (c) for “The Stock Exchange provides a more active market elsewhere than on the London trading floor” there shall be substituted “some other stock exchange in the United Kingdom affords a more active market”; and
    - (d) for “if the London trading floor is closed” there shall be substituted “if the London Stock Exchange is closed”.
  - (2) For the purposes of ascertaining the market value of an asset before 13th December 1979 section 272 shall have effect as if the following subsection were inserted after subsection (5)—

“(5A) In any case where the market value of an asset is to be determined at a time before 13th December 1979 and the asset is of a kind the sale of which was (at

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the time the market value is to be determined) subject to restrictions imposed under the Exchange Control Act 1947 such that part of what was paid by the purchaser was not retainable by the seller, the market value, as arrived at under subsection (1), (3), (4) or (5) above, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.”

*Depreciated valuations referable to deaths before 31st March 1973*

- 8 In any case where this Part applies, section 272(2) shall have effect as if the following proviso were inserted at the end—

“Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of a death before 31st March 1973 and the market value of any property on the date of death taken into account for the purposes of that tax or loss has been depreciated by reason of the death, the estimate of the market value shall take that depreciation into account.”

*Estate duty*

- 9 (1) Where estate duty (including estate duty leviable under the law of Northern Ireland) is chargeable in respect of any property passing on a death after 30th March 1971 and the principal value of an asset forming part of that property has been ascertained (whether in any proceedings or otherwise) for the purposes of that duty, the principal value so ascertained shall, subject to paragraph 4(3) above, be taken for the purposes of this Act to be the market value of that asset at the date of the death.
- (2) Where the principal value has been reduced under section 35 of the Finance Act 1968 or section 1 of the Finance Act (Northern Ireland) 1968 (tapering relief for gifts inter vivos etc.), the reference in sub-paragraph (1) above to the principal value as ascertained for the purposes of estate duty is a reference to that value as so ascertained before the reduction.

**PART II**

OTHER TRANSITORY PROVISIONS

*Value-shifting*

- 10 (1) Section 30 applies only where the reduction in value mentioned in subsection (1) of that section (or, in a case within subsection (9) of that section, the reduction or increase in value) is after 29th March 1977.
- (2) No account shall be taken by virtue of section 31 of any reduction in the value of an asset attributable to the payment of a dividend before 14th March 1989.
- (3) No account shall be taken by virtue of section 32 of any reduction in the value of an asset attributable to the disposal of another asset before 14th March 1989.
- (4) Section 34 shall not apply where the reduction in value, by reason of which the amount referred to in subsection (1)(b) of that section falls to be calculated, occurred before 14th March 1989.

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*Assets acquired on disposal chargeable under Case VII of Schedule D*

- 11 (1) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal was in circumstances that the gain accruing on it was chargeable under Case VII of Schedule D, or where it would have been so chargeable if there were a gain so accruing.
- (2) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under any provision of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.
- (3) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 164(4) of the Income and Corporation Taxes Act 1970, and in particular in a case where section 164(6) of that Act (enhancement of value of land by acquisition of adjoining land) applied, shall be followed for the purposes of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII was a part disposal, in relation to a disposal of what remains undisposed of.
- (4) Sub-paragraph (3) above has effect notwithstanding section 52(4).

*Unrelieved Case VII losses*

- 12 Where no relief from income tax (for a year earlier than 1971-72) has been given in respect of a loss or part of a loss allowable under Case VII of Schedule D, the loss or part shall, notwithstanding that the loss accrued before that year, be an allowable loss for the purposes of capital gains tax, but subject to any restrictions imposed by section 18.

*Devaluation of sterling: securities acquired with borrowed foreign currency*

- 13 (1) This paragraph applies where, in pursuance of permission granted under the Exchange Control Act 1947, currency other than sterling was borrowed before 19th November 1967 for the purpose of investing in foreign securities (and had not been repaid before that date), and it was a condition of the permission—
- (a) that repayment of the borrowed currency should be made from the proceeds of the sale in foreign currency of the foreign securities so acquired or out of investment currency, and
  - (b) that the foreign securities so acquired should be kept in separate accounts to distinguish them from others in the same ownership,
- and securities held in such a separate account on 19th November 1967 are in this paragraph referred to as “designated securities”.
- (2) In computing the gain accruing to the borrower on the disposal of any designated securities or on the disposal of any currency or amount standing in a bank account on 19th November 1967 and representing the loan, the sums allowable as a deduction under section 38(1)(a) shall, subject to sub-paragraph (3) below, be increased by multiplying them by seven-sixths.
- (3) The total amount of the increases so made in computing all gains (and losses) which are referable to any one loan (made before 19th November 1967) shall not exceed one-sixth of the sterling parity value of that loan at the time it was made.

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- (4) Designated securities which on the commencement of this paragraph constitute a separate 1982 holding (within the meaning of section 109), shall continue to constitute a separate 1982 holding until such time as a disposal takes place on the occurrence of which sub-paragraph (3) above operates to limit the increases which would otherwise be made under sub-paragraph (2) in allowable deductions.
- (5) In this paragraph and paragraph 14 below, “foreign securities” means securities expressed in a currency other than sterling, or shares having a nominal value expressed in a currency other than sterling, or the dividends on which are payable in a currency other than sterling.

*Devaluation of sterling: foreign insurance funds*

- 14 (1) The sums allowable as a deduction under section 38(1)(a) in computing any gains to which this paragraph applies shall be increased by multiplying by seven-sixths.
- (2) This paragraph applies to gains accruing—
- (a) to any underwriting member of Lloyd's, or
  - (b) to any company engaged in the business of marine protection and indemnity insurance on a mutual basis,
- on the disposal by that person after 18th November 1967 of any foreign securities which on that date formed part of a trust fund—
- (i) established by that person in any country or territory outside the United Kingdom, and
  - (ii) representing premiums received in the course of that person's business, and
  - (iii) wholly or mainly used for the purpose of meeting liabilities arising in that country or territory in respect of that business.

*Gilt-edged securities past redemption date*

- 15 So far as material for the purposes of this or any other Act, the definition of “gilt-edged securities” in Schedule 9 to this Act shall include any securities which were gilt-edged securities for the purposes of the 1979 Act, and the redemption date of which fell before 1st January 1992.

*Qualifying corporate bonds, company reorganisations, share conversions etc.*

- 16 (1) Part IV of this Act has effect subject to the provisions of this paragraph.
- (2) The substitution of Chapter II of that Part for the enactments repealed by this Act shall not alter the law applicable to any reorganisation or reduction of share capital, conversion of securities or company amalgamation taking place before the coming into force of this Act.
- (3) Sub-paragraph (2) above applies in particular to the law determining whether or not any assets arising on an event mentioned in that sub-paragraph are to be treated as the same asset as the original holding of shares, securities or other assets.
- (4) In relation to a disposal or exchange on or after 6th April 1992, the following amendments shall be regarded as always having had effect, that is to say, the amendments to section 64 of, or Schedule 13 to, the Finance Act 1984 made by section 139 of, or paragraph 6 of Schedule 14 to, the Finance Act 1989, paragraph 28 of Schedule 10 to the Finance Act 1990 or section 98 of, or paragraph 1 of

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Schedule 10 to, the Finance Act 1991, or by virtue of the amendments to paragraph 1 of Schedule 18 to the Taxes Act made by section 77 of the Finance Act 1991.

*Land: allowance for betterment levy*

- 17 (1) Where betterment levy charged in the case of any land in respect of an act or event which fell within Case B or Case C or, if it was the renewal, extension or variation of a tenancy, Case F—
- (a) has been paid, and
  - (b) has not been allowed as a deduction in computing the profits or gains or losses of a trade for the purposes of Case I of Schedule D;
- then, if the person by whom the levy was paid disposes of the land or any part of it and so claims, the following provisions of this paragraph shall have effect.
- (2) Paragraph 9 of Schedule 2 shall apply where the condition stated in sub-paragraph (1) (a) of that paragraph is satisfied, notwithstanding that the condition in sub-paragraph (1)(b) of that paragraph is not satisfied.
- (3) Subject to the following provisions of this paragraph, there shall be ascertained the excess, if any, of—
- (a) the net development value ascertained for the purposes of the levy, over
  - (b) the increment specified in sub-paragraph (6) below;
- and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
- (4) Where the act or event in respect of which the levy was charged was a part disposal of the land, section 38 shall apply as if the part disposal had not taken place and sub-paragraph (5) below shall apply in lieu of sub-paragraph (3) above.
- (5) The amount or value of the consideration for the disposal shall be treated as increased by the amount of any premium or like sum paid in respect of the part disposal, and there shall be ascertained the excess, if any, of—
- (a) the aggregate specified in sub-paragraph (7) below, over
  - (b) the increment specified in sub-paragraph (6) below;
- and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
- (6) The increment referred to in sub-paragraphs (3)(b) and (5)(b) above is the excess, if any, of—
- (a) the amount or value of the consideration brought into account under section 38(1)(a), over
  - (b) the base value ascertained for the purposes of the levy.
- (7) The aggregate referred to in sub-paragraph (5)(a) above is the aggregate of—
- (a) the net development value ascertained for the purposes of the levy, and
  - (b) the amount of any premium or like sum paid in respect of the part disposal, in so far as charged to tax under Schedule A (or, as the case may be, Case VIII of Schedule D), and
  - (c) the chargeable gain accruing on the part disposal.
- (8) Where betterment levy in respect of more than one act or event has been charged and paid as mentioned in sub-paragraph (1) above, sub-paragraphs (2) to (7) above shall apply without modifications in relation to the betterment levy in respect of the



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first of them; but in relation to the other or others sub-paragraph (3) or, as the case may be, (5) above shall have effect as if the amounts to be treated thereunder as allowable under section 38(1)(b) were the net development value specified in sub-paragraph (3)(a) or, as the case may be, the aggregate referred to in subparagraph (5) (a) of this paragraph.

- (9) Where the disposal is of part only of the land sub-paragraphs (2) to (8) above shall have effect subject to the appropriate apportionments.
- (10) References in this paragraph to a premium include any sum payable as mentioned in section 34(4) or (5) of the Taxes Act (sums payable in lieu of rent or as consideration for the surrender of lease or for variation or waiver of term) and, in relation to Scotland, a grassum.

#### *Non-resident trusts*

- 18 Without prejudice to section 289 or Part III of this Schedule—
- (a) any tax chargeable on a person which is postponed under subsection (4) (b) of section 17 of the 1979 Act shall continue to be postponed until that person becomes absolutely entitled to the part of the settled property concerned or disposes of the whole or part of his interest, as mentioned in that subsection; and
- (b) section 70 of and Schedule 14 to the Finance Act 1984 shall continue to have effect in relation to amounts of tax which are postponed under that Schedule, and accordingly in paragraph 12 of that Schedule the references to section 80 of the Finance Act 1981 and to subsections (3) and (4) of that section include references to section 87 of this Act and subsections (4) and (5) of that section respectively.

#### *Private residences*

- 19 The reference in section 222(5)(a) to a notice given by any person within 2 years from the beginning of the period mentioned in section 222(5) includes a notice given before the end of the year 1966-67, if that was later.

#### *Works of art etc.*

- 20 The repeals made by this Act do not affect the continued operation of sections 31 and 32 of the Finance Act 1965, in the form in which they were before 13th March 1975, in relation to estate duty in respect of deaths occurring before that date.

#### *Disposal before acquisition*

- 21 The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it relates to an asset which—
- (a) was disposed of before being acquired, and
- (b) was disposed of before the commencement of this Act.

#### *Estate duty*

- 22 Nothing in the repeals made by this Act shall affect any enactment as it applies to the determination of any principal value for the purposes of estate duty.

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*Validity of subordinate legislation*

- 23        So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

*Amendments in other Acts*

- 24        (1) The repeal by this Act of the Income and Corporation Taxes Act 1970 does not affect—
- (a) the amendment made by paragraph 3 of Schedule 15 of that Act to section 26 of the Finance Act 1956, or
  - (b) paragraph 10 of that Schedule so far it applies in relation to the Management Act.
- (2) The repeal by this Act of Schedule 7 to the 1979 Act does not affect the amendments made by that Schedule to any enactment not repealed by this Act.

*Saving for Part III of this Schedule*

- 25        The provisions of this Part of this Schedule are without prejudice to the generality of Part III of this Schedule.

### PART III

#### ASSETS ACQUIRED BEFORE COMMENCEMENT

- 26        (1) The substitution of this Act for the enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it determines—
- (a) what amount the consideration is to be taken to be for the purpose of the computation under this Act of any chargeable gain; or
  - (b) whether and to what extent events in, or expenditure incurred in, or other amounts referable to, a period earlier than the chargeable periods to which this Act applies may be taken into account for any tax purposes in a chargeable period to which this Act applies.
- (2) Without prejudice to sub-paragraph (1) above, the repeals made by this Act shall not affect—
- (a) the enactments specified in Part V of Schedule 14 to the Finance Act 1971 (charge on death) so far as their operation before repeal falls to be taken into account in chargeable periods to which this Act applies,
  - (b) the application of the enactments repealed by the 1979 Act to events before 6th April 1965 in accordance with paragraph 31 of Schedule 6 to the Finance Act 1965.
- (3) This paragraph has no application to the law relating to the determination of the market value of assets.
- 27        Where the acquisition or provision of any asset by one person was, immediately before the commencement of this paragraph and by virtue of any enactment, to

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be taken for the purposes of Schedule 5 to the 1979 Act to be the acquisition or disposal of it by another person, then, notwithstanding the repeal by this Act of that enactment, Schedule 2 to this Act shall also have effect as if the acquisition or provision of the asset by the first-mentioned person had been the acquisition or provision of it by that other person.

## PART IV

### OTHER GENERAL SAVINGS

- 28 Where under any Act passed before this Act and relating to a country or territory outside the United Kingdom there is a power to affect Acts passed or in force before a particular time, or instruments made or having effect under such Acts, and the power would, but for the passing of this Act, have included power to change the law which is reproduced in, or is made or has effect under, this Act, then that power shall include power to make such provision as will secure the like change in the law reproduced in, or made or having effect under, this Act notwithstanding that this Act is not an Act passed or in force before that time.
- 29 (1) The continuity of the law relating to the taxation of chargeable gains shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

## SCHEDULE 12

Section 290.

### REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
1968 c. 48	International Organisations Act 1968	In Schedule 1, paragraph 24(b).

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

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
1970 c. 10	Income and Corporation Taxes Act 1970	The whole Act.
1970 c. 24	Finance Act 1970	Sections 27 and 28. Section 29(3), (5), (6), (7) and (9). Schedule 3. Schedule 6.
1971 c. 68	Finance Act 1971	Section 55.
1973 c. 51	Finance Act 1973	Section 38(1), (3) to (5) and (8).
1974 c. 30	Finance Act 1974	Section 29.
1974 c. 44	Housing Act 1974	Section 11.
1975 c. 45	Finance (No.2) Act 1975	Section 47. Section 58.
1976 c. 40	Finance Act 1976	Section 54. In section 131(2) the words “and capital gains tax”.
1977 c. 36	Finance Act 1977	Sections 41 and 42.
1979 c. 14	Capital Gains Tax Act 1979	The whole Act.
1979 c. 47	Finance (No.2) Act 1979	Section 17.
1980 c. 48	Finance Act 1980	Section 61(2). Sections 77 to 84. Section 117. Schedule 18.
1981 c. 35	Finance Act 1981	Section 38(3) and (4). Sections 79 to 91. In section 135 the words “capital gains tax and”.
1982 c. 39	Finance Act 1982	Section 80. Sections 83 to 88. Section 148. Schedule 13.
1982 c. 53	Administration of Justice Act 1982	Section 46(2)(f).
1983 c. 20	Mental Health Act 1983	In Schedule 4 paragraph 49.
1983 c. 28	Finance Act 1983	Section 34.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
		Schedule 6.
1983 c. 49	Finance (No.2) Act 1983	Section 7.
1984 c. 32	London Regional Transport Act 1984	In Schedule 6 paragraphs 7 and 8.
1984 c. 43	Finance Act 1984	Section 44. Section 50. Section 56(3) and (4). Sections 63 to 71. Section 79 to 81. In section 126(3)(b) the words “and capital gains tax”. Schedules 11, 13 and 14.
1984 c. 51	Inheritance Tax Act 1984	In Schedule 8 paragraphs 9 to 12 and 23.
1985 c. 54	Finance Act 1985	Sections 67 to 72. Section 95(1)(b). Schedules 19 to 21.
1985 c. 71	Housing (Consequential Provisions) Act 1985	In Schedule 2 paragraph 18.
1986 c. 41	Finance Act 1986	Sections 58, 59 and 60.
1986 c. 56	Parliamentary Constituencies Act 1986	In Schedule 3 paragraph 6.
1987 c. 16	Finance Act 1987	Section 40. Section 68(3).
1987 c. 51	Finance (No.2) Act 1987	Section 64. Section 73. Sections 79, 80 and 81. In Schedule 6, paragraphs 2, 4 and 5.
1988 c. 1	Income and Corporation Taxes Act 1988	Section 122(1)(b) (and the word “and” immediately preceding it), (3) and (8). Sections 345 to 347. Section 761(4). In Schedule 28, paragraph 8(4) and (5). In Schedule 29, paragraphs 10(4)(b), 12 and 15 to 28; in

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

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
		the Table in paragraph 32, the entries relating to the Income and Corporation Taxes Act 1970, the Finance Act 1970, the Finance (No.2) Act 1975, the Capital Gains Tax Act 1979, Schedule 18 to the Finance Act 1980, sections 83 and 84 of the Finance Act 1981, Schedule 6 to the Finance Act 1983, section 50 of the Finance Act 1984, sections 68, 71 and 72 of, and Schedules 19 and 20 to, the Finance Act 1985 and section 58 of the Finance Act 1986.
1988 c. 39	Finance Act 1988	Section 62 to 64. Sections 96 to 104. Section 105(1) to (5). Sections 106 to 116. Section 118. In Schedule 6, paragraph 6(5). Schedules 8 to 11. In Schedule 12, paragraphs 4, 5 and 7(b). In Schedule 13, paragraphs 16, 17 and 18.
1988 c. 48	Copyright, Designs and Patents Act 1988	In Schedule 7 paragraph 26.
1989 c. 26	Finance Act 1989	Section 91(2). Section 92(3) and in subsection (4) the words “the Capital Gains Tax Act 1979 or any other enactment relating to capital gains tax”. Section 96(3). Section 122. Section 123(1)(a). Section 124 to 141. Section 179(1)(a)(vi).

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
		In Schedule 12, paragraph 6. Schedules 14 and 15.
1989 c. 40	Companies Act 1989	In Schedule 18, paragraph 20.
1990 c. 1	Capital Allowances Act 1990	In Schedule 1, paragraphs 3 and 9(1) to (3).
1990 c. 29	Finance Act 1990	Section 28(3). Sections 31 to 40. Sections 46 and 47. Section 54. Sections 63 to 65. Section 70. Section 72. Section 81(3) and (6). Section 83 to 86. Section 127(2). In Schedule 6, paragraph 10. Schedule 8. In Schedule 9, paragraphs 1 and 2. In Schedule 10, paragraphs 28 and 29(2) and (3). In Schedule 12, paragraph 2(2). In Schedule 14, paragraphs 17, 18 and 19(2), (3) and (4). In Schedule 18, paragraph 3.
1991 c. 21	Disability Living Allowance and Disability Working Allowance Act 1991	In Schedule 2 paragraph 9.
1991 c. 31	Finance Act 1991	Section 57(4). Section 67. Section 77(2). Section 78(2), (3), (6) and (7). Sections 83 to 102. In Schedule 6, paragraph 6.

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

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of Repeal</i>
		In Schedule 7, paragraphs 14 and 15.
		In Schedule 10, paragraphs 1 and 4.
		Schedules 16 to 18.
1991 c. 52	Ports Act 1991	Section 18(8)(a).
1992 c. 6	Social Security (Consequential Provisions) Act 1992	In Schedule 2, paragraph 51.

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STATUTORY INSTRUMENTS

<i>Number</i>	<i>Title</i>	<i>Extent of Repeal</i>
S.I. 1979/1231	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1979	The whole Order.
S.I. 1979/1676	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1979	The whole Order.
S.I. 1980/507	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1980	The whole Order.
S.I. 1980/922	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1980	The whole Order.
S.I. 1980/1910	Capital Gains Tax (Gilt-edged Securities) (No. 3) Order 1980	The whole Order.
S.I. 1981/615	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1981	The whole Order.
S.I. 1981/1879	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1981	The whole Order.
S.I. 1982/413	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1982	The whole Order.
S.I. 1982/1774	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1982	The whole Order.
S.I. 1983/1774	Capital Gains Tax (Gilt-edged Securities) Order 1983	The whole Order.



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

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<i>Number</i>	<i>Title</i>	<i>Extent of Repeal</i>
S.I. 1984/1966	Capital Gains Tax (Gilt-edged Securities) Order 1984	The whole Order.
S.I. 1986/12	Capital Gains Tax (Gilt-edged Securities) Order 1986	The whole Order.
S.I. 1987/259	Capital Gains Tax (Gilt-edged Securities) Order 1987	The whole Order.
S.I. 1988/360	Capital Gains Tax (Gilt-edged Securities) Order 1988	The whole Order.
S.I. 1989/944	Capital Gains Tax (Gilt-edged Securities) Order 1989	The whole Order.
S.I. 1991/2678	Capital Gains Tax (Gilt-edged Securities) Order 1991	The whole Order.

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