



# Finance (No. 2) Act 1992

## 1992 CHAPTER 48

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [16th July 1992]

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

### PART I

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

### CHAPTER I

#### CUSTOMS AND EXCISE

##### *Abolition of fiscal frontiers etc.*

#### **1 Powers to fix excise duty point**

- (1) Subject to the following provisions of this section, the Commissioners may by regulations make provision, in relation to any duties of excise on goods, for fixing the time when the requirement to pay any duty with which goods become chargeable is to take effect ("the excise duty point").

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- (2) Where regulations under this section fix an excise duty point for any goods, the rate of duty for the time being in force at that point shall be the rate used for determining the amount of duty to be paid in pursuance of the requirement that takes effect at that point.
- (3) Regulations under this section may provide for the excise duty point for any goods to be such of the following times as may be prescribed in relation to the circumstances of the case, that is to say—
- (a) the time when the goods become chargeable with the duty in question;
  - (b) the time when there is a contravention of any prescribed requirements relating to any suspension arrangements applying to the goods;
  - (c) the time when the duty on the goods ceases, in the prescribed manner, to be suspended in accordance with any such arrangements;
  - (d) the time when there is a contravention of any prescribed condition subject to which any relief has been conferred in relation to the goods;
  - (e) such time after the time which, in accordance with regulations made by virtue of any of the preceding paragraphs, would otherwise be the excise duty point for those goods as may be prescribed;
- and regulations made by virtue of any of paragraphs (b) to (e) above may define a time by reference to whether or not at that time the Commissioners have been satisfied as to any matter.
- (4) Where regulations under this section prescribe an excise duty point for any goods, such regulations may also make provision—
- (a) specifying the person or persons on whom the liability to pay duty on the goods is to fall at the excise duty point (being the person or persons having the prescribed connection with the goods at that point or at such other time, falling no earlier than when the goods become chargeable with the duty, as may be prescribed); and
  - (b) where more than one person is to be liable to pay the duty, specifying whether the liability is to be both joint and several.
- (5) Schedule 1 to this Act (which contains minor and consequential amendments and savings for purposes connected with the other provision made by this section) shall have effect.
- (6) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
- (a) to make different provision for different cases, including different provision for different duties and different goods; and
  - (b) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (7) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
- “contravention” includes a failure to comply;
- “customs and excise Acts” and “goods” have the same meanings as in the Customs and Excise Management Act 1979; and
- “prescribed” means prescribed by regulations under this section;
- and references in this section to suspension arrangements are references to any provision made by or under the customs and excise Acts for enabling goods to be held

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or moved without payment of duty or any provision made by or under those Acts in connection with any provision enabling goods to be so held or moved.

- (8) This section and Schedule 1 to this Act shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

## **2 Power to provide for drawback of excise duty**

- (1) Subject to the following provisions of this section, the Commissioners may, in relation to any duties of excise, by regulations make provision conferring an entitlement to drawback of duty in prescribed cases where the Commissioners are satisfied that goods chargeable with duty have not been, and will not be, consumed in the United Kingdom.
- (2) The power of the Commissioners to make regulations under this section shall include power—
- (a) to provide for, or for the imposition of, the conditions to which an entitlement to drawback under the regulations is to be subject;
  - (b) to provide for the determination of the person on whom any such entitlement is conferred;
  - (c) to make different provision for different cases, including different provision for different duties and different goods; and
  - (d) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (3) Without prejudice to the generality of subsection (2)(d) above, the power of the Commissioners to make regulations under this section shall include power, in relation to any drawback of duty to which any person is entitled by virtue of regulations under this section, to provide—
- (a) for entitlement to the drawback to be cancelled at any time after it has been conferred if there is a contravention of any conditions to which it is subject or in such other circumstances as may be prescribed; and
  - (b) for such persons as may be prescribed to be liable to the Commissioners for sums paid or credited to any person in respect of any drawback that has been cancelled in accordance with any such regulations.
- (4) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
  - “contravention” includes a failure to comply;
  - “goods” has the same meaning as in the Customs and Excise Management Act 1979; and
  - “prescribed” means prescribed by regulations under this section.
- (6) This section shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

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### **3 Protection of revenues derived from excise duties**

- (1) Schedule 2 to this Act (which makes additional provision for purposes connected with the protection of the revenues derived from excise duties) shall have effect.
- (2) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

### **4 Enforcement powers**

- (1) Except in a case falling within subsection (2) below, the powers to which this section applies shall not be exercisable in relation to any person or thing entering or leaving the United Kingdom so as to prevent, restrict or delay the movement of that person or thing between different member States.
- (2) The cases in which a power to which this section applies may be exercised as mentioned in subsection (1) above are those where it appears to the person on whom the power is conferred that there are reasonable grounds for believing that the movement in question is not in fact between different member States or that it is necessary to exercise the power for purposes connected with—
  - (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
  - (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
  - (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.
- (3) Subject to subsection (4) below, this section applies to any power which is conferred on the Commissioners of Customs and Excise or any officer or constable under any of the following provisions of the Customs and Excise Management Act 1979, that is to say—
  - (a) section 21 (control of movement of aircraft into and out of the United Kingdom);
  - (b) section 26 (power to regulate movement by land into and out of Northern Ireland);
  - (c) section 27 (officers' powers of boarding);
  - (d) section 28 (officers' powers of access);
  - (e) section 29 (officers' powers to detain ships);
  - (f) section 34 (power to prevent flight of aircraft);
  - (g) section 78 (questions as to baggage of person entering or leaving the United Kingdom);
  - (h) section 164 (powers of search).
- (4) The Treasury may by order made by statutory instrument add any power conferred by any enactment contained in the customs and excise Acts to the powers to which this section applies; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (5) In this section—
- “Community customs duty” includes any agricultural levy of the Economic Community; and
- “the customs and excise Acts” and “goods” have the same meanings as in the Customs and Excise Management Act 1979;
- and for the purposes of this section a power shall be taken to be exercised otherwise than in relation to a person or thing entering or leaving the United Kingdom in any case where the power is exercisable irrespective of whether the person or thing in question is entering or leaving the United Kingdom.
- (6) This section shall come into force on 1st January 1993.

## **5 Controls of persons entering the United Kingdom**

- (1) In section 78 of the Customs and Excise Management Act 1979 (controls of persons entering or leaving the United Kingdom), after subsection (2) there shall be inserted the following subsection —
- “(2A) Subject to subsection (1A) above, where the journey of a person arriving by air in the United Kingdom is continued or resumed by air to a destination in the United Kingdom which is not the place where he is regarded for the purposes of this section as entering the United Kingdom, subsections (1) and (2) above shall apply in relation to that person on his arrival at that destination as they apply in relation to a person entering the United Kingdom.”
- (2) This section shall come into force on 1st January 1993.

### *Other provisions*

## **6 Abolition of duties on matches and mechanical lighters**

- (1) The Matches and Mechanical Lighters Duties Act 1979 shall cease to have effect.
- (2) This section shall come into force on 1st January 1993.

## **7 Bingo duty: increased exemption etc**

- (1) Schedule 3 to the Betting and Gaming Duties Act 1981 shall be amended as follows.
- (2) In paragraph 2 the following shall be substituted for sub-paragraph (1)(a) (exemption from bingo duty for clubs etc. where prizes do not exceed certain limits)—
- “(a) a person’s eligibility to participate in that bingo depends upon his being a member of a particular society or his being a guest of such a member or of the society;”.
- (3) In paragraph 12(1) (promoter of bingo other than bingo exempt from duty by virtue of paragraph 1, 5 or 6 to keep accounts etc.) for “paragraph 1, 5 or 6 above” there shall be substituted “Part I of this Schedule”.
- (4) This section shall apply as regards bingo played in any week beginning on or after 3rd August 1992.

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## **8 Tobacco products duty: retail price of cigarettes**

In section 5 of the Tobacco Products Duty Act 1979—

- (a) in paragraph (b) of subsection (1) (determination of retail price of cigarettes by reference to price recommended by a manufacturer or importer), for “price recommended by the importer or manufacturer” and “price so recommended” there shall be substituted “recommended price”; and
- (b) after that subsection there shall be inserted the following subsection—

“(1A) In subsection (1) above “recommended price”—

- (a) in relation to a case in which cigarettes of the applicable description are manufactured by a manufacturer in a member State, means any price recommended by that manufacturer; and
- (b) in relation to a case which does not fall within paragraph (a) above, means any price recommended by an importer of cigarettes of the applicable description.”

## **9 Amendments relating to new beer duty regime**

(1) Schedule 2 to the Finance Act 1991 (amendments relating to beer duty) shall be amended as follows.

(2) Immediately before paragraph 22 there shall be inserted—

“21A In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) after “betting and gaming duties” there shall be inserted “, beer duty”.”

(3) Immediately before paragraph 23 there shall be inserted—

“22A In Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) after “betting and gaming duties” there shall be inserted “, beer duty”.”

## **10 Search of aircraft**

(1) The Customs and Excise Management Act 1979 shall be amended as follows.

(2) In section 27(1) (officers' powers of boarding and searching aircraft at a customs and excise airport, etc.) for the words “a customs and excise airport” there shall be substituted “an aerodrome”.

(3) In section 28(1) (officers' powers of access to aircraft at customs and excise airport, etc.) for the words “customs and excise airport” there shall be substituted “aerodrome”.

(4) In section 163 (power to stop and search vehicles or vessels) the following subsection shall be inserted at the end—

“(3) This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but the power to stop and search in subsection (1) above shall not be available in respect of aircraft which are airborne.”

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## 11 Vehicles excise duty: goods vehicles

- (1) Schedule 4 to the Vehicles (Excise) Act 1971 (annual rates of duty on goods vehicles) shall be amended as mentioned in subsections (2) to (9) below.
- (2) In Part I of the Schedule in sub-paragraph (3)(a) of paragraph 5 (special types) for “30,000” there shall be substituted “31,000” and for “30,490” there shall be substituted “32,000”.
- (3) In that Part the following paragraph shall be substituted for paragraph 14A—
- “14A (1) This paragraph applies in any case where—
- (a) a vehicle licence has been taken out for a tractor unit having two axles which is to be used only with semi-trailers with not less than three axles; and
  - (b) the rate of duty paid on taking out the licence is equal to or exceeds the rate of duty applicable to a tractor unit having two axles—
    - (i) which has a plated train weight of 33,000 kilograms, and
    - (ii) which is to be used with semi-trailers with not less than two axles.
- (2) If, in a case to which this paragraph applies, the tractor unit is used with a semi-trailer with two axles and, when so used, the laden weight of the tractor unit and semi-trailer taken together does not exceed 33,000 kilograms, the tractor unit shall, when so used, be taken to be licensed in accordance with the requirements of this Act.”
- (4) In Table A set out in Part II of the Schedule (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: general rates) for the last three entries there shall be substituted—

“25,000	27,000	—	2,260.00	1,420.00
27,000	29,000	—	—	2,240.00
29,000	31,000	—	—	3,250.00
31,000	32,000	—	—	4,250.00”

- (5) In Table A(1) set out in that Part (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: farmers' vehicles) for the last three entries there shall be substituted—

“25,000	27,000	—	1,355.00	850.00
27,000	29,000	—	—	1,345.00
29,000	31,000	—	—	1,950.00
31,000	32,000	—	—	2,550.00”

- (6) In Table A(2) set out in that Part (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: showmen's vehicles) for the last three entries there shall be substituted—

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“25,000	27,000	—	565.00	355.00
27,000	29,000	—	—	560.00
29,000	31,000	—	—	815.00
31,000	32,000	—	—	1,060.00”

(7) In Table C set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: general rates) for the last three entries there shall be substituted—

“33,000	34,000	5,000.00	5,000.00	1,680.00
34,000	36,000	5,000.00	5,000.00	2,750.00
36,000	38,000	5,000.00	5,000.00	3,100.00”

(8) In Table C(1) set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: farmers' vehicles) for the last three entries there shall be substituted—

“33,000	34,000	3,000.00	3,000.00	1,010.00
34,000	36,000	3,000.00	3,000.00	1,650.00
36,000	38,000	3,000.00	3,000.00	1,860.00”

(9) In Table C(2) set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: showmen's vehicles) for the last three entries there shall be substituted—

“33,000	34,000	1,250.00	1,250.00	420.00
34,000	36,000	1,250.00	1,250.00	690.00
36,000	38,000	1,250.00	1,250.00	775.00”

(10) In Case B of section 18A(3) of the Vehicles (Excise) Act 1971, in paragraph (c) the words from “in circumstances in which” to the end of the paragraph shall be omitted.

(11) This section shall apply in relation to licences taken out on or after 1st January 1993.

## **12 Vehicles excise duty: disabled persons**

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

- (a) section 7 of the Finance Act 1971 (exemption from vehicles excise duty for disabled passengers), and
- (b) section 7(2C) and (2D) of the Vehicles (Excise) Act 1971 (corresponding Northern Ireland provision).

(2) This section and Part IV of Schedule 18 to this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and such an order may contain such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.

### 13 Vehicles excise duty: registration marks

(1) In section 11 of the Finance Act 1989 (power to make provision for retention of registration marks)—

(a) for paragraph (f) of subsection (2) (extension of period of right of retention) there shall be substituted the following paragraph—

“(f) for enabling or requiring the Secretary of State, on the payment to him of a specified fee, to extend or (on one or more occasions) further extend the period referred to in subsection (1) above where the specified conditions are fulfilled and he thinks fit to do so in the circumstances of the case;”

(b) in subsection (3) (power to make different provision for different cases), at the end there shall be inserted “and may, in particular, exempt extensions or assignments of any specified class or description from any fee or charge payable by virtue of subsection (2)(f) or (j) above”;

(c) after that subsection there shall be inserted the following subsection—

“(3A) Where regulations under this section provide in any case for there to be no charge in connection with the assignment of a registration mark in pursuance of a right of retention—

(a) the fee specified by virtue of paragraph (b) of subsection (2) above in relation to an application for that right may include an amount representing the charge for which provision could have been made by virtue of paragraph (j) of that subsection; and

(b) regulations under this section may provide for the part of any such fee which represents a charge for which provision could have been so made to be retained, except where the specified conditions are fulfilled, whether or not there is an assignment.”; and

(d) in subsection (6), for paragraphs (a) and (b) of the definition of “the principal section” there shall be substituted “section 19 of the Vehicles (Excise) Act 1971;

(2) In section 12 of the Finance Act 1989 (provision for sale of registration marks)—

(a) in paragraph (a) of subsection (3) (provision for acquisition of right on payment of sum in respect of acquisition), at the end there shall be inserted “and, where no charge is to be made by virtue of paragraph (j) below in connection with an assignment in pursuance of the right, in respect of such an assignment;”

(b) for paragraph (f) of that subsection (extension of period of relevant right) there shall be substituted the following paragraph—

“(f) for enabling or requiring the Secretary of State, on the payment to him of a specified fee, to extend or (on one or more occasions) further extend any such period where the specified conditions are fulfilled and he thinks fit to do so in the circumstances of the case;”

(c) after paragraph (j) of that subsection there shall be inserted the following paragraph—

“(ja) for so much of any sum paid by virtue of paragraph (a) above in respect of the assignment of a registration mark to be

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retained, except where the specified conditions are fulfilled, whether or not there is such an assignment.”;

- (d) in subsection (5) (power to make different provision for different cases), for the words from “assignments” onwards there shall be substituted “extensions or assignments of any specified class or description from any fee or charge payable by virtue of subsection (3)(f) or (j) above.”
- (3) Section 128 of the Finance Act 1990 (power to provide repayment of fees and charges) shall apply to any power by virtue of this section to make provision under section 11 or 12 of the Finance Act 1989 for the payment of any sum as it applies to powers conferred before that Act of 1990 was passed.
- (4) Any sums received by the Secretary of State in respect of the extension or further extension of the period of any right granted to or acquired by any person by virtue of regulations under section 11 or 12 of the Finance Act 1989 shall be paid into the Consolidated Fund.

## CHAPTER II

### VALUE ADDED TAX

#### **14 Abolition of fiscal frontiers etc**

- (1) Value added tax—
  - (a) shall cease to be charged on importations of goods into the United Kingdom from member States; and
  - (b) shall, instead, be charged, in accordance with the Value Added Tax Act 1983, on acquisitions in the United Kingdom from other member States of any goods.
- (2) Schedule 3 to this Act shall have effect for the purposes—
  - (a) of amending the Value Added Tax Act 1983, Chapter II of Part I of the Finance Act 1985 and certain other enactments in connection with the provision made by subsection (1) above; and
  - (b) of giving effect, in relation to—
    - (i) value added tax charged on the supply of goods and services; and
    - (ii) value added tax charged on the importation of goods from places outside the member States,
 to requirements of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) and the amendments of that directive by the directive of that Council dated 16th December 1991 No. [91/680/EEC](#) (amendments with a view to the abolition of fiscal frontiers).
- (3) This section and Schedule 3 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.
- (4) Subject to subsection (5) below, an order under subsection (3) above may include such transitional provision as the Commissioners think fit in connection with the bringing into force of any provision or with the arrangements made in any other member State for giving effect to the directives mentioned in subsection (2)(b) above.

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- (5) Subsection (4) above shall not authorise the making of any provision so as to put a person into a position with respect to value added tax charged in the member States which is worse than that in which he would have been apart from the power conferred by that subsection.
- (6) Subsections (4) and (5) above are without prejudice to the Commissioners' powers under subsection (3) above to bring different provisions of this section and Schedule 3 to this Act into force on different days for different purposes.

## **15 Time for raising and answering inquiries**

- (1) In section 20 of the Finance Act 1985 (repayment supplement in respect of certain delayed payments or refunds) after subsection (3) there shall be inserted—

“(3A) In determining for the purposes of regulations under subsection (3) above whether any period is referable to the raising and answering of such an inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which—

- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
- (b) ends with the date on which the Commissioners—
- (i) satisfy themselves that they have received a complete answer to the inquiry, or
- (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.”

- (2) In section 38A of the Value Added Tax Act 1983 (interest in certain cases of official error) after subsection (8) there shall be inserted—

“(8A) In determining for the purposes of subsection (8) above whether any period is referable to the raising and answering of such an inquiry as is there mentioned, there shall be taken to be so referable any period which—

- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
- (b) ends with the date on which the Commissioners—
- (i) satisfy themselves that they have received a complete answer to the inquiry, or
- (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person referred to in subsection (1) above or of an authorised person or of some other person.”

- (3) Subsection (1) above shall apply where the requisite return or claim is received after the day on which this Act is passed.

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- (4) Subsection (2) above shall apply where the claim is received after the day on which this Act is passed.

## 16 Special treatment for persons involved in farming etc

- (1) After section 37A of the Value Added Tax Act 1983, there shall be inserted the following section—

### “37B Special treatment for persons involved in farming etc

- (1) The Commissioners may, in accordance with such provision as may be contained in regulations made by them, certify for the purposes of this section any person who satisfies them—
- (a) that he is carrying on a business involving one or more designated activities;
  - (b) that he is of such a description and has complied with such requirements as may be prescribed; and
  - (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.
- (2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 to this Act.
- (3) The Commissioners may by regulations provide for an amount included in the consideration for any taxable supply which is made—
- (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
  - (b) at a time when that person is not a taxable person; and
  - (c) to a taxable person,
- to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 14 and 15 above, as tax on a supply to that person.
- (4) The amount which, for the purposes of any provision made under subsection (3) above, may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.
- (5) The Commissioners' power by regulations under section 23 above to provide for the repayment to persons to whom that section applies of tax which would be input tax of theirs if they were taxable persons in the United Kingdom includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the United Kingdom, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of tax shall be construed accordingly.

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- (6) Regulations under this section may provide—
- (a) for the form and manner in which an application for certification under this section, or for the cancellation of any such certification, is to be made; and
  - (b) for the cases and manner in which the Commissioners may cancel a person's certification;
  - (c) for entitlement to a credit such as is mentioned in subsection (3) above to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Commissioners in accordance with provision contained in regulations; and
  - (d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;

and regulations made by virtue of paragraph (b) above may confer on the Commissioners power, if they think fit, to refuse to cancel a person's certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.

- (7) In this section references, in relation to any person, to the relevant part of his business are references—
- (a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
  - (b) in any other case, to so much of his business as does so relate.

- (8) In this section “designated activities” means such activities, being activities carried on by a person who, by virtue of carrying them on, falls to be treated as a farmer for the purposes of Article 25 of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) (common flat-rate scheme for farmers), as the Treasury may by order designate.”

- (2) In section 40(1) of that Act (appeals) after paragraph (h) there shall be inserted the following paragraph—

“(hza) any refusal or cancellation of certification under section 37B above or any refusal to cancel such certification;”.

- (3) In section 45(4) of that Act (orders subject to affirmative procedure), after paragraph (d) there shall be inserted the following paragraph—

“(e) an order under section 37B(4) or (8) above.”

- (4) In paragraph 7 of Schedule 2 to that Act (charge where person ceases to be taxable person), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified under section 37B of this Act.”

- (5) In section 15 of the Finance Act 1985 (penalties for failures to notify and unauthorised issue of invoices), before subsection (4) there shall be inserted the following subsection—

“(3D) This section shall have effect in relation to any invoice which—

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- (a) for the purposes of any provision made under subsection (3) of section 37B of the principal Act shows an amount as included in the consideration for any supply; and
- (b) either—
  - (i) fails to comply with the requirements of any regulations under that section; or
  - (ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,
 as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to tax.”
- (6) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.

## **17 Fuel and power**

- (1) In Schedule 5 to the Value Added Tax Act 1983 (zero-rating) in Note (8) to Group 7 (fuel and power) the words from “upon which” to “be charged” shall be omitted.
- (2) This section shall apply in relation to matches upon which, by virtue of the repeal of the Matches and Mechanical Lighters Duties Act 1979 by section 6 above, no duty of excise has been or is to be charged.

## **CHAPTER III**

### CAR TAX

## **18 Abolition of fiscal frontiers**

- (1) The Car Tax Act 1983 shall be amended in accordance with Schedule 4 to this Act (amendments in connection with the abolition of fiscal frontiers between the member States).
- (2) This section and Schedule 4 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.

## PART II

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

#### CHAPTER I

##### GENERAL

##### *Lower rate*

#### **19 Lower rate: further provisions**

- (1) In section 7(4) of the Taxes Management Act 1970 for “basic rate” there shall be substituted “the basic rate or the lower rate”.
- (2) In each of the provisions to which this subsection applies, after “basic rate” there shall be inserted “or the lower rate”; and this subsection applies to section 91(3)(c) of the Taxes Management Act 1970 and to sections 550(3) and 599A(7) of the Taxes Act 1988.
- (3) In each of the provisions to which this subsection applies, after “all income tax” there shall be inserted “not chargeable at the lower rate”; and this subsection applies to sections 167(2A), 233(2), 353(5), 369(3B), 549(2), 683(2), 684(2), 689(2), 699(2) and 819(2) of the Taxes Act 1988 and to the definition of “excess liability” in paragraph 19(1) of Schedule 7 to that Act.
- (4) In each of the provisions to which this subsection applies, after “shall be treated” there shall be inserted “as income which is not chargeable at the lower rate and”; and this subsection applies to sections 233(1)(c), 249(4)(c) and 547(5)(c) of the Taxes Act 1988.
- (5) In section 369 of the Taxes Act 1988 at the beginning of subsection (3) there shall be inserted “Subject to subsection (5A) below”, and after subsection (5) there shall be inserted—

“(5A) In any case where—

- (a) payments of relevant loan interest to which this section applies become due in any year, and
- (b) the notional lower rate income of the borrower for that year exceeds the actual lower rate income of the borrower for that year,

the borrower shall be charged with tax at the lower rate (rather than the basic rate) for that year on so much of the income on which he is chargeable to tax by virtue of subsection (3) above as is equal to the excess.

(5B) For the purposes of subsection (5A) above—

- (a) the notional lower rate income of a borrower for a year is the amount of his total income for the year which would be chargeable at the lower rate if the relevant deduction were not made;
- (b) the actual lower rate income of a borrower for a year is the amount of his total income for the year which is actually chargeable at the lower rate;

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and the relevant deduction is the deduction which, in computing the borrower's total income otherwise than for the purposes of excess liability, falls to be made on account of the payments referred to in subsection (5A) (a) above."

- (6) In section 421(1)(c) of the Taxes Act 1988 for "shall, notwithstanding that paragraph, be treated" there shall be substituted "shall be treated as income which is not chargeable at the lower rate and, notwithstanding that paragraph, shall be treated".
- (7) This section shall apply for the year 1992-93 and subsequent years of assessment.

*Married couple's allowance etc.*

**20 Married couple's allowance etc**

Schedule 5 to this Act (which makes provision in relation to the married couple's allowance) shall have effect.

*Corporation tax charge and rate*

**21 Charge and rate of corporation tax for 1992**

Corporation tax shall be charged for the financial year 1992 at the rate of 33 per cent.

**22 Small companies**

For the financial year 1992—

- (a) the small companies' rate shall be 25 per cent., and
- (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

*Capital gains tax*

**23 Capital gains tax: rates**

- (1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) the following subsections shall be inserted after subsection (1)—

“(1A) If (after allowing for any deductions in accordance with the Income Tax Acts) an individual has no income for a year of assessment or his total income for the year is less than the lower rate limit, then—

- (a) if the amount on which he is chargeable to capital gains tax does not exceed the relevant amount, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the lower rate;
- (b) if the amount on which he is chargeable to capital gains tax exceeds the relevant amount, the rate of capital gains tax in respect of such gains accruing to him in the year as correspond to the relevant amount shall be equivalent to the lower rate.

(1B) For the purposes of subsection (1A) above the relevant amount is—

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- (a) an amount equal to the lower rate limit, where the individual has no income;
  - (b) an amount equal to the difference between his total income and that limit, in any other case.”
- (2) In section 6(1) of that Act—
- (a) after “all income tax” there shall be inserted “not chargeable at the lower rate”;
  - (b) after “otherwise than at the basic rate” in both places where the words occur there shall be inserted “or the lower rate”;
  - (c) for “section 4(4)” in both places where the words occur there shall be substituted “section 4(1A), (1B) and (4)”.
- (3) This section shall apply for the year 1992-93 and subsequent years of assessment.

*Groups etc.*

**24 Amendments relating to group relief etc**

Schedule 6 to this Act (which contains amendments relating to group relief etc.) shall have effect.

**25 Companies ceasing to be members of groups**

- (1) Sections 178 and 179 of the Taxation of Chargeable Gains Act 1992 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be deemed always to have had effect, with the substitution in subsection (1) of each of those sections of the words “in consequence of another member of the group ceasing to exist” for the words from “by being wound up” to the end of the subsection.
- (2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to a company which ceases to be a member of a group of companies on or after 15th November 1991 section 278 of the Income and Corporation Taxes Act 1970 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be deemed to have had effect, with the substitution in subsection (1) of the words “in consequence of another member of the group ceasing to exist” for the words from “by being wound up” to the end of the subsection.

*Charities etc.*

**26 Donations to charity: minimum limits**

- (1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £600 after deducting income tax) for “£600” there shall be substituted “£400”.
- (2) In section 25 of the Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £600 to be a qualifying donation) for “£600” there shall be substituted “£400”.
- (3) Subsection (1) above shall apply in relation to payments made on or after 7th May 1992.

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(4) Subsection (2) above shall apply in relation to gifts made on or after 7th May 1992.

## **27 Covenanted payments to charity**

(1) In section 671 of the Taxes Act 1988 (revocable settlements allowing release of obligation) in subsection (2) (exceptions to sums payable under such settlements being income of settlor) after “shall not apply” there shall be inserted “in the case of a covenanted payment to charity so long as that power has not been exercised, and in any other case”.

(2) This section shall apply in relation to—

- (a) any covenant made on or after 7th May 1992;
- (b) any covenant made before that day and in the case of which the power to revoke cannot be exercised before that day.

## **28 Powers of inspection**

(1) Subsection (2) below applies if—

- (a) an exempt body has made a claim for exemption from tax under section 505(1), 507 or 508 of the Taxes Act 1988, and
- (b) the exemption results in, or (where it has yet to be granted or allowed) would if granted or allowed result in, the repayment of income tax or the payment of a tax credit.

(2) The Board may require the body to produce for inspection by an officer of the Board all such books, documents and other records in the possession, or under the control, of the body as contain information relating to the claim.

(3) For the purposes of subsection (1) above each of the following is an exempt body—

- (a) any body of persons or trust established for charitable purposes only;
- (b) each of the bodies mentioned in section 507 of the Taxes Act 1988 (heritage bodies);
- (c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to produce documents etc.) at the end of the second column there shall be inserted—

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“Section 28(2) of the Finance (No.2) Act 1992.”

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(5) Section 94 of the Finance Act 1990 (donations to charity: inspection powers) shall cease to have effect.

(6) This section shall apply in relation to claims made after the day on which this Act is passed.

*Interest, dividends and distributions*

**29 Returns of interest**

- (1) In section 17 of the Taxes Management Act 1970 (returns of interest) in subsection (4) (interest not required to be included in return if declaration that person beneficially entitled to interest not ordinarily resident in UK) the words from “and if a person” to the end of the subsection shall cease to have effect and after that subsection there shall be inserted the following subsections—

“(4A) If a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—

- (a) has declared that the person beneficially entitled to the interest is a company not resident in the United Kingdom, and
- (b) has requested that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include the interest in any such return.

(4B) Subsection (4C) below shall apply where—

- (a) as a result of a declaration made under section 481(5)(k) of the principal Act and the operation of section 482(5) of that Act in relation to that declaration, there is no obligation under section 480A(1) of that Act to deduct a sum representing income tax out of any interest paid or credited in respect of any money received or retained in the United Kingdom, and
- (b) the person who makes the declaration referred to in paragraph (a) above, by notice in writing served on the person paying or crediting the interest, requests that the interest shall not be included in any return under this section.

(4C) Where this subsection applies, the person paying or crediting the interest shall not be required to include the interest in any return under this section.”

- (2) This section shall apply to interest paid or credited after the day on which this Act is passed.

**30 Foreign dividends**

In section 123 of the Taxes Act 1988 (foreign dividends) the following subsections shall be inserted after subsection (6)—

“(7) In a case where—

- (a) relevant foreign dividends referred to in subsection (2) above are dividends (as opposed to interest or other annual payments),
- (b) they are entrusted by a company which at the time they are entrusted (the relevant time) is not resident in the United Kingdom,
- (c) they are entrusted for payment to a company which at the relevant time is resident in the United Kingdom,
- (d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and

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(e) the relevant time falls on or after 1st January 1992,  
 subsection (2) above shall not apply.

(8) In a case where—

- (a) foreign dividends referred to in subsection (3)(a) above are dividends (as opposed to interest or other annual payments),
- (b) they are paid by a company which at the time of the payment (the relevant time) is not resident in the United Kingdom,
- (c) payment is obtained on behalf of a company which at the relevant time is resident in the United Kingdom,
- (d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and
- (e) the relevant time falls on or after 1st January 1992,  
 subsection (3) above shall not apply.”

### **31 Equity notes**

(1) In section 209 of the Taxes Act 1988 (meaning of “distribution” for purposes of Corporation Tax Acts) in subsection (2)(e) after sub-paragraph (vi) there shall be inserted “or

- (vii) equity notes issued by the company (“the issuing company”) and held by a company which is associated with the issuing company or is a funded company;”.

(2) In that section the following subsections shall be inserted after subsection (8)—

“(9) For the purposes of subsection (2)(e)(vii) above a security is an equity note if as regards the whole of the principal or as regards any part of it—

- (a) the security’s terms contain no particular date by which it is to be redeemed,
- (b) under the security’s terms the date for redemption, or the latest date for redemption, falls after the expiry of the permitted period,
- (c) under the security’s terms redemption is to occur after the expiry of the permitted period if a particular event occurs and the event is one which (judged at the time of the security’s issue) is certain or likely to occur, or
- (d) the issuing company can secure that there is no particular date by which the security is to be redeemed or that the date for redemption falls after the expiry of the permitted period;

and the permitted period is the period of 50 years beginning with the date of the security’s issue.

(10) For the purposes of subsection (2)(e)(vii) above and subsection (11) below a company is associated with the issuing company if—

- (a) the issuing company is a 75 per cent. subsidiary of the other company,
- (b) the other company is a 75 per cent. subsidiary of the issuing company,  
 or
- (c) both are 75 per cent. subsidiaries of a third company.

- (11) For the purposes of subsection (2)(e)(vii) above a company is a funded company if there are arrangements involving the company being put in funds (directly or indirectly) by the issuing company or a company associated with the issuing company.”
- (3) In section 212 of the Taxes Act 1988 (exclusions from “distribution”) in subsection (1) (b) after “(vi)” there shall be inserted “and (vii)”.
- (4) This section shall apply where the interest or other distribution is paid after 14th May 1992.

### **32 Information relating to distributions**

- (1) The following section shall be inserted after section 234 of the Taxes Act 1988—

#### **“234A Information relating to distributions: further provisions**

- (1) This section applies where dividend or interest is distributed by a company which is—
- (a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or
  - (b) a company created by letters patent or by or in pursuance of an Act.
- (2) If the company makes a payment of dividend or interest to any person, and subsection (3) below does not apply, within a reasonable period the company shall send an appropriate statement to that person.
- (3) If the company makes a payment of dividend or interest into a bank or building society account held by any person, within a reasonable period the company shall send an appropriate statement to either—
- (a) the bank or building society concerned, or
  - (b) the person holding the account.
- (4) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
  - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
  - (c) the nominee makes a payment of the sum or part to the other person and subsection (5) below does not apply,
- within a reasonable period the nominee shall send an appropriate statement to that person.
- (5) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
  - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
  - (c) the nominee makes a payment of the sum or part into a bank or building society account held by the other person,
- within a reasonable period the nominee shall send an appropriate statement to either the bank or building society concerned or the other person.

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- (6) In the case of a payment of interest which is not a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the gross amount which, after deduction of the income tax appropriate to the interest, corresponds to the net amount actually paid,
  - (b) the rate and the amount of income tax appropriate to such gross amount,
  - (c) the net amount actually paid, and
  - (d) the date of the payment.
- (7) In the case of a payment of dividend or interest which is a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the amount of the dividend or interest paid,
  - (b) the date of the payment, and
  - (c) the amount of the tax credit to which a person is entitled in respect of the dividend or interest, or to which a person would be so entitled if he had a right to a tax credit in respect of the dividend or interest.
- (8) In this section “send” means send by post.
- (9) If a person fails to comply with subsection (2), (3), (4) or (5) above, the person shall incur a penalty of £60 in respect of each offence, except that the aggregate amount of any penalties imposed under this subsection on a person in respect of offences connected with any one distribution of dividends or interest shall not exceed £600.
- (10) The Board may by regulations provide that where a person is under a duty to comply with subsection (2), (3), (4) or (5) above, the person shall be taken to comply with the subsection if the person either—
- (a) acts in accordance with the subsection concerned, or
  - (b) acts in accordance with rules contained in the regulations;
- and subsection (9) above shall be construed accordingly.
- (11) Regulations under subsection (10) above may make different provision for different circumstances.”
- (2) In section 234 of that Act—
- (a) in subsection (1) for “subsections (3) and (4) below” there shall be substituted “section 234A”;
  - (b) subsections (3) and (4) shall be omitted.
- (3) In section 468(3) of that Act for “234(3) and (4)” there shall be substituted “234A”.
- (4) This section shall apply in relation to distributions begun after the day on which this Act is passed.

### *Securities and deposits*

#### **33 Deep gain securities**

Schedule 7 to this Act (which contains provisions about deep gain securities) shall have effect.

#### **34 Rights in pursuance of deposits**

Schedule 8 to this Act (which contains provisions about arrangements relating to rights in pursuance of deposits) shall have effect.

#### **35 Exchange of securities**

- (1) Section 135 of the Taxation of Chargeable Gains Act 1992 (exchange of securities for those in another company) shall have effect, and be deemed always to have had effect, with the insertion after subsection (1)(b) of “or
  - (c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B”.
- (2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to exchanges made on or after 1st January 1992 section 85 of the Capital Gains Tax Act 1979 (exchange of securities for those in another company) shall have effect, and be deemed to have had effect, with the insertion after subsection (1)(b) of “or
  - (c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B”.

### *Employee shares*

#### **36 Employee share ownership trusts**

- (1) In section 69 of the Finance Act 1989 (chargeable events as regards employee share ownership trusts) the following shall be inserted after subsection (3)—

“(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992.”
- (2) This section applies in relation to exchanges made on or after 1st January 1992.

#### **37 Employee share schemes: special benefits**

- (1) Section 80 of the Finance Act 1988 (unapproved employee share schemes: charge on special benefits) shall be amended as follows.
- (2) The following subsections shall be substituted for subsection (2)—

“(1A) If when a benefit is received the company is a dependent subsidiary and its shares are of a single class, the benefit is a special benefit for the purposes of subsection (1) above.

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- (2) A benefit which does not fall within subsection (1A) above is a special benefit for the purposes of subsection (1) above unless—
- (a) when it becomes available it is available to at least ninety per cent. of the persons who then hold shares of the same class as those which, or an interest in which, the person acquired, and
  - (b) any of the conditions in subsection (3) below is satisfied.”
- (3) In subsection (3) (other conditions) in paragraph (a) for “of the class concerned” there shall be substituted “in respect of which the benefit is received”.
- (4) In paragraph (c) of subsection (3) for “its shares are of a single class” there shall be substituted “the majority of its shares in respect of which the benefit is received are held otherwise than by or for the benefit of—
- (i) directors or employees of the company,
  - (ii) a company which is an associated company of the company but is not its parent company, or
  - (iii) directors or employees of a company which is an associated company of the company”.
- (5) The following subsection shall be inserted after subsection (3)—
- “(3A) For the purposes of subsection (3)(c)(ii) above a company is another company’s parent company if the second company is a subsidiary of the first.”
- (6) This section shall apply in relation to benefits received on or after 12th November 1991.

*Business expansion scheme*

**38 No relief for shares issued after 1993**

In section 289 of the Taxes Act 1988 (relief under the business expansion scheme) the words “and before the end of 1993” shall be inserted—

- (a) in subsection (1)(a), after “5 April 1983”,
- (b) in subsection (1)(b), after “18th March 1986”, and
- (c) in subsection (1)(d), after “(25th July 1986)”.

**39 Extension of relief for private rented housing: property managing companies**

Part I of Schedule 4 to the Finance Act 1988 (extension of business expansion scheme to private rented housing: modifications of the Taxes Act 1988) shall have effect, and be taken always to have had effect, with the substitution of the following paragraph for paragraph 11—

“11 (1) For subsection (1) of section 308 (application to subsidiaries) there shall be substituted—

“(1) A qualifying company may, in the relevant period, have one or more subsidiaries if the subsidiary or, as the case may be, each subsidiary is a subsidiary to which subsection (1A) or (1B) below applies.

(1A) This subsection applies to a subsidiary if—

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- (a) it is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities, and
- (b) the conditions mentioned in subsection (2) below are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period.

(1B) This subsection applies to a subsidiary if—

- (a) it is a property managing subsidiary, and
- (b) reading each reference in subsection (2) below to 90 per cent. as a reference to 51 per cent., the conditions in that subsection are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period.”

(2) In subsection (5) of that section, for paragraph (a) there shall be substituted—

- “(a) a subsidiary is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding or managing (or holding and managing) a single block of flats and more than half of those flats are let by the qualifying company or any of its subsidiaries in the course of qualifying activities;”.

#### **40 Extension of relief for private rented housing: lettings to former owner-occupiers**

- (1) In Part II of Schedule 4 to the Finance Act 1988 (extension of business expansion scheme to private rented housing: exclusion of certain dwelling-houses) paragraph 15 shall be amended as follows.
- (2) In sub-paragraph (1), for “Section 50” there shall be substituted “Subject to sub-paragraphs (1A) to (1C) below, section 50”.
- (3) The following sub-paragraphs shall be inserted after sub-paragraph (1)—

“(1A) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(a) above if the arrangements there mentioned were for letting to a person who was an owner-occupier of the dwelling-house before the relevant date.

(1B) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(b) above if the letting there mentioned was to a person—

- (a) who was an owner-occupier of the dwelling-house before the date of the letting, and
- (b) to whom the dwelling-house or part is let on a qualifying tenancy by the company or any of its subsidiaries after the relevant date.

(1C) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(c) above if the letting there mentioned was to a person—

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- (a) who was an owner-occupier of the dwelling-house before the relevant date, and
  - (b) to whom the dwelling-house or part is let on a qualifying tenancy by the company or any of its subsidiaries after the letting mentioned in sub-paragraph (1)(c).”
- (4) The following sub-paragraphs shall be added after sub-paragraph (2)—
- “(3) For the purposes of this paragraph, a person shall be taken to have been an owner-occupier of a dwelling-house before the relevant date or, as the case may be, the date mentioned in sub-paragraph (1B)(a) above if—
- (a) at any time before that date, he occupied the dwelling-house as his only or principal home and had a freehold interest in it, or
  - (b) for a period of at least two years ending on that date, he occupied the dwelling-house as his only or principal home and had an interest in it under a lease for a term of years certain not less than twenty-one of which remained unexpired at that date.
- (4) In the application of sub-paragraph (3) above to a dwelling-house in Scotland—
- (a) for paragraph (a) there shall be substituted—
    - “(a) at any time before that date he occupied the dwelling-house and—
      - (i) was the absolute owner of it, or
      - (ii) was the owner of the *dominium utile* in it,”;
    - and
  - (b) in paragraph (b) the word “certain” shall be omitted.
- (5) In the application of sub-paragraph (3) above to a dwelling-house in Northern Ireland, any conveyance or assignment of an interest in it by way of mortgage shall be disregarded.”
- (5) This section shall have effect where shares are issued on or after 10th March 1992.

### *Films*

## **41 Relief for preliminary expenditure**

- (1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct the amount of any expenditure of a revenue nature payable by him in that or an earlier relevant period—
- (a) which is expenditure to which this section applies,
  - (b) in respect of which no deduction has previously been made (whether under this section or otherwise) in computing for tax purposes the profits or gains accruing from the trade or business, and
  - (c) in respect of which no election has been made under section 68(9) of the 1990 Act.
- (2) This section applies to any expenditure that—

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- (a) can reasonably be said to have been incurred with a view to enabling a decision to be taken as to whether or not to make a film,
  - (b) is payable before the first day of principal photography (where the decision that is taken is to make the film), and
  - (c) is not payable under any contract or other arrangement whereby it may fall to be repaid if the film is not made.
- (3) A deduction shall not be made in respect of a film that has been completed unless the master negative of the film or any master tape or master disc of the film is a qualifying film, tape or disc.
- (4) A deduction shall not be made in respect of a film that has not been completed unless it is reasonably likely that if the film were completed the master negative of the film or any master tape or master disc of the film would be a qualifying film, tape or disc.
- (5) The total amount deducted under this section in respect of a film shall not exceed 20 per cent. of the budgeted total expenditure on the film, as calculated at the first day of principal photography.
- (6) A claim under this section shall be made not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable.
- (7) To the extent that a deduction has been made in respect of any expenditure under this section, no further deduction shall be made in respect of it in computing for tax purposes the profits or gains of the trade or business concerned.
- (8) This section shall have effect in relation to expenditure payable on or after 10th March 1992.

## **42 Relief for production or acquisition expenditure**

- (1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct an amount in respect of any expenditure—
- (a) which is expenditure to which subsection (2) or (3) below applies, and
  - (b) in respect of which no deduction has been made by virtue of subsections (3) to (6) of section 68 of the 1990 Act and no election has been made under subsection (9) of that section.
- (2) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the production of a film—
- (a) which was completed in the relevant period to which the claim relates or an earlier relevant period, and
  - (b) the master negative of which or any master tape or master disc of which is a qualifying film, tape or disc.
- (3) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the acquisition of the master negative of a film or any master tape or master disc of a film where—
- (a) the film was completed in the relevant period to which the claim relates or an earlier relevant period, and
  - (b) the master negative, tape or disc is a qualifying film, tape or disc.

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- (4) Any amount deducted for a relevant period under subsection (1) above shall not exceed—
- (a) one third of the total expenditure incurred by the claimant on the production of the film concerned or the acquisition of the master negative or any master tape or master disc of it,
  - (b) one third of the sum obtained by deducting from the amount of that total expenditure the amount of so much of that total expenditure as has already been deducted by virtue of section 41 above, or
  - (c) so much of that total expenditure as has not already been deducted by virtue of section 68(3) to (6) of the 1990 Act, section 41 above or this section,
- whichever is less.
- (5) In relation to a relevant period of less than twelve months, the references to one third in subsection (4) above shall be read as references to a proportionately smaller fraction.
- (6) A claim under this section shall be made not later than two years after the end of the relevant period to which the claim relates and shall be irrevocable.
- (7) Where any expenditure is deducted by virtue of section 68(3) to (6) of the 1990 Act in computing the profits or gains of a trade or business for a relevant period, no deduction shall be made under this section for that relevant period in respect of expenditure incurred on the production or acquisition of the film concerned.
- (8) This section does not apply to the profits or gains of a trade in which the film concerned constitutes trading stock, as defined in section 100(2) of the Taxes Act 1988.
- (9) This section shall have effect in relation to expenditure incurred on films completed on or after 10th March 1992.

#### **43 Interpretation of sections 41 and 42**

- (1) In sections 41 and 42 above and this section—
- “expenditure of a revenue nature” has the meaning given in section 68(10) of the 1990 Act,
- “master disc”, in relation to a film, means the original master film disc or the original master audio disc of the film,
- “master negative”, in relation to a film, means the original master negative of the film and its soundtrack (if any),
- “master tape”, in relation to a film, means the original master film tape or the original master audio tape of the film,
- “qualifying disc” means a master disc of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying disc for the purposes of section 68 of the 1990 Act,
- “qualifying film” means a master negative of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying film for the purposes of section 68 of the 1990 Act,
- “qualifying tape” means a master tape of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying tape for the purposes of section 68 of the 1990 Act,
- “relevant period” has the meaning given in section 68(3) of the 1990 Act, and

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“the 1990 Act” means the Capital Allowances Act 1990.

- (2) In sections 41 and 42 above and this section—
- (a) any reference to a film shall be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985, and
  - (b) any reference to the acquisition of a master negative, master tape or master disc of a film includes a reference to the acquisition of any description of rights in it.
- (3) For the purposes of sections 41 and 42 above a film is completed—
- (a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or
  - (b) in a case within section 42 where the expenditure in question was incurred on the acquisition of the master negative of the film or any master tape or master disc of the film and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

#### *Transfers of trade*

#### **44 Transfer of a UK trade: amendment of 1992 Act**

The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following after section 140—

*“Transfers concerning companies of different member States*

##### **140A Transfer of a UK trade**

- (1) This section applies where—
- (a) a qualifying company resident in one member State (company A)  
transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),
  - (b) the transfer is wholly in exchange for securities issued by company B to company A,
  - (c) a claim is made under this section by company A and company B,
  - (d) section 140B does not prevent this section applying, and
  - (e) the appropriate condition is met in relation to company B immediately after the time of the transfer.
- (2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 10(3).
- (3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a

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description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

- (4) Where this section applies—
- (a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;
  - (b) section 25(3) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).
- (5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.
- (6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.
- (7) In this section—
- “qualifying company” means a body incorporated under the law of a member State;
- “securities” includes shares.

#### **140B Section 140A: anti-avoidance**

- (1) Section 140A shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.
- (2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.
- (3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.”

#### **45 Transfer of a non-UK trade: amendment of 1992 Act**

The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following sections after section 140B—

##### **“140C Transfer of a non-UK trade**

- (1) This section applies where—
- (a) a qualifying company resident in the United Kingdom (company A)

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- transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,
- (b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),
  - (c) the transfer is wholly or partly in exchange for securities issued by company B to company A,
  - (d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,
  - (e) a claim is made under this section by company A, and
  - (f) section 140D does not prevent this section applying.
- (2) In a case where this section applies, this Act shall have effect in accordance with subsection (3) below.
- (3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.
- (4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140.
- (5) In a case where this section applies, section 815A of the Taxes Act shall also apply.
- (6) For the purposes of subsection (1)(a) above—
- (a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;
  - (b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.
- (7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.
- (8) Section 442(3) of the Taxes Act (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.
- (9) In this section—
- “qualifying company” means a body incorporated under the law of a member State;
  - “securities” includes shares.

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#### **140D Section 140C: anti-avoidance**

- (1) Section 140C shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.
- (2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.
- (3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.”

#### **46 Transfer of a trade: supplementary (1)**

- (1) The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the following amendments.
- (2) In section 35(3)(d)(i) (re-basing) after “139,” there shall be inserted “140A,”.
- (3) In section 116(11) (qualifying corporate bonds) after “139,” there shall be inserted “140A,”.
- (4) In section 140 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6)—
 

“(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140C.”
- (5) In section 174 (disposal or acquisition outside a group)—
  - (a) in subsection (2) after the word “section” (in the first place where it occurs) there shall be inserted “140A,”;
  - (b) in subsection (3) after “section” there shall be inserted “140A,”.
- (6) In section 177(2) (dividend stripping) after “which section” there shall be inserted “140A,”.
- (7) In section 184(2) (indexation)—
  - (a) after the word “section” (in the first place where it occurs) there shall be inserted “140A,”;
  - (b) for “either” there shall be substituted “one”.

#### **47 Transfer of a UK trade: amendment of 1970 Act**

Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the Income and Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following after section 269—

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*“Transfers concerning companies of different member States*

**269A Transfer of a UK trade**

- (1) This section applies where—
  - (a) a qualifying company resident in one member State (company A)  
transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),
  - (b) the transfer is wholly in exchange for securities issued by company B to company A,
  - (c) a claim is made under this section by company A and company B,
  - (d) section 269B below does not prevent this section applying, and
  - (e) the appropriate condition is met in relation to company B immediately after the time of the transfer.
- (2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b) of the Taxes Act 1988.
- (3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.
- (4) Where this section applies—
  - (a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;
  - (b) section 127(3) of the Finance Act 1989 (deemed disposal at market value) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).
- (5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.
- (6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.
- (7) In this section—

“qualifying company” means a body incorporated under the law of a member State;

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“securities” includes shares.

**269B Section 269A: anti-avoidance**

- (1) Section 269A above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.
- (2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.
- (3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.”

**48 Transfer of a non-UK trade: amendment of 1970 Act**

Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the Income and Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following sections after section 269B—

**“269C Transfer of a non-UK trade**

- (1) This section applies where—
  - (a) a qualifying company resident in the United Kingdom (company A) transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,
  - (b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),
  - (c) the transfer is wholly or partly in exchange for securities issued by company B to company A,
  - (d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,
  - (e) a claim is made under this section by company A, and
  - (f) section 269D below does not prevent this section applying.
- (2) The Capital Gains Tax Act 1979 shall have effect in accordance with subsection (3) below.
- (3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

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- (4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 268A above.
- (5) In a case where this section applies, section 815A of the Taxes Act 1988 shall also apply.
- (6) For the purposes of subsection (1)(a) above—
  - (a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;
  - (b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.
- (7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.
- (8) Section 442(3) of the Taxes Act 1988 (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.
- (9) In this section—
  - “qualifying company” means a body incorporated under the law of a member State;
  - “securities” includes shares.

#### **269D Section 269C: anti-avoidance**

- (1) Section 269C above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.
- (2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.
- (3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.”

#### **49 Transfer of a trade: supplementary (2)**

- (1) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, the enactments mentioned in this section shall be amended as there mentioned.

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- (2) In section 268A of the Income and Corporation Taxes Act 1970 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6) —
- “(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 269C below.”
- (3) In section 275 of that Act (disposal or acquisition outside a group)—
- (a) in subsection (1A) after the word “section” (in the first place where it occurs) there shall be inserted “269A,”;
  - (b) in subsection (1B) after “section” there shall be inserted “269A,”.
- (4) In section 281(2) of that Act (dividend stripping) after “which section” there shall be inserted “269A,”.
- (5) In paragraph 10(2) of Schedule 13 to the Finance Act 1984 (qualifying corporate bonds) after paragraph (bb) there shall be inserted—
- “(bc) section 269A of the Taxes Act (transfer of United Kingdom trade between companies of different member States); or”.
- (6) In section 68(7A)(b) of the Finance Act 1985 (indexation) after “267,” there shall be inserted “269A,”.
- (7) In paragraph 1(3)(b) of Schedule 8 to the Finance Act 1988 (re-basing) after “267,” there shall be inserted “269A,”.
- (8) In paragraph 5 of Schedule 11 to that Act (indexation)—
- (a) after “section” there shall be inserted “269A,”;
  - (b) the word “intra-group” shall be omitted;
  - (c) for “either” there shall be substituted “one”.
- (9) Subsections (3) and (4) above apply where the transfer referred to in section 269A takes effect on or after 1st January 1992.
- (10) Subsections (5) to (7) above apply to any disposal by way of transfer where the transfer takes effect on or after 1st January 1992.
- (11) Subsection (8) above applies where any disposal to which section 269A applies is by way of a transfer taking effect on or after 1st January 1992.

### *Double taxation relief*

## **50 Transfer of a non-UK trade**

The following section shall be inserted after section 815 of the Taxes Act 1988—

### **“815A Transfer of a non-UK trade**

- (1) This section applies where section 269C of the 1970 Act or section 140C of the Taxation of Chargeable Gains Act 1992 applies; and references in this section to company A, the transfer and the trade shall be construed accordingly.
- (2) Where company A produces to the inspector an appropriate certificate given by the tax authorities of the relevant member State, this Part, including any

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arrangements having effect by virtue of section 788, shall apply as if the amount stated in the certificate in accordance with subsection (4)(b) below were tax payable under the law of the relevant member State.

- (3) In any case where—
- (a) company A is unable to obtain an appropriate certificate from the tax authorities of the relevant member State,
  - (b) the Board is satisfied that this is the case, and
  - (c) company A makes a claim to the Board under this subsection and provides the Board with such information and documents in connection with the claim as the Board may require,

the Board shall determine the amount which in their opinion is the amount of tax computed on the required basis which would have been payable under the law of the relevant member State in respect of the gains accruing to company A on the transfer but for the Mergers Directive; and this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount so determined were tax payable under the law of the relevant member State.

- (4) For the purposes of this section, an appropriate certificate is one containing—
- (a) a statement to the effect that gains accruing to company A on the transfer would have been chargeable to tax under the law of the relevant member State but for the Mergers Directive;
  - (b) a statement of the amount of tax which would have been payable under that law in respect of the gains so accruing but for that Directive; and
  - (c) a statement to the effect that that amount has been computed on the required basis.
- (5) For the purposes of this section, the required basis is that—
- (a) so far as permitted under the law of the relevant member State, any losses arising on the transfer are set against any gains so arising, and
  - (b) any relief available to company A under that law has been duly claimed.

- (6) In this section—

“the Mergers Directive” means the Directive of the Council of the European Communities dated 23rd July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different member States (no. 90/434/EEC);

“relevant member State” means the member State in which, immediately before the time of the transfer, company A carried on the trade through a branch or agency.”

## **51 The Arbitration Convention**

- (1) The following section shall be inserted after section 815A of the Taxes Act 1988—

### **“815B The Arbitration Convention**

- (1) Subsection (2) below applies if the Arbitration Convention requires the Board to give effect to—

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- (a) an agreement or decision, made under the Convention by the Board (or their authorised representative) and any other competent authority, on the elimination of double taxation, or
  - (b) an opinion, delivered by an advisory commission set up under the Convention, on the elimination of double taxation.
- (2) The Board shall give effect to the agreement, decision or opinion notwithstanding anything in any enactment; and any such adjustment as is appropriate in consequence may be made (whether by way of discharge or repayment of tax, the making of an assessment or otherwise).
- (3) Any enactment which limits the time within which claims for relief under any provision of the Tax Acts may be made shall not apply to a claim made in pursuance of an agreement, decision or opinion falling within subsection (1) (a) or (b) above.
- (4) In this section “the Arbitration Convention” means the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, concluded on 23rd July 1990 by the parties to the treaty establishing the European Economic Community (90/436/EEC).”
- (2) In section 816 of the Taxes Act 1988 (disclosure of information) the following subsection shall be inserted after subsection (2)—
- “(2A) The obligation as to secrecy imposed by any enactment shall not prevent the Board, or any authorised officer of the Board, from disclosing information required to be disclosed under the Arbitration Convention in pursuance of a request made by an advisory commission set up under that Convention; and “the Arbitration Convention” here has the meaning given by section 815B(4).”
- (3) The following section shall be inserted after section 182 of the Finance Act 1989 (disclosure of information)—

**“182A Double taxation: disclosure of information**

- (1) A person who discloses any information acquired by him in the exercise of his functions as a member of an advisory commission set up under the Arbitration Convention is guilty of an offence.
- (2) Subsection (1) above does not apply to any disclosure of information—
  - (a) with the consent of the person who supplied the information to the commission, or
  - (b) which has been lawfully made available to the public before the disclosure is made.
- (3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence he believed that the information in question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

- (5) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—
- (a) by the Board, or
  - (b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.
- (6) In this section—
- “the Arbitration Convention” has the meaning given by section 815B(4) of the Taxes Act 1988;
  - “the Board” means the Commissioners of Inland Revenue.”

## 52 Interest

- (1) In the Taxes Act 1988 the following section shall be inserted after section 808—

### “808A Interest: special relationship

- (1) Subsection (2) below applies where any arrangements having effect by virtue of section 788—
- (a) make provision, whether for relief or otherwise, in relation to interest (as defined in the arrangements), and
  - (b) make provision (the special relationship provision) that where owing to a special relationship the amount of the interest paid exceeds the amount which would have been paid in the absence of the relationship, the provision mentioned in paragraph (a) above shall apply only to the last-mentioned amount.
- (2) The special relationship provision shall be construed as requiring account to be taken of all factors, including—
- (a) the question whether the loan would have been made at all in the absence of the relationship,
  - (b) the amount which the loan would have been in the absence of the relationship, and
  - (c) the rate of interest and other terms which would have been agreed in the absence of the relationship.
- (3) The special relationship provision shall be construed as requiring the taxpayer to show that there is no special relationship or (as the case may be) to show the amount of interest which would have been paid in the absence of the special relationship.
- (4) In a case where—
- (a) a company makes a loan to another company with which it has a special relationship, and
  - (b) it is not part of the first company’s business to make loans generally, the fact that it is not part of the first company’s business to make loans generally shall be disregarded in construing subsection (2) above.
- (5) Subsection (2) above does not apply where the special relationship provision expressly requires regard to be had to the debt on which the interest is paid in

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determining the excess interest (and accordingly expressly limits the factors to be taken into account).”

- (2) This section shall apply in relation to interest (as defined in the arrangements) paid after 14th May 1992.

*Miscellaneous*

**53 Car fuel: cash equivalents**

- (1) Section 158 of the Taxes Act 1988 (car fuel) shall be amended as follows.

- (2) For subsection (2) (cash equivalents) there shall be substituted—

“(2) Subject to the provisions of this section, the cash equivalent of that benefit shall be ascertained from—

- (a) Table A below where the car has an internal combustion engine with one or more reciprocating pistons and is not a diesel car;
- (b) Table AB below where the car has an internal combustion engine with one or more reciprocating pistons and is a diesel car;
- (c) Table B below where the car does not have an internal combustion engine with one or more reciprocating pistons.

TABLE A

<i>CYLINDER CAPACITY OF CAR IN CUBIC CENTIMETRES</i>	<i>CASH EQUIVALENT</i>
1,400 or less	£500
More than 1,400 but not more than 2,000	£630
More than 2,000	£940

TABLE AB

<i>CYLINDER CAPACITY OF CAR IN CUBIC CENTIMETRES</i>	<i>CASH EQUIVALENT</i>
2,000 or less	£460
More than 2,000	£590

TABLE B

<i>ORIGINAL MARKET VALUE OF CAR</i>	<i>CASH EQUIVALENT</i>
Less than £6,000	£500
£6,000 or more but less than £8,500	£630
£8,500 or more	£940

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(2A) For the purposes of subsection (2) above a diesel car is a car which uses heavy oil as fuel; and “heavy oil” here means heavy oil as defined by section 1(4) of the Hydrocarbon Oil Duties Act 1979.

(2B) For the purposes of Tables A and AB in subsection (2) above a car’s cylinder capacity is the capacity of its engine calculated as for the purposes of the Vehicles (Excise) Act 1971.”

(3) In subsection (4) (Treasury orders) for “either” there shall be substituted “any”.

(4) This section shall have effect for the year 1992-93 and subsequent years of assessment.

#### **54 Foreign earnings**

(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings: provisions supplemental to section 193(1)) after paragraph 1 there shall be inserted—

*“Amount of emoluments*

1A For the purposes of section 193(1) and this Schedule the amount of the emoluments for a year of assessment from any employment shall be taken to be the amount remaining after any capital allowance and after any deductions under section 192(3), 193(4), 194(1), 195(7), 198, 199, 201, 332, 592 or 594.”

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

#### **55 Oil extraction activities: extended transportation**

(1) In section 502 of the Taxes Act 1988 (defined expressions for Chapter V of Part XII of that Act - petroleum extraction activities), in subsection (1), in the definition of “oil extraction activities”, in paragraph (c)—

(a) the words “as far as dry land in the United Kingdom” shall be omitted; and

(b) after the words “so held” there shall be inserted “where the transportation is—

(i) to the place where the oil is first landed in the United Kingdom, or

(ii) to the place in the United Kingdom or, in the case of oil first landed in another country, the place in that or any other country (other than the United Kingdom) at which the seller in a sale at arm’s length could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction”.

(2) Subsection (1) above has effect with respect to chargeable periods ending after 27th November 1991.

(3) In so far as the amendments made by paragraph 3 of Schedule 15 to this Act amend the definitions of “initial storage” and “initial treatment” as they have effect, by virtue of section 502(2) of the Taxes Act 1988, for the purposes of Chapter V of Part XII of that Act, those amendments have effect with respect to chargeable periods ending after 27th November 1991.

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## 56 Friendly societies

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

## 57 Rents or receipts between connected persons

(1) In the Taxes Act 1988, the following shall be inserted after section 33—

### *“Connected persons*

#### **33A Rents or receipts payable by a connected person**

- (1) Subsection (2) below applies where—
- (a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,
  - (b) the person by whom they are payable is entitled to a deduction in respect of them in computing his profits or gains for tax purposes, and
  - (c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement under which they accrue.
- (2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).
- (3) For the purposes of this section, any rents or receipts shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction mentioned in subsection (1)(b) above.
- (4) Section 839 (connected persons) shall apply for the purposes of this section.

#### **33B Rents or receipts relating to land in respect of which a connected person makes payments to a third party**

- (1) Subsection (2) below applies where—
- (a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,
  - (b) the land to which the rents or receipts relate is land in respect of which another person becomes entitled to a relevant tax deduction at any time before the rents or receipts become payable,
  - (c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement referred to in subsection (4) below, and
  - (d) section 33A(2) does not apply.

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- (2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).
  - (3) For the purposes of this section, any rents or receipts payable to the chargeable person shall be taken to accrue at the times at which, and in the amounts in which, they would be taken to accrue for the purposes of calculating a deduction in respect of them in computing his profits or gains for tax purposes if—
    - (a) they were payable by him instead of to him, and
    - (b) he were assessable to tax under Case I of Schedule D in respect of his profits or gains.
  - (4) In this section, “relevant tax deduction”, in relation to a person and any land, means a deduction (in computing the person’s profits or gains for tax purposes) in respect of any rents or other sums payable after they accrue under a lease or other agreement relating to the land or any part of it.
  - (5) For the purposes of this section—
    - (a) a person shall be regarded as becoming entitled to a relevant tax deduction when the rents or other sums to which the deduction relates accrue, and
    - (b) any rents or other sums to which a relevant tax deduction relates shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction.
  - (6) Section 839 (connected persons) shall apply for the purposes of this section.”
- (2) This section shall have effect in relation to rents or receipts accruing on or after 10th March 1992.

## **58 Rent etc. chargeable under Case VI**

- (1) In section 15(1) of the Taxes Act 1988 (Schedule A) the following paragraph shall be substituted for paragraph 4—

in a case where—

  - (a) a sum (whether rent or otherwise) is payable in respect of the use of premises (whether under a lease or otherwise),
  - (b) the tenant or other person entitled to the use of the premises is entitled to the use of furniture, and
  - (c) tax in respect of the payment for the use of the furniture is chargeable under Case VI of Schedule D,

tax in respect of the sum mentioned in sub-paragraph (a) above shall be charged under that Case instead of under this Schedule unless the person entitled to that sum elects that this paragraph shall not apply.”
- (2) This section shall apply in relation to chargeable periods beginning on or after 6th April 1992.

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**59      Furnished accommodation**

Schedule 10 to this Act (which makes provision about furnished accommodation) shall have effect.

**60      Deduction on account of certain payments**

- (1) In section 347A(5) of the Taxes Act 1988 and in section 38(9) of the Finance Act 1988 (no deduction on account of certain payments) after “section 65(1)(b)” there shall be inserted “, 68(1)(b) or 192(3)”.
- (2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

**61      Qualifying maintenance payments: extension to member States**

- (1) In section 347B(1)(a) of the Taxes Act 1988 (payments under certain court orders or written agreements)—
  - (a) for “in the United Kingdom” there shall be substituted “in a member State”;
  - (b) for “a part of the United Kingdom” there shall be substituted “a member State or of a part of a member State”.
- (2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

**62      Qualifying maintenance payments: maintenance assessments etc**

- (1) In section 347B of the Taxes Act 1988 (qualifying maintenance payments), the following subsections shall be added at the end—
  - “(8) In subsections (1)(a) and (5)(a) above, the reference to an order made by a court in the United Kingdom includes a reference to a maintenance assessment.
  - (9) Where—
    - (a) any periodical payment is made under a maintenance assessment by one of the parties to a marriage (including a marriage which has been dissolved or annulled),
    - (b) the other party to the marriage is, for the purposes of the Child Support Act 1991 or (as the case may be) the Child Support (Northern Ireland) Order 1991, a parent of the child or children with respect to whom the assessment has effect,
    - (c) the assessment was not made under section 7 of the Child Support Act 1991 (right of child in Scotland to apply for maintenance assessment), and
    - (d) any of the conditions mentioned in subsection (10) below is satisfied,
 this section shall have effect as if the payment had been made to the other party for the maintenance by that other party of that child or (as the case may be) those children.
  - (10) The conditions are that—
    - (a) the payment is made to the Secretary of State in accordance with regulations made under section 29 of the Child Support Act 1991, by virtue of subsection (3)(a)(ii) of that section;

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- (b) the payment is made to the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 29 of the Child Support (Northern Ireland) Order 1991, by virtue of paragraph (3)(a)(ii) of that Article;
  - (c) the payment is retained by the Secretary of State in accordance with regulations made under section 41 of that Act;
  - (d) the payment is retained by the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 38 of that Order.
- (11) In this section “maintenance assessment” means a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991.
- (12) Where any periodical payment is made to the Secretary of State or to the Department of Health and Social Services for Northern Ireland—
  - (a) by one of the parties to a marriage (including a marriage which has been dissolved or annulled), and
  - (b) under an order made under section 106 of the Social Security Administration Act 1992 or section 101 of the Social Security Administration (Northern Ireland) Act 1992 (recovery of expenditure on benefit from person liable for maintenance) in respect of income support claimed by the other party to the marriage,this section shall have effect as if the payment had been made to the other party to the marriage to or for the benefit, and for the maintenance, of that other party or (as the case may be) to that other party for the maintenance of the child or children concerned.”
- (2) In section 36 of the Finance Act 1988 (annual payments), the following subsection shall be inserted after subsection (5)—

“(5A) The reference in subsection (4)(d) above to an order made by a court, and the reference in subsection (5)(b) above to an order, in each case includes a reference to a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991.”
- (3) In section 38 of the Finance Act 1988 (maintenance payments under existing obligations), the following subsection shall be inserted after subsection (8)—

“(8A) The reference in subsection (1)(a) above to an order made by a court includes a reference to a maintenance assessment made under the Child Support Act 1991 or under the Child Support (Northern Ireland) Order 1991.”
- (4) This section shall come into force on such date as the Secretary of State may by order provide.
- (5) The power conferred by subsection (4) above shall be exercisable by statutory instrument.
- (6) The provision made by this section shall have effect, so far as it concerns orders under section 106 of the Social Security Administration Act 1992 or section 101 of the Social Security Administration (Northern Ireland) Act 1992, only in relation to payments which fall due after the coming into force of this section.

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### **63 Paying and collecting agents etc**

Schedule 11 to this Act (which makes provision in relation to the payment of income tax on foreign dividends etc.) shall have effect.

### **64 Reduced and composite rate**

- (1) For the purposes of this section each of the following is a relevant order—
- (a) the Income Tax (Reduced and Composite Rate) Order 1985 (which sets out 25.25 per cent. as the reduced rate for building societies and the composite rate for deposit-takers for the year 1986-87);
  - (b) the Income Tax (Reduced and Composite Rate) Order 1986 (which sets out 24.75 per cent. as the rate for the year 1987-88);
  - (c) the Income Tax (Reduced and Composite Rate) Order 1987 (which sets out 23.25 per cent. as the rate for the year 1988-89);
  - (d) the Income Tax (Reduced and Composite Rate) Order 1988 (which sets out 21.75 per cent. as the rate for the year 1989-90).
- (2) If apart from this section a relevant order would not be so taken, it shall be taken to be and always to have been effective to determine the rate set out in the order as the reduced rate and the composite rate for the year of assessment for which the order was made.

### **65 Life assurance business: I minus E basis**

- (1) For the purposes of this section a claim is a relevant claim if it is made under or by virtue of any of the following provisions—
- (a) section 393(1) of the Taxes Act 1988 (claim for carry forward of trading losses);
  - (b) section 393A(1) of the Taxes Act 1988 (claim for carry sideways and backwards of trading losses);
  - (c) section 402(2) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: group claim);
  - (d) section 402(3) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: consortium claim);
  - (e) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (d) above (whether directly or indirectly and whether with or without modification).
- (2) For the purposes of this section the following are relevant provisions—
- (a) section 434(2) of the Taxes Act 1988 (profits derived from investments of life assurance fund treated as profits of life assurance business in ascertaining loss on that business);
  - (b) section 715(1)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferor where transfer falls to be taken into account in computing profits or losses of trade);
  - (c) section 715(2)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferee where transfer falls to be taken into account in computing profits or losses of trade);

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- (d) section 83(1) of the Finance Act 1989 (investment income etc. from assets of long-term business fund taken into account as receipts of life assurance business);
  - (e) section 37(1) of the Taxation of Chargeable Gains Act 1992 (exclusion from consideration for disposal of asset of any money or moneys worth taken into account in computing profits or losses etc.);
  - (f) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (c) and (e) above (whether directly or indirectly and whether with or without modification).
- (3) For the purposes of this section—
- (a) the I minus E basis is the basis commonly so called (under which a company carrying on life assurance business is charged to tax in respect of that business otherwise than under Case I of Schedule D);
  - (b) life assurance business includes annuity business.
- (4) Neither the making of a relevant claim in respect of a trading loss incurred by a company in an accounting period nor the application of any commercial or accounting principle or practice in computing that loss—
- (a) shall prevent the I minus E basis being applied for that or any other accounting period in respect of the company's life assurance business;
  - (b) shall affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.
- (5) The application of a relevant provision as regards a company for an accounting period shall not—
- (a) prevent the I minus E basis being applied for that or any other accounting period in respect of its life assurance business;
  - (b) affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.
- (6) This section—
- (a) shall apply in relation to accounting periods beginning on or after the day on which this Act is passed;
  - (b) shall apply and be deemed always to have applied in relation to accounting periods beginning before that day.

## **66 Banks etc. in compulsory liquidation**

Schedule 12 to this Act (which makes provision in relation to companies that are or have been carrying on a deposit-taking business and are in compulsory liquidation) shall have effect.

## **CHAPTER II**

### **CAPITAL ALLOWANCES**

## **67 Transfer of a UK trade**

The following section shall be inserted after section 152A of the Capital Allowances Act 1990—

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**“152B Transfer of a UK trade**

- (1) References in this section to company A, company B and the transfer shall be construed in accordance with section 269A of the Income and Corporation Taxes Act 1970 or, as the case may be, section 140A of the Taxation of Chargeable Gains Act 1992.
- (2) This section applies where—
  - (a) section 269A of the Income and Corporation Taxes Act 1970 or section 140A of the Taxation of Chargeable Gains Act 1992 applies, and
  - (b) if immediately after the time of the transfer company B is not resident in the United Kingdom, the condition in subsection (3) below is met.
- (3) The condition is that immediately after the time of the transfer company B carries on in the United Kingdom through a branch or agency a trade which consists of or includes the trade, or the part of the trade, transferred by the transfer.
- (4) Where this section applies the first and second rules set out in subsections (5) and (6) below shall have effect.
- (5) The first rule is that the transfer itself shall not be treated as giving rise to any allowances or charges under the Capital Allowances Acts.
- (6) The second rule applies with regard to anything done after the transfer in relation to the assets included in it; and the rule is that everything done to or by company A in relation to those assets before the transfer shall for the purposes of the Capital Allowances Acts be treated as having been done to or by company B (and not company A).
- (7) Where for the purposes of subsection (6) above expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment shall be made in such manner as is just and reasonable.
- (8) Any question which arises as to the manner in which an apportionment referred to in subsection (7) above is to be made shall be determined, for the purposes of the tax of both company A and company B—
  - (a) in a case where the same body of General Commissioners have jurisdiction with respect to both the companies, by those Commissioners, unless the companies agree that it shall be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the companies, by such of those bodies as the Board may direct, unless the companies agree that it shall be determined by the Special Commissioners;
  - (c) in any other case, by the Special Commissioners.
- (9) The Commissioners by whom the question referred to in subsection (8) above falls to be determined shall make the determination in like manner as if it were an appeal except that company A and company B shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.

- (10) In any case where this section applies, none of the following provisions shall apply—
- (a) section 77;
  - (b) section 152A;
  - (c) section 157;
  - (d) section 158;
  - (e) section 343(2) of the principal Act.”

## **68 Computer software**

- (1) In Part II of the Capital Allowances Act 1990 (machinery and plant) after section 67 there shall be inserted the following section—

### **“67A Computer software**

- (1) If a person carrying on a trade incurs capital expenditure in acquiring for the purposes of the trade a right to use or otherwise deal with computer software, then, for the purposes of this Part—
- (a) the right and the software to which it relates shall be treated as machinery or plant;
  - (b) that machinery or plant shall be treated as provided for the purposes of the trade; and
  - (c) so long as he is entitled to the right, that machinery or plant shall be treated as belonging to him.
- (2) In any case where—
- (a) a person carrying on a trade incurs capital expenditure on the provision of computer software for the purposes of the trade, and
  - (b) in consequence of his incurring that expenditure, the computer software belongs to him, but
  - (c) the computer software does not constitute machinery or plant,
- then for the purposes of this Part the computer software shall be treated as machinery or plant.”
- (2) In section 24 of that Act (writing-down allowances and balancing adjustments) in subsection (6) (disposal value) for the words “subsection (7)” there shall be substituted “subsections (6A) and (7)”.
- (3) After that subsection there shall be inserted the following subsection—
- “(6A) In the case of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, the disposal value to be brought into account by a person for any chargeable period by virtue of subsection (6) above shall also include the disposal value of all such machinery or plant—
- (a) on the provision of which for the purposes of the trade he has incurred capital expenditure;
  - (b) which belongs to him at some time in the chargeable period or its basis period;
  - (c) in respect of which, in the chargeable period or its basis period, the following event occurs, namely, he grants to another person a right to

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- use or otherwise deal with the whole or part of the computer software concerned in circumstances where the consideration in money for the grant constitutes (or if there were consideration in money for the grant would constitute) a capital sum; and
- (d) in respect of which, whilst the machinery or plant belongs or belonged to him, no event falling within paragraph (iv) or (v) of subsection (6) (c) above has occurred before the event referred to in paragraph (c) above.”
- (4) In subsection (8) of that section for the words “subsection (7)” in both places where they occur there shall be substituted “subsections (6A) and (7)”.
- (5) In section 26 of that Act (disposal value) in subsection (1) after paragraph (e) there shall be inserted—
- “(ea) if that event is the grant of a right to use or otherwise deal with computer software for a consideration not consisting or not wholly consisting in money, equals the consideration in money which would have been given if the right had been granted in the open market;
- (eb) unless paragraph (ea)
- above applies, if that event is the grant of a right to use or otherwise deal with computer software for no consideration or for a consideration in money lower than that which would have been given if the right had been granted in the open market, and otherwise than in circumstances such that—
- (i) the grantee’s expenditure on the acquisition of the right can be taken into account in making allowances to him under this Part or under Part VII and the grantee is not a dual resident investing company which is connected with the grantor within the terms of section 839 of the principal Act, or
- (ii) there is a charge to tax under Schedule E,
- equals the consideration in money which would have been given if the right had been granted in the open market;
- (ec) if that event is the grant of a right to use or otherwise deal with computer software and neither paragraph (ea) nor paragraph (eb) above applies, equals the net consideration in money received by the grantor in respect of the grant, together with any insurance moneys received by him in respect of the computer software by reason of any event affecting the consideration obtainable on the grant and, so far as it consists of capital sums, any other compensation of any description so received;”.
- (6) After subsection (2) of that section there shall be inserted—
- “(2AA) In deciding for the purposes of subsection (2) above whether the disposal value of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software exceeds the capital expenditure incurred by a person on its provision, the disposal value shall (for the purposes of that subsection only) be taken to be increased by the amount of any disposal value which, in respect of that person and that machinery or plant, falls or has fallen to be taken into account for the purposes of section 24 by virtue of any previous event falling within subsection (6A)(c) of that section.”

- (7) In section 37 of that Act (election for certain machinery or plant to be treated as short-life assets) in subsection (5) for the words “section 24(7)” there shall be substituted “section 24(6A) and (7)”.
- (8) Subsection (1) above shall apply in relation to expenditure incurred on or after 10th March 1992.
- (9) Subsections (2) to (6) above shall apply in relation to rights granted on or after 10th March 1992.
- (10) Subsection (7) above shall be deemed to have come into force on 10th March 1992.

## **69 Films etc**

- (1) Section 68 of the Capital Allowances Act 1990 (which excludes certain expenditure relating to films, tapes and discs from being treated as capital expenditure for the purposes of Part II of that Act and gives relief by providing for such expenditure and other expenditure of a revenue nature to be allocated to relevant periods) shall be amended as follows.
- (2) After subsection (6) there shall be inserted—
  - “(6A) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 of the Finance (No. 2) Act 1992 (relief for production or acquisition expenditure), no allocation of that expenditure shall be made under subsections (3) to (6) above.
  - (6B) Where subsection (6A) above applies, no expenditure incurred on the production or acquisition of the film, tape or disc concerned shall be allocated under subsections (3) to (6) above to the relevant period referred to in subsection (6A).”
- (3) In subsection (9) (expenditure to which section 68 does not apply) after “expenditure” there shall be inserted “in relation to which an election is made under this subsection and”.
- (4) After subsection (9) there shall be inserted—
  - “(9A) An election under subsection (9) above—
    - (a) shall relate to all expenditure incurred (or to be incurred) on the production or acquisition of the film, tape or disc in question,
    - (b) shall be made, by giving notice to the inspector in such form as the Board may determine, not later than two years after the end of the relevant period in which the film, tape or disc is completed, and
    - (c) shall be irrevocable.
  - (9B) For the purposes of subsection (9A)(b) above, a film, tape or disc is completed—
    - (a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or
    - (b) where the expenditure in question was incurred on the acquisition of the film, tape or disc and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

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(9C) An election may not be made under subsection (9) above in relation to expenditure on a film, tape or disc if a claim has been made in respect of any of that expenditure under section 41 (relief for preliminary expenditure) or section 42 (relief for production or acquisition expenditure) of the Finance (No. 2) Act 1992.”

(5) Subsections (3) and (4) above shall have effect in relation to films, tapes and discs completed on or after 10th March 1992.

## **70 Enterprise zones**

Schedule 13 to this Act (which makes provision in relation to capital allowances in respect of buildings and structures in enterprise zones) shall have effect.

## **71 Expensive motor cars**

- (1) The Capital Allowances Act 1990 shall be amended as follows.
- (2) In section 34 (writing-down allowances etc.) in subsection (1) for “£8,000” there shall be substituted “£12,000”.
- (3) In subsection (3) of that section for “£2,000” in each place where it occurs there shall be substituted “£3,000”.
- (4) In section 35 (contributions to expenditure and hiring of cars) in subsection (1) for “£8,000” and “£2,000” there shall be substituted “£12,000” and “£3,000” respectively.
- (5) In subsection (2) of that section for “£8,000” in both places where it occurs there shall be substituted “£12,000”.
- (6) Subsections (2) and (3) above shall apply in relation to expenditure incurred or treated as incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.
- (7) Subsection (4) above shall apply in relation to expenditure incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.
- (8) Subsection (5) above shall apply in relation to expenditure on the hiring of a motor car under a contract entered into after 10th March 1992.

## **PART III**

### MISCELLANEOUS AND GENERAL

#### *Inheritance tax*

## **72 Increase of rate bands**

- (1) For the Table in Schedule 1 to the Inheritance Tax Act 1984 there shall be substituted—

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“TABLE OF RATES OF TAX

<i>Portion of value</i>		<i>Rate of tax</i>
<i>Lower limit</i>	<i>Upper limit</i>	<i>Rate of tax Per cent.</i>
£	£	
0	150,000	Nil
150,000	—	40”

- (2) Subsection (1) above shall apply to any chargeable transfer made on or after 10th March 1992, and section 8(1) of the Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to chargeable transfers made in the year beginning 6th April 1992.

**73 Business and agricultural property relief**

Schedule 14 to this Act (which makes provision in relation to relief in respect of business property and agricultural property) shall have effect.

*Petroleum revenue tax*

**74 Oil exported direct from United Kingdom off-shore fields**

- (1) The enactments specified in Schedule 15 to this Act (being enactments relating to oil taxation) shall have effect subject to the amendments in that Schedule, being amendments—
- which take account, for the purpose of determining assessable profits and allowable losses, of certain cases where oil which is won from an off-shore oil field is, or could reasonably be expected to be, first landed in a country other than the United Kingdom; or
  - which are consequential upon, or incidental to, the amendments referred to in paragraph (a) above.
- (2) For the purposes of subsection (1)(a) above an oil field is an off-shore oil field if the whole of it is situated outside the geographical area of the United Kingdom (as determined under section 108 of the Finance Act 1986 - the on-shore/off-shore boundary).
- (3) In the amendments in Schedule 15 to this Act, any reference to a country other than the United Kingdom shall be treated as a reference to the geographical area of that country exclusive of any land (or waters) to the seaward side of the high-water line along the coast of that country, including the coast of all islands comprised in that country.
- (4) For the purpose of subsection (3) above, section 108(5) of the Finance Act 1986 (which provides a means of determining the high-water line at any place in the United Kingdom) shall, with any necessary modifications, apply to determine the high-water line at any place in a country other than the United Kingdom.
- (5) Except in so far as they have effect in relation to corporation tax or income tax, the amendments in Schedule 15 to this Act take effect as follows—

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- (a) in so far as they relate to expenditure incurred, they take effect for claim periods ending after 27th November 1991; and
  - (b) in so far as they relate to any other matter, they take effect for chargeable periods ending after 30th June 1992.
- (6) This section shall be construed as one with Part I of the Oil Taxation Act 1975.

### *General and Special Commissioners*

#### **75 Change of name**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations providing for—
- (a) Commissioners for the general purposes of the income tax to hold office by a different name (and to be referred to otherwise than as “General Commissioners”), and
  - (b) Commissioners for the special purposes of the Income Tax Acts to hold office by a different name (and to be referred to otherwise than as “Special Commissioners”).
- (2) The regulations may make such consequential amendments of any Act or instrument made under any Act as the Lord Chancellor thinks appropriate.
- (3) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **76 Miscellaneous**

Schedule 16 to this Act (which makes provision in relation to the remuneration, jurisdiction, practice and procedure of the General and Special Commissioners etc.) shall have effect.

### *Miscellaneous*

#### **77 Northern Ireland Electricity**

Schedule 17 to this Act (which makes provision in relation to the transfer of the undertaking of Northern Ireland Electricity) shall have effect.

#### **78 Gas levy: restriction of liability**

In section 123 of the Finance Act 1990 (gas levy), in subsection (3) (rights to gas of British Gas Corporation treated as continuing, for purposes of levy on producer, in certain circumstances) at the end of paragraph (b) (termination of rights disregarded unless occurring before 5th March 1990) there shall be added “or by effluxion of time, pursuant to a term in the contract or document, being a term in existence on 27th November 1991.”

**79 Treasury bills**

- (1) In section 8 of the Treasury Bills Act 1877 (bills to be issued under Treasury warrant countersigned by Comptroller and Auditor General) the words “countersigned by the Comptroller and Auditor General” shall be omitted.
- (2) This section shall apply where the warrant concerned is issued on or after the day on which this Act is passed.

**80 Publication of rates of interest**

- (1) Section 5(8) of the National Loans Act 1968 (which requires the Treasury to publish certain rates of interest in the London and Edinburgh Gazettes) shall cease to have effect.
- (2) This section shall have effect in relation to rates of interest determined after the day on which this Act is passed.

*General*

**81 Interpretation**

In this Act “the Taxes Act 1988” means the Income and Corporation Taxes Act 1988.

**82 Repeals**

The enactments specified in Schedule 18 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

**83 Short title**

This Act may be cited as the Finance (No. 2) Act 1992.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### AMENDMENTS RELATING TO EXCISE DUTIES ETC.

##### *The Customs and Excise Management Act 1979 (c. 2)*

- 1 In section 1(1) of the Customs and Excise Management Act 1979 (interpretation), after the definition of “examination station” there shall be inserted the following definition—
- ““excise duty point” has the meaning given by section 1 of the Finance (No. 2) Act 1992;”.
- 2 In section 43 of that Act (duty on imported goods)—
- (a) in subsection (2), for “and (2C)” there shall be substituted “(2C) and (2D)”; and
- (b) after subsection (2C) there shall be inserted the following subsection—
- “(2D) Nothing in the provisions of subsections (1) and (2) above or of subsection (6) below or in any exception to any of those provisions made by or under any of sections 44 to 48 below shall have effect for the purposes of any duty of excise chargeable on any goods for which—
- (a) the excise duty point is fixed by regulations under section 1 of the Finance (No. 2) Act 1992; and
- (b) the applicable rate of duty is determined in accordance with subsection (2) of that section.”
- 3 In section 94 of that Act (deficiency in warehoused goods), after subsection (5) there shall be inserted the following subsection—
- “(6) The preceding provisions of this section so far as they have effect for-
- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
- (b) determining the person on whom any liability to pay any such duty is to fall,
- shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section and the provisions of section 95 below.”
- 4 In section 95(1) of that Act (application of section 94 to deficiencies in goods removed from warehouses), after “subsection (2) below” there shall be inserted “and to any such regulations as are mentioned in subsection (6) of that section”.

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5 In section 96 of that Act (deficiency in certain goods moved by pipeline), after subsection (5) there shall be inserted the following subsection—

“(6) The preceding provisions of this section so far as they have effect for—

- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
- (b) determining the person on whom any liability to pay any such duty is to fall,

shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and, accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section.”

6 (1) Subject to sub-paragraph (2) below, section 100H(1) of that Act (liability to duty under REDS regulations) shall have effect—

- (a) with the omission of paragraph (f);
- (b) with the substitution in paragraph (g) for the words from “for the payment” to “liable” of the words “on goods which have been or may be the subject of a transaction involving a registered excise dealer and shipper”; and
- (c) with the substitution of the following paragraph for paragraph (h), that is to say—

“(h) for determining, in relation to goods which are the subject of a transaction involving a registered excise dealer and shipper, the duties of excise chargeable on those goods and the rates of those duties and, in that connection, the method of charging the duties;”.

(2) Where apart from this sub-paragraph any provisions contained in regulations made by virtue of paragraph (f) or (h) of section 100H(1) of that Act would cease to have effect by virtue of sub-paragraph (1) above, those provisions shall continue in force, notwithstanding that sub-paragraph, as if contained in regulations made under section 1 of this Act and, accordingly, may be revoked, amended or re-enacted by regulations under that section.

7 In section 127A(1) of that Act (power to provide for deferred payment of excise duty), after “payment” there shall be inserted “(in accordance, where any requirement to pay the duty takes effect, with that requirement)”.

*The Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)*

8 (1) In subsection (3) of section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide for reliefs in respect of duty and VAT subject to conditions)—

- (a) in paragraph (a), after “applies” there shall be inserted “and conditions with respect to the conduct in relation to the goods of persons other than the person on whom the relief is conferred and of persons whose identity cannot be ascertained at the time of importation”; and
- (b) in paragraph (b), after “including” there shall be inserted “provisions requiring any person to whom a condition of the relief at any time relates to notify the Commissioners of any non-compliance with the condition and”.

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

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“(3A) An order under this section may provide, in relation to any relief which under such an order is made subject to a condition, for there to be a presumption that, in such cases as may be described in the order by reference—

- (a) to the quantity of goods in question; or
- (b) to any other factor which the Commissioners consider appropriate, the condition is to be treated, unless the Commissioners are satisfied to the contrary, as not being complied with.

(3B) An order under this section may provide, in relation to any requirement of such an order for the Commissioners to be notified of non-compliance with a condition to which any relief from payment of any duty of excise is made subject, for goods to be exempt from forfeiture under section 124 of the Customs and Excise Management Act 1979 (forfeiture for breach of certain conditions) in respect of non-compliance with that condition if—

- (a) the non-compliance is notified to the Commissioners in accordance with that requirement;
- (b) any duty which becomes payable on those goods by virtue of the non-compliance is paid; and
- (c) the circumstances are otherwise such as may be described in the order.

(3C) If any person fails to comply with any requirement of an order under this section to notify the Commissioners of any non-compliance with a condition to which any relief is made subject-

- (a) he shall be liable, on summary conviction, to a penalty of an amount not exceeding level 5 on the standard scale; and
- (b) the goods in respect of which the offence was committed shall be liable to forfeiture.”

(3) In subsection (4) of that section (definitions), after the definition of “Community relief” there shall be inserted the following definition—

““conduct”, in relation to any person who has or may acquire possession or control of any goods, includes that person’s intentions at any time in relation to those goods;”.

*The Alcoholic Liquor Duties Act 1979 (c. 4)*

9 In section 36(2) of the Alcoholic Liquor Duties Act 1979 (charge of duty on beer), at the end there shall be inserted “and with any regulations under section 1 of the Finance (No. 2) Act 1992”.

10 (1) Subject to sub-paragraph (2) below, paragraph (d) of section 41A(7) of that Act (power to impose liability for beer duty on prescribed persons) shall cease to have effect.

(2) Where apart from this sub-paragraph any provisions contained in regulations made by virtue of paragraph (d) of section 41A(7) of that Act would cease to have effect by virtue of sub-paragraph (1) above, those provisions shall continue in force, notwithstanding that sub-paragraph, as if contained in regulations made under section 1 of this Act and, accordingly, may be revoked, amended or re-enacted by regulations under that section.

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- 11 (1) Subsection (1) of section 49 of that Act (regulations as to the duty on beer) shall have effect with the substitution of the following paragraph for paragraph (e) (power to prescribe matters with respect to charge for beer duty), that is to say—
- “(e) for determining the duty and the rate thereof and, in that connection, prescribing the method of charging the duty;”.
- (2) Where apart from this sub-paragraph any provisions contained in regulations made by virtue of paragraph (e) of section 49(1) of that Act would cease to have effect by virtue of sub-paragraph (1) above, those provisions shall continue in force, notwithstanding that sub-paragraph, as if contained in regulations made under section 1 of this Act and, accordingly, may be revoked, amended or re-enacted by regulations under that section.
- 12 In section 54(1) of that Act (charge of duty on wine), at the end there shall be inserted “and with any regulations under section 1 of the Finance (No. 2) Act 1992”.
- 13 In section 55(1) of that Act (charge of duty on made-wine), at the end there shall be inserted “and with any regulations under section 1 of the Finance (No. 2) Act 1992”.

## SCHEDULE 2

Section 3.

### PROTECTION OF REVENUES DERIVED FROM EXCISE DUTIES

#### *The Customs and Excise Management Act 1979 (c. 2)*

- 1 In section 1(1) of the Customs and Excise Management Act 1979 (interpretation)—
- (a) in the definition of “occupier”, for “means the” there shall be substituted “includes any”;
- (b) in the definition of “warehoused” and cognate expressions, after “that section” there shall be inserted “and any regulations made by virtue of section 93(2)(da)(i) or (ee) or (4) below”.
- 2 (1) In section 93 of that Act (regulation of warehouses and warehoused goods), for subsection (1) there shall be substituted the following subsection—
- “(1) The Commissioners may by regulations under this section (referred to in this Act as “warehousing regulations”)—
- (a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Commissioners in accordance with the regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;
- (b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;
- (c) make provision with respect to goods which are required to be deposited in a warehouse;
- (d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and
- (e) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the

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keeping, preservation and production of records and the furnishing of information.”

(2) In subsection (2) of that section (further provision that may be made by warehousing regulations)—

- (a) after paragraph (d) there shall be inserted the following paragraphs—
  - “(da) providing for all or any prescribed purposes of the customs and excise Acts—
    - (i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of a warehouse; and
    - (ii) for goods to be treated, at such times before the excise duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;
  - (db) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 98 below in relation to such a revocation or to cases where such an approval is not renewed;”
- (b) in paragraph (ee), for “to be warehoused” there shall be substituted “required to be deposited in a warehouse”;
- (c) after paragraph (f) there shall be inserted the following paragraphs—
  - “(fa) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;
  - (fb) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;
  - (fc) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (fa) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;”
- (d) in paragraph (g), after “are” there shall be inserted “required”;
- (e) in the definition of “relevant business activity” after the word “are”, in the first place where it occurs, there shall be inserted “required”.

(3) In subsection (2A) of that section (compensation where removed documents are lost)

- (a) after the word “documents”, in each place where it occurs, there shall be inserted “or records”; and

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- (b) for “(2)(j)” there shall be substituted “(2)(fc) or (j)”.
- (4) In subsection (3) of that section (power to make different provision for different warehouses and goods), after the word “for”, in the first place where it occurs, there shall be inserted “different cases, including different provision for different occupiers or descriptions of occupier, for”.
- (5) After subsection (5) of that section there shall be inserted the following subsection—
- “(5A) Warehousing regulations made by virtue of any of paragraphs (fa) to (fc) or (g) to (j) of subsection (2) above may also provide for the forfeiture of the goods in question in the event of any contravention of, or non-compliance with, any requirements imposed by or under the regulations with respect to any documents or records relating to prescribed goods.”
- (6) In subsection (6) of that section (offence), for the words from “penalty”, in the first place where it occurs, onwards there shall be substituted the words “penalty of an amount not exceeding level 5 on the standard scale, together with a penalty of £20 for each day on which the failure continues”.
- (7) In subsection (7)(b) of that section—
- (a) for “to be warehoused” there shall be substituted “required to be deposited in a warehouse”;
- (b) for “or which are to be warehoused on drawback” there shall be substituted “which are to be warehoused on drawback or which are otherwise to be treated by virtue of subsection (2)(da)(ii) above as goods which are required to be deposited in a warehouse”.
- 3 In section 100(2) of that Act (forfeiture in respect of contraventions relating to warehousing)—
- (a) in paragraphs (a) and (b), after “for warehousing” there shall be inserted “or are otherwise required to be deposited in a warehouse”;
- (b) for paragraph (d) there shall be substituted the following paragraph—
- “(d) any goods are concealed at a time before they are warehoused when they have been entered for warehousing or are otherwise required to be deposited in a warehouse or when they are required to be in the custody or under the control of the occupier of a warehouse; or”.
- 4 In section 100H(1) of that Act (provision that may be contained in REDS regulations), after paragraph (m) there shall be inserted the following paragraph—
- “(ma) imposing requirements with respect to, or to the production of, the documents required to accompany goods which are the subject of a transaction involving a registered excise dealer and shipper on any person concerned in any prescribed respect with the carriage of those goods, or providing for the imposition under the regulations of any such requirements;”.
- 5 In section 117 of that Act (execution of distress against revenue traders in respect of relevant excise duty)—
- (a) the word “relevant”, in the first place where it occurs in subsection (1) and where it occurs in subsections (2)(a) and (5), shall be omitted;
- (b) for the words “a relevant” in subsections (1)(a) and (3) there shall be substituted “any”; and

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- (c) the definition of “relevant excise duty” in subsection (8) shall be omitted.
- 6 In section 129 of that Act (power to remit or repay duty on denatured goods)—
- (a) in paragraph (b) of subsection (1) for “warehoused” there shall be substituted “chargeable with a duty the requirement to pay which has not yet taken effect”; and
- (b) after that subsection there shall be inserted the following subsection—
- “(1A) The reference in subsection (1) above to goods which are chargeable with a duty the requirement to pay which has not yet taken effect shall be construed as a reference to any goods which are warehoused or, in the application of that section in relation to a duty of excise, to any goods at a time, before the excise duty point for those goods, when they are chargeable with such a duty.”
- 7 In section 170 of that Act (fraudulent evasion of duty), after subsection (5) there shall be inserted the following subsection—
- “(6) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.”
- 8 After section 170 of that Act there shall be inserted the following sections—

**“170A Offence of handling goods subject to unpaid excise duty**

- (1) Subject to subsection (2) below, if—
- (a) after the excise duty point for any goods which are chargeable with a duty of excise, a person acquires possession of those goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with those goods; and
- (b) at the time when he acquires possession of those goods or is so concerned, the duty on the goods has not been paid and its payment has not been deferred,
- that person shall be liable, on summary conviction, to a penalty of an amount not exceeding level 5 on the standard scale.
- (2) In proceedings for an offence under this section it shall be a defence to show that the person who acquired possession of the goods or was concerned in carrying, removing, depositing, keeping or otherwise dealing with them—
- (a) acted in accordance with the directions of, or with the consent of, the proper officer; or
- (b) was not himself the person, or one of the persons, liable to pay the unpaid duty and at the time when he acted either—
- (i) had no grounds for suspecting that the goods were chargeable with a duty of excise that had not yet been paid; or
- (ii) believed on reasonable grounds that the duty had been paid or its payment deferred or that the liability to pay the duty had not yet taken effect.

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### **170B Offence of taking preparatory steps for evasion of excise duty**

(1) If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of any duty of excise on any goods, he shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both; and
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.

(2) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.”

9 In section 171(5) of that Act (which provides for the time at which duty is to be treated as payable where that cannot be ascertained for the purposes of any offence)

- (a) after “43 above” there shall be inserted “or the relevant excise duty point”; and
- (b) at the end there shall be inserted “or, as the case may be, as if the time when the proceedings were commenced was the relevant excise duty point.”

#### *The Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)*

10 In section 13C of the Customs and Excise Duties (General Reliefs) Act 1979 (offence where relieved goods used in breach of condition), after subsection (4) there shall be inserted the following subsection—

“(5) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.”

## SCHEDULE 3

Section 14.

### VALUE ADDED TAX: ABOLITION OF FISCAL FRONTIERS ETC.

#### **PART I**

#### AMENDMENTS OF THE VALUE ADDED TAX ACT 1983 (C. 55)

##### *Introduction*

1 The Value Added Tax Act 1983 shall be amended in accordance with the following provisions of this Part of this Schedule.

##### *Imposition and extent of tax*

2 In section 1 (charge to tax), for the words from “and on” onwards there shall be substituted “on the acquisition in the United Kingdom from other member States of any goods and on the importation of goods from places outside the member States.”

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- 3 (1) After section 2 (scope of tax) there shall be inserted the following sections—

**“2A Scope of tax on acquisitions**

- (1) Tax shall be charged on any acquisition from another member State of any goods where—
- (a) the acquisition is a taxable acquisition and takes place in the United Kingdom;
  - (b) the acquisition is otherwise than in pursuance of a taxable supply; and
  - (c) the person who makes the acquisition is a taxable person or the goods are subject to a duty of excise or consist in a new means of transport.
- (2) An acquisition of goods from another member State is a taxable acquisition if—
- (a) it falls within subsection (3) below or the goods consist in a new means of transport; and
  - (b) it is not an exempt acquisition.
- (3) An acquisition of goods from another member State falls within this subsection if—
- (a) the goods are acquired in the course or furtherance of—
    - (i) any business carried on by any person; or
    - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body;
  - (b) it is the person who carries on that business or, as the case may be, those activities who acquires the goods; and
  - (c) the supplier—
    - (i) is taxable in another member State at the time of the transaction in pursuance of which the goods are acquired; and
    - (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by him.
- (4) Tax on any acquisition of goods from another member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.

**2B Scope of tax on imports**

- (1) Tax on the importation of goods from places outside the member States shall be charged and payable as if it were a duty of customs.
- (2) For the purposes of this Act goods are imported from a place outside the member States where—
- (a) having been removed from a place outside the member States, they enter the territory of the Community;
  - (b) they enter that territory by being removed to the United Kingdom or are removed to the United Kingdom after entering that territory; and

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- (c) the circumstances are such that it is on their removal to the United Kingdom or subsequently while they are in the United Kingdom that any Community customs debt in respect of duty on their entry into the territory of the Community would be incurred.
- (3) Accordingly—
- (a) goods shall not be treated for the purposes of this Act as imported at any time before a Community customs debt in respect of duty on their entry into the territory of the Community would be incurred; and
  - (b) the person who is to be treated for the purposes of this Act as importing any goods from a place outside the member States is the person who would be liable to discharge any such Community customs debt.
- (4) The preceding provisions of this section shall not apply, except in so far as the context otherwise requires or provision to the contrary is contained in regulations under subsection (1) of section 24 below, for construing any references to importation or to an importer in any enactment or subordinate legislation applied for the purposes of this Act by that subsection.

## **2C Taxable persons**

- (1) A person is a taxable person for the purposes of this Act while he is, or is required to be, registered under this Act.
- (2) Schedules 1 to 1B to this Act shall have effect with respect to registration.
- (3) Persons registered under any of those Schedules shall be registered in a single register kept by the Commissioners for the purposes of this Act; and, accordingly, references in this Act to being registered under this Act are references to being registered under any of those Schedules.
- (4) The Commissioners may by regulations make provision as to the inclusion and correction of information in that register with respect to the Schedule under which any person is registered.”

### *Meaning of supply*

- 4 (1) In subsection (3) of section 3 (power to provide for how transactions are to be treated for the purposes of the charge on supplies), at the end there shall be inserted “and may provide that paragraph 5A of that Schedule shall not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.”
- (2) In subsection (5) of that section (treatment of goods as supplied to and from the same person in the course or furtherance of his business), for “acquired” there shall be substituted “taken possession of”.

### *Time of supply*

- 5 In section 4(1) (time of supply), after “apply” there shall be inserted “(subject to section 35 below)”.

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- 6 (1) After subsection (3) of section 5 (further provisions as to time of supply), there shall be inserted the following subsections—
- “(3A) Where any supply of goods involves both—
- (a) the removal of the goods from the United Kingdom; and
- (b) their acquisition in another member State by a person who is liable for value added tax on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 2A above,
- section 4(2) above and subsections (1) to (3) and (5) to (7) of this section shall not apply and the supply shall be treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in subsection (3B) below.
- (3B) The days mentioned in subsection (3A) above are—
- (a) the fifteenth day of the month following that in which the removal in question takes place; and
- (b) the day of the issue, in respect of the supply, of a tax invoice or of an invoice of such other description as the Commissioners may by regulations prescribe.”
- (2) In subsection (9) of that section—
- (a) for “(3)” there shall be substituted “(3B)”; and
- (b) in the words after paragraph (b), after “there is” there shall be inserted “a supply of goods to a person who has given such an undertaking as is mentioned in section 32B(4)(b) below or there is”.
- (3) In subsection (10) of that section (meaning of “tax invoice”), for “taxable person” there shall be substituted “person to whom such an invoice should be issued.”

*Place of supply*

- 7 (1) In subsection (1) of section 6 (place of supply), after “apply” there shall be inserted “(subject to section 35 below)”.
- (2) At the beginning of subsection (2) of that section there shall be inserted “Subject to the following provisions of this section”.
- (3) For subsection (3) of that section (goods removed from or to the United Kingdom) there shall be substituted the following subsections—
- “(2A) Goods shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their installation or assembly at a place in the United Kingdom to which they are removed; and
- (b) as supplied outside the United Kingdom where their supply involves their installation or assembly at a place outside the United Kingdom to which they are removed.
- (2B) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) the supply involves the removal of the goods to the United Kingdom by or under the directions of the person who supplies them;

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- (b) the supply is a transaction in pursuance of which the goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
  - (c) the supplier—
    - (i) is liable to be registered under Schedule 1A to this Act; or
    - (ii) would be so liable if he were not already registered under this Act or liable to be registered under Schedule 1 to this Act;
- and
- (d) the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 5A of Schedule 2 to this Act.
- (2C) Goods whose place of supply is not determined under any of the preceding provisions of this section and which do not consist in a new means of transport shall be treated as supplied outside the United Kingdom where—
- (a) the supply involves the removal of the goods, by or under the directions of the person who supplies them, to another member State;
  - (b) the person who makes the supply is taxable in another member State; and
  - (c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by subsection (2B) above make that person liable to value added tax on the supply;
- but this subsection shall not apply in relation to any supply in a case where the liability mentioned in paragraph (c) above depends on the exercise by any person of an option in the United Kingdom corresponding to such an option as is mentioned in paragraph 1(2) of Schedule 1A to this Act, unless that person has given, and has not withdrawn, a notification to the Commissioners that he wishes his supplies to be treated as taking place outside the United Kingdom where they are supplies in relation to which the other requirements of this subsection are satisfied.
- (2D) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) their supply involves their being imported from a place outside the member States; and
  - (b) the person who supplies them is the person by whom, or under whose directions, they are so imported.
- (3) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the United Kingdom shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their removal from the United Kingdom without also involving their previous removal to the United Kingdom; and
  - (b) as supplied outside the United Kingdom in any other case.”
- (4) In subsection (4) of that section (goods removed from the United Kingdom in the course of their removal from one part of the United Kingdom to another), for

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“subsections (2) and (3) above” there shall be substituted “the preceding provisions of this section”.

(5) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) The Commissioners may by regulations provide that a notification for the purposes of subsection (2C) above is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.”

(6) In subsection (6) of that section (power to vary rules of place of supply of services), for the word “services”, in each place where it occurs, there shall be substituted “goods or services”.

8 After subsection (5) of section 7 (reverse charge on services received from abroad) there shall be inserted the following subsection—

“(6) The power of the Treasury by order to add to or vary Schedule 3 to this Act shall include power, where any services whose place of supply is determined by an order under section 6(6) above are added to that Schedule, to provide that subsection (1) above shall have effect in relation to those services as if a person belongs in the United Kingdom for the purposes of paragraph (b) of that subsection if, and only if, he is a taxable person.”

9 In section 8(1) (place where supplier or recipient belongs), after the word “apply”, in the second place where it occurs, there shall be inserted “(subject to any provision made under section 7(6) above)”.

*Acquisitions of goods from other member States*

10 After section 8 there shall be inserted the following sections—

*“Acquisitions of goods from other member States*

**8A Meaning of acquisition of goods from another member State**

(1) Subject to the following provisions of this section, references in this Act to the acquisition of goods from another member State shall be construed as references to any acquisition of goods in pursuance of a transaction in relation to which the following conditions are satisfied, that is to say—

- (a) the transaction is a supply of goods (including anything treated for the purposes of this Act as a supply of goods); and
- (b) the transaction involves the removal of the goods from another member State;

and references in this Act, in relation to such an acquisition, to the supplier shall be construed accordingly.

(2) It shall be immaterial for the purposes of subsection (1) above whether the removal of the goods from the other member State is by or under the directions of the supplier or by or under the directions of the person who acquires them or any other person.

(3) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply shall be treated for the purposes of this Act as

a transaction in pursuance of which there is an acquisition of goods by the person making it.

- (4) The Treasury may by order provide with respect to any description of transaction that the acquisition of goods in pursuance of a transaction of that description is not to be treated for the purposes of this Act as the acquisition of goods from another member State.

### **8B Time of acquisition**

- (1) Subject to section 35 below and any regulations under subsection (3) below, where goods are acquired from another member State, the acquisition shall be treated for the purposes of this Act as taking place on whichever is the earlier of—
- (a) the fifteenth day of the month following that in which the event occurs which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
  - (b) the day of the issue, in respect of the transaction in pursuance of which the goods are acquired, of an invoice of such a description as the Commissioners may by regulations prescribe.
- (2) For the purposes of this Act the event which, in relation to any acquisition of goods from another member State, is the first relevant event for the purposes of taxing the acquisition is the first removal of the goods which is involved in the transaction in pursuance of which they are acquired.
- (3) The Commissioners may by regulations make provision with respect to the time at which an acquisition is to be treated as taking place in prescribed cases where the whole or part of any consideration comprised in the transaction in pursuance of which the goods are acquired is determined or payable periodically, or from time to time, or at the end of a period; and any such regulations may provide, in relation to any case to which they apply, for goods to be treated as separately and successively acquired at prescribed times or intervals.

### **8C Place of acquisition**

- (1) This section shall apply (subject to sections 32B(5) and 35 below) for determining for the purposes of this Act whether goods acquired from another member State are acquired in the United Kingdom.
- (2) The goods shall be treated as acquired in the United Kingdom if they are acquired in pursuance of a transaction which involves their removal to the United Kingdom and does not involve their removal from the United Kingdom, and (subject to the following provisions of this section) shall otherwise be treated as acquired outside the United Kingdom.
- (3) Subject to subsection (4) below, the goods shall be treated as acquired in the United Kingdom if they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to him for the purposes of value added tax in the United Kingdom.

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- (4) Subsection (3) above shall not require any goods to be treated as acquired in the United Kingdom where it is established, in accordance with regulations made by the Commissioners for the purposes of this section—
- (a) that value added tax has been paid in another member State on the acquisition of those goods; and
  - (b) that that tax fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by subsection (2) above.
- (5) The Commissioners may by regulations make provision for the purposes of this section—
- (a) for the circumstances in which a person is to be treated as having been assigned a number for the purposes of value added tax in the United Kingdom;
  - (b) for the circumstances in which a person is to be treated as having made use of such a number for the purposes of the acquisition of any goods; and
  - (c) for the refund, in prescribed circumstances, of tax paid in the United Kingdom on acquisitions of goods in relation to which the conditions specified in subsection (4)(a) and (b) above are satisfied.”

*Rate of tax and determination of value*

- 11 In section 9(1) (rate of tax)—
- (a) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) on the acquisition of goods from another member State, by reference to the value of the acquisition as determined under this Act; and”; and
  - (b) in paragraph (b), after the word “goods”, in the first place where it occurs, there shall be inserted “from a place outside the member States”.
- 12 (1) In subsection (1) of section 10 (value of supply of goods or services), for “shall be determined as follows” there shall be substituted “shall, except as otherwise provided by or under this Act, be determined in accordance with this section and Schedule 4 to this Act, and for those purposes subsections (2) to (4) below have effect subject to that Schedule”.
- (2) For subsection (3) of that section (value where supply for no consideration or for consideration not or not wholly in money) there shall be substituted the following subsection—
- “(3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the tax chargeable, is equivalent to the consideration.”

- 13 After section 10 there shall be inserted the following section—

**“10A Valuation of acquisitions from other member States**

- (1) For the purposes of this Act the value of any acquisition of goods from another member State shall be taken to be the value of the transaction in pursuance of which they are acquired.

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- (2) Where goods are acquired from another member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired shall be determined for the purposes of subsection (1) above in accordance with this section and Schedule 4A to this Act, and for those purposes—
    - (a) subsections (3) to (5) below have effect subject to Schedule 4A to this Act; and
    - (b) section 10 above and Schedule 4 to this Act shall not apply in relation to the transaction.
  - (3) If the transaction is for a consideration in money, its value shall be taken to be such amount as is equal to the consideration.
  - (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as is equivalent to the consideration.
  - (5) Where a transaction in pursuance of which goods are acquired from another member State is not the only matter to which a consideration in money relates, the transaction shall be deemed to be for such part of the consideration as is properly attributable to it.”
- 14 (1) In subsection (1) of section 11 (value of imported goods), for the words from “imported goods” onwards there shall be substituted “goods imported from a place outside the member States shall (subject to subsections (2) and (2A) below) be determined according to the rules applicable in the case of Community customs duties, whether or not the goods in question are subject to any such duties.”
- (2) In subsection (2) of that section, for the words before paragraph (a) there shall be substituted “For the purposes of this Act the value of any goods imported from a place outside the member States shall be taken to include the following so far as they are not already included in that value in accordance with the rules mentioned in subsection (1) above, that is to say—”.
- (3) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) Subject to subsection (2) above, where—
- (a) goods are imported from a place outside the member States for a consideration which is or includes a price in money payable as on the transfer of property;
  - (b) the terms on which those goods are so imported allow a discount for prompt payment of that price;
  - (c) those terms do not include provision for payment of that price by instalments; and
  - (d) payment of that price is made in accordance with those terms so that the discount falls to be allowed,
- the value of the goods shall be taken for the purposes of this Act to be reduced by the amount of the discount.”

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*Credit for input tax against output tax*

- 15 (1) In subsection (1) of section 14 (credit for input tax against output tax), after “him” there shall be inserted “and in respect of the acquisition by him from other member States of any goods”.
- (2) In subsection (3) of that section (meaning of “input tax” and “output tax”)—
- (a) after paragraph (a) there shall be inserted the following paragraph—  
“(aa) tax on the acquisition by him from another member State of any goods; and”;
  - (b) in paragraph (b), after “goods” there shall be inserted “from a place outside the member States”;
  - (c) for “either” there shall be substituted “each”; and
  - (d) at the end there shall be inserted “or on the acquisition by him from another member State of goods (including tax which is also to be counted as input tax by virtue of paragraph (aa) above).”
- (3) In subsection (3A) of that section (goods used by company for domestic purposes of a director etc.), for the words “supplied to, or imported by, a company” there shall be substituted “are supplied to a company, goods are acquired by a company from another member State or goods are imported by a company from a place outside the member States and the goods or services which are so supplied, acquired or imported”.
- (4) In subsection (4) of that section (apportionment of tax to input tax)—
- (a) for “or goods imported by him” there shall be substituted “goods acquired by a taxable person from another member State or goods imported by a taxable person from a place outside the member States”; and
  - (b) after “supplies” there shall be inserted “acquisitions”.
- (5) In subsection (9) of that section (regulations as to credits for input tax)—
- (a) in paragraph (a), for “or paid or payable by him on the importation of goods” there shall be substituted “tax on the acquisition of goods by a taxable person from other member States and tax paid or payable by a taxable person on the importation of goods from places outside the member States”;
  - (b) in paragraph (b)—
    - (i) for “or paid by him on the importation of goods” there shall be substituted “or on the acquisition of goods by him from another member State or paid by him on the importation of goods from places outside the member States”; and
    - (ii) after the word “supply”, in the second place where it occurs, there shall be inserted “acquisition”;

and
  - (c) in paragraph (c), for “or importation of goods acquired for it before its incorporation” there shall be substituted “acquisition or importation of goods before the company’s incorporation for appropriation to the company or its business”.
- (6) In subsection (10) of that section (exclusions by Treasury order)—
- (a) after “supplies” there shall be inserted “acquisitions”;
  - (b) in paragraph (a), after the word “goods”, in the second place where it occurs, there shall be inserted “acquired or”; and

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- (c) after the word “supplied”, in the second and fourth places where it occurs in that paragraph, there shall be inserted “acquired”.
- 16 (1) In subsection (1) of section 15 (input tax allowable as a credit), after the word “supplies”, in the first place where it occurs, there shall be inserted “acquisitions”.
- (2) In subsection (2) of that section, after paragraph (b) there shall be inserted the following paragraph—
- “(ba) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.”

### *Reliefs*

- 17 (1) In subsection (3) of section 16 (no tax on zero-rated imports)—
- (a) for “imported into the United Kingdom” there shall be substituted “acquired in the United Kingdom from another member State or imported from a place outside the member States”; and
- (b) after “their” there shall be inserted “acquisition or”.
- (2) In subsection (6)(a) of that section (zero-rating of exports and goods shipped as stores etc.), after “exported them” there shall be inserted “to a place outside the member States”.
- (3) In subsection (7) of that section (regulations as to zero-rating of goods which have been or are to be exported), for the words from “where” to “and” there shall be substituted “where—
- (a) the Commissioners are satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both—
- (i) the removal of the goods from the United Kingdom; and
- (ii) their acquisition in another member State by a person who is liable for value added tax on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 2A above;
- and
- (b)”.
- (4) In subsection (8) of that section (zero-rating of services where goods let on hire and exported), for “exported” there shall be substituted “removed from the United Kingdom”.
- (5) In subsection (9) of that section (cases where goods are not exported or shipped), in paragraph (a), after “shipped” there shall be inserted “or otherwise removed from the United Kingdom”.
- 18 In section 17(1) (exemptions), at the end there shall be inserted “and an acquisition of goods from another member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply.”
- 19 (1) In section 18 (relief on supply of second-hand goods), in each of paragraphs (a) and (b) of subsection (3), for “importation of goods of that description” there shall be

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substituted “acquisition of goods of that description from another member State or the importation of goods of that description from a place outside the member States”.

- (2) In subsection (4) of that section—
- (a) after the word “the”, in the second place where it occurs, there shall be inserted “acquisition or”; and
  - (b) after the word “supply”, in the second place where it occurs, there shall be inserted “acquisition”.
- 20 (1) In subsection (1) of section 19 (relief from tax on importation of goods), after “of goods” there shall be inserted “from places outside the member States”.
- (2) In subsection (1A)(a) of that section, after “imported” there shall be inserted “from a place outside the member States”.
- (3) In subsection (2) of that section—
- (a) after “any goods” there shall be inserted “from places outside the member States”; and
  - (b) at the end there shall be inserted “or removed from any member State”.
- (4) In subsection (3) of that section—
- (a) after “any goods” there shall be inserted “from places outside the member States”; and
  - (b) after “re-exported” there shall be inserted “or otherwise removed from the United Kingdom”.

#### *Refunds of tax*

- 21 (1) In subsection (1) of section 20 (refund of tax to local authorities and similar bodies)—
- (a) the words “or on the importation of goods by” shall be omitted; and
  - (b) for “and the supply or importation” there shall be substituted “on the acquisition of any goods by such a body from another member State or on the importation of any goods by such a body from a place outside the member States and the supply, acquisition or importation”.
- (2) In subsection (2) of that section—
- (a) after the words “to or”, in the first and second places where they occur, there shall be inserted “acquired or”; and
  - (b) after those words, in the third place where they occur, there shall be inserted “acquisition or”.
- 22 After section 20 there shall be inserted the following section—

#### **“20A Refunds in relation to new means of transport supplied to other member States**

- (1) Subject to subsection (2) below, where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport as involves the removal of the goods to another member State, the Commissioners shall, on a claim made in that behalf, refund to that person, as the case may be—
  - (a) the amount of any tax on the supply of that means of transport to that person; or

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- (b) the amount of any tax paid by that person on the acquisition of that means of transport from another member State or on its importation from a place outside the member States.
  - (2) The amount of tax refunded under this section shall not exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.
  - (3) The Commissioners shall not be entitled to entertain a claim for refund of tax under this section unless the claim—
    - (a) is made within such time and in such form and manner;
    - (b) contains such information; and
    - (c) is accompanied by such documents, whether by way of evidence or otherwise,as the Commissioners may by regulations prescribe.”
- 23 (1) In subsection (1) of section 21 (refund of tax to persons constructing buildings)—
  - (a) the words “or the importation of goods by” shall be omitted; and
  - (b) after “business” there shall be inserted “on the acquisition of goods by such a person from another member State or on the importation of goods by such a person from a place outside the member States”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—

“(2A) This section shall have effect—

  - (a) as if the reference in subsection (1) above to the tax chargeable on the supply of any goods included a reference to value added tax chargeable on the supply in accordance with the law of another member State; and
  - (b) in relation to value added tax chargeable in accordance with the law of another member State, as if references to refunding tax to any person were references to paying that person an amount equal to the value added tax chargeable in accordance with the law of that member State;and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.”

#### *Repayment*

- 24 (1) In subsection (1) of section 23 (repayment of tax to those in business overseas), for “into the United Kingdom” there shall be substituted “from places outside the member States”.
- (2) In subsection (2)(a) of that section, for “a member State other than the United Kingdom” there shall be substituted “another member State”.

#### *Further provisions as to importation of goods*

- 25 For subsections (1) to (3) of section 24 (application of customs enactments) there shall be substituted the following subsection—

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“(1) Subject to such exceptions and adaptations as the Commissioners may by regulations prescribe and except where the contrary intention appears—

- (a) the provision made by or under the Customs and Excise Acts 1979 and the other enactments and subordinate legislation for the time being having effect generally in relation to duties of customs and excise charged on the importation of goods into the United Kingdom; and
- (b) the Community legislation for the time being having effect in relation to Community customs duties charged on goods entering the territory of the Community,

shall apply (so far as relevant) in relation to any tax chargeable on the importation of goods from places outside the member States as they apply in relation to any such duty of customs or excise or, as the case may be, Community customs duties.”

26 In section 25 (importation of goods by taxable persons)—

- (a) after “imported” there shall be inserted “from a place outside the member States”; and
- (b) at the end there shall be inserted “or on the acquisition of goods by him from other member States”.

27 In section 26(1) (goods imported for private purposes), after “a taxable person” there shall be inserted “from a place outside the member States”.

#### *Special cases*

28 (1) In subsection (2A) of section 27 (application to the Crown), for “or on the importation of goods by, a Government department and the supply” there shall be substituted “a Government department, on the acquisition of any goods by a Government department from another member State or on the importation of any goods by a Government department from a place outside the member States and the supply, acquisition”.

(2) In subsection (2B) of that section, after “supply” there shall be inserted “acquisition”.

29 In paragraph (c) of section 29(1) (tax on importation payable by representative member)—

- (a) for “importation of any goods” there shall be substituted “acquisition of goods from another member State or on the importation of goods from a place outside the member States”; and
- (b) for the words from “for the purposes” to the end of the paragraph there shall be substituted—

“(i) in the case of goods acquired from another member State, for the purposes of paragraph 4(6) of Schedule 7 to this Act; and

(ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 25 above,

as acquired or, as the case may be, imported by the representative member;”.

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- 30 (1) In subsection (2) of section 29A (supplies to groups), after the word “and”, in the first place where it occurs, there shall be inserted “acquisitions and”.
- (2) In subsection (3) of that section, for “acquired by” there shall be substituted “assets of”.
- (3) In subsection (8) of that section, for “acquisition” there shall be substituted “supply to or acquisition or importation”.
- 31 (1) In subsection (1) of section 30 (partnerships)—
- (a) after “partnership” there shall be inserted “or carrying on in partnership any other activities in the course or furtherance of which they acquire goods from other member States”; and
- (b) after “such persons” there shall be inserted “or are acquired by such persons from another member State”.
- (2) In subsection (2) of that section, at the end there shall be inserted “or on the acquisition of goods by the partnership from another member State.”
- (3) In subsection (5) of that section, after the word “period”, in the second place where it occurs, there shall be inserted “or on the acquisition during that period by the firm of any goods from another member State”.
- 32 (1) In subsection (3) of section 31 (business carried on in divisions or by unincorporated bodies etc.), after the word “organisation”, in the third place where it occurs, there shall be inserted “or whether goods are acquired by such a club, association or organisation from another member State”.
- (2) After subsection (5) of that section there shall be inserted the following subsection—
- “(6) References in this section to a business include references to any other activities in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from another member State.”
- 33 In section 32 (agents etc.), for subsection (2) there shall be substituted the following subsection—
- “(2) Where—
- (a) goods are acquired from another member State by a person who is not a taxable person and a taxable person acts in relation to the acquisition, and then supplies the goods, as agent for the person by whom they are so acquired; or
- (b) goods are imported from a place outside the member States by a taxable person who supplies them as agent for a person who is not a taxable person,
- the goods may be treated for the purposes of this Act as acquired and supplied or, as the case may be, imported and supplied by the taxable person as principal.”
- 34 After section 32 there shall be inserted the following sections—
- “32A Tax representatives**
- (1) Where any person—

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- (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the United Kingdom from one or more other member States;
  - (b) does not have any business establishment or other fixed establishment in the United Kingdom; and
  - (c) in the case of an individual, does not have his usual place of residence in the United Kingdom,
- the Commissioners may direct that person to appoint another person (in this Act referred to as a “tax representative”) to act on his behalf in relation to value added tax.
- (2) With the agreement of the Commissioners, any person who has not been required to appoint a tax representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.
- (3) Where any person is appointed by virtue of this section to be the tax representative of another (in this section referred to as his “principal”), then, subject to subsections (4) to (6) below, the tax representative—
- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to value added tax or of any subordinate legislation made under this Act or any such enactment;
  - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
  - (c) shall be personally liable in respect of—
    - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
    - (ii) anything done for purposes connected with acting on his principal’s behalf,as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the tax representative and his principal.
- (4) A tax representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
- (a) require the registration of the names of tax representatives against the names of their principals in any register kept for the purposes of this Act; and
  - (b) make it the duty of a tax representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- (5) A tax representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—

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- (a) the tax representative has consented to, or connived in, the commission of the offence by his principal;
  - (b) the commission of the offence by his principal is attributable to any neglect on the part of the tax representative; or
  - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on his principal.
- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another's tax representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) Where a person fails to appoint a tax representative in accordance with any direction under subsection (1) above, the Commissioners may require him to provide such security, or further security, as they may think appropriate for the payment of any tax which is or may become due from him.
- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a tax representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
- (a) served notice of the direction or requirement on him; or
  - (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.

### **32B Overseas suppliers accounting through their customers**

- (1) Where—
- (a) a person who makes or intends to make taxable supplies of goods requests the Commissioners to allow his supplies to be taxed in accordance with this section; and
  - (b) the Commissioners are satisfied that that person is a person to whom this section applies,
- the Commissioners may, if they think fit, allow that person's taxable supplies to be so taxed until it appears to them that the person is no longer a person to whom this section applies or that the request is withdrawn or should, for any other reason, no longer be acted upon.
- (2) This section applies to a person if—
- (a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;
  - (b) he is for the time being neither registered under this Act nor required to be registered under Schedule 1A to this Act;
  - (c) he does not have a tax representative and is not for the time being required under section 32A above to appoint one; and
  - (d) he intends that his taxable supplies should be confined to supplies of goods made to taxable persons who are willing to account for and pay the tax chargeable thereon.

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- (3) A person whose taxable supplies for the time being fall to be taxed in accordance with this section—
- (a) shall be a taxable person for the purposes of this Act; but
  - (b) shall not, by virtue of any provision of this Act, be registered, or be or become liable to be registered, under Schedule 1 to this Act.
- (4) Where—
- (a) any person's taxable supplies for the time being fall to be taxed in accordance with this section; and
  - (b) that person makes a taxable supply of goods to a taxable person who has given, and not withdrawn, an undertaking to account for and pay any tax chargeable on supplies of goods made to him by the supplier in question,
- it shall be for the person supplied, on the supplier's behalf, to account for and pay any tax on the supply of those goods, and not for the supplier.
- (5) Where any person's taxable supplies for the time being fall to be taxed in accordance with this section, any acquisition from another member State by that person of any goods the first supply of which after their acquisition is to a person who under this section is required to account for and pay the tax on that supply shall be treated for the purposes of this Act as taking place outside the United Kingdom.
- (6) The Commissioners may by regulations provide—
- (a) for the form and manner in which any request under subsection (1) above, or any undertaking such as is mentioned in subsection (4)(b) above, is to be made or withdrawn;
  - (b) for the manner in which the making or withdrawal of any such undertaking is to be notified to the Commissioners;
  - (c) for a person whose taxable supplies for the time being fall to be taxed in accordance with this section to be under an obligation to notify the Commissioners if he makes any taxable supply to which subsection (4) above does not apply and which is not zero-rated;
  - (d) for prescribed provisions of this Act and of any other enactment (whenever passed) relating to value added tax to have effect, where under this section a person supplied with any goods is required to account for and pay any tax on the supply, as if that tax were on supplies or acquisitions made by him."

35 For section 35 (supplies of dutiable goods in warehouse) there shall be substituted the following section—

**“35 Goods subject to a warehousing regime**

- (1) Where—
- (a) any goods have been removed from a place outside the member States and have entered the territory of the Community;
  - (b) the material time for any acquisition of those goods from another member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and

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- (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State,
- then the acquisition or supply mentioned in paragraph (b) above shall be treated for the purposes of this Act as taking place outside the United Kingdom.
- (2) Subsection (3) below applies where—
- (a) any dutiable goods are acquired from another member State; or
- (b) any person makes a supply of—
- (i) any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State; or
- (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.
- (3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) above is while the goods in question are subject to a warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.
- (4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
- (a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
- (b) in the case of a supply, any tax payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
- (i) at the time when the supply is treated as taking place under paragraph (a) above; and
- (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.
- (5) The Commissioners may by regulations make provision—
- (a) for enabling goods to be removed from a warehousing regime by a taxable person without payment of tax chargeable in respect of those goods by virtue of subsection (4)(a) above; and
- (b) for that tax to be accounted for together with the tax chargeable on supplies of goods and services by that person.
- (6) In this section—
- “dutiable goods” means any goods which are subject—
- (a) to a duty of excise; or

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(b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community;

“the duty point”, in relation to any goods, means—

(a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and

(b) in the case of goods which are not so subject, the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the Community would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;

“material time”—

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 5(9) or 8B(3) above, means such time as may be prescribed for the purpose of this section by those regulations;

(b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and

(c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 4 above if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in any member State without payment of any one or more of the following, that is to say—

(a) Community customs duty;

(b) any agricultural levy of the Economic Community;

(c) value added tax on the importation of the goods into any member State;

(d) any duty of excise or any duty which is equivalent in another member State to a duty of excise.

(7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or tax; and references to the removal of goods from a warehousing regime shall be construed accordingly.”

36 (1) In subsection (1) of section 36 (capital goods), after “supply” there shall be inserted “acquisition”.

(2) In subsection (2) of that section, after “supplied” there shall be inserted “acquired”.

37 For section 37 (trading stamp schemes) there shall be substituted the following section—

### “37 Trading stamp schemes

The Commissioners may by regulations modify sections 10 and 10A of this Act and Schedules 4 and 4A to this Act for the purpose of providing (in place of the provision for the time being contained in those sections and Schedules) for the manner of determining for the purposes of this Act the value of—

- (a) a supply of goods, or
- (b) a transaction in pursuance of which goods are acquired from another member State,

in a case where the goods are supplied or acquired under a trading stamp scheme (within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965) or under any scheme of an equivalent description which is in operation in another member State.”

#### *General*

- 38 In section 38 (which gives effect to Schedule 7), after “effect” there shall be inserted “subject to section 46A(6) below.”
- 39 (1) In subsection (1A) of section 39—
- (a) in paragraph (b) (evasion by obtaining refund), after “under” there shall be inserted “section 20A,”;
  - (b) after that paragraph there shall be inserted the following paragraph—
    - “(ba) a refund under any regulations made by virtue of section 8C(5) above; or”;
  - (c) in sub-paragraph (ii), after “paragraph (b)” there shall be inserted “paragraph (ba)”.
- (2) In subsection (2B)(a) of that section (penalties in the case of refunds)—
- (a) after “under”, in the first place where it occurs, there shall be inserted “section 20A,”; and
  - (b) after “22 above” there shall be inserted “for a refund under any regulations made by virtue of section 8C(5) above”.
- (3) In subsection (4) of that section (handling goods in respect of which there is evasion), for “or on the importation of the goods” there shall be substituted “on the acquisition of the goods from another member State or on the importation of the goods from a place outside the member States”.
- 40 In subsection (1) of section 40 (appeals)—
- (a) in paragraph (b), for the words from “or, subject” to the end of the paragraph there shall be substituted “on the acquisition of goods from another member State or, subject to subsection (5) below, on the importation of goods from a place outside the member States”;
  - (b) after paragraph (d) there shall be inserted the following paragraph—
    - “(da) the amount of any refunds under section 20A above;”
  - (c) after paragraph (f) there shall be inserted the following paragraph—
    - “(fa) any claim for a refund under any regulations made by virtue of section 8C(5) above;”
  - (d) after paragraph (j) there shall be inserted the following paragraph—

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- “(ja) any direction under paragraph 1 of Schedule 4A to this Act;”
- (e) in paragraph (m), at the end of sub-paragraph (ii) there shall be inserted “or (iii) under paragraph 4A of that Schedule;”;
- (f) in paragraph (n), after “under” there shall be inserted “section 32A(7) above or”;
- (g) in paragraph (o), for “17” there shall be substituted “17A”.
- 41 (1) In subsection (1) of section 41 (supplies spanning change of rate), at the end there shall be inserted “or exempt or zero-rated acquisitions”.
- (2) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Where—
- (a) any acquisition of goods from another member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; or
- (b) any acquisition of goods from another member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that event,
- the rate at which tax is chargeable on the acquisition, or any question whether it is zero-rated or exempt, shall, if the person making the acquisition so elects, be determined as at the time of that event.”
- (3) After subsection (5) of that section there shall be inserted the following subsection—
- “(6) References in this section to an acquisition being zero-rated are references to an acquisition of goods from another member State being one in relation to which section 16(3) above provides for no tax to be chargeable.”
- 42 (1) In subsection (1) of section 43 (failure of resolution under the Provisional Collection of Taxes Act 1968)—
- (a) in paragraph (a), after “section 10(2) above” there shall be inserted “or on the acquisition of goods from another member State by reference to a value determined under section 10A(3) above”; and
- (b) in paragraph (b), after “supply” there shall be inserted “or acquisition”.
- (2) In subsection (2) of that section—
- (a) in paragraph (a), after “the said section 10(2)” there shall be inserted “or on the acquisition of goods from another member State by reference to a value determined under the said section 10A(3)”; and
- (b) in paragraph (b), after “supply” there shall be inserted “or acquisition”.
- (3) In subsection (3) of that section, after “20” there shall be inserted “20A”.
- 43 In section 46 (service of notices), for the words from “at his” onwards there shall be substituted “or his tax representative at the last or usual residence or place of business of that person or representative.”
- 44 After section 46 there shall be inserted the following sections—

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#### **“46A Taxation under the laws of other member States etc**

- (1) Subject to the following provisions of this section, references in this Act, in relation to another member State, to the law of that member State shall be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any Community instrument relating to value added tax.
- (2) Subject to the following provisions of this section—
  - (a) references in this Act to a person being taxable in another member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person; and
  - (b) references in this Act to goods being acquired by a person in another member State are references to goods being treated as so acquired in accordance with provisions of the law of that member State corresponding, in relation to that member State, to so much of this Act as makes provision for treating goods as acquired in the United Kingdom from another member State.
- (3) Without prejudice to subsection (5) below, the Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act, that is to say—
  - (a) the effect of any provisions of the law of any other member State;
  - (b) that provisions of any such law correspond or have a purpose corresponding, in relation to any member State, to or to the purpose of any provision of this Act.
- (4) The Commissioners may by regulations provide—
  - (a) for a person to be treated for prescribed purposes of this Act as taxable in another member State only where he has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
  - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and the particulars which it is to contain;
  - (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of another member State, for value added tax to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
  - (a) that a person was or was not, at any date, taxable in another member State; or
  - (b) that any value added tax payable under the law of another member State has or has not been paid,

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shall be sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection shall be deemed to be such a certificate until the contrary is proved.

- (6) Without prejudice to the generality of any of the powers of the Commissioners under the information provisions of Schedule 7 to this Act, those powers shall, for the purpose of facilitating compliance with any Community obligations, be exercisable with respect to matters that are relevant to a charge to value added tax under the law of another member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.
- (7) The reference in subsection (6) above to the information provisions of Schedule 7 to this Act is a reference to the provisions of that Schedule relating to—
- (a) the keeping of accounts;
  - (b) the making of returns and the submission of other documents to the Commissioners;
  - (c) the production, use and contents of invoices;
  - (d) the keeping and preservation of records; and
  - (e) the furnishing of information and the production of documents.

#### **46B Territories included in references to other member States etc**

- (1) The Commissioners may by regulations provide for the territory of the Community, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) and section 24(1) above, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under subsection (1) above as excluded from the territory of the Community, with such exceptions and adaptations as may be prescribed.
- (3) In subsection (2) above the reference to customs and excise legislation is a reference to any enactment or subordinate or Community legislation (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods.
- (4) In subsection (3) above “assigned matter” has the same meaning as in the Customs and Excise Management Act 1979.”

45 After section 47 there shall be inserted the following section—

#### **“47A Meaning of “new means of transport”**

- (1) In this Act “means of transport” in the expression “new means of transport” means any of the following, that is to say—
- (a) any ship exceeding 7.5 metres in length;
  - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
  - (c) any motorized land vehicle which—

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- (i) has an engine with a cylinder capacity exceeding 48 cubic centimetres; or
    - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.
  - (2) For the purposes of this Act a means of transport shall be treated as new at any time unless at that time—
    - (a) a period of more than three months has elapsed since its first entry into service; and
    - (b) it has, since its first entry into service, travelled under its own power—
      - (i) in the case of a ship, for more than 100 hours;
      - (ii) in the case of an aircraft, for more than 40 hours; and
      - (iii) in the case of a land vehicle, for more than 3000 kilometres.
  - (3) The Treasury may by order vary this section—
    - (a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in subsection (1) above; and
    - (b) by altering, omitting or adding to the provisions of subsection (2) above for determining whether a means of transport is new.
  - (4) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this section as having first entered into service.”
- 46 (1) In subsection (1) of section 48 (interpretation)—
  - (a) after “in this Act-” there shall be inserted the following definition—
    - ““another member State” means, subject to section 46B(1) above, any member State other than the United Kingdom, and “other member States” shall be construed accordingly;”
  - (b) after the definition of “ship” there shall be inserted the following definition—
    - ““subordinate legislation” has the same meaning as in the Interpretation Act 1978;”
  - (c) in the definition of “tax”, at the end there shall be inserted “charged in accordance with the provisions of this Act”;
  - (d) for the definition of “taxable person” there shall be substituted the following definition—
    - ““taxable person” means (subject to section 32B(3) above) a person who is a taxable person under section 2C above;”.
- (2) After subsection (1) of that section there shall be inserted the following subsections—
  - “(1A) Subject to section 46B above—
    - (a) the question whether or not goods have entered the territory of the Community;
    - (b) the time when any Community customs debt in respect of duty on the entry of any goods into the territory of the Community would be incurred; and

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(c) the person by whom any such debt would fall to be discharged, shall for the purposes of this Act be determined (whether or not the goods in question are themselves subject to any such duties) according to the Community legislation applicable to goods which are in fact subject to such duties.

(1B) Any reference in this Act to the amount of any duty of excise on any goods shall be taken to be a reference to the amount of duty charged on those goods with any addition or deduction falling to be made under section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.”

(3) In subsection (5) of that section, after “determined” there shall be inserted “(subject to any provision made under section 7(6) above)”.

(4) After subsection (8) of that section there shall be inserted the following subsection—

“(9) References in this Act to being registered shall be construed in accordance with section 2C(3) of this Act and, (without prejudice to paragraph 2 of Schedule 10 to this Act) shall, in relation to registration under Schedule 1 to this Act or any provision of that Schedule, include a reference to being registered under the corresponding provision of any enactment re-enacted in that Schedule.”

47 In section 49 (refund of tax to Government of Northern Ireland)—

- (a) for “or on the importation of goods by, that Government” there shall be substituted “that Government, on the acquisition of any goods by that Government from another member State or on the importation of any goods by that Government from a place outside the member States”; and
- (b) after “supplies” there shall be inserted “acquisitions”.

*Registration in respect of supplies*

48 (1) In sub-paragraph (1) of paragraph 1 of Schedule 1 (registration in respect of taxable supplies), for “registered becomes liable to be registered” there shall be substituted “registered under this Act becomes liable to be registered under this Schedule”.

(2) In sub-paragraph (2) of that paragraph—

- (a) after the word “registered”, in the first place where it occurs, there shall be inserted “under this Act”;
- (b) after that word, in the second place where it occurs, there shall be inserted “under this Schedule”.

(3) In sub-paragraph (4) of that paragraph—

- (a) after “registered” there shall be inserted “under this Act”; and
- (b) in paragraph (a), after “10 below” there shall be inserted “paragraph 6(2) of Schedule 1A to this Act or paragraph 6(3) of Schedule 1B to this Act”.

(4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraphs—

“(4A) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 10 below, paragraph 6(2) of Schedule 1A to this Act or paragraph 6(3) of Schedule 1B to this Act.

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- (4B) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 1A(5), 1B or 2 below.”
- (5) In sub-paragraph (5) of that paragraph, after “supplied” there shall be inserted “and any taxable supplies which would not be taxable supplies apart from section 6(2B) of this Act.”
- 49 (1) In each of sub-paragraphs (1) and (4)(b) of paragraph 1A of that Schedule (further provisions as to liability to be registered), after “registered” there shall be inserted “under this Schedule”.
- (2) In sub-paragraph (7) of that paragraph, after paragraph (b) there shall be inserted the following paragraph—
- “*(ba)* any acquisition of goods from another member State by one of the constituent members in the course of the activities of the taxable person shall be treated as an acquisition by that person;”.
- 50 After paragraph 1A of that Schedule there shall be inserted the following paragraph—
- “1B A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioners are satisfied in relation to that time that he—
- (a) has ceased to make taxable supplies; or
- (b) is not at that time a person in relation to whom any of the conditions specified in paragraphs 1(1)(a) and (b) and (2)(a) and (b) above is satisfied.”
- 51 (1) In sub-paragraph (1) of paragraph 2 of that Schedule (cases where person ceases to be registered), for the words from “registered person” to “time” there shall be substituted “person who has become liable to be registered under this Schedule shall cease to be so liable at any time after being registered”.
- (2) In sub-paragraph (2) of that paragraph, after “be registered” there shall be inserted “under this Schedule”.
- (3) In sub-paragraph (3) of that paragraph, after “supplied” there shall be inserted “and any taxable supplies which would not be taxable supplies apart from section 6(2B) of this Act”.
- 52 In paragraph 3(3) of that Schedule (notification of liability to be registered)—
- (a) after the word “registered”, in the first place where it occurs, there shall be inserted “by virtue of paragraph 1(1)(a) above”; and
- (b) before that word, in the second place where it occurs, there shall be inserted “so”.
- 53 In each of paragraphs 5 and 5A(1) of that Schedule (entitlement to be registered), after “registered” there shall be inserted “under this Act and is not already so registered”.
- 54 In paragraph 7 of that Schedule (notification of end of liability or entitlement), at the end there shall be inserted “unless he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.”

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- 55 In paragraph 7A of that Schedule (notification of end of liability or entitlement), at the end there shall be inserted “unless, in the case of a person ceasing as mentioned in sub-paragraph (a) above, he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.”
- 56 (1) In sub-paragraph (1) of paragraph 8A of that Schedule (cancellation of registration on request)—
- (a) at the beginning there shall be inserted “Subject to sub-paragraph (1A) below”; and
  - (b) after “be registered” there shall be inserted “under this Schedule”.
- (2) After sub-paragraph (1) of that paragraph there shall be inserted the following sub-paragraphs—
- “(1A) The Commissioners shall not under this paragraph cancel a person’s registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
  - (1B) In determining for the purposes of sub-paragraph (1A) above whether a person would be subject to a requirement to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.”
- (3) In sub-paragraph (2) of that paragraph (meaning of “registered person”), for the words from “includes” onwards there shall be substituted “is a reference to any person who is registered under this Schedule (including a person who was so registered before the coming into force of the paragraph in which the reference is contained)”.
- 57 (1) In sub-paragraph (1) of paragraph 9 of that Schedule (cancellation of registration by the Commissioners), at the beginning there shall be inserted “Subject to sub-paragraph (1A) below”.
- (2) After sub-paragraph (1) of that paragraph there shall be inserted the following sub-paragraphs—
- “(1A) The Commissioners shall not under this paragraph cancel a person’s registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
  - (1B) In determining for the purposes of sub-paragraph (1A) above whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.”
- (3) In sub-paragraph (2) of that paragraph, at the end there shall be inserted “under this Schedule”.
- 58 (1) In sub-paragraph (1) of paragraph 11 of that Schedule (exemption from registration), after “registration” there shall be inserted “under this Schedule”.

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

- (2) In sub-paragraph (2) of that paragraph, for “from registration under this paragraph” there shall be substituted “under this paragraph from registration under this Schedule”.

*Registration in respect of supplies and acquisitions from other member States*

59 After Schedule 1 there shall be inserted the following Schedules—

“SCHEDULE  
1A

REGISTRATION IN RESPECT OF SUPPLIES FROM OTHER MEMBER STATES

*Liability to be registered*

- 1 (1) A person who—
- (a) is not registered under this Act; and
  - (b) is not liable to be registered under Schedule 1 to this Act,
- becomes liable to be registered under this Schedule on any day if, in the period beginning with 1st January of the year in which that day falls, that person has made relevant supplies whose value exceeds £70,000.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) above becomes liable to be registered under this Schedule where—
- (a) that person has exercised any option, in accordance with the law of any other member State where he is taxable, for treating relevant supplies made by him as taking place outside that member State;
  - (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of the option, would be treated, in accordance with the law of that member State, as taking place in that member State; and
  - (c) that person makes a relevant supply at a time when the option is in force in relation to him.
- (3) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) above becomes liable to be registered under this Schedule if he makes a supply in relation to which the following conditions are satisfied, that is to say—
- (a) it is a supply of goods subject to a duty of excise;
  - (b) it involves the removal of the goods to the United Kingdom by or under the directions of the person making the supply;
  - (c) it is a transaction in pursuance of which the goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
  - (d) it is made at a time after the coming into force of this Schedule and in the course or furtherance of a business carried on by the supplier; and

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

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- (e) it is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 5A of Schedule 2 to this Act.
- (4) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(2) below, paragraph 10 of Schedule 1 to this Act or paragraph 6(3) of Schedule 1B to this Act.
- (5) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.
- (6) In determining for the purposes of this paragraph the value of any relevant supplies so much of the consideration for any supply as represents any liability of the supplier, under the law of another member State, for value added tax on that supply shall be disregarded.
- 2 (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time—
  - (a) the relevant supplies made by him in the year ending with 31st December last before that time did not have a value exceeding £70,000 and did not include any supply in relation to which the conditions mentioned in paragraph 1(3) above were satisfied; and
  - (b) the Commissioners are satisfied that the value of his relevant supplies in the year immediately following that year will not exceed £70,000 and that those supplies will not include a supply in relation to which those conditions are satisfied.
- (2) A person shall not cease to be liable to be registered under this Schedule at any time when such an option as is mentioned in paragraph 1(2) above is in force in relation to him.

*Notification of liability and registration*

- 3 (1) A person who becomes liable to be registered under this Schedule shall notify the Commissioners of the liability within the period of thirty days after the day on which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the day on which the liability arose or from such earlier time as may be agreed between them and him.

*Request to be registered*

- 4 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
  - (a) satisfies the Commissioners that he intends—
    - (i) to exercise an option such as is mentioned in paragraph 1(2) above and, from a specified date, to make relevant supplies to which that option will relate;

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

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- (ii) from a specified date to make relevant supplies to which any such option that he has exercised will relate; or
- (iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 1(3) above will be satisfied;

and

- (b) requests to be registered under this Schedule, the Commissioners may, subject to such conditions as they think fit to impose, register him with effect from such date as may be agreed between them and him.
- (2) Conditions imposed under sub-paragraph (1) above—
- (a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and
  - (b) may, whenever imposed, be subsequently varied by the Commissioners.
- (3) Where a person who is entitled to be registered under paragraph 5 or 5A of Schedule 1 to this Act requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 5
- (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Commissioners of that fact within thirty days of the day on which he does so.
  - (2) A person registered under paragraph 4 above by reference to any intention of his to exercise any option or to make supplies of any description shall notify the Commissioners, within thirty days of exercising that option or, as the case may be, of the first occasion after his registration when he makes such a supply, that he has exercised the option or made such a supply.
  - (3) A person who has exercised such an option as is mentioned in paragraph 1(2) above which, as a consequence of its revocation or otherwise, ceases to have effect in relation to any relevant supplies by him shall notify the Commissioners, within thirty days of the option's ceasing so to have effect, that it has done so.
  - (4) For the purposes of this paragraph a person ceases to be registrable under this Act where—
    - (a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded; or
    - (b) in the case of a person who (having been registered under paragraph 4 above) has not been such a person during the period of his registration, he ceases to have any such intention as is mentioned in sub-paragraph (1)(a) of that paragraph.

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

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*Cancellation of registration*

- 6 (1) Subject to paragraph 7 below, where a person registered under this Schedule satisfies the Commissioners that he is not liable to be so registered, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.
- (2) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, he—
- (a) was not liable to be registered under this Schedule; and
  - (b) in the case of a person registered under paragraph 4 above, did not have the intention by reference to which he was registered,
- they may cancel his registration with effect from that day.
- (3) Subject to paragraph 7 below, where the Commissioners are satisfied that a person who has been registered under paragraph 4 above and is not for the time being liable to be registered under this Schedule—
- (a) has not, by the date specified in his request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 1(3) above are satisfied; or
  - (b) has contravened any condition of his registration,
- they may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between them and him.

*Conditions of cancellation*

- 7 (1) The Commissioners shall not, under paragraph 6(1) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
- (2) The Commissioners shall not, under paragraph 6(3) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (3) The registration of a person who has exercised such an option as is mentioned in paragraph 1(2) above shall not be cancelled with effect from any time before the 1st January which is, or next follows, the second anniversary of the date on which his registration took effect.
- (4) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

*Power to vary specified sums by order*

- 8 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

*Supplementary*

- 9 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.

- 10 For the purposes of this Schedule a supply of goods is a relevant supply where—

- (a) the supply involves the removal of the goods to the United Kingdom by or under the directions of the person making the supply;
- (b) the supply does not involve the installation or assembly of the goods at a place in the United Kingdom;
- (c) the supply is a transaction in pursuance of which goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
- (d) the supply is made at a time after the coming into force of this Schedule and in the course or furtherance of a business carried on by the supplier; and
- (e) the supply is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 5A of Schedule 2 to this Act.

## SCHEDULE 1B

## REGISTRATION IN RESPECT OF ACQUISITIONS FROM OTHER MEMBER STATES

*Liability to be registered*

- 1 (1) A person who—
- (a) is not registered under this Act; and
  - (b) is not liable to be registered under Schedule 1 or 1A to this Act,
- becomes liable to be registered under this Schedule at the end of any month if, in the period beginning with 1st January of the year in which that month falls, that person has made relevant acquisitions whose value exceeds £36,600.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) above becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of his relevant acquisitions in the period of thirty days then beginning will exceed £36,600.

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

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- (3) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(3) below, paragraph 10 of Schedule 1 to this Act or paragraph 6(2) of Schedule 1A to this Act.
  - (4) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.
  - (5) In determining the value of any person's relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of another member State, for value added tax on the transaction in pursuance of which the acquisition is made, shall be disregarded.
- 2
- (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time—
    - (a) his relevant acquisitions in the year ending with 31st December last before that time did not have a value exceeding £36,600; and
    - (b) the Commissioners are satisfied that the value of his relevant acquisitions in the year immediately following that year will not exceed £36,600.
  - (2) A person shall not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of that person's relevant acquisitions in the period of thirty days then beginning will exceed £36,600.

*Notification of liability and registration*

- 3
- (1) A person who becomes liable to be registered under this Schedule shall notify the Commissioners of the liability—
    - (a) in the case of a liability under sub-paragraph (1) of paragraph 1 above, within thirty days of the end of the month when he becomes so liable; and
    - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
  - (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the relevant time or from such earlier time as may be agreed between them and him.
  - (3) In this paragraph “the relevant time”—
    - (a) in a case falling within paragraph (a) of sub-paragraph (1) above, means the end of the month following the month at the end of which the liability arose; and
    - (b) in a case falling within paragraph (b) of that sub-paragraph, means the beginning of the period by reference to which the liability arose.

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

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*Entitlement to be registered etc.*

- 4
- (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he makes relevant acquisitions, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.
  - (2) Where a person who is not liable to be registered under this Act and is not already so registered—
    - (a) satisfies the Commissioners that he intends to make relevant acquisitions from a specified date; and
    - (b) requests to be registered under this Schedule,the Commissioners may, subject to such conditions as they think fit to impose, register him with effect from such date as may be agreed between them and him.
  - (3) Conditions imposed under sub-paragraph (2) above—
    - (a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and
    - (b) may, whenever imposed, be subsequently varied by the Commissioners.
  - (4) Where a person who is entitled to be registered under paragraph 5 or 5A of Schedule 1 to this Act requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 5
- (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Commissioners of that fact within thirty days of the day on which he does so.
  - (2) A person registered under paragraph 4(2) above shall notify the Commissioners, within thirty days of the first occasion after his registration when he makes a relevant acquisition, that he has done so.
  - (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
    - (a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded; or
    - (b) in the case of a person who (having been registered under sub-paragraph (2) of paragraph 4 above) has not been such a person during the period of his registration, he ceases to have any intention of making relevant acquisitions.

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

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#### *Cancellation of registration*

- 6
- (1) Subject to paragraph 7 below, where a person registered under this Schedule satisfies the Commissioners that he is not liable to be so registered, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.
  - (2) Subject to paragraph 7 below, where the Commissioners are satisfied that a person registered under this Schedule has ceased since his registration to be registrable under this Schedule, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.
  - (3) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, he—
    - (a) was not registrable under this Schedule; and
    - (b) in the case of a person registered under paragraph 4(2) above, did not have the intention by reference to which he was registered,they may cancel his registration with effect from that day.
  - (4) Subject to paragraph 7 below, where the Commissioners are satisfied that a person who has been registered under paragraph 4(2) above and is not for the time being liable to be registered under this Schedule—
    - (a) has not begun, by the date specified in his request to be registered, to make relevant acquisitions; or
    - (b) has contravened any condition of his registration,they may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between them and him.
  - (5) For the purposes of this paragraph a person is registrable under this Schedule at any time when he is liable to be registered under this Schedule or is a person who makes relevant acquisitions.

#### *Conditions of cancellation*

- 7
- (1) The Commissioners shall not, under paragraph 6(1) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
  - (2) The Commissioners shall not, under paragraph 6(2) or (4) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
  - (3) Subject to sub-paragraph (4) below, the registration of a person who—
    - (a) is registered under paragraph 4 above; or

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- (b) would not, if he were not registered, be liable or entitled to be registered under any provision of this Act except paragraph 4 above,

shall not be cancelled with effect from any time before the 1st January which is, or next follows, the second anniversary of the date on which his registration took effect.

- (4) Sub-paragraph (3) above does not apply to cancellation under paragraph 6(3) or (4) above.
- (5) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

*Exemption from registration*

- 8 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant acquisitions satisfies the Commissioners that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule until it appears to them that the request should no longer be acted upon or is withdrawn.
- (2) Where a person who is exempted under this paragraph from registration under this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by a taxable person, be chargeable to tax otherwise than as a zero-rated supply, he shall notify the Commissioners of the change within thirty days of the date on which he made the acquisition.

*Power to vary specified sums by order*

- 9 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

*Supplementary*

- 10 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.
- 11 For the purposes of this Schedule an acquisition of goods from another member State is a relevant acquisition where—
- (a) it is a taxable acquisition of goods other than goods which are subject to a duty of excise or consist in a new means of transport;
- (b) it is an acquisition otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in the United Kingdom; and

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- (c) the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing that acquisition occurs after the coming into force of this Schedule.”

*Matters to be treated as supplies of goods or services*

- 60 (1) In Schedule 2 (matters to be treated as supplies of goods or services), after paragraph 5 there shall be inserted the following paragraph—

“5A (1) Where, in a case not falling within paragraph 5(1) above, goods forming part of the assets of any business—

- (a) are removed from any member State by or under the directions of the person carrying on the business; and  
 (b) are so removed in the course or furtherance of that business for the purpose of being taken to a place in a member State other than that from which they are removed,

then, whether or not the removal is or is connected with a transaction for a consideration, that is a supply of goods by that person.

- (2) Sub-paragraph (1) above does not apply—

- (a) to the removal of goods from any member State in the course of their removal from one part of that member State to another part of the same member State; or  
 (b) to goods which have been removed from a place outside the member States for entry into the territory of the Community and are removed from a member State before the time when any Community customs debt in respect of any Community customs duty on their entry into that territory would be incurred.”

- (2) In paragraph 7(2) of that Schedule (deemed supply where person ceases to be a taxable person)—

- (a) in paragraph (a), for the words from “in respect of” to the end of the paragraph there shall be substituted “has been allowed to him in respect of the supply of the goods, their acquisition from another member State or their importation from a place outside the member States”; and  
 (b) in paragraph (b), for “were not acquired by him” there shall be substituted “did not become his”.

*Special rules for valuation*

- 61 (1) In Schedule 4, paragraphs 2 and 5 (valuation for purposes of tax on importation where persons connected and prompt payment discounts) shall cease to have effect.

- (2) After paragraph 3 of that Schedule there shall be inserted the following paragraph—

“3A (1) Where—

- (a) any goods whose supply involves their removal to the United Kingdom—

- (i) are charged in connection with their removal to the United Kingdom with a duty of excise or with car tax; or  
 (ii) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession

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

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of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community;

or

(b) the time of supply of any dutiable goods, or of any goods which comprise a mixture of dutiable goods and other goods, is determined under section 35(4) of this Act to be the duty point, then the value of the supply shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty, tax or, as the case may be, agricultural levy which has been or is to be paid in respect of the goods.

(2) In this paragraph “dutiable goods” and “duty point” have the same meanings as in section 35 of this Act.”

(3) In paragraph 7 of that Schedule (valuation of supplies where there is no consideration)—

- (a) at the beginning there shall be inserted “(1)”;
- (b) in sub-paragraph (b), after “paragraph 5(1)” there shall be inserted “or 5A”; and
- (c) for the words from “the value” to the end of the paragraph there shall be substituted—

“then, except where paragraph 10 below applies, the value of the supply shall be determined as follows.

(2) The value of the supply shall be taken to be—

- (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
- (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
- (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.

(3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of value added tax on the supply of the goods to that person.”

(4) After paragraph 8 of that Schedule there shall be inserted the following paragraph—

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

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- “8A       Where any supply of services is treated by virtue of section 7 of this Act as made by the person by whom they are received, the value of the supply shall be taken—
- (a)       in a case where the consideration for which the services were in fact supplied to him was a consideration in money, to be such amount as is equal to that consideration; and
  - (b)       in a case where that consideration did not consist or not wholly consist of money, to be such amount in money as is equivalent to that consideration.”

(5) For paragraph 11 of that Schedule (rates of exchange) there shall be substituted the following paragraph—

- “11       (1) Subject to the following provisions of this paragraph, where—
- (a)       there is a supply of goods or services; and
  - (b)       any sum relevant for determining the value of the supply is expressed in a currency other than sterling,
- then, for the purpose of valuing the supply, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person to whom they are supplied of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a)       rates of exchange; or
  - (b)       methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that supply.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—
- (a)       shall not be exercised by any person except in relation to all such supplies by him as are of a particular description or after a particular date; and
  - (b)       shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of his supplies, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such supplies and subject to such conditions as they think fit.

- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) The time by reference to which the appropriate rate of exchange is to be determined for the purpose of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1) above.”

62 After Schedule 4 there shall be inserted the following Schedule—

“SCHEDULE  
4A

VALUATION OF ACQUISITIONS FROM OTHER MEMBER STATES - SPECIAL CASES

- 1 (1) Where, in the case of the acquisition of any goods from another member State—
- (a) the relevant transaction is for a consideration in money;
  - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value;
  - (c) the supplier and the person who acquires the goods are connected; and
  - (d) that person is not entitled under sections 14 and 15 of this Act to credit for all the tax on the acquisition,
- the Commissioners may direct that the value of the relevant transaction shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person by whom the acquisition in question is made; but no direction may be given more than three years after the relevant time.
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by him from another member State after the giving of the notice, or after such later date as may be specified in the notice; and
  - (b) as to which the conditions in paragraphs (a) to (d) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph the open market value of a transaction in pursuance of which goods are acquired from another member State shall be taken to be the amount which would fall to be taken as its value under section 10A(3) of this Act if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

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- 2 (1) Where, in such cases as the Commissioners may by regulations prescribe, goods acquired in the United Kingdom from another member State—
- (a) are charged in connection with their removal to the United Kingdom with a duty of excise or with car tax; or
  - (b) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community,
- then the value of the relevant transaction shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty, tax or, as the case may be, agricultural levy which has been or is to be paid in respect of those goods.
- (2) Sub-paragraph (1) above shall not require the inclusion of any amount of duty or agricultural levy in the value of a transaction in pursuance of which there is an acquisition of goods which, under subsection (4) of section 35 of this Act, is treated as taking place before the time which is the duty point within the meaning of that section.
- 3 (1) Where goods are acquired from another member State in pursuance of anything which is treated as a supply for the purposes of this Act by virtue of paragraph 5(1) or 5A of Schedule 2 to this Act, the value of the relevant transaction shall be determined, in a case where there is no consideration, as follows.
- (2) The value of the transaction shall be taken to be—
- (a) such consideration in money as would be payable by the supplier if he were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
  - (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by the supplier if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
  - (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of value added tax on the supply of the goods to that person.
- 4 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from another member State; and
  - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,

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then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person making the acquisition of that sum in the currency in question.

(2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—

- (a) rates of exchange; or
- (b) methods of determining rates of exchange,

a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.

(3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—

- (a) shall not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by him from another member State as are of a particular description or after a particular date; and
- (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.

(4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by him from another member State, of a rate of exchange which is different from any which would otherwise apply.

(5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.

(6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.

(7) Where goods are acquired from another member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1) above.

5 In this Schedule—

“relevant transaction”, in relation to any acquisition of goods from another member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means—

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- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under section 8B(3) above, the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
- (b) in any other case, the time of acquisition.”

*Zero-rated supplies*

- 63 (1) In Schedule 5 (zero-rated supplies), in Note (1) of Group 14 (goods imported by handicapped person and charities), for “imported” there shall be substituted “acquired from another member State or imported from a place outside the member States”.
- (2) In that Schedule, in Item 1 of Group 15 (supply of imported goods before entry), the words “of imported goods” shall be omitted, and at the end of the Item there shall be inserted “of goods imported from a place outside the member States.”
- (3) In that Schedule—
- (a) in Item 4 of Group 15 (supply to overseas authority etc. of goods used in the United Kingdom for the manufacture of goods for export), after “for export” there shall be inserted “to places outside the member States.”; and
  - (b) in Note (6) to Group 15 (restriction on application of Item 4), at the end there shall be inserted “another member State, any part of or place in another member State, the government of any such member State, part or place, a body established in another member State or a person who carries on business, or has a place of business, in another member State.”
- (4) In that Schedule, in Item 3 of Group 16 (exports by charities), at the end there shall be inserted “to a place outside the member States.”

*Administration, collection and enforcement*

- 64 (1) In paragraph 2 of Schedule 7 (regulations about accounting for and paying tax), in sub-paragraph (1)—
- (a) for “to other taxable persons to provide them” there shall be substituted “in such cases, or to persons of such descriptions, as may be so specified to provide the persons supplied”; and
  - (b) for the words from “the tax chargeable” onwards there shall be substituted “and of the persons by and to whom the goods or services are supplied and containing such an indication as may be required by the regulations of whether value added tax is chargeable on the supply under this Act or the law of another member State and such particulars of any value added tax which is so chargeable as may be so specified.”
- (2) In sub-paragraph (2) of that paragraph, for “and may allow for that time to be extended” there shall be substituted “or at such time before the supply is treated as taking place as may be required by the regulations, and may allow for an invoice to be issued later than required by the regulations where it is issued”.
- (3) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraphs—

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“(2A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—

- (a) specified in the regulations; or
- (b) determined by the Commissioners in accordance with powers conferred by the regulations,

of statements containing such particulars of transactions in which the taxable persons are concerned and which involve the movement of goods between member States, and of the persons concerned in those transactions, as may be prescribed.

(2B) Regulations under this paragraph may make provision in relation to cases where—

- (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in the United Kingdom from another member State by any person;
- (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply; and
- (c) that person is not a taxable person at the time of the acquisition, for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any tax on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations.

(2C) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (2B) above—

- (a) to contain such particulars relating to the notified acquisition and any tax chargeable thereon as may be specified in the regulations; and
- (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.”

(4) After sub-paragraph (3A) of that paragraph there shall be inserted the following sub-paragraphs—

“(3B) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations—

- (a) tax in respect of any supply by a taxable person of dutiable goods or of a chargeable vehicle within the meaning of the Car Tax Act 1983; or
- (b) tax in respect of an acquisition by any person from another member State of dutiable goods or of such a vehicle,

may be accounted for and paid, and any question as to the inclusion of any duty, car tax or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or, as the case may be, the time when the car tax becomes due or by reference to such later time as the Commissioners may allow.

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In this sub-paragraph “dutiable goods” and “duty point” have the same meanings as in section 35 of this Act.

(3C) Regulations under this paragraph may provide for the time when any invoice described in regulations made for the purposes of section 5(3B)(b) or 8B(1)(b) of this Act is to be treated as having been issued and provide for tax accounted for and paid by reference to the date of issue of such an invoice to be confined to tax on so much of the value of the supply or acquisition as is shown on the invoice.”

65 In paragraph 3 of that Schedule (computer records of particulars contained in tax invoices), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Without prejudice to the generality of the powers conferred by virtue of sub-paragraph (3C) of paragraph 2 above, regulations made by virtue of that sub-paragraph may provide for the preceding provisions of this paragraph to apply, subject to such exceptions and adaptations as may be prescribed, in relation to any invoice which is described in regulations made for the purposes of section 5(3B)(b) or 8B(1)(b) of this Act, as they apply in relation to tax invoices.”

66 (1) In sub-paragraph (2A) of paragraph 4 of that Schedule (power of Commissioners to assess tax due), after “Schedule 1 to this Act” there shall be inserted “, paragraph 6(2) of Schedule 1A to this Act or paragraph 6(2) or (3) of Schedule 1B to this Act”.

(2) In sub-paragraph (5) of that paragraph (time limits)—

- (a) after the word “period”, in the first place where it occurs, there shall be inserted “must be made within the time limits provided for in section 22 of the Finance Act 1985 (ultimate time limits on assessments) and”; and
- (b) for the words after paragraph (b) there shall be substituted—

“but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under sub-paragraph (1), (2) or (2A) above, another assessment may be made under that sub-paragraph, in addition to any earlier assessment.”

(3) In sub-paragraph (6) of that paragraph (deficiency of goods)—

- (a) for the words from “acquired” to the word “him”, in the first place where it occurs, there shall be substituted “in the course or furtherance of a business carried on by him, been supplied with any goods, acquired any goods from another member State or otherwise obtained possession or control of any goods or has, in the course or furtherance of such a business, imported any goods from a place outside the member States,”; and
- (b) for “from the United Kingdom otherwise than” there shall be substituted “or otherwise removed from the United Kingdom without being exported or so removed”.

67 After paragraph 4 of that Schedule there shall be inserted the following paragraph—

*“Assessment of tax on acquisitions of certain goods by non-taxable persons*

- 4A (1) Where a person who has, at a time when he was not a taxable person, acquired in the United Kingdom from another member State any goods

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subject to a duty of excise or consisting in a new means of transport and—

- (a) no notification of that acquisition has been given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
- (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete; or
- (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,

they may assess the amount of tax due on the acquisition to the best of their judgment and notify their assessment to that person.

- (2) An assessment under this paragraph must be made within the time limits provided for in section 22 of the Finance Act 1985 (ultimate time limits on assessments) and shall not be made after whichever is the later of the following—

- (a) two years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
- (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,

but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this paragraph, another assessment may be made under this paragraph, in addition to any earlier assessment.

- (3) Where an amount has been assessed and notified to any person under this paragraph, it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

- (4) For the purposes of this paragraph notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.”

68 In paragraph 5(2) of that Schedule (requirement of security), at the beginning there shall be inserted “Without prejudice to their power under section 32A(7) of this Act,”.

69 In paragraph 6 of that Schedule (enforcement and recovery of tax), after sub-paragraph (9) there shall be inserted the following sub-paragraph—

- “(10) The preceding provisions of this paragraph shall have effect as if any sum required by way of security under section 32A(7) of this Act were recoverable as if it were tax due from the person who is required to provide it.”

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- 70 In paragraph 7(1) of that Schedule (duty to keep records), at the end there shall be inserted “and every person who, at a time when he is not a taxable person, acquires in the United Kingdom from another member State any goods which are subject to a duty of excise or consist in a new means of transport shall keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may so require.”
- 71 (1) In sub-paragraph (2) of paragraph 8 of that Schedule (furnishing of information and production of documents)—
- (a) after the word “made”, in the first place where it occurs, there shall be inserted “every person who is concerned (in whatever capacity) in the acquisition of goods from another member State”;
  - (b) after the word “goods”, in the second place where it occurs, there shall be inserted “from a place outside the member States”;
  - (c) in paragraph (a) and in the words after paragraph (b), after the word “supply”, in each place, there shall be inserted “acquisition”.
- (2) In sub-paragraph (4) of that paragraph, for the words from “or the importation of goods” onwards there shall be substituted “to the acquisition of goods from another member State or to the importation of goods from a place outside the member States shall be taken to include any profit and loss account and balance sheet relating to the business in the course of which the goods or services are supplied or the goods are imported or (in the case of an acquisition from another member State) relating to any business or other activities of the person by whom the goods are acquired.”
- 72 In paragraph 9(1) of that Schedule (power to take samples), after “supplies goods” there shall be inserted “or acquires goods from another member State”.
- 73 In paragraph 10(2) of that Schedule (power of entry to premises used in connection with taxable supplies)—
- (a) after “supplies” there shall be inserted “or with the acquisition of goods under taxable acquisitions from other member States”; and
  - (b) after “supplied” there shall be inserted “or acquired”.
- 74 In paragraph 11(1) of that Schedule (evidence by certificate), after paragraph (b) there shall be inserted the following paragraph—
- “(ba) that any statement or notification required to be submitted or given to the Commissioners in accordance with any regulations under paragraph 2(2A) or (2B) above has not been submitted or given or had not been submitted or given at any date; or”.

#### *Transitional provisions*

- 75 In paragraph 6 of Schedule 10 (relief for vehicles in respect of which purchase tax was remitted), for the words from “as imported” to the end of the paragraph there shall be substituted “for the purposes of value added tax in respect of goods acquired from another member State or, as the case may be, value added tax in respect of goods imported from places outside the member States, as so acquired or imported”.

## PART II

### AMENDMENTS OF THE FINANCE ACT 1985 (C. 54)

#### *Introduction*

- 76 Chapter II of Part I of the Finance Act 1985 (enforcement provisions in relation to value added tax) shall be amended in accordance with the following provisions of this Part of this Schedule.

#### *Civil penalties*

- 77 (1) In subsection (2) of section 13 (tax evasion)—
- (a) in paragraph (b) (evasion by obtaining refund), after “under” there shall be inserted “section 20A,”; and
  - (b) after that paragraph there shall be inserted the following paragraph—  
“(ba) a refund under any regulations made by virtue of section 8C(5) of that Act;”.
- (2) In subsection (3)(b) of that section, after “paragraphs (b)” there shall be inserted “(ba)”.
- 78 In section 14(5B)(b) (references to input tax for purposes of application of section in relation to certain public bodies), after “supplies” there shall be inserted “acquisitions”.
- 79 After section 14A there shall be inserted the following section—

#### **“14B Inaccuracies in EC sales statements**

- (1) Where—
- (a) an EC sales statement containing a material inaccuracy has been submitted by any person to the Commissioners;
  - (b) the Commissioners have, within six months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
  - (c) another EC sales statement containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
  - (d) the submission date for the second inaccurate statement fell within the period of two years beginning with the day after the warning was issued;
  - (e) the Commissioners have, within six months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
  - (f) yet another EC sales statement containing a material inaccuracy is submitted by that person to the Commissioners; and
  - (g) the submission date for the statement falling within paragraph (f) above is not more than two years after the service of the notice or

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the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,  
 that person shall be liable to a penalty of £100 in respect of the statement so falling.

- (2) Subject to subsections (3) and (4) below, an EC sales statement shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.
- (3) An inaccuracy contained in an EC sales statement shall not be regarded as material for the purposes of this section if—
- (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.
- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under the principal Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.
- (6) In this section—
- “EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(2A) of Schedule 7 to the principal Act; and
- “submission date”, in relation to such a statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to the Commissioners.”

- 80 (1) In subsection (1) of section 15 (penalties for breach of regulatory provisions)—
- (a) in paragraph (a), after “principal Act” there shall be inserted “with paragraph 3 of Schedule 1A to that Act or with paragraph 3 or 8(2) of Schedule 1B to that Act”;
  - (b) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) a person fails to comply with a requirement of regulations under paragraph 2(2B) of Schedule 7 to the principal Act (notification of acquisition of excise duty goods or new means of transport), or”.
- (2) In subsection (3) of that section (meaning of “relevant tax”)—

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- (a) after “means” there shall be inserted “(subject to subsections (3B) and (3C) below)”;
  - (b) in paragraph (a), after “principal Act” there shall be inserted “with paragraph 3 of Schedule 1A to that Act or with paragraph 3 of Schedule 1B to that Act”;
  - (c) in paragraph (b), after “principal Act” there shall be inserted “or with subparagraph (2) of paragraph 8 of Schedule 1B to that Act”;
  - (d) after paragraph (b) there shall be inserted the following paragraph—
    - “(ba) in relation to a person’s failure to comply with a requirement of regulations under paragraph 2(2B) of Schedule 7 to the principal Act, the tax on the acquisition to which the failure relates; and”.
- (3) In subsection (3A) of that section (the specified percentage)—
- (a) in paragraph (a), after “nine months” there shall be inserted “or where the relevant tax is given by paragraph (ba) of that subsection and the failure in question did not continue for more than three months”; and
  - (b) in paragraph (b), for “so given” there shall be substituted “given by paragraph (a) or (b) of subsection (3) above” and after “eighteen months” there shall be inserted “or where that tax is given by paragraph (ba) of that subsection and the failure in question continued for more than three months but did not continue for more than six months”.
- (4) After subsection (3A) of that section there shall be inserted the following subsections—
- “(3B) Where—
- (a) the amount of tax which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant tax in relation to a failure mentioned in subsection (3)(a) above includes tax on an acquisition of goods from another member State; and
  - (b) the Commissioners are satisfied that value added tax has been paid under the law of another member State on the supply in pursuance of which those goods were acquired,
- then, in the determination of the amount of the relevant tax in relation to that failure, an allowance shall be made for the value added tax paid under the law of that member State; and the amount of the allowance shall not exceed the amount of tax due on the acquisition but shall otherwise be equal to the amount of value added tax which the Commissioners are satisfied has been paid on that supply under the law of that member State.
- (3C) Where—
- (a) the amount of tax which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant tax in relation to a failure mentioned in subsection (3)(a) above includes tax chargeable by virtue of section 6(2B) of the principal Act on any supply; and
  - (b) the Commissioners are satisfied that value added tax has been paid under the law of another member State on that supply,
- then, in the determination of the amount of the relevant tax in relation to that failure, an allowance shall be made for the tax paid under the law of the other member State; and the amount of the allowance shall not exceed the amount of tax chargeable by virtue of section 6(2B) on that supply but

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shall otherwise be equal to the amount of tax which the Commissioners are satisfied has been paid on that supply under the law of that other member State.”

- 81 In section 17(1) (penalties for breach of regulatory provisions)—
- (a) in paragraph (a), after “principal Act” there shall be inserted “paragraph 5 of Schedule 1A to that Act or paragraph 5 of Schedule 1B to that Act”;
  - (b) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) any regulations made under section 32A of the principal Act requiring a tax representative, for the purposes of registration, to notify the Commissioners that his appointment has taken effect or has ceased to have effect, or”.

- 82 After section 17 there shall be inserted the following section—

**“17A Penalties for failure to submit EC sales statement**

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

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

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in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.

(9) A statutory instrument containing an order under subsection (8) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

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

#### *Interest on tax*

83 In section 18(1)(c) (interest recovered or recoverable on assessment), after “principal Act” there shall be inserted “or under paragraph 8 of Schedule 1B to that Act”.

#### *Assessments*

84 (1) In subsection (1) of section 21 (assessment to penalty), for “17”, in each place where it occurs, there shall be substituted “17A”.

(2) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) An assessment to a penalty under section 15 above by virtue of subsection (1) (aa) of that section may be combined with an assessment under paragraph 4A of Schedule 7 to the principal Act and the two assessments notified together but the amount of the penalty shall be separately identified in the notice.”

(3) In subsection (5) of that section (notice of assessment while penalty period continuing), after “section 17” there shall be inserted “or section 17A”.

(4) In subsection (6) of that section (remedying of failure etc. after assessment)—

(a) after the words “section 17”, in the first place where they occur, there shall be inserted “or section 17A”;

(b) in paragraph (a), for “falling within section 17(1) above” there shall be substituted “or default falling within section 17(1) or section 17A(1) above”; and

(c) in the words after paragraph (b), after “section 17” there shall be inserted “section 17A”.

85 (1) In subsection (1) of section 22 (time limits for assessments)—

(a) in paragraph (a), after “paragraph 4” there shall be inserted “or paragraph 4A”; and

(b) after “importation” there shall be inserted “or acquisition”.

(2) In subsection (2) of that section, after “beginning” there shall be inserted—

“(a) in the case of a penalty under section 14B or section 17A above, with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—

(i) that the statement in question contained a material inaccuracy; or

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- (ii) that there had been a default within the meaning of section 17A(1) above,  
came to the Commissioners knowledge; and  
(b) in any other case, with the time”.
- (3) In subsection (7) of that section, after “paragraph 4” there shall be inserted “or sub-paragraph (2)(b) of paragraph 4A”.
- 86 In section 33(5)(a) (interpretation and construction of Chapter II), for “17” there shall be substituted “17A”.

### PART III

#### CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

##### *The Diplomatic Privileges Act 1964 (c. 81)*

- 87 In section 2(5A) of the Diplomatic Privileges Act 1964 (construction of references to certain duties), at the end there shall be inserted “and to value added tax charged in accordance with section 2A or 2B of the Value Added Tax Act 1983 (acquisitions from other member States and importations from outside the European Community)”.

##### *The Commonwealth Secretariat Act 1966 (c. 10)*

- 88 In paragraph 10 of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges), after sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) References in this Schedule to importation, in relation to value added tax, shall include references to anything charged with tax in accordance with section 2A or 2B of the Value Added Tax Act 1983 (acquisitions from other member States and importations from outside the European Community), and, in this Schedule, “imported” shall be construed accordingly.”

##### *The Consular Relations Act 1968 (c. 18)*

- 89 (1) In section 1(8A) of the Consular Relations Act 1968 (references to customs duties), at the end there shall be inserted “and to value added tax charged in accordance with section 2A or 2B of the Value Added Tax Act 1983 (acquisitions from other member States and importations from outside the European Community)”.
- (2) In section 8(1) of that Act (refund of duty on hydrocarbon oils), after “importation” there shall be inserted “or acquisition from another member State”.

##### *The International Organisations Act 1968 (c. 48)*

- 90 In Schedule 1 to the International Organisations Act 1968 (privileges and immunities), in paragraph 19 (interpretation), after paragraph (b) there shall be inserted the following paragraph—
- “(c) references to importation, in relation to value added tax, shall include references to anything charged with tax in accordance

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with section 2A or 2B of the Value Added Tax Act 1983 (acquisitions from other member States and importations from outside the European Community), and “imported” shall be construed accordingly.”

*The Vehicles (Excise) Act 1971 (c. 10)*

- 91 In section 6 of the Vehicles (Excise) Act 1971 (exemptions from duty), for “section 2(2) of the Value Added Tax Act 1983” there shall be substituted “section 2C of the Value Added Tax Act 1983”.

*The Diplomatic and other Privileges Act 1971 (c. 64)*

- 92 In section 1 of the Diplomatic and other Privileges Act 1971 (refunds in respect of hydrocarbon oil), after subsection (4) there shall be inserted the following subsection—

“(5) In this section references to importation, in relation to value added tax, shall include references to anything charged with tax in accordance with section 2A or 2B of the Value Added Tax Act 1983 (acquisitions from other member States and importations from outside the European Community), and, in this section, “imported” shall be construed accordingly.”

*The Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)*

- 93 In section 13(4) of the Customs and Excise Duties (General Reliefs) Act 1979 (personal reliefs), in the definition of “value added tax”, after “on the importation of goods” there shall be inserted “from places outside the member States or on the acquisition of goods from member States other than the United Kingdom”.

*The Finance Act 1986 (c. 41)*

- 94 In section 9 of the Finance Act 1986 (fuel for private use)—
- (a) in subsection (3), after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) any reference to fuel supplied to a taxable person shall include a reference to fuel acquired by a taxable person from another member State and any reference to fuel imported by a taxable person shall be confined to a reference to fuel imported by that person from a place outside the member States;”
  - (b) in subsection (5), after “supply” there shall be inserted “acquisition”.

*The Income and Corporation Taxes Act 1988 (c. 1)*

- 95 In section 827(1)(a) of the Income and Corporation Taxes Act 1988 (deduction of VAT penalties under sections 13 to 17 of the Finance Act 1985), for “17” there shall be substituted “17A”.

SCHEDULE 4

Section 18.

CAR TAX: ABOLITION OF FISCAL FRONTIERS

- 1 The Car Tax Act 1983 shall be amended in accordance with the following provisions of this Schedule.
- 2 (1) In subsection (1) of section 1 (vehicles charged to tax), for the words from “all” to the end of the subsection there shall be substituted—
- “(a) every chargeable vehicle made in the United Kingdom;
  - (b) every chargeable vehicle imported into the United Kingdom from outside the Community;
  - (c) every chargeable vehicle acquired in the United Kingdom from another member State; and
  - (d) every chargeable vehicle not charged with tax under any of the preceding paragraphs which—
    - (i) is registered, or
    - (ii) without being registered becomes registrable after having been brought into the United Kingdom from another member State by a person who is not registered under this Act.”
- (2) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) For the purposes of this section—
- (a) a vehicle is imported into the United Kingdom from a place outside the Community if it is brought into the United Kingdom otherwise than from another member State;
  - (b) a vehicle is acquired in the United Kingdom from another member State if it is treated as acquired from another member State for the purposes of the Value Added Tax Act 1983 and the acquisition falls, by virtue of section 8C(2) of that Act, to be treated for those purposes as taking place in the United Kingdom;
  - (c) a vehicle is registered if it is registered under the Vehicles (Excise) Act 1971; and
  - (d) a vehicle which has been brought into the United Kingdom becomes registrable where it becomes chargeable, for the first time after its arrival in the United Kingdom, with a duty of excise under that Act of 1971.”
- 3 In section 4 (registration of makers and importers of chargeable vehicles)—
- (a) in subsection (1), for “imports” there shall be substituted “brings into the United Kingdom”; and
  - (b) in subsection (3), for “import” there shall be substituted “bring into the United Kingdom”.
- 4 (1) In subsection (1) of section 5 (person by whom car tax payable)—
- (a) in paragraph (a), for “imported” there shall be substituted “brought into the United Kingdom”;
  - (b) in paragraph (b), after “imported” there shall be inserted “into the United Kingdom from outside the Community”; and
  - (c) after paragraph (b) there shall be inserted the following paragraphs—

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- “(ba) if (in a case not falling within paragraph (a) above) the vehicle is acquired in the United Kingdom from another member State in pursuance of a taxable supply, the person who makes that supply;
- (bb) if (in a case not falling within paragraph (a) above) the vehicle is acquired in the United Kingdom from another member State otherwise than in pursuance of such a supply, the person by whom it is so acquired; and”.
- (2) After subsection (5) of that section there shall be inserted the following subsections—
- “(5A) Subject to section 6(2) below, where tax is charged otherwise than by virtue of section 1(1)(b) above and the person by whom it is payable is not registered under this Act—
- (a) it shall become due at the same time as the vehicle in question is charged with the tax; but
- (b) it shall not become payable until the time provided for by regulations under this Act.
- (5B) The time when a chargeable vehicle is to be treated for the purposes of this section as acquired from another member State shall—
- (a) where the acquisition is in pursuance of a taxable supply, be the time when that supply is treated for the purposes of the Value Added Tax Act 1983 as taking place; and
- (b) in any other case, be determined in accordance with the provisions of section 8B(1) and (2) of that Act (time of acquisition).
- (5C) Subsection (3) of section 1 above shall apply for the purposes of this section as it applies for the purposes of that section and, in this section, “taxable supply” has the same meaning as in the Value Added Tax Act 1983.”
- 5 (1) In section 7 (remission of tax on certain vehicles), for the word “exported”, in each place where it occurs, there shall be substituted “removed from the United Kingdom”.
- (2) In subsection (1) of that section—
- (a) for “exportation” there shall be substituted “its removal from the United Kingdom”;
- (b) for the word “imported”, in the first place where it occurs, there shall be substituted “brought into the United Kingdom”; and
- (c) for “and not previously imported” there shall be substituted “in respect of which tax has not previously been paid.”
- (3) In subsection (2) of that section, for “acquires” there shall be substituted “obtains”.
- (4) In subsection (3) of that section, for “acquired” there shall be substituted “obtained”.
- (5) In subsection (4)(a) of that section, for “imported” there shall be substituted “brought into the United Kingdom”.
- (6) In subsection (4B) of that section—
- (a) in paragraph (b), for “imports” there shall be substituted “brings”; and
- (b) in paragraph (c) and in the words after that paragraph, for the word “acquires”, in each place where it occurs, there shall be substituted “obtains”.

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- 6 In section 9 (interpretation), after “in this Act-” there shall be inserted the following definition—

““another member State” means any member State other than the United Kingdom;”.

- 7 (1) In Schedule 1 (administration and collection), after paragraph 1 there shall be inserted the following paragraph—

*“Notification of liability to tax*

- 1A (1) The Commissioners may by regulations make provision in relation to persons who are not registered for requiring any such person from whom tax has become due to furnish to them such a document notifying them of his liability, at such time after the liability arose and in such form and manner, as may be specified in or determined under the regulations.

- (2) Regulations under this paragraph may—

- (a) require the document which is to be furnished to the Commissioners to contain such particulars relating to the circumstances in which the tax has become due as may be described in the regulations;
- (b) provide, in prescribed cases, for the obligation to furnish that document to the Commissioners to fall on the personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person from whom the tax has become due; and
- (c) make different provision for different cases.”

- (2) In paragraph 2(2)(a) of that Schedule (time limits for assessments), for the words “the time when the amount became payable” there shall be substituted “the following time, that is to say—

- (i) where the person by whom that amount is payable is required by regulations under paragraph 1A above to notify the Commissioners of his liability, the time when notification of the liability in question was given to the Commissioners by that person; and

- (ii) in any other case, the time when that amount became payable”.

- (3) In paragraph 6(1) of that Schedule—

- (a) in sub-paragraph (1), after “chargeable vehicles” there shall be inserted “or with the movement of such vehicles between member States”; and
- (b) in sub-paragraph (2), after “who” there shall be inserted “in a case in relation to which he is not required to furnish to the Commissioners any document in accordance with regulations under paragraph 1A above,”.

- (4) In paragraph 7 of that Schedule—

- (a) in sub-paragraph (1), after “chargeable vehicles” there shall be inserted “or with the movement of such vehicles between member States”; and
- (b) in sub-paragraph (2), after paragraph (a) there shall be inserted the following paragraph—

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- “(aa) the movement of chargeable vehicles between member States; or”.
- (5) In paragraph 9 of that Schedule (forfeiture), after “vehicle” there shall be inserted “which for the purposes of section 1 of this Act is treated as having been imported into the United Kingdom from outside the Community”.
- (6) In paragraph 10(1) of that Schedule (matters that may be proved by certificate), after paragraph (b) there shall be inserted the following paragraph—
- “(ba) that a document has not been furnished to the Commissioners in accordance with regulations under paragraph 1A above or had not been so furnished at any date; or”.
- (7) In paragraph 12(c) and (d) of that Schedule (regulation-making power), for “acquiring”, in each place where it occurs, there shall be substituted “obtaining”.
- 8 In paragraph 6 of Schedule 2 (transitional provisions for vehicles exported before 1st April 1981), for “on the importation of any vehicle” there shall be substituted “in respect of any vehicle by virtue of section 1(1)(b) or (c) of this Act”.

## SCHEDULE 5

Section 20.

## MARRIED COUPLE'S ALLOWANCE ETC.

- 1 The Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 8 below.
- 2 The following sections shall be substituted for section 257B (transfer of relief under section 257A)—

**“257BA Elections as to transfer of relief under section 257A**

- (1) A woman may elect that for any year of assessment for which her husband is entitled to relief under section 257A—
- (a) she shall be entitled (on making a claim)
- to deduct from her total income one half of the amount specified in section 257A(1) for that year, and
- (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly.
- (2) A husband and wife may jointly elect that for any year of assessment for which the husband is entitled to relief under section 257A—
- (a) she shall be entitled (on making a claim) to deduct from her total income the amount specified in section 257A(1) for that year, and
- (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly (to nil, unless section 257A(2) or (3) applies to him).
- (3) A man may elect that for any year of assessment for which his wife is entitled to relief by virtue of an election under subsection (2) above—
- (a) he shall be entitled (on making a claim) to deduct from his total income one half of the amount specified in section 257A(1) for that

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- year (in addition to the amount, if any, that he is already entitled to deduct under section 257A), and
- (b) the amount that she is entitled to deduct by virtue of that election shall be reduced accordingly.
- (4) An election under this section shall be made by giving notice to the inspector in such form as the Board may determine and—
- (a) subject to subsections (5) and (7) below, shall be made before the first year of assessment for which it is to have effect, and
- (b) shall have effect for that and each succeeding year of assessment for which the husband is entitled to relief under section 257A, subject to its withdrawal under subsection (8) below or a subsequent election under this section.
- (5) An election may be made during the first year of assessment for which it is to have effect if that is the year of assessment in which the marriage takes place.
- (6) Where subsection (5) above applies, the references in subsections (1)(a), (2)(a) and (3)(a) above to the amount specified for the year of assessment in section 257A(1) shall be read as references to that amount reduced in accordance with section 257A(6).
- (7) An election may be made within the first thirty days of the first year of assessment for which it is to have effect if before that year the inspector has been given written notification that it is intended to make the election.
- (8) The person or persons by whom an election was made may withdraw it by giving notice to the inspector in such form as the Board may determine; but the withdrawal shall not have effect until the year of assessment after the one in which the notice is given.
- (9) A woman shall not be entitled by virtue of an election under this section to more than one deduction for any year of assessment.

#### **257BB Transfer of relief under section 257A where relief exceeds income**

- (1) Where—
- (a) a man is entitled to relief under section 257A, but
- (b) the amount that he is entitled to deduct exceeds what is left of his total income after all other deductions have been made from it,
- his wife shall be entitled to deduct from her total income the amount of the excess (in addition to any amount she is entitled to deduct by virtue of an election under section 257BA).
- (2) Subsection (1) above shall not apply for a year of assessment unless the claimant's husband gives notice to the inspector that it is to apply.
- (3) Where—
- (a) a woman is entitled to relief by virtue of an election under section 257BA, but
- (b) the amount that she is entitled to deduct exceeds what is left of her total income after all other deductions have been made from it,

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her husband shall be entitled to deduct from his total income the amount of the excess (in addition to the amount, if more than nil, that he is already entitled to deduct under section 257A).

- (4) Subsection (3) above shall not apply for a year of assessment unless the claimant's wife gives notice to the inspector that it is to apply.
- (5) Any notice under subsection (2) or (4) above—
- (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (6) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
  - (b) under section 289,
  - (c) on account of any payments to which section 593(2) or 639(3) applies,
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
  - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”

3 In section 257D (transitional relief: husband with excess allowances) in subsection (10) for “section 257B(3)” there shall be substituted “section 257BB(2)”.

4 In section 257F (transitional relief: separated couples), for “section 257B” there shall be substituted “section 257BA, section 257BB”.

- 5 (1) Section 259 (additional relief in respect of children) shall be amended as follows.
- (2) In subsection (2) for “section 260” there shall be substituted “sections 260 and 261A”.
- (3) The following subsection shall be inserted after subsection (3)—
- “(3A) A person shall not be entitled to relief under this section by virtue of subsection (1)(a) or (b) above for a year of assessment if that is the year in which he and his spouse separate (as defined in section 261A(6)).”

6 The following section shall be inserted after section 261—

**“261A Additional relief in respect of children for year of separation**

- (1) A person who proves that a qualifying child is resident with him for any period—
- (a) after he and his spouse separate, and
  - (b) in the year of assessment in which that separation occurs,
- shall be entitled to a deduction from his total income of an amount equal to that specified in section 257A(1) for the year.

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- (2) But if the person is entitled to relief for the year of assessment under section 257A (including by virtue of an election under section 257BA) the amount that he is entitled to deduct under subsection (1) above shall be reduced by the amount of that relief (to nil where the amount of that relief equals or exceeds it).
- (3) Subsection (1) above shall not apply to a man who is entitled to relief under section 259 by virtue of subsection (1)(c) of that section.
- (4) A person is entitled to only one deduction under subsection (1) above irrespective of the number of qualifying children resident with him.
- (5) Where for any year of assessment a person is entitled to relief under this section and another person is entitled to relief in connection with the same child under section 259 or this section—
  - (a) the total amount of the relief to which those persons are entitled shall not exceed the amount specified in section 257A(1) for that year,
  - (b) section 260(3) to (5) shall apply for the purpose of apportioning that total amount between the persons (and the reference in section 260(4) to section 259 shall be taken to include a reference to this section), and
  - (c) the deduction to which each of them is entitled under section 259 or this section shall be equal to so much of that amount as is apportioned to him (subject, in the case of relief under this section, to subsection (2) above).
- (6) In this section, “separate” means—
  - (a) separate under an order of a court of competent jurisdiction, or by deed of separation, or
  - (b) separate in such circumstances that the separation is likely to be permanent.
- (7) Subsections (5) to (9) of section 259 shall apply for the purposes of this section as they apply for the purposes of that section.”

7 The provisions of section 262 (widow's bereavement allowance) shall become subsection (1) of that section and the following subsections shall be added after that subsection—

- “(2) Where a widow would (but for this subsection) be entitled for a year of assessment—
- (a) to a deduction from her total income under subsection (1)(a) above, and
  - (b) to a deduction from her total income by virtue of an election under section 257BA,
- the deduction mentioned in paragraph (b) above shall instead be made (without a claim being made) from her late husband's total income for the year.
- (3) If the deduction mentioned in subsection (2)(b) above exceeds what is left of the husband's total income for the year after all other deductions have been made from it, the widow shall be entitled to deduct from her total income the amount of the excess (in addition to the deduction to which she is entitled by virtue of subsection (1) above and without making a further claim).

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- (4) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
  - (b) under section 289,
  - (c) on account of any payments to which section 593(2) or 639(3) applies,
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
  - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”
- 8 (1) Section 265 (blind person's allowance) shall be amended as follows.
- (2) In subsection (3)(b), for “257A or” there shall be substituted “257A (including by virtue of an election under section 257BA) or under”.
- (3) In subsection (4), the words from “(and” onwards shall be omitted.
- (4) In subsection (6) for “section 257B(3)” there shall be substituted “section 257BB(2)”.
- 9 The Taxes Management Act 1970 shall be amended as follows.
- (2) In section 36 (fraudulent or negligent conduct) the following subsection shall be inserted after subsection (3)—
- “(3A) In subsection (3) above, “claim or application” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple's allowance).”
- (3) In section 37A (effect of assessment where allowances transferred) for “257B” there shall be substituted “257BB”.
- (4) In section 43A (further assessments: claims etc.) after subsection (2) there shall be inserted—
- “(2A) In subsection (2) above, “claim, election, application or notice” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple's allowance).”
- 10 This Schedule shall apply in relation to tax for the year 1993-94 and subsequent years of assessment.

## SCHEDULE 6

Section 24.

## GROUP RELIEF ETC: AMENDMENTS

*Main amendments*

- 1 In Schedule 18 to the Taxes Act 1988 (group relief: equity holders and profits or assets available for distribution) the following paragraph shall be substituted for paragraph 5(5)—

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- “5A (1) In a case where paragraphs 4 and 5 above apply, each of the following percentages, namely—
- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
  - (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,
- shall be determined on each of the different bases set out in sub-paragraph (2) below.
- (2) The bases are—
- (a) the basis specified in paragraph 4(2) above;
  - (b) the basis specified in paragraph 5(2) above;
  - (c) the basis specified in paragraph 4(2) above and the basis specified in paragraph 5(2) above taken together;
  - (d) the basis specified in paragraph 2(1) or 3(1) above (according to the percentage concerned) without regard to paragraphs 4(2) and 5(2) above.
- (3) The lowest of the four percentages of profits so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled as mentioned in that paragraph.
- (4) The lowest of the four percentages of assets so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage to which, on the notional winding-up, the first company mentioned in paragraph 3(1) above would be entitled of any assets of the other company available for distribution to its equity holders on a winding-up.”

2 In that Schedule the following paragraphs shall be inserted after paragraph 5A—

- “5B (1) This paragraph applies if, at any time in the relevant accounting period, option arrangements exist; and option arrangements are arrangements of any kind (whether in writing or not) as regards which the two conditions set out below are fulfilled.
- (2) The first condition is that the arrangements are ones by virtue of which there could be a variation in—
- (a) the percentage of profits to which any of the equity holders is entitled on the profit distribution, or
  - (b) the percentage of assets to which any of the equity holders is entitled on the notional winding-up.
- (3) The second condition is that, under the arrangements, the variation could result from the exercise of any of the following rights (option rights)—
- (a) a right to acquire shares or securities in the second company referred to in paragraphs 2(1) and 3(1) above;
  - (b) a right to require a person to acquire shares or securities in that company.
- (4) For the purposes of sub-paragraph (3) above—

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- (a) it is immaterial whether or not the shares or securities were issued before the arrangements came into existence;
  - (b) “shares” does not include fixed-rate preference shares;
  - (c) “securities” does not include normal commercial loans (within the meaning given by paragraph 1(5) above);
  - (d) “right” does not include a right of an individual to acquire shares, if the right was obtained by reason of his office or employment as a director or employee of the company and in accordance with the provisions of a share option scheme approved under Schedule 9 at the time it was obtained.
- (5) As regards each point in time when option arrangements exist in the relevant accounting period—
- (a) there shall be taken each possible state of affairs that could then subsist if the outstanding option rights, or any of them or any combination of them, became effective at that point, and
  - (b) taking each such state of affairs, it shall be assumed that the rights and duties of the equity holders in the relevant accounting period were to be found accordingly.
- (6) The following rules shall have effect—
- (a) for the purposes of sub-paragraph (5) above outstanding option rights are all such option rights under the arrangements (or sets of arrangements if more than one) as exist at the point in time concerned but have not become effective at or before that point;
  - (b) for the purpose of applying sub-paragraph (5) above it is immaterial whether or not the rights are exercisable at or before the point in time concerned and it is immaterial whether or not they are capable of becoming effective at or before that point;
  - (c) for the purposes of sub-paragraph (5) above and this sub-paragraph an option right becomes effective when the shares or securities to which it relates are acquired in pursuance of it.
- (7) The determination mentioned in sub-paragraph (8) below shall be made as regards each point in time when option arrangements exist in the relevant accounting period; and for each such point in time a separate determination shall be made for each of the possible states of affairs mentioned in sub-paragraph (5) above.
- (8) The determination is a determination of—
- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
  - (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,
- if the rights and duties of the equity holders in the relevant accounting period were found as mentioned in sub-paragraph (5) above.
- (9) Where different determinations yield different percentages of profits and different percentages of assets, only one determination of each

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percentage (yielding the lowest figure) shall be treated as having been made.

(10) Sub-paragraphs (3) and (4) of paragraph 4 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph and, accordingly, references there to sub-paragraphs (2)(a) and (2)(b) of that paragraph shall be construed as references to sub-paragraphs (8)(a) and (8)(b) of this paragraph.

5C (1) In a case where paragraphs 4 and 5B above apply, each of the following percentages, namely—

- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
- (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,

shall be determined on each of the different bases set out in sub-paragraph (2) below.

(2) The bases are—

- (a) the basis specified in paragraph 4(2) above;
- (b) the basis specified in paragraph 5B(8) above;
- (c) the basis specified in paragraph 4(2) above and the basis specified in paragraph 5B(8) above taken together;
- (d) the basis specified in paragraph 2(1) or 3(1) above (according to the percentage concerned) without regard to paragraphs 4(2) and 5B(8) above.

(3) The lowest of the four percentages of profits so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled as mentioned in that paragraph.

(4) The lowest of the four percentages of assets so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage to which, on the notional winding-up, the first company mentioned in paragraph 3(1) above would be entitled of any assets of the other company available for distribution to its equity holders on a winding-up.

(5) For the purposes of this paragraph the basis specified in paragraph 5B(8) above is such basis as gives the percentage of profits arrived at by virtue of paragraph 5B(9) above or (as the case may be) such basis as gives the percentage of assets arrived at by virtue of paragraph 5B(9) above.

5D (1) In a case where paragraphs 5 and 5B above apply, each of the following percentages, namely—

- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
- (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,

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shall be determined on each of the different bases set out in sub-paragraph (2) below.

- (2) The bases are—
- (a) the basis specified in paragraph 5(2) above;
  - (b) the basis specified in paragraph 5B(8) above;
  - (c) the basis specified in paragraph 5(2) above and the basis specified in paragraph 5B(8) above taken together;
  - (d) the basis specified in paragraph 2(1) or 3(1) above (according to the percentage concerned) without regard to paragraphs 5(2) and 5B(8) above.
- (3) The lowest of the four percentages of profits so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled as mentioned in that paragraph.
- (4) The lowest of the four percentages of assets so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage to which, on the notional winding-up, the first company mentioned in paragraph 3(1) above would be entitled of any assets of the other company available for distribution to its equity holders on a winding-up.
- (5) For the purposes of this paragraph the basis specified in paragraph 5B(8) above is such basis as gives the percentage of profits arrived at by virtue of paragraph 5B(9) above or (as the case may be) such basis as gives the percentage of assets arrived at by virtue of paragraph 5B(9) above.

- 5E (1) In a case where paragraphs 4 and 5 and 5B above apply, each of the following percentages, namely—
- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
  - (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,

shall be determined on each of the different bases set out in sub-paragraph (2) below.

- (2) The bases are—
- (a) the basis specified in paragraph 4(2) above;
  - (b) the basis specified in paragraph 5(2) above;
  - (c) the basis specified in paragraph 5B(8) above;
  - (d) the basis specified in paragraph 4(2) above and the basis specified in paragraph 5(2) above taken together;
  - (e) the basis specified in paragraph 4(2) above and the basis specified in paragraph 5B(8) above taken together;
  - (f) the basis specified in paragraph 5(2) above and the basis specified in paragraph 5B(8) above taken together;
  - (g) the basis specified in paragraph 4(2) above and the basis specified in paragraph 5(2) above and the basis specified in paragraph 5B(8) above all taken together;

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- (h) the basis specified in paragraph 2(1) or 3(1) above (according to the percentage concerned) without regard to paragraphs 4(2), 5(2) and 5B(8) above.
- (3) The lowest of the eight percentages of profits so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled as mentioned in that paragraph.
- (4) The lowest of the eight percentages of assets so determined shall be taken for the purposes of section 413(7) to (9) to be the percentage to which, on the notional winding-up, the first company mentioned in paragraph 3(1) above would be entitled of any assets of the other company available for distribution to its equity holders on a winding-up.
- (5) For the purposes of this paragraph the basis specified in paragraph 5B(8) above is such basis as gives the percentage of profits arrived at by virtue of paragraph 5B(9) above or (as the case may be) such basis as gives the percentage of assets arrived at by virtue of paragraph 5B(9) above.”

#### *Other amendments*

- 3 In paragraph 6 of that Schedule for “5” there shall be substituted “5E”.
- 4 In section 272 of the Income and Corporation Taxes Act 1970 (groups of companies: definitions) in subsection (1F) (application of Schedule 18 but without paragraph 5(3) etc.) after “5(3)” there shall be inserted “and 5B to 5E”.
- 5 In section 170 of the Taxation of Chargeable Gains Act 1992 (interpretation of sections 171 to 181) in subsection (8) (application of Schedule 18 but without paragraph 5(3) etc.) after “5(3)” there shall be inserted “and 5B to 5E”.

#### *Application of amendments*

- 6 (1) Sub-paragraph (2) below shall apply where either of the following events occurs on or after 15th November 1991—
  - (a) any shares or securities of the relevant company are issued in circumstances where they carry both rights referred to in paragraph 4(1) of Schedule 18 and rights referred to in paragraph 5(1) of Schedule 18;
  - (b) any shares or securities of the relevant company issued before 15th November 1991 begin to carry both rights referred to in paragraph 4(1) of Schedule 18 and rights referred to in paragraph 5(1) of Schedule 18 (whether or not they previously carried rights referred to in one of those paragraphs).
- (2) In such a case paragraph 1 above shall apply in relation to the accounting period in which the event occurs and subsequent accounting periods.
- (3) In this paragraph—
  - (a) references to the relevant company are to the second company referred to in paragraphs 2(1) and 3(1) of Schedule 18;
  - (b) references to accounting periods are to accounting periods of that company.
- 7 Paragraph 2 above shall apply where the option arrangements are made on or after 15th November 1991.

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- 8 Paragraph 3 above shall apply in accordance with paragraphs 6 and 7 above.
- 9 Subject to the repeals made by the Taxation of Chargeable Gains Act 1992,  
paragraph 4 above shall apply in accordance with paragraph 7 above.
- 10 The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed  
always to have had effect, with the amendment made by paragraph 5 above.

## SCHEDULE 7

Section 33.

### DEEP GAIN SECURITIES

- 1 Schedule 11 to the Finance Act 1989 (deep gain securities) shall be amended as  
follows.
- 2 In paragraph 1 (definition of deep gain securities) for sub-paragraph (3A) there  
shall be substituted—
- “(3A) In the case of a security issued before 13th November 1991, for the  
purposes of sub-paragraph (2) above “redemption” does not include  
any redemption which may be made before maturity otherwise than in  
pursuance of the exercise by the person who holds the security for the  
time being of an option exercisable only on the effluxion of time or the  
happening of an event which (judged at the time of the security’s issue)  
is certain or likely to occur.
- (3B) In the case of a security issued on or after 13th November 1991, for the  
purposes of sub-paragraph (2) above “redemption” does not include any  
redemption which may be made before maturity otherwise than at the  
option of the person who holds the security for the time being and as  
regards which the following conditions are fulfilled (judged at the time  
of the security’s issue)—
- (a) the event occasioning redemption is such that, if it occurred  
and there was no provision for redemption, the interests of the  
person holding the security at the time of the occurrence might  
be adversely affected,
  - (b) the event occasioning redemption is neither certain nor likely to  
occur,
  - (c) the event occasioning redemption is not one of a number of events  
occasioning or allowing redemption before maturity at least one  
of which is certain or likely to occur, and
  - (d) the obtaining of a tax advantage by any person is not the main  
benefit, or one of the main benefits, that might be expected to  
accrue from the provision for redemption.
- (3C) The condition set out in sub-paragraph (3B)(a) above is fulfilled if it is  
fulfilled by reference to any one potential holder, whether or not it is  
fulfilled by reference to other potential holders.
- (3D) In a case where—
- (a) the security is one which under the terms of issue can be converted  
into or exchanged for a security of a different kind, and

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- (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3B) above is fulfilled,

the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised.

- (3E) In the case of a security issued on or after 13th November 1991, for the purposes of sub-paragraph (2) above "redemption" does not include any redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the following conditions are fulfilled (judged at the time of the security's issue)—

- (a) the event allowing the option to be exercised is such that, if it occurred and there was no provision for redemption, the interests of the person holding the security at the time of the occurrence might be adversely affected,
- (b) the event allowing the option to be exercised is neither certain nor likely to occur,
- (c) the event allowing the option to be exercised is not one of a number of events occasioning or allowing redemption before maturity at least one of which is certain or likely to occur, and
- (d) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might be expected to accrue from the provision for redemption.

- (3F) The condition set out in sub-paragraph (3E)(a) above is fulfilled if it is fulfilled by reference to any one potential holder, whether or not it is fulfilled by reference to other potential holders.

- (3G) In a case where—

- (a) the security is one which under the terms of issue can be converted into or exchanged for a security of a different kind, and
- (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3E) above is fulfilled,

the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised."

- 3 In paragraph 2 (definition of qualifying indexed securities) in sub-paragraph (13) for paragraphs (c) and (d) there shall be substituted—

- "(c) in the case of a security issued before 13th November 1991, any circumstances except circumstances in which the person who holds the security for the time being exercises an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security's issue) is certain or likely to occur;
- (d) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity otherwise than at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3B) above are fulfilled (judged at the time of the

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security's issue and read subject to paragraph 1(3C) and (3D) above);

- (e) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3E) above are fulfilled (judged at the time of the security's issue and read subject to paragraph 1(3F) and (3G) above)."

4 The following shall be inserted after paragraph 19—

*“Early redemption: special rules*

- 19A (1) Sub-paragraph (2) below applies where—
- (a) a security is issued on or after 13th November 1991,
  - (b) it would be a deep gain security apart from paragraph 1(3B) or (3E) above,
  - (c) it is redeemed before maturity, and
  - (d) immediately before redemption it was held by a person connected with the person who issued it.
- (2) As regards the redemption, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
  - (b) it had been acquired as such (whatever the time it was acquired).
- (3) Sub-paragraph (4) below applies where—
- (a) the conditions set out in sub-paragraph (1)(a) to (c) above are fulfilled,
  - (b) the security was transferred in the period ending with redemption and beginning with the day falling one year before the day of redemption, and
  - (c) the transfer was by a person connected with the person who issued the security.
- (4) As regards the transfer, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
  - (b) it had been acquired as such (whatever the time it was acquired).
- (5) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.”

5 (1) In paragraph 21 (non-gilts: special rules) in sub-paragraph (3) after “(1) above” there shall be inserted “, and subject to paragraph 21A below,”.

(2) The following paragraph shall be inserted after paragraph 21—

“21A (1) A security which (apart from this paragraph) would be a new would-be deep gain security for the purposes of paragraph 21(1) above is not such a security if the following three conditions are fulfilled.

(2) The first condition is that all the securities issued on the occasion of the original issue were issued before 13th November 1991.

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(3) The second condition is that the security is issued on or after 13th November 1991.

(4) The third condition is that, even if paragraph 1(7) above did not prevent the security being a deep gain security, it would nevertheless not be a deep gain security if for the purposes of paragraph 1(2) above “redemption” did not include any redemption which may be made before maturity otherwise than in pursuance of the exercise by the person who holds the security for the time being of an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security’s issue) is certain or likely to occur.”

6 The following shall be inserted after paragraph 22B—

*“No particular redemption date: special rule*

22C (1) This paragraph applies to a security whose terms contain no particular date by which it is to be redeemed.

(2) In the case of such a security the following expressions, wherever they appear in this Schedule, shall be construed as if the words “before maturity” were omitted—

- (a) the expression “redemption which may be made before maturity”;
- (b) the expression “redemption before maturity”;
- (c) the expression “redeemed before maturity”.

7 The amendments made by this Schedule shall be deemed always to have had effect.

8 Any such adjustment as is appropriate in consequence of this Schedule may be made (whether by way of discharge or repayment of tax, the making of an assessment or otherwise).

SCHEDULE 8

Section 34.

RIGHTS IN PURSUANCE OF DEPOSITS

*Disposal or exercise of rights*

1 The following section shall be inserted after section 56 of the Taxes Act 1988 (transactions in deposits etc.)—

**“56A Disposal or exercise of rights in pursuance of deposits**

- (1) This section applies where there is an arrangement under which—
  - (a) there is a right to receive an amount (with or without interest)  
in pursuance of a deposit of money,
  - (b) when the right comes into existence there is no certificate of deposit in respect of the right, and
  - (c) the person for the time being entitled to the right is entitled to call for the issue of a certificate of deposit in respect of the right.

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- (2) In such a case—
- (a) the right shall be treated as not falling within section 56(1)(b), and
  - (b) if there is a disposal or exercise of the right before such time (if any) as a certificate of deposit is issued in respect of it, section 56(2) shall apply to it by virtue of this paragraph.
- (3) In the application of section 56 by virtue of this section—
- (a) subsection (2) shall have effect as if the words from “(whether” to “person)” read “(whether by the person originally entitled to the right or by some other person)”, and
  - (b) subsection (3) shall have effect as if the words “stated in a certificate of deposit” read “under an arrangement”.
- (4) In this section “certificate of deposit” has the meaning given by section 56(5).”

*Building societies*

- 2 (1) Section 349 of that Act (payments not out of taxed profits etc.) shall be amended as follows.
- (2) In subsection (3A) (dividend or interest paid in respect of building society security) in paragraph (a) after “qualifying certificate of deposit” there shall be inserted “and other than a qualifying deposit right”.
- (3) In subsection (4) the following definition shall be inserted after the definition of “qualifying certificate of deposit”—
- ““qualifying deposit right” means a right to receive an amount (with or without interest) in pursuance of a deposit of money, where—
- (a) the right subsists under an arrangement falling within section 56A,
  - (b) no certificate of deposit, as defined in section 56(5), has been issued in respect of the right at the time the dividend or interest concerned is paid, and
  - (c) the conditions set out in paragraphs (a) and (b) in the definition of “qualifying certificate of deposit” apply; and”.
- 3 (1) Section 477A of that Act (regulations for deduction of tax) shall be amended as follows.
- (2) In subsections (1A) and (3A) (quoted securities) after “qualifying certificate of deposit” there shall be inserted “and other than a qualifying deposit right”.
- (3) In subsection (10) after “and” there shall be inserted—
- ““qualifying deposit right” has the meaning given by section 349(4), reading “paid” as “paid or credited”, and”.

*Deposit-takers*

- 4 In section 481 of that Act (definition of relevant deposit etc.) the following subsection shall be inserted after subsection (5)—

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- “(5A) In a case where—
- (a) there is an arrangement falling within section 56A,
  - (b) the deposit is with a deposit-taker,
  - (c) no certificate of deposit, as defined in section 56(5), has been issued in respect of the right at the time the interest mentioned in section 480A or 480C is paid, and
  - (d) the conditions set out in paragraphs (a) and (b) in the definition of “qualifying certificate of deposit” in section 482(6) apply,
- the deposit is not a relevant deposit.”

*Accrued income scheme*

- 5 In section 710 of that Act (definitions for purposes of accrued income scheme) in subsection (3) (securities not to include certain items) the following paragraph shall be inserted after paragraph (d)—
- “(da) any security which fulfils the following conditions, namely, it is a right to receive an amount (with or without interest) in pursuance of a deposit of money, it subsists under an arrangement falling within section 56A, and no certificate of deposit (as defined in section 56(5)) has been issued in respect of it at the time of the transfer concerned;”.

*General*

- 6 This Schedule shall apply in relation to arrangements made after the day on which this Act is passed.

SCHEDULE 9

Section 56.

FRIENDLY SOCIETIES

*Amendments of the Taxes Act 1988*

- 1 The Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 19 below.
- 2 (1) Section 266 (personal reliefs: life assurance premiums) shall be amended as follows.
- (2) In subsections (2)(a)(iii) and (6)(a), for “registered friendly society” there shall be substituted “friendly society”.
- (3) The following subsection shall be added at the end—
- “(13) In this section and Schedule 14, “friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).”
- 3 (1) Section 376 (mortgage interest relief at source: qualifying borrowers and lenders) shall be amended as follows.
- (2) In subsection (4), the following paragraph shall be substituted for paragraph (g)—

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“(g) a friendly society;”.

- (3) The following subsection shall be inserted after subsection (4)—
- “(4A) In subsection (4)(g) above, “friendly society” means—
- (a) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act), or
  - (b) a registered branch within the meaning of that Act (including any branch that by virtue of section 96(3) of that Act is to be treated as a registered branch within the meaning of that Act).”
- 4 In section 459 (exemption from tax for unregistered friendly societies whose income does not exceed £160 a year) after “unregistered friendly society” there shall be inserted “(that is, a friendly society which is neither an incorporated friendly society nor a registered friendly society)”.
- 5 (1) Section 460 (exemption from tax for registered friendly societies in respect of life or endowment business) shall be amended as follows.
- (2) In subsection (1), for “registered friendly society” there shall be substituted “friendly society”.
- (3) In subsection (2)—
- (a) in paragraph (a), for “friendly society” there shall be substituted “registered friendly society”, and
  - (b) the following paragraph shall be inserted after paragraph (a)—
 

“(aa) shall not, subject to section 462, exempt an incorporated friendly society which, before its incorporation, was a registered friendly society such as is mentioned in paragraph (a) above;”.
- (4) In subsections (5) to (10), for “registered friendly society” (in each place) there shall be substituted “friendly society”.
- (5) In subsection (11)—
- (a) for “registered friendly society” there shall be substituted “friendly society”,
  - (b) for “section 72 of the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “section 91 of the Friendly Societies Act 1992”, and
  - (c) for “that Act” there shall be substituted “either of those Acts”.
- 6 In section 461 (taxation of registered friendly societies in respect of other business) in subsection (4)(a)—
- (a) for “section 72 of the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “section 91 of the Friendly Societies Act 1992”, and
  - (b) for “that Act” there shall be substituted “either of those Acts”.
- 7 The following sections shall be inserted after section 461—

**“461A Taxation in respect of other business: incorporated friendly societies qualifying for exemption**

- (1) For the purposes of sections 461B and 461C, a “qualifying society” is an incorporated friendly society which—

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- (a) immediately before its incorporation, was a registered friendly society to which section 461(2) did not apply,
  - (b) was formed otherwise than by the incorporation of a registered friendly society or the amalgamation of two or more friendly societies and satisfies subsection (2) below, or
  - (c) was formed by the amalgamation of two or more friendly societies and satisfies subsection (3) below,
- and in respect of which no direction under section 461C(5) is in force.
- (2) A society satisfies this subsection if its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the Friendly Societies Commission.
- (3) If at the time of the amalgamation referred to in subsection (1)(c) above—
- (a) section 461(2) applied to none of the registered friendly societies being amalgamated (if any), and
  - (b) all of the incorporated friendly societies being amalgamated (if any) were qualifying societies,
- the society formed by the amalgamation satisfies this subsection.

#### **461B Taxation in respect of other business: incorporated friendly societies etc**

- (1) Subject to the following provisions of this section, a qualifying society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.
- (2) Subsection (1) above shall not apply to any profits arising or accruing to the society from, or by reason of its interest in, a body corporate which is a subsidiary (within the meaning of the Friendly Societies Act 1992) of the society or of which the society has joint control (within the meaning of that Act).
- (3) If an incorporated friendly society which is not a qualifying society makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
- (a) any previous payment so made to him by the society, and
  - (b) any earlier repayment of such sums paid by him,
- the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.
- (4) In relation to an incorporated friendly society which, immediately before its incorporation, was a registered friendly society to which section 461(2) applied—
- (a) the references in subsection (3) above to sums paid to the society shall include sums paid to the registered friendly society,

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- (b) the reference in subsection (3)(a) above to any payment made by the society shall include any payment made by the registered friendly society after 26 March 1974 or such later date as was specified in any direction under section 461(8) relating to it, and
  - (c) the reference in subsection (3)(b) above to any repayment shall include any repayment made by the registered friendly society.
- (5) Where a qualifying society at any time ceases by virtue of section 91 of the Friendly Societies Act 1992 (conversion into company) to be registered under that Act, the company into which the society is converted shall be exempt from income tax or corporation tax on its profits arising from any part of its business, other than life or endowment business, which relates to contracts made before that time.
- (6) Subsection (5) above shall apply so long as there is no increase in the scale of benefits which the company undertakes to provide in the course of carrying on the relevant part of its business.
- (7) Any part of a company's business to which an exemption under subsection (5) above relates shall be treated for the purposes of the Corporation Tax Acts as a separate business from any other business carried on by the company.

**461C Taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society**

- (1) Subject to subsection (2) below, subsections (3) to (5) below apply where a qualifying society—
- (a) begins to carry on business other than life or endowment business, or
  - (b) in the opinion of the Friendly Societies Commission, begins to carry on business other than life or endowment business on an enlarged scale or of a new character.
- (2) Subsections (3) to (5) below do not apply if—
- (a) the society's business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of section 461 or 461A by the Friendly Societies Commission, or
  - (b) the society's rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as is authorised for the purposes of section 461.
- (3) If it appears to the Commission, having regard to the restrictions imposed by section 461 on registered friendly societies registered after 31st May 1973, that for the protection of the revenue it is expedient to do so, the Commission may serve a notice on the society—
- (a) referring to the provisions of this section, and
  - (b) stating that the Commission is considering the question whether, for the protection of the revenue, it is expedient to give a direction that the society shall cease to be a qualifying society as from the date of the notice.

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- (4) The Commission shall consider any representations or undertakings made or offered to the Commission by the society within the period of one month from service of the notice and, if the society so requests, shall afford it an opportunity of being heard by the Commission not later than three weeks after the end of that period.
  - (5) If, after consideration of any such representations or undertakings, the Commission remains of the opinion that it is expedient to do so, the Commission shall direct that the society shall cease to be a qualifying society as from the date of the notice, but subject to any further direction given by the Commission cancelling that direction.
  - (6) A friendly society may, within one month from the giving of a direction under subsection (5) above, appeal against it to a tribunal constituted in accordance with section 59(2) of the Friendly Societies Act 1992.
  - (7) The Treasury may by regulations provide for sections 58 to 61 of that Act to have effect in relation to appeals under subsection (6) above subject to such modifications as may be prescribed by the regulations.”
- 8 (1) Section 462 (conditions for tax exempt business) shall be amended as follows.
- (2) In subsection (2), for “Section 460(2)(a)” there shall be substituted “Section 460(2) (a) or (aa)”.
  - (3) In subsection (3), for “registered friendly society or branch” there shall be substituted “friendly society or registered branch”.
- 9 In section 462A (election as to tax exempt business) the following subsection shall be added at the end—
- “(9) If a friendly society which (or a branch of which) has made an election under subsection (1) or (2) above becomes an incorporated friendly society, the election shall have effect in relation to the incorporated friendly society as it had effect in relation to the society (or branch) which made the election (and accordingly, in relation to accounting periods of the incorporated friendly society, “the society” in subsection (8)(a) and (b) above shall be read as referring to the incorporated friendly society).”
- 10 In section 463 (life or endowment business: application of the Corporation Tax Acts) in subsection (1) for “registered friendly societies” there shall be substituted “friendly societies”.
- 11 (1) Section 464 (maximum benefits payable to members) shall be amended as follows.
- (2) In subsections (1) and (3), for “registered friendly society or branch” there shall be substituted “friendly society or registered branch”.
  - (3) In subsection (5)(d)(ii), for “society which is not” there shall be substituted “friendly society other than”.
  - (4) In subsection (7)—
    - (a) for “registered friendly society or branch” there shall be substituted “friendly society or registered branch”, and
    - (b) for “registered friendly societies or branches” there shall be substituted “friendly societies or registered branches”.

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12 In section 465 (old societies) the following subsection shall be added at the end—

“(6) If a registered friendly society in respect of which a direction is in force under subsection (4) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a new society.”

13 The following section shall be inserted after section 465—

**“465A Assets of branch of registered friendly society to be treated as assets of society after incorporation**

(1) This section applies where any assets of a branch of a registered friendly society have been identified in a scheme under section 6(5) of the Friendly Societies Act 1992 (property, rights etc. excluded from transfer to the society on its incorporation).

(2) In relation to any time after the incorporation of the society, the assets shall be treated for the purposes of the Tax Acts as assets of the society (and, accordingly, any tax liability arising in respect of them shall be a liability of the society rather than of the branch).

(3) Where, by virtue of this section, tax in respect of any of the assets becomes chargeable on and is paid by the society, the society may recover from the trustees in whom those assets are vested the amount of the tax paid.”

14 (1) Section 466 (interpretation of sections 459 to 465) shall be amended as follows.

(2) In subsection (1) for the words from “any of paragraphs” to “1970” there shall be substituted “class I, II, III or IV of Head A of Schedule 2 to the Friendly Societies Act 1992”.

(3) Subsection (2) shall be amended as mentioned in sub-paragraphs (4) to (7) below.

(4) The following definitions shall be inserted before the definition of “life assurance business”—

““friendly society”, without qualification, means (except in section 459) an incorporated friendly society or a registered friendly society;

“incorporated friendly society” means a society incorporated under the Friendly Societies Act 1992;”.

(5) The following definition shall be substituted for the definition of “new society”—

““new society” means—

(a) a registered friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business, or

(b) an incorporated friendly society other than one which, before its incorporation, was a registered friendly society not within paragraph (a) above;”.

(6) The following definitions shall be inserted after the definition of “policy”—

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““registered branch” means the same as in the Friendly Societies Act 1992 (and includes any branch that by virtue of section 96(3) of that Act is to be treated as a registered branch);

“registered friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society);”.

- (7) For the words from “include” to the end of the subsection there shall be substituted “include, in the case of a registered friendly society, references to any branch of that society”.
- (8) In subsection (3) for the words “registered friendly society” there shall be substituted “friendly society”.
- (9) The following subsection shall be added at the end—
- “(5) An incorporated friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as a society which, before its incorporation, was a registered friendly society registered not later than 3rd May 1966 if at the time of the amalgamation—
- (a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and
- (b) at least one of them was not a new society.”
- 15 In section 539 (life policies etc: introductory) in subsection (3) the following definition shall be inserted after the definition of “capital redemption policy”—
- ““friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”.
- 16 In section 599 (charge to tax: commutation of entire pension in special circumstances) for subsection (8)(b) there shall be substituted—
- “(b) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).”
- 17 In section 630 (personal pension schemes: interpretation) for paragraph (b) of the definition of “authorised insurance company” there shall be substituted—
- “(b) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”.
- 18 (1) Schedule 14 (provisions ancillary to section 266) shall be amended as follows.
- (2) In paragraphs 2(1)(b) and 3(1), for “registered friendly society” there shall be substituted “friendly society”.
- (3) In paragraph 3(3)(a), for “registered friendly societies” there shall be substituted “friendly societies”.
- 19 (1) Schedule 15 (qualifying policies) shall be amended as follows.

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- (2) In paragraph 3(1), for “registered friendly society” there shall be substituted “friendly society”.
- (3) In paragraph 3(2)(c), after “the friendly society” there shall be inserted “(or any successor of it)”.
- (4) In paragraph 3(4)(c), after “the same friendly society” there shall be inserted “(or any predecessor of it)”.
- (5) In paragraph 3, the following sub-paragraph shall be inserted after sub-paragraph (4) —
- “(4A) For the purposes of sub-paragraphs (2) and (4) above—
- (a) a friendly society formed on the amalgamation of two or more friendly societies is the successor of each of those societies (and each of those societies was a predecessor of the society so formed), and
- (b) an incorporated friendly society that was a registered friendly society before its incorporation is the successor of the registered friendly society (and the registered friendly society was the predecessor of the incorporated friendly society).”
- (6) For paragraph 4(3)(b)(i) there shall be substituted—
- “(i) it was effected in the course of business within class VI of Head A or class I of Head B of Schedule 2 to the Friendly Societies Act 1992.”.
- (7) In paragraph 6(1)—
- (a) for “any friendly society” there shall be substituted “any registered friendly society (as defined in section 466)”, and
- (b) for “a friendly society” there shall be substituted “such a society”.

*Amendments of enactments relating to chargeable gains*

- 20 (1) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, after section 143 of the Capital Gains Tax Act 1979 there shall be inserted—

*“Friendly societies*

**143A Transfer of assets on incorporation of registered friendly society**

- (1) This section applies where a registered friendly society is incorporated under the Friendly Societies Act 1992 (“the 1992 Act”).
- (2) In this section—
- (a) “the registered society” means the society before the incorporation, and
- (b) “the incorporated society” means the society after the incorporation.
- (3) For the purposes of corporation tax on chargeable gains—
- (a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,

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- (b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and
- (c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.

### **143B Subsequent disposal of assets by incorporated society etc**

- (1) Where any asset acquired on a disposal to which section 143A(3) above applies is subsequently disposed of by the incorporated society, section 34 above shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.
- (2) If the disposal by the incorporated society is in relevant circumstances for the purposes of section 275(1) of the Income and Corporation Taxes Act 1970, the disposal to which section 143A(3) above applies shall for those purposes be taken to have been a previous transfer of the asset in relevant circumstances.”

- (2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992—
  - (a) in section 68 of the Finance Act 1985 (modification of indexation allowance) in subsection (7A)(a) after “123A,” there shall be inserted “143A,” and
  - (b) in Schedule 8 to the Finance Act 1988 (assets held on 31st March 1982) in paragraph 1(3)(a) after “123A,” there shall be inserted “143A.”

12 The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

- (2) In section 35 (disposal of assets held on 31st March 1982) in subsection (3)(d)(i) after “216,” there shall be inserted “217A,”.
- (3) After section 217 there shall be inserted—

*“Friendly societies*

### **217A Transfer of assets on incorporation of registered friendly society**

- (1) This section and section 217B apply where a registered friendly society is incorporated under the Friendly Societies Act 1992 (“the 1992 Act”).
- (2) In this section and section 217B—
  - (a) “the registered society” means the society before the incorporation, and
  - (b) “the incorporated society” means the society after the incorporation.
- (3) For the purposes of corporation tax on chargeable gains—
  - (a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,

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- (b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and
- (c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.

### **217B Rights of members in registered society equated with rights in incorporated society**

- (1) In this section, “change of membership” means a change effected by Schedule 4 to the 1992 Act whereby a member of the registered society or of a branch of the registered society becomes a member of the incorporated society or of a branch of the incorporated society.
- (2) For the purposes of this Act, a change of membership shall not be taken to involve any disposal or acquisition of an asset by the member concerned, but all the interests and rights in the incorporated society or a branch of the incorporated society that he has immediately after the change, taken together, shall be treated as a single asset which—
  - (a) was acquired by the first relevant acquisition, and
  - (b) was added to by any subsequent relevant acquisitions.
- (3) In subsection (2) above, “relevant acquisition” means an acquisition by which the member acquired any interest or right in the registered society or a branch of the registered society that he had immediately before the change of membership.

### **217C Subsequent disposal of assets by incorporated society etc**

- (1) Where any asset acquired on a disposal to which section 217A(3) applies is subsequently disposed of by the incorporated society, section 41 shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.
- (2) If the disposal by the incorporated society is in relevant circumstances for the purposes of section 174(1), the disposal to which section 217A(3) applies shall for those purposes be taken to have been a previous transfer of the asset in relevant circumstances.”

### *Commencement*

- 22 (1) This Schedule shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed for different provisions or different purposes.
- (2) An order under this paragraph may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the provisions brought into force.

SCHEDULE 10

Section 59.

FURNISHED ACCOMMODATION

*Introduction*

- 1 Paragraphs 2 to 8 below apply for the purposes of this Schedule.
- 2 (1) An individual is a qualifying individual for a year of assessment if apart from this Schedule he would be chargeable for the year to income tax under Case I or Case VI of Schedule D (or both those Cases) in respect of all relevant sums accruing to him in respect of a qualifying residence or qualifying residences; and it is immaterial whether the sums are treated for income tax purposes as derived from one source or from two or more separate sources.
- (2) Relevant sums are sums accruing in respect of the use of furnished accommodation in the residence or any of the residences or in respect of relevant goods or services supplied in connection with that use.
- (3) In a case where—
- (a) the individual is chargeable for the year to income tax in respect of sums falling within sub-paragraph (4) below, and
  - (b) any of those sums are treated for income tax purposes as derived from a source mentioned in sub-paragraph (1) above,
- the individual is not a qualifying individual for the year (if he would be apart from this sub-paragraph).
- (4) Sums fall within this sub-paragraph if they are not relevant sums accruing to the individual in respect of the residence or residences.
- 3 As regards a year of assessment a period is a basis period for a source mentioned in paragraph 2(1) above if it is a period on whose profits or gains income tax for the year falls to be finally computed in respect of the source.
- 4 A residence is a qualifying residence if it is the individual's only or main residence at any time in any period which as regards the year of assessment concerned is a basis period for a source mentioned in paragraph 2(1) above.
- 5 (1) This paragraph applies to determine an individual's limit for a year of assessment.
- (2) Subject to the following provisions of this paragraph, the limit is the basic amount for the year.
- (3) For the purposes of sub-paragraph (4) below a relevant period is—
- (a) any period which as regards the year is a basis period for a source mentioned in paragraph 2(1) above;
  - (b) any period of one year which begins at the same time as any period which is less than one year and falls within paragraph (a) above;
  - (c) any period of one year which ends at the same time as any period which is less than one year and falls within paragraph (a) above.
- (4) In a case where—
- (a) at any time in a relevant period sums accrue to a person or persons other than the individual in respect of the use of residential accommodation in the residence or any of the residences, or in respect of relevant goods or services supplied in connection with that use, and

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(b) at that time the residence concerned is the individual's only or main residence,

the limit is the amount equal to half the basic amount for the year.

6 The basic amount for a year of assessment is—

- (a) such sum as may be specified for the year by order made by the Treasury;
- (b) £3,250 if no sum is so specified.

7 “Residence” means a building, or part of a building, occupied or intended to be occupied as a separate residence, or a caravan or house-boat; but a building, or part of a building, which is designed for permanent use as a single residence shall be treated as a single residence notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate residences.

8 Relevant goods and services are meals, cleaning, laundry and goods and services of a similar nature.

*Exemption etc.*

9 (1) This paragraph applies if—

- (a) an individual is a qualifying individual for a year of assessment,
- (b) the amount of the sums mentioned in paragraph 2(1) above does not exceed the individual's limit for the year, and
- (c) no election that this paragraph shall not apply to the individual for the year has effect under paragraph 10 below.

(2) Where this paragraph applies the following shall be treated as nil for the purposes of the Tax Acts—

- (a) the profits or gains of any period which as regards the year is a basis period for a source mentioned in paragraph 2(1) above;
- (b) the losses of any such period.

(3) Where this paragraph applies no allowance or balancing charge shall be made for the year to or on the individual under section 24 of the Capital Allowances Act 1990 in respect of any machinery or plant provided for the purposes of any trade from which any of the sums mentioned in paragraph 2(1) above are derived.

(4) In a case where—

- (a) apart from this sub-paragraph the preceding provisions of this paragraph would apply, and
- (b) the amount of the sums mentioned in paragraph 2(1) above together with the amount of any relevant balancing charges would exceed the individual's limit for the year,

the preceding provisions of this paragraph shall not apply.

(5) For the purposes of sub-paragraph (4) above a relevant balancing charge is a balancing charge which (apart from this paragraph) would be made for the year on the individual under section 24 of the Capital Allowances Act 1990 in respect of any machinery or plant provided for the purposes of any trade from which any of the sums mentioned in paragraph 2(1) above are derived.

(6) In ascertaining the amount of sums for the purposes of this paragraph no deduction shall be made in respect of expenses or any other matter.

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- 10 (1) An individual may elect that paragraph 9 above shall not apply to him for a year of assessment, and (unless withdrawn) the election shall have effect accordingly.
- (2) An election under this paragraph shall have effect only for the year of assessment for which it is made.
- (3) An individual who has made an election under this paragraph for a year of assessment may give a notice to withdraw the election, and if he does so the election shall not have effect for that year.
- (4) An election, or notice of withdrawal, under this paragraph—
- (a) must be made or given before the end of the period of one year beginning with the end of the year of assessment concerned or such longer period as the Board may in any particular case allow, and
  - (b) must be made or given in writing to the inspector.
- (5) In a case where—
- (a) an election is made, or a notice to withdraw an election is given, under this paragraph, and
  - (b) in order to give effect to the election or its withdrawal it is necessary to make an adjustment by way of an assessment,
- the assessment shall not be out of time if it is made before the end of the period of one year beginning with the day when the election was made or (as the case may be) the notice to withdraw was given.

*Adjusted profits etc.*

- 11 (1) This paragraph applies if—
- (a) an individual is a qualifying individual for a year of assessment,
  - (b) the amount of the sums mentioned in paragraph 2(1) above exceeds the individual's limit for the year, and
  - (c) an election that this paragraph shall apply to the individual for the year has effect under paragraph 12 below.
- (2) In a case where—
- (a) this paragraph applies, and
  - (b) the sums mentioned in paragraph 2(1) above are treated for income tax purposes as derived from a single source,
- the profits or gains of any period which as regards the year is a basis period for the source shall be treated for the purposes of the Tax Acts as equal to the amount found by deducting amount B from amount A.
- (3) For the purposes of sub-paragraph (2) above—
- (a) amount A is the amount of the sums mentioned in paragraph 2(1) above;
  - (b) amount B is the amount of the individual's limit for the year.
- (4) In a case where—
- (a) this paragraph applies, and
  - (b) the sums mentioned in paragraph 2(1) above are treated for income tax purposes as derived from two or more separate sources,

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the profits or gains of any period which as regards the year is a basis period for a separate source shall be treated for the purposes of the Tax Acts as equal to the amount found by deducting amount D from amount C.

- (5) For the purposes of sub-paragraph (4) above—
- (a) amount C is the amount of such of the sums mentioned in paragraph 2(1) above as are treated for income tax purposes as derived from the separate source, and
  - (b) amount D is the amount found by multiplying the amount of the individual's limit for the year by the appropriate fraction;
- and the appropriate fraction is the fraction whose numerator is equal to the number of pounds in amount C and whose denominator is equal to the number of pounds in the sums mentioned in paragraph 2(1) above.
- (6) Where this paragraph applies no allowance shall be made for the year to the individual under section 24 of the Capital Allowances Act 1990 in respect of any machinery or plant provided for the purposes of any trade from which any of the sums mentioned in paragraph 2(1) above are derived.
- (7) In ascertaining the amount of sums for the purposes of this paragraph no deduction shall be made in respect of expenses or any other matter.
- 12 (1) An individual may elect that paragraph 11 above shall apply to him for a year of assessment.
- (2) An election under this paragraph—
- (a) shall (unless withdrawn) have effect for the year of assessment for which it is made and for subsequent years of assessment,
  - (b) must be made before the end of the period of one year beginning with the end of the year of assessment for which it is made or such longer period as the Board may in any particular case allow, and
  - (c) must be made in writing to the inspector.
- (3) An individual who has made an election under this paragraph may give a notice to withdraw the election, and if he does so the election shall not have effect for the year of assessment for which the notice is given or any subsequent year.
- (4) A notice of withdrawal under this paragraph—
- (a) must be given before the end of the period of one year beginning with the end of the year of assessment for which it is given or such longer period as the Board may in any particular case allow,
  - (b) must be given in writing to the inspector, and
  - (c) shall not prejudice the making of a fresh election for any subsequent year of assessment.
- (5) Sub-paragraph (6) below applies where—
- (a) an individual is a qualifying individual for a year of assessment,
  - (b) the amount of the sums mentioned in paragraph 2(1) above does not exceed the individual's limit for the year, and
  - (c) an election under this paragraph has effect (apart from sub-paragraph (6) below) for the year.
- (6) In such a case—

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- (a) the individual shall be deemed to have given notice to withdraw the election for the year of assessment concerned,
- (b) the notice shall be deemed to have been given on the last day of the period of one year beginning with the end of the year of assessment concerned, and
- (c) sub-paragraphs (3) and (4)(c) above and (7) below shall apply accordingly.

(7) In a case where—

- (a) an election is made, or a notice to withdraw an election is given, under this paragraph, and
- (b) in order to give effect to the election or its withdrawal it is necessary to make an adjustment by way of an assessment,

the assessment shall not be out of time if it is made before the end of the period of one year beginning with the day when the election was made or (as the case may be) the notice to withdraw was given.

#### *Application of Schedule*

- 13 This Schedule shall apply in relation to the year 1992-93 and subsequent years of assessment (whatever the basis period or periods for the source or sources mentioned in paragraph 2(1) above may be as regards the year of assessment concerned).

### SCHEDULE 11

Section 63.

#### PAYING AND COLLECTING AGENTS ETC.

- 1 (1) Section 123 of the Taxes Act 1988 (foreign dividends) shall be amended as follows.
- (2) In subsection (2), for the words from “they shall be assessed” to the end there shall be substituted “they shall be chargeable to income tax under Schedule D”.
- (3) In subsection (3), the words from “and income tax” to the end shall be omitted.
- (4) The following subsection shall be inserted after subsection (3)—
- “(3A) Parts III and IV of Schedule 3 shall have effect in relation to tax chargeable by virtue of subsection (2) or (3) above.”
- 2 (1) Schedule 3 to that Act (machinery for assessment, charge and payment of income tax on public revenue dividends, foreign dividends, proceeds of coupons etc.) shall be amended as follows.
- (2) The following paragraphs shall be inserted after paragraph 6—
- “6A (1) On the fourteenth day following the month in which a transaction such as is mentioned in paragraph 6 above is effected, income tax (at the basic rate in force at the time of payment) shall become due in respect of the relevant dividends or proceeds.
- (2) The tax shall be payable by the chargeable person on behalf of the persons entitled to the dividends or proceeds.
- (3) The tax shall be payable without the making of any assessment.
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- 6B Any tax due under paragraph 6A above shall carry interest, at the rate applicable under section 178 of the Finance Act 1989, from the date on which it becomes due until it is paid.
- 6C (1) For each quarter in which a person effects a transaction in respect of which he is a chargeable person, he shall make a return to the Board.
- (2) The return shall specify the chargeable person's name and address and give, in respect of each such transaction effected by him in the quarter, correct and complete particulars of—
- (a) the relevant dividends or proceeds, and
  - (b) the income tax on those dividends or proceeds for which he has accounted, or is accountable, under paragraph 6A above.
- (3) The return shall be made within 30 days from the end of the quarter.
- (4) In this paragraph and paragraphs 6D to 6F below, "quarter" means any period of three months ending with 31st March, 30th June, 30th September or 31st December.
- 6D (1) Any income tax which has become due under paragraph 6A above and particulars of which are included in a return may be assessed on the chargeable person (whether or not it has been paid when the assessment is made) if it, or any part of it, was not paid on or before the date on which it became due.
- (2) If it appears to the Board that there are any dividends or proceeds particulars of which ought to have been and have not been included in a return, or if the Board are not satisfied with any return, the Board may make an assessment on the chargeable person of the amount, or further amount, of income tax for which he is in their opinion accountable.
- (3) Where the Board make an assessment under sub-paragraph (2) above they shall specify—
- (a) which of the months in the quarter was the one in which they consider the transactions in question were effected, or
  - (b) where they consider that the transactions were effected in more than one of the months in the quarter, the proportion of the total amount of the assessment that is to be attributed to each of those months.
- (4) Any income tax assessed under sub-paragraph (2) above shall be due within 14 days after the issue of the notice of assessment; but for the purposes of paragraph 6B above—
- (a) it shall be treated as having become due on the fourteenth day following the month specified under sub-paragraph (3)(a) above, or
  - (b) each of the portions of it specified under sub-paragraph (3)(b) above shall be treated as having become due on the fourteenth day following the month to which it is to be attributed.
- 6E (1) None of the provisions of section 29 of the Management Act (assessing procedure) except subsections (5) and (6) shall apply in relation to assessments under paragraph 6D above.

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- (2) For the purposes of sections 34 and 36(1) of the Management Act (time limits for making assessments), an assessment under paragraph 6D above shall be taken to relate to the year of assessment in which the quarter to which the assessment relates ends.
- (3) In the application of section 36(2) of the Management Act in relation to an assessment under paragraph 6D above, for the word “year” there shall be substituted the word “quarter”.
- 6F If a person has made a payment purporting to be a payment of tax due under paragraph 6A above but it appears to the Board that—
- (a) he was not liable to make any payment under that paragraph, or
  - (b) the sum paid exceeded his liability under that paragraph,
- the Board shall make or allow to be made such repayments, adjustments or set-offs against unpaid tax as they think appropriate.”
- (3) Paragraphs 6(2), 7, 8 and 9 (which are superseded by the paragraphs inserted by sub-paragraph (2) above) and paragraphs 10 and 15(2) (remuneration of chargeable persons etc.) shall be omitted.
- (4) In paragraph 11, for “paragraphs 6 to 10” there shall be substituted “paragraphs 6 to 6F”.
- (5) In paragraph 13(1)—
- (a) the words “Without prejudice to the generality of paragraph 7 above” shall be omitted, and
  - (b) for “accounts delivered by that person under paragraph 6 above are” there shall be substituted “return made by that person under paragraph 6C above is”.
- 3 In section 86 of the Taxes Management Act 1970 (interest on overdue tax), paragraph 2 of the Table in subsection (4) (which relates to tax assessed under Part III of Schedule 3 to the Taxes Act 1988) shall be omitted.
- 4 In section 98 of the Taxes Management Act 1970 (penalties for failure to provide information etc.), in the second column of the Table, for “Schedule 3, paragraph 6” there shall be substituted “Schedule 3, paragraph 6C”.
- 5 In section 178 of the Finance Act 1989 (setting rates of interest), in subsection (2) (m), after “826 of,” there shall be inserted “and paragraph 6B of Schedule 3 to,”.
- 6 This Schedule shall have effect in relation to transactions effected on or after 1st October 1992.

## SCHEDULE 12

Section 66.

### BANKS ETC. IN COMPULSORY LIQUIDATION

#### *Introductory*

- 1 (1) This Schedule applies where—
- (a) a company is being, or has been, wound up by the court in the United Kingdom,

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- (b) the company was, at any time in the period mentioned in sub-paragraph (2) below, lawfully carrying on a deposit-taking business within the meaning of the Banking Act 1987 (otherwise than by virtue of an exemption under section 4 of that Act),
  - (c) the trade of the company that included the deposit-taking business (referred to in this Schedule as “the relevant trade”) has been permanently discontinued, and
  - (d) the company is insolvent and either was so when the winding-up proceedings were commenced or became so at any time in the period of twelve months following the day on which they were commenced.
- (2) The period mentioned in sub-paragraph (1)(b) above is the period of twelve months ending with—
- (a) the day on which the winding-up proceedings were commenced, or
  - (b) the day on which the relevant trade was discontinued,
- whichever was the earlier.
- 2 (1) Sub-paragraphs (2) to (5) below apply for the purposes of this Schedule.
- (2) “Company” means—
- (a) any company as defined in section 735 of the Companies Act 1985 or Article 3 of the Companies (Northern Ireland) Order 1986, or
  - (b) any unregistered company as defined in section 220 of the Insolvency Act 1986 or Article 184 of the Insolvency (Northern Ireland) Order 1989.
- (3) Winding-up proceedings shall be taken to have been commenced against a company at the time of the presentation of the petition for its winding up by the court.
- (4) A company’s ceasing to carry on a trade, or to be within the charge to corporation tax in respect of a trade, shall be treated as the permanent discontinuance of the trade, whether or not the trade is in fact discontinued.
- (5) A company shall be taken to be insolvent, or to have been insolvent at any time, if—
- (a) it is unable to pay its debts as they fall due, or was at that time unable to pay its debts as they fell due, or
  - (b) the value of the its assets is, or was at that time, less than the amount of its liabilities (taking into account its contingent and prospective liabilities).

*Taxation of certain receipts under Case VI of Schedule D*

- 3 (1) Tax shall be charged under Case VI of Schedule D in respect of any sums within sub-paragraph (2) below that are received by the company or its liquidator after—
- (a) the commencement of the winding-up proceedings, or
  - (b) the discontinuance of the relevant trade,
- whichever was the later.
- (2) Subject to sub-paragraph (3) below, any sum arising from the carrying on of the relevant trade is within this sub-paragraph, in so far as its value was not brought into account in computing the profits or gains of the trade for any period before the discontinuance.
- (3) The following are not within sub-paragraph (2) above—

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- (a) any sum received on behalf of a person who is entitled to it to the exclusion of the company and its liquidator;
  - (b) any sum realised by the transfer of an asset required to be valued under section 100 of the Taxes Act 1988 (valuation of trading stock at discontinuance);
  - (c) any interest or dividend that, by reason of its having been subjected to tax under other provisions, would not have been taken into account under Case I of Schedule D in computing the profits or gains of the relevant trade, had it continued.
- (4) Where tax is chargeable in respect of any sum by virtue of this paragraph, any other provision charging that sum to tax shall not apply.

*Relief from tax*

- 4 (1) In computing the tax that is chargeable by virtue of paragraph 3 above for any chargeable period, there shall be deducted from the amount that would otherwise be chargeable to tax the aggregate amount of all losses, expenses and debits within sub-paragraph (2) below incurred in that chargeable period or before it, in so far as relief (whether under this sub-paragraph, sub-paragraph (3) below or any other provision of the Tax Acts) has not been given in respect of them already.
- (2) Any loss, expense or debit (other than a loss, expense or debit arising directly or indirectly from the discontinuance itself) incurred—
- (a) after the later of the two events mentioned in paragraph 3(1) above, or
  - (b) in the case of a loss, at or before the discontinuance of the relevant trade,
- is within this sub-paragraph if it would have been deducted in computing for tax purposes the profits or gains of the trade for any period, or deducted from or set off against those profits or gains as so computed, had the trade continued.
- (3) If the aggregate amount exceeds the amount from which it is to be deducted under sub-paragraph (1) above, the company or its liquidator may make a claim requiring the excess to be deducted from or set off against the amount assessed to tax for the chargeable period in respect of any sums—
- (a) received after the later of the two events mentioned in paragraph 3(1) above, and
  - (b) excluded from paragraph 3(2) above by paragraph 3(3)(c) above,
- and relief, by repayment or otherwise, shall be given in respect of the excess accordingly.

*Application of charge etc. where rights to payments transferred*

- 5 Where the right of the company or its liquidator to receive any sum which is within paragraph 3(2) above (or which would be, if the right to receive it were not transferred) is transferred for value, any tax chargeable by virtue of paragraph 3 above shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length); and references in this Schedule to sums received shall be construed accordingly.

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*Election for carry-back*

- 6 (1) Where any sum is—
- (a) chargeable to tax by virtue of paragraph 3 above, and
  - (b) received in any chargeable period beginning in the period of six years following the day on which the relevant trade was discontinued,
- the company or its liquidator may, by notice sent to the inspector within two years after that chargeable period, elect that the tax so chargeable shall be charged as if the sum in question were received on the day on which the trade was discontinued.
- (2) Where such an election has been made, an assessment shall (notwithstanding anything in the Tax Acts) be made accordingly.

*Commencement*

- 7 This Schedule shall have effect in relation to chargeable periods ending after 10th March 1992.

SCHEDULE 13

Section 70.

CAPITAL ALLOWANCES: ENTERPRISE ZONES

*Introduction*

- 1 Part I of the Capital Allowances Act 1990 (capital allowances for buildings and structures) shall be amended as follows.

*Buildings and structures purchased before use*

- 2 After section 10 (purchases of buildings and structures) there shall be inserted the following section—

**“10A Purchases of buildings and structures: special provision for enterprise zones**

- (1) This section shall apply where—
- (a) expenditure is incurred on the construction of a building or structure (actual expenditure);
  - (b) some or all of that expenditure is incurred, or is incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and
  - (c) before the building or structure is used, the relevant interest in it is sold.
- (2) Where this section applies—
- (a) the actual expenditure shall be left out of account for the purposes of sections 1 to 8, but
  - (b) subject to subsection (8) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the

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construction of the building or structure (deemed expenditure) equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.

(3) The deemed expenditure shall be regarded as comprising an enterprise zone element and a non-enterprise zone element.

(4) The enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

(5) In subsection (4) above—

A is the deemed expenditure;

B is the expenditure falling within subsection (1)(b) above; and

C is the actual expenditure.

(6) The non-enterprise zone element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the enterprise zone element.

(7) Notwithstanding the provisions of subsection (2)(b) above—

(a) the enterprise zone element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as incurred at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and

(b) the non-enterprise zone element of the deemed expenditure shall be treated for that purpose as not incurred, and not incurred under a contract entered into, at such a time.

(8) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsection (2)(b) above shall have effect only in relation to the last of those sales.

(9) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—

(a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (2) above shall have effect as if the words “the actual expenditure or to” and “whichever is the less” were omitted; and

(b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.

(10) This section shall have effect subject to section 17A.”

3 In section 1 (buildings and structures in enterprise zones) in subsection (10) the words from “and, except for that purpose” to the end of the subsection shall cease to have effect.

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4 In section 6 (buildings and structures in enterprise zones) subsection (5) shall cease to have effect.

5 In section 10, at the beginning of subsection (1) there shall be inserted “Subject to subsection (3A) below,”.

6 After that subsection there shall be inserted the following subsection—

“(1A) Notwithstanding the provisions of paragraph (b) of subsection (1) above, in the case of a building or structure the site of which is or has been in an enterprise zone, any expenditure which a person is deemed to have incurred by virtue of that paragraph shall be treated for the purpose only of determining entitlement to allowances as not incurred, and not incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone.”

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

“(3A) Subsections (1) to (3) above shall not apply in any case where section 10A applies.”

*Buildings and structures purchased within two years of use*

8 After section 10A there shall be inserted the following section—

**“10B Purchases of buildings and structures in enterprise zones within two years of use**

(1) Without prejudice to section 10A, this section shall apply where—

- (a) expenditure is incurred on the construction of a building or structure (actual expenditure);
- (b) some or all of that expenditure is incurred, or is incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;
- (c) whether or not there were any sales of the relevant interest in the building or structure before it was used, that interest is sold after the building or structure has been used but before the expiry of the period of two years beginning with the date on which the building or structure was first used; and
- (d) that sale is the first such sale in that period.

(2) Where this section applies—

- (a) any balancing allowance or charge which falls to be made on the occasion of the sale shall be so made;
- (b) the residue of expenditure immediately after the sale (if any) shall be left out of account for the purposes of this Part;
- (c) the person who buys the relevant interest (the purchaser) shall be deemed for the purposes of sections 1 to 8 to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure (deemed expenditure) of an amount determined in accordance with the following provisions of this section; and

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- (d) in relation to the deemed expenditure, the building or structure shall be treated for the purposes of sections 1 to 8 as not having been used before the date of the sale.
- (3) The deemed expenditure shall be regarded as comprising an enterprise zone element and a non-enterprise zone element and the amount of the deemed expenditure shall accordingly be the sum of the enterprise zone element and the non-enterprise zone element.
- (4) The enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

- (5) In subsection (4) above—  
A is the actual expenditure or the net price paid by the purchaser for the relevant interest, whichever is the less;  
B is the expenditure falling within subsection (1)(b) above; and  
C is the actual expenditure.
- (6) The non-enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A - \left( A \times \frac{B}{C} \right)$$

- (7) In subsection (6) above—  
A is the actual expenditure or the net price paid by the purchaser for the relevant interest, whichever is the less;  
B is the expenditure falling within subsection (1)(b) above; and  
C is the actual expenditure.
- (8) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and he sells the relevant interest in the building or structure in the course of that trade or, as the case may be, of that part of that trade, then—
- (a) if that sale is the sale falling within subsection (1)(c) above—  
(i) section 10(4) and (5) shall not apply; and  
(ii) subsection (5) above shall have effect as if for the definition of A there were substituted—  
“(i) A is the net price paid by the purchaser for the relevant interest;”;
- (b) if that sale is a sale which occurs before the sale falling within subsection (1)(c) above, subsections (5) and (7) above shall have effect as if the reference in the definition of A in each of those subsections to the actual expenditure were a reference to the price paid on that sale.
- (9) Notwithstanding the provisions of subsection (2)(c) above—

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- (a) the enterprise zone element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as incurred at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and
- (b) the non-enterprise zone element of the deemed expenditure shall be treated for that purpose as not incurred, and not incurred under a contract entered into, at such a time.

(10) This section shall have effect subject to section 17A.”

9 At the beginning of section 10(4) there shall be inserted “Subject to section 10B”.

*Exclusion of expenditure*

10 After section 17 there shall be inserted the following section—

**“17A Enterprise zones: exclusion of expenditure**

References in sections 1(1)(b), 6(1), 10A(1)(b) and 10B(1)(b) to expenditure incurred under a contract entered into at a time when the site of a building or structure is in an enterprise zone do not include any expenditure incurred under the contract if the expenditure is incurred more than 20 years after the site in question was first included in the enterprise zone.”

11 After section 1(10) there shall be inserted the following subsection—

“(11) This section shall have effect subject to section 17A.”

12 After section 6(4) there shall be inserted the following subsection—

“(4A) This section shall have effect subject to section 17A.”

*Miscellaneous*

13 In section 4(9) (balancing allowances and charges) in paragraph (a) of the definition of “the capital expenditure” after the words “section 10(1)” there shall be inserted “10A or 10B”.

*Commencement*

14 Paragraphs 2 to 7 above shall have effect in any case where the purchase price payable on the sale of the relevant interest in a building or structure before it is used (or if there is more than one such sale before the building or structure is used, the purchase price payable on the last of those sales) becomes payable on or after 16th December 1991.

15 Paragraphs 8 and 9 above shall have effect in relation to buildings or structures first used on or after 16th December 1991.

16 Paragraph 10 above shall apply in relation to contracts whenever made.

17 Paragraph 13 above shall have effect in accordance with paragraphs 14 and 15 above.

SCHEDULE 14

Section 73.

INHERITANCE TAX

*Business property*

1 In section 104 of the Inheritance Tax Act 1984 (relief for relevant business property)

(a) in subsection (1)(a), for “50 per cent” there shall be substituted “100 per cent”;

(b) in subsection (1)(b), for “30 per cent” there shall be substituted “50 per cent”.

2 (1) Section 105 of that Act (relevant business property) shall be amended as follows.

(2) In subsection (1)(b), after “which” there shall be inserted “are unquoted and which”.

(3) In subsection (1), the following paragraph shall be inserted after paragraph (c)—

“(cc) shares in or securities of a company which are quoted and which (either by themselves or together with other such shares or securities owned by the transferor) gave the transferor control of the company immediately before the transfer;”.

(4) The following subsection shall be inserted after subsection (1)—

“(1ZA) In subsection (1) above “quoted”, in relation to any shares or securities, means quoted on a recognised stock exchange and “unquoted”, in relation to any shares or securities, means not so quoted.”

(5) In subsection (2) after “subsection (1)(b)” there shall be inserted “or (cc)”.

3 In section 113A of that Act (transfers of relevant business property within seven years before death of transferor) the following subsection shall be inserted after subsection (3A)—

“(3B) In subsection (3A) above “quoted”, in relation to any shares or securities, means quoted on a recognised stock exchange and “unquoted”, in relation to any shares or securities, means not so quoted.”

*Agricultural property*

4 In section 116 of that Act (relief for agricultural property) in subsections (2) and (4)—

(a) for “50 per cent” (in each place) there shall be substituted “100 per cent”;

(b) for “30 per cent” (in each place) there shall be substituted “50 per cent”.

*Payment by instalments*

5 In section 227 of that Act (payment by instalments - land, shares and businesses) the following subsection shall be inserted after subsection (1A)—

“(1AA) In subsection (1A) above “unquoted”, in relation to any shares or securities, means not quoted on a recognised stock exchange.”

6 In section 228 of that Act (shares or securities within section 227) the following subsection shall be added at the end—

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“(5) In this section “unquoted”, in relation to any shares or securities, means not quoted on a recognised stock exchange.”

*Gifts with reservation*

- 7 In Schedule 20 to the Finance Act 1986 (gifts with reservation) in paragraph 8(1A)(a) (which refers to shares and securities qualifying for 50 per cent. business property relief) for the words from “within paragraph (b)” to “relief)” there shall be substituted “within paragraph (b), (bb) or (cc) of section 105(1) of the 1984 Act (certain shares or securities qualifying for relief)”.

*Commencement*

- 8 Subject to paragraph 9 below, the amendments made by this Schedule shall have effect in relation to transfers of value made, and other events occurring, on or after 10th March 1992.
- 9 (1) This paragraph applies where by reason of a death occurring on or after 10th March 1992—
- (a) a potentially exempt transfer made before that date proves to be a chargeable transfer, or
  - (b) additional tax falls to be calculated in respect of a chargeable transfer (other than a potentially exempt transfer) made before that date and within seven years of the death.
- (2) Subject to sub-paragraph (3) below, for the purposes of sections 113A and 113B of the Inheritance Tax Act 1984, it shall be assumed—
- (a) that the amendments made by this Schedule came into effect at the time the transfer was made, and
  - (b) (in a case within sub-paragraph (1)(b) above) that so much of the value transferred as would have been reduced in accordance with Chapter I of Part V of that Act as amended by this Schedule was so reduced.
- (3) Where, disregarding the amendments made by this Schedule, any shares or securities transferred fell within section 105(1)(b) of that Act in relation to the transfer, those amendments shall be disregarded in determining whether section 113A(3A) applies to the shares or securities.
- (4) This paragraph shall be construed as if it were contained in Chapter I of Part V of that Act.

SCHEDULE 15

Section 74.

AMENDMENTS RELATING TO OIL EXPORTED DIRECTLY FROM OFF-SHORE FIELDS

*THE OIL TAXATION ACT 1975*

- 1 In section 2 (assessable profits and allowable losses), in subsection (5A) (gas exported from a place on land in the United Kingdom) for the words from “required”, in the second place where it occurs, to the end of the subsection

there shall be substituted “did not require the seller to meet any such costs as are mentioned above but did require the gas to be delivered—

(i) in the case of gas extracted in the United Kingdom, at the place of extraction; or

(ii) in the case of gas extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.”

2 (1) In section 3 (allowance of expenditure), in subsection (1), in paragraph (f) (transportation costs)—

(a) after the words “transporting it” there shall be inserted “(i)”; and

(b) for the words “or to the place in the United Kingdom” there shall be substituted “or

(ii) to the place in the United Kingdom or, in the case of oil first landed in another country, to the place in that or any other country (other than the United Kingdom)”.

(2) In subsection (4) of that section, in paragraph (c) (allowable expenditure does not include cost of acquiring buildings or structures, subject to exceptions)—

(a) in sub-paragraph (i) the words “of either the territorial sea of the United Kingdom or a designated area” shall be omitted; and

(b) in sub-paragraph (iv) for the words “in the United Kingdom to the place in the United Kingdom” there shall be substituted “to the place in the United Kingdom or, in the case of oil first landed in another country, to the place in that or any other country (other than the United Kingdom)”.

(3) In subsection (5) of that section (expenditure qualifying for supplement), in each of paragraphs (a) and (c) after the words “United Kingdom” there shall be inserted the words “or another country”.

(4) At the end of subsection (6) of that section (apportionment of expenditure) there shall be added the words “and where, in the case of oil won as mentioned in paragraph (f) of subsection (1) above, expenditure is incurred in transporting—

(a) oil first landed in the United Kingdom to a place in the United Kingdom which is not the nearest place referred to in sub-paragraph (ii) of that paragraph, or

(b) oil first landed in another country to a place in that or any other country (other than the United Kingdom) which is not the nearest place so referred to,

so much of that expenditure as does not exceed what would have been the expenditure incurred in transporting it to that nearest place shall be regarded as falling within the said paragraph (f).”

3 In section 12(1) (definitions),—

(a) in the definitions of “initial storage” and “initial treatment” the words “in the United Kingdom, the territorial sea thereof or a designated area” shall be omitted;

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- (b) in the definition of “initial storage” after the words “United Kingdom”, in the second place where they occur, there shall be inserted “or another country”;
  - (c) in the definition of “land”, after the words “United Kingdom” there shall be inserted “or another country”; and
  - (d) in the definition of “production purposes” after the words “United Kingdom”, in the last place where they occur, there shall be inserted “or another country”.
- 4 (1) In Schedule 3, in paragraph 2 (market value of oil), in sub-paragraph (2)(e)(ii) after the words “United Kingdom”, in the second place where they occur, there shall be inserted the words “or another country”.
- (2) In paragraph 7 of that Schedule (exclusion of off-shore oil in transit to place of first landing in United Kingdom)—
- (a) in the heading the words “in United Kingdom” shall be omitted; and
  - (b) in sub-paragraph (a) after the words “United Kingdom” there shall be inserted “or to the place referred to in section 3(1)(f)(ii) of this Act”.

*THE FINANCE ACT 1982*

- 5 In Schedule 18 (alternative valuation of light gases), in paragraph 3, in sub-paragraph (2) (the terms of the relevant contract), in paragraph (a) after the words “United Kingdom” there shall be inserted the words “or another country”.

*THE OIL TAXATION ACT 1983*

- 6 In Schedule 1 (extension of allowable expenditure for assets generating receipts), in paragraph 1 (associated assets), in sub-paragraph (4) paragraph (c) and the word “and” immediately preceding it shall be omitted.
- 7 In Schedule 2 to that Act (supplemental provisions as to receipts from qualifying assets), in paragraph 12 (purchase at place of extraction), in sub-paragraph (3) for paragraphs (a) and (b) there shall be substituted “before it has been transported—
- (a) to the place at which it is first landed in the United Kingdom; or
  - (b) to the place referred to in section 3(1)(f)(ii) of the principal Act”.
- 8 In Schedule 4 to that Act (receipts attributable to United Kingdom use of foreign field assets), in paragraph 11 there shall be omitted—
- (a) in sub-paragraph (3) the words “and on the further assumption set out in sub-paragraph (4) below”; and
  - (b) sub-paragraph (4).

*THE FINANCE ACT 1986*

- 9 In Schedule 21 (alternative valuation of light gases), in paragraph 5(1) after the words “(definition of “the relevant contract”)” there shall be inserted “in sub-paragraph (1)”.

SCHEDULE 16

Section 76.

GENERAL AND SPECIAL COMMISSIONERS

- 1 The Taxes Management Act 1970 shall be amended in accordance with paragraphs 2 to 5 below.

*Remuneration of General Commissioners etc.*

- 2 (1) In section 2 (General Commissioners), the following subsection shall be substituted for subsection (5)—

“(5) The Lord Chancellor or, in Scotland, the Secretary of State shall pay General Commissioners by way of travelling allowance or subsistence allowance sums of such amounts and in such circumstances as he may, with the approval of the Treasury, determine.”

- (2) Section 3 (clerk to General Commissioners) shall be amended as mentioned in subparagraphs (3) and (4) below.

- (3) The following subsection shall be substituted for subsection (2)—

“(2) The Lord Chancellor or, in Scotland, the Secretary of State shall pay a clerk such remuneration in respect of his services as the Lord Chancellor or Secretary of State may, with the approval of the Treasury, determine.”

- (4) In subsection (3)—

- (a) for “The Board may, in such cases as they may in their discretion determine” there shall be substituted “The Lord Chancellor or, in Scotland, the Secretary of State may, in such cases as he may in his discretion determine”,
- (b) for “they may with the consent of the Minister for the Civil Service determine” there shall be substituted “he may, with the approval of the Treasury, determine”, and
- (c) for “the Board are satisfied” there shall be substituted “the Lord Chancellor or Secretary of State is satisfied”.

- (5) This paragraph shall come into force on 1st April 1994.

*Jurisdiction*

- 3 The following section shall be inserted after section 46—

**“46A Regulations about jurisdiction**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations—

- (a) providing for appeals or other proceedings under the Taxes Acts to be determined in certain circumstances by the Special Commissioners instead of the General Commissioners or by the General Commissioners instead of the Special Commissioners;
- (b) providing for appeals or other proceedings under the Taxes Acts that would otherwise be determined by the General Commissioners for one division to be determined in certain circumstances by the General Commissioners for another division;

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- (c) as to the number of General Commissioners or Special Commissioners required or permitted to hear, or perform other functions in relation to, appeals or other proceedings under the Taxes Acts.
- (2) The regulations may—
  - (a) make different provision for different cases or different circumstances, and
  - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (3) Provision made by virtue of subsection (1) or (2) above may include provision amending this or any other Act or any instrument made under an Act.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

*Practice and procedure*

4 The following sections shall be inserted after section 56A—

**“56B Regulations about practice and procedure**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations about the practice and procedure to be followed in connection with appeals.
- (2) The regulations may in particular include provision—
  - (a) enabling the Commissioners to join as a party to an appeal a person who would not otherwise be a party;
  - (b) for requiring any party to an appeal to provide information and make documents available for inspection by the Commissioners or by officers of the Board;
  - (c) for requiring persons to attend the hearing of an appeal to give evidence and produce documents;
  - (d) as to evidence generally in relation to appeals;
  - (e) enabling the Commissioners to review their decisions;
  - (f) for the imposition of penalties not exceeding an amount specified in the regulations;
  - (g) for the determination and recovery of penalties (imposed by virtue of paragraph (f) above or any other enactment) and for appeals against penalties.
- (3) The regulations may also include provision—
  - (a) authorising or requiring the Commissioners, in circumstances prescribed in the regulations, to state a case for the opinion of a court;
  - (b) for an appeal to lie to a court on a question of law arising from a decision of the Commissioners;
  - (c) as to the practice and procedure to be followed in connection with cases so stated or such appeals.
- (4) The regulations may—

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- (a) make different provision for different cases or different circumstances, and
  - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (5) Provision made by virtue of any of subsections (1) to (4) above may include provision amending this or any other Act or any instrument made under an Act.
- (6) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### **56C Power of Special Commissioners to order costs**

- (1) Regulations made under section 56B above may include provision for—
- (a) the award by the Special Commissioners of the costs of, or incidental to, appeal hearings before them,
  - (b) the recovery of costs so awarded, and
  - (c) appeals against such awards.
- (2) Any provision made by virtue of subsection (1)(a) above shall provide that the Special Commissioners shall not award costs against a party to an appeal unless they consider that he has acted wholly unreasonably in connection with the hearing in question.

### **56D Power of Special Commissioners to publish reports of decisions**

- (1) Regulations made under section 56B above may include provision for the Special Commissioners to publish reports of such of their decisions as they consider appropriate.
- (2) Any provision made by virtue of subsection (1) above shall provide that any report published, other than a report of an appeal that was heard in public, shall be in a form that so far as possible prevents the identification of any person whose affairs are dealt with in the report.
- (3) No obligation of secrecy to which the Special Commissioners are subject (by virtue of this Act or otherwise) shall prevent their publishing reports of their decisions in accordance with any provision made by virtue of subsection (1) above.”

- 5 Section 57B (which is superseded by the sections inserted by paragraph 4 above) shall be omitted.

### *Oil taxation appeals*

- 6 (1) In Schedule 2 to the Oil Taxation Act 1975 (management and collection of petroleum revenue tax) the Table in paragraph 1(1) shall be amended as follows.
- (2) After the entry relating to section 36 of the Taxes Management Act 1970 there shall be inserted—

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“Section 46A	In subsection (1), omit paragraphs (a) and (b) and the words “General Commissioners or” in paragraph (c).”
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(3) After the entry relating to section 56 of the Taxes Management Act 1970 there shall be inserted—

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“Section 56A	—
56B	—
56C	—
56D	—”.

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7 The Revenue Appeals Order 1987 shall have effect (subject to its revocation or amendment) as if any reference to section 56 of the Taxes Management Act 1970 included a reference to that section as applied by paragraph 1 of Schedule 2 to the Oil Taxation Act 1975.

*Inheritance tax appeals*

8 The following section shall be inserted in the Inheritance Tax Act 1984 after section 225—

**“225A Extension of regulation-making powers**

- (1) Section 46A of the Taxes Management Act 1970 (regulations about jurisdiction of General and Special Commissioners) shall apply in relation to appeals or other proceedings under this Part of this Act as it applies in relation to appeals or other proceedings under the Taxes Acts, but with the omission from subsection (1) of—
  - (a) paragraphs (a) and (b), and
  - (b) the words “General Commissioners or” in paragraph (c).
- (2) Sections 56B, 56C and 56D of the Taxes Management Act 1970 (regulations about practice and procedure of General and Special Commissioners) shall apply in relation to appeals or other proceedings under this Part of this Act as they apply in relation to appeals or other proceedings under the Taxes Acts.
- (3) In this section, “the Taxes Acts” has the meaning given in section 118(1) of the Taxes Management Act 1970.”

SCHEDULE 17

Section 77.

NORTHERN IRELAND ELECTRICITY

*Interpretation*

1 (1) In this Schedule—

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

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“the final accounting period” means the last complete accounting period of NIE ending before the transfer date;

“NIE” means Northern Ireland Electricity;

“the Order” means the Electricity (Northern Ireland) Order 1992;

“successor company” means a company nominated under Article 69(2) of the Order for the purposes of Article 69(1) of the Order;

“transfer date” means the day appointed under Article 69(3) of the Order for the purposes of Article 69(4) of the Order;

“transfer scheme” means a scheme under Article 69(1) of the Order.

- (2) This Schedule, so far as it relates to corporation tax on chargeable gains, shall be construed as one with the Capital Gains Tax Act 1979 or, where appropriate, the Taxation of Chargeable Gains Act 1992.
- (3) For the purposes of this Schedule a transfer or agreement shall be regarded as made in pursuance of Schedule 10 to the Order if the making of that transfer or agreement is required or authorised by or under paragraph 3 or 5 of that Schedule (allocation of assets and liabilities and variation of transfers by agreement).

*Transfer to successor companies: general*

- 2 (1) Subject to sub-paragraph (2) below, the following provisions shall apply for the purposes of the Corporation Tax Acts, namely-
  - (a) any part of the trade carried on by NIE which is transferred by the Order to a successor company shall be treated as having been, at the time when it began to be carried on by NIE or any predecessor and at all times since that time, a separate trade carried on by the successor company;
  - (b) the trade carried on by a successor company after the transfer date shall be treated as the same trade as that which, by virtue of paragraph (a) above, it is treated as having carried on before that date;
  - (c) all property, rights and liabilities of NIE which are transferred by the Order to a successor company shall be treated as having been, at the time when they became vested in NIE or any predecessor and at all times since that time, property, rights and liabilities of the successor company; and
  - (d) anything done by NIE or any predecessor in relation to any property, rights and liabilities which are transferred by the Order to a successor company shall be deemed to have been done by the successor company.
- (2) There shall be made such apportionments of unallowed tax losses, and of expenditure by reference to which capital allowances may be made, as may be specified in the transfer scheme.
- (3) In sub-paragraph (2) above “unallowed tax losses” means any losses, allowances or amounts which, as at the end of the final accounting period, are tax losses within the meaning given by section 400(2)(a), (c) or (d) of the Taxes Act 1988.
- (4) This paragraph shall have effect in relation to accounting periods beginning after the final accounting period.

*Roll-over relief*

- 3 Where NIE has before the transfer date disposed of (or of its interest in) any assets used, throughout the period of ownership, wholly or partly for the purposes of the

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part of its trade transferred by the Order to a successor company, sections 115 to 119 of the Capital Gains Tax Act 1979 or, where appropriate, sections 152 to 156 of the Taxation of Chargeable Gains Act 1992 (roll-over relief on replacement of business assets) shall have effect in relation to that disposal as if NIE and the successor company were the same person.

*Unallowed capital losses*

- 4 (1) Any unallowed capital losses of NIE shall be apportioned between the successor companies in accordance with the transfer scheme; and any such losses which are so apportioned to a successor company shall be treated as allowable capital losses accruing to the successor company on the disposal of an asset on the transfer date.
- (2) In sub-paragraph (1) above—
- “allowable capital losses” means losses which are allowable losses for the purposes of corporation tax on chargeable gains;
- “unallowed capital losses” means any allowable capital losses which have accrued to NIE before the transfer date, in so far as they have not been allowed as deductions from chargeable gains.

*Arrangements in favour of other successor companies*

- 5 (1) Sub-paragraph (3) below applies to any disposal of an asset which is effected, and sub-paragraphs (4) to (6) below apply to any lease which is granted, in pursuance of a provision included in the transfer scheme by virtue of Article 70(1)(c) of the Order (scheme may require successor company to enter into arrangements in favour of any other successor company).
- (2) Sub-paragraph (3) below also applies to any disposal of an asset which is effected in pursuance of an agreement under paragraph 3(2) of Schedule 10 to the Order and which is either the grant of a lease of land or the creation of other liabilities and rights over land.
- (3) A disposal to which this sub-paragraph applies shall be taken for the purposes of corporation tax on chargeable gains to be effected for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the successor company making the disposal.
- (4) Section 38(1)(a) and (4) of the Taxes Act 1988 (rules for ascertaining duration of leases) shall be disregarded in determining for the purposes of section 11 of the Capital Allowances Act 1990 (long leases) whether a lease to which this sub-paragraph applies is a long lease within the meaning of that section; in relation to any such lease which is, on that basis, such a long lease—
- (a) the lessee shall be deemed for the purposes of that section to have paid in consideration for the grant of the lease a capital sum of an amount equal to the residue of expenditure immediately before the lease takes effect, computed in accordance with section 8 of that Act, and
- (b) section 11(6)(a) of that Act shall be disregarded;
- and sections 157 and 158 of that Act shall not apply in relation to the grant of a lease in respect of which, by virtue of this sub-paragraph, an election is made under section 11 of that Act.

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

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- (5) Where the conditions in paragraphs (a) and (b) of subsection (1) of section 55 of the Capital Allowances Act 1990 (expenditure incurred by incoming lessee: transfer of allowances) are fulfilled in relation to a lease to which this sub-paragraph applies—
- (a) the lessee shall be deemed to have given as consideration for the lease a capital sum which falls to be treated for the purposes of Part II of that Act as expenditure on the provision of the fixture concerned;
  - (b) the amount of that capital sum shall be equal to the amount of expenditure which is attributed to the fixture concerned for the purposes of apportioning, in accordance with the transfer scheme, expenditure by reference to which capital allowances may be made; and
  - (c) subsection (4)(a) of that section shall be disregarded.
- (6) Section 38(1)(a) and (4) of the Taxes Act 1988 shall be disregarded in ascertaining for the purposes of section 35 of that Act (Schedule D charge on assignment of lease granted at an undervalue) the duration of a lease to which this sub-paragraph applies.
- (7) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in section 68(7A) of the Finance Act 1985 (modification of indexation allowance: list of no gain/no loss provisions) there shall be added after paragraph (i) the words “and
- (j) paragraph 5(3) of Schedule 17 to the Finance (No. 2) Act 1992.”
- (8) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in paragraph 1(3) of Schedule 8 to the Finance Act 1988 (rebasings to 1982: list of no gain/no loss provisions) there shall be added after paragraph (i) the words “and
- (j) paragraph 5(3) of Schedule 17 to the Finance (No. 2) Act 1992.”
- (9) Section 35(3)(d) of the Taxation of Chargeable Gains Act 1992 (assets held on 31st March 1982: list of no gain/no loss provisions) shall have effect, and be deemed always to have had effect, with the omission of the word “and” at the end of sub-paragraph (vi) and the addition after sub-paragraph (vii) of the words “and
- (viii) paragraph 5(3) of Schedule 17 to the Finance (No. 2) Act 1992.”

*Restriction of losses by reference to capital allowances*

- 6 (1) Where by virtue of sub-paragraph (4) of paragraph 5 above an election is made under section 11 of the Capital Allowances Act 1990 in respect of a lease to which that sub-paragraph applies, sub-paragraph (2) and, if the relevant condition is met, sub-paragraph (3) below shall apply; and for the purposes of this sub-paragraph the relevant condition is that, as a result of a disposal by the lessee in relevant circumstances, section 275(1) of the Income and Corporation Taxes Act 1970 or section 174(1) of the Taxation of Chargeable Gains Act 1992 applies in relation to a subsequent disposal.
- (2) Where this sub-paragraph applies, section 34 of the Capital Gains Tax Act 1979 or, as the case may be, section 41 of the Taxation of Chargeable Gains Act 1992 (restriction of losses by reference to capital allowances etc.) shall apply in relation to any disposal by the lessee as if any capital allowance made to—
- (a) NIE or any predecessor, or
  - (b) the lessor,
- in respect of expenditure incurred on the construction of the building or structure comprised in the lease had been made to the lessee.

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

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- (3) Where this sub-paragraph applies, section 275(1) of the Income and Corporation Taxes Act 1970 or, as the case may be, section 174(1) of the Taxation of Chargeable Gains Act 1992 shall apply as if the reference to capital allowances made to the person from which the asset was acquired included capital allowances made to—
- (a) NIE or any predecessor, or
  - (b) the lessor,
- in respect of expenditure incurred on the construction of the building or structure comprised in the lease but only so far as not taken into account in relation to any previous disposal.
- (4) Where by virtue of sub-paragraph (5) of paragraph 5 above an election is made under section 55 of the Capital Allowances Act 1990 in respect of a lease to which that sub-paragraph applies, sub-paragraph (5) and, if the relevant condition is met, sub-paragraph (6) below shall apply; and the relevant condition for the purposes of this sub-paragraph is the same as the relevant condition for the purposes of sub-paragraph (1) above.
- (5) Where this sub-paragraph applies, section 34 of the Capital Gains Tax Act 1979 or, as the case may be, section 41 of the Taxation of Chargeable Gains Act 1992 shall apply in relation to any disposal by the lessee as if any capital allowance made to—
- (a) NIE or any predecessor, or
  - (b) the lessor,
- in respect of expenditure incurred on the provision of the fixture comprised in the lease had been made to the lessee.
- (6) Where this sub-paragraph applies, section 275(1) of the Income and Corporation Taxes Act 1970 or, as the case may be, section 174(1) of the Taxation of Chargeable Gains Act 1992 shall apply as if the reference to capital allowances made to the person from which the asset was acquired included capital allowances made to—
- (a) NIE or any predecessor, or
  - (b) the lessor,
- in respect of expenditure incurred on the provision of the fixture comprised in the lease but only so far as not taken into account in relation to any previous disposal.

*Transfers between successor companies*

- 7 Where any property, rights and liabilities transferred by the Order to a successor company (the first company) are, in pursuance of Schedule 10 to the Order, transferred to another successor company (the second company)-
- (a) the preceding provisions of this Schedule shall have effect as if the transfer effected by the Order had been a transfer to the second company; and
  - (b) anything which, in relation to the property, rights and liabilities transferred in pursuance of that Schedule, was done by the first company for the purposes of its trade shall be deemed to have been done by the second company for the purposes of its trade.

*Apportionments etc.*

- 8 (1) This paragraph applies where any apportionment or other matter arising under the preceding provisions of this Schedule appears to be material as respects the liability to tax (for whatever period) of two or more successor companies.

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- (2) Any question which arises as to the manner in which the apportionment is to be made or the matter is to be dealt with shall be determined, for the purposes of the tax of the successor companies concerned—
  - (a) in a case where the same body of General Commissioners have jurisdiction with respect to the companies concerned, by those Commissioners, unless the companies agree that it shall be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the companies concerned, by such of those bodies as the Board may direct, unless the companies agree that it shall be determined by the Special Commissioners; and
  - (c) in any other case, by the Special Commissioners.
- (3) The Commissioners by whom the question falls to be determined shall make the determination in like manner as if it were an appeal except that the successor companies concerned shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.

*Securities of successor companies*

- 9 (1) Any share issued by a successor company in pursuance of Article 73 of the Order (initial government holding in successor companies) shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to the company of an amount equal to the nominal value of the share.
- (2) Any debenture issued by a successor company in pursuance of Article 73 of the Order shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
  - (a) wholly in consideration of a loan made to the company of an amount equal to the principal sum payable under the debenture; and
  - (b) wholly and exclusively for the purposes of the trade carried on by the company.
- (3) If any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.

*Stamp duty reserve tax*

- 10 (1) No agreement made for the purposes of or for purposes connected with the transfer scheme shall give rise to a charge to stamp duty reserve tax.
- (2) No agreement which is made in pursuance of Schedule 10 to the Order shall give rise to a charge to stamp duty reserve tax.
- (3) This paragraph shall be deemed to have come into force on 1st April 1992.

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

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## SCHEDULE 18

Section 82.

## REPEALS

## PART I

## EXCISE DUTIES: GENERAL

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1979 c. 2.	The Customs and Excise Management Act 1979.	Section 100H(1)(f). In section 117— (a) the word “relevant”, in the first place where it occurs in subsection (1) and where it occurs in subsections (2)(a) and (5); and (b) the definition of “relevant excise duty” in subsection (8).
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 41A(7)(d). Section 52.
1981 c. 35.	The Finance Act 1981.	In Schedule 8, in paragraph 2(d), sub-paragraph (ii) and the word “and” immediately preceding that sub-paragraph.
1986 c. 41.	The Finance Act 1986.	In Schedule 3, paragraphs 2 and 6.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 17.

1. The repeal of section 100H(1)(f) of the Customs and Excise Management Act 1979 comes into force with paragraph 6 of Schedule 1 to this Act and is subject to sub-paragraph (2) of that paragraph.
2. The repeals in section 117 of the Customs and Excise Management Act 1979 come into force with paragraph 5 of Schedule 2 to this Act.
3. The repeal of section 41A(7)(d) of the Alcoholic Liquor Duties Act 1979 comes into force with paragraph 10 of Schedule 1 to this Act and is subject to sub-paragraph (2) of that paragraph.
4. The repeals of section 52 of the Alcoholic Liquor Duties Act 1979 and of paragraph 17 of Schedule 2 to the Finance Act 1991 come into force with so much of paragraph 8 of Schedule 2 to this Act as inserts a new section 170B in the Customs and Excise Management Act 1979.
5. The repeal in Schedule 8 to the Finance Act 1981 comes into force with paragraph 2(6) of Schedule 2 to this Act.
6. The repeals of paragraphs 2 and 6 of Schedule 3 to the Finance Act 1986 come into force with sub-paragraphs (1) and (3), respectively, of paragraph 2 of Schedule 2 to this Act.

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

## PART II

### MATCHES AND MECHANICAL LIGHTERS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1), in the definition of “the Customs and Excise Acts 1979”, the words “the Matches and Mechanical Lighters Duties Act 1979”.  In section 178(2), the words “the Matches and Mechanical Lighters Duties Act 1979”.
1979 c. 6.	The Matches and Mechanical Lighters Duties Act 1979.	The whole Act.
1979 c. 58.	The Isle of Man Act 1979.	In Schedule 1, paragraphs 34 and 35.
1981 c. 35.	The Finance Act 1981.	Section 3.
1983 c. 55.	The Value Added Tax Act 1983.	Section 24(3)(c).
1986 c. 41.	The Finance Act 1986.	Section 8(5)(g).  In Schedule 5, paragraph 5.

These repeals have effect as from 1st January 1993.

## PART III

### VEHICLES EXCISE DUTY: GOODS VEHICLES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 18A(3), in paragraph (c) of Case B the words from “in circumstances in which” to the end of the paragraph.

This repeal has effect in accordance with section 11 of this Act.

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

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## PART IV

### VEHICLES EXCISE DUTY: DISABLED PERSONS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 7, in subsection (2)(c) the words “subsection (2C) below or section 7 of the Finance Act 1971” and subsections (2C) and (2D).
1971 c. 68.	The Finance Act 1971.	Section 7.
1972 c. 41.	The Finance Act 1972.	Section 128(2).
1974 c. 30.	The Finance Act 1974.	Section 50.
1977 c. 49.	The National Health Service Act 1977.	In Schedule 15, paragraph 54.
1978 c. 42.	The Finance Act 1978.	In section 8, subsections (2) and (3) and in subsection (4) the words “and (3)”.
1991 c. 31.	The Finance Act 1991.	In Schedule 3, paragraph 5(1) (b) and (3).

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These repeals have effect in accordance with section 12 of this Act.

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## PART V

### VALUE ADDED TAX

#### *(1) Abolition of fiscal frontiers*

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1983 c. 55.	The Value Added Tax Act 1983.	In section 2, in subsection (2), the words from the beginning to “and” and subsections (4) and (5). In section 7(4), paragraph (a). In section 9(1), the word “and” at the end of paragraph (a). Section 10(6). Section 11(3) and (4).

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These repeals come into force in accordance with section 14(3) of this Act.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 14(3), the word “and” at the end of paragraph (a).
		In section 15(2), paragraph (c).
		In section 20(1), the words “or on the importation of goods by”.
		In section 21(1), the words “or the importation of goods by”.
		Section 32(1).
		Section 36(3).
		In section 40(1)(j), the word “2”.
		In Schedule 1— (a) in paragraph 5A(2), paragraph (b) and the word “or” immediately preceding it; and (b) in paragraph 15, the words from the beginning to “Act and”.
		In Schedule 4, paragraphs 2 and 5 and, in paragraph 13, the word “2”.
		In Schedule 5, in Item 1 of Group 15, the words “of imported goods”.
		In Schedule 10, in the words in brackets in paragraph 6, the word “acquired”.
1985 c. 54.	The Finance Act 1985.	In section 22(7), the words “sub-paragraph (1) or sub-paragraph (2) of”.
1987 c. 16.	The Finance Act 1987.	Section 12(3).
		Section 13(2) and (3).
1988 c. 39.	The Finance Act 1988.	In section 14(8), paragraph (a).

These repeals come into force in accordance with section 14(3) of this Act.

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## (2)

## FUEL AND POWER

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, in Note (8) to Group 7, the words from “upon which” to “be charged”.

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This repeal has effect in accordance with section 17 of this Act.

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## PART VI

## CAR TAX

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1983 c. 53.	The Car Tax Act 1983.	In section 5— (a) in subsection (1), the word “and” at the end of paragraph (b); and (b) subsection (6).

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These repeals come into force in accordance with section 18(2) of this Act.

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## PART VII

## INCOME TAX AND CORPORATION TAX

*(1) MARRIED COUPLE’S ALLOWANCE ETC.*

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 265(4), the words from “(and” onwards.
1989 c. 26.	The Finance Act 1989.	In section 33(10), the reference to section 257B(2) of the Taxes Act 1988.  In section 57(4), the reference to section 257B(2) of the Taxes Act 1988.
1991 c. 31.	The Finance Act 1991.	In section 33(4), the reference to section 257B(2) of the Taxes Act 1988.

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These repeals have effect in accordance with paragraph 10 of Schedule 5 to this Act.

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

(2) CHARITIES: POWERS OF INSPECTION

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98, the words “Section 94(1) of the Finance Act 1990”.
1990 c. 29.	The Finance Act 1990.	Section 94.

These repeals have effect in accordance with section 28 of this Act.

(3) RETURNS OF INTEREST

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	In section 17, in subsection (4) the words from “and if a person” to the end of the subsection.

This repeal has effect in accordance with section 29 of this Act.

(4) DISTRIBUTIONS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 234(3) and (4).
1989 c. 26.	The Finance Act 1989.	Section 170(2).

These repeals have effect in accordance with section 32 of this Act.

(5) DEEP GAIN SECURITIES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1990 c. 29.	The Finance Act 1990.	Section 57.  In section 58(6), paragraph (b) and the word “and” immediately preceding it.

These repeals have effect in accordance with Schedule 7 to this Act.

(6) TRANSFERS OF TRADE

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 39.	The Finance Act 1988.	In Schedule 11, in paragraph 5 the word “intra-group”.

This repeal has effect in accordance with section 49 of this Act.

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

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(7) OIL EXTRACTION

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 502(1), in the definition of “oil extraction activities”, in paragraph (c) the words “as far as dry land in the United Kingdom”.

This repeal has effect in accordance with section 55(2) of this Act.

(8) PAYING AND COLLECTING AGENTS ETC.

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	In section 86(4), paragraph 2 of the Table.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 123(3), the words from “and income tax” to the end.  In Schedule 3, paragraphs 6(2) and 7 to 10, in paragraph 13(1) the words “Without prejudice to the generality of paragraph 7 above” and paragraph 15(2).

These repeals have effect in accordance with paragraph 6 of Schedule 11 to this Act.

(9) ENTERPRISE ZONES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1990 c. 1.	The Capital Allowances Act 1990.	In section 1(10), the words from “and, except for that purpose” to the end of the subsection.  Section 6(5).

These repeals have effect in accordance with paragraph 14 of Schedule 13 to this Act.

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

## PART VIII

### OIL TAXATION

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1975 c. 22.	The Oil Taxation Act 1975.	<p>In section 3(4)(c)(i) the words from “of either” to “designated area”.</p> <p>In section 12(1), in the definitions of “initial storage” and “initial treatment” the words “in the United Kingdom, the territorial sea thereof or a designated area”.</p> <p>In Schedule 3, in the heading to paragraph 7 the words “in United Kingdom”.</p>
1983 c. 56.	The Oil Taxation Act 1983.	<p>In Schedule 1, in paragraph 1, in sub-paragraph (4) paragraph (c) and the word “and” immediately preceding it.</p> <p>In Schedule 4, in paragraph 11, in sub-paragraph (3) the words from “and on” to “(4) below”, and sub-paragraph (4).</p>

These repeals have effect in accordance with sections 55(3) and 74(5) of this Act.

## PART IX

### GENERAL AND SPECIAL COMMISSIONERS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	Section 57B.
1984 c. 43.	The Finance Act 1984.	In Schedule 22, paragraph 4.

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

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## PART X

### NORTHERN IRELAND ELECTRICITY

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 35(3)(d) the word “and” at the end of subparagraph (vi).

This repeal has effect in accordance with paragraph 5(9) of Schedule 17 to this Act.

## PART XI

### TREASURY BILLS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1877 c. 2.	The Treasury Bills Act 1877.	In section 8 the words “countersigned by the Comptroller and Auditor General”.

This repeal has effect in accordance with section 79 of this Act.

## PART XII

### NATIONAL LOANS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1968 c. 13.	The National Loans Act 1968.	Section 5(8).

This repeal has effect in accordance with section 80 of this Act.