

SCHEDULES

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.”
- 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

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- (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
 - (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.

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- (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)”.
- 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

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- (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;
 - (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

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- (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 “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.”

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- 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.

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- (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.
- (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.”

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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”;
 - (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.
 - (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

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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.”

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

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- (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
 - (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—

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- (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 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”.

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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
 - (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

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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—

“(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

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“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;”.
- 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

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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—

- (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

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- (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—
 - (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—

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- (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.
- (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;

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- (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
- (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,

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- 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
 - (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;

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- (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

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- (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—
“(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)—

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- (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—

“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;

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- (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,
- 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

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(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—
 - (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;”

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- (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
- (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—

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- (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.
- (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”.

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- (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.”
- 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”.

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- (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”.
- (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

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- (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
 - (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.

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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;
- (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

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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.

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

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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.
- (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.

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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.

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.

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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 subparagraph (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.

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.

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- (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
 - (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.

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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
 - (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

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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 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

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- (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—
 - “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—

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- (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—

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- (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.
- 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

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- (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,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

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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—

- (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.”

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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—
- “(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

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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.

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-

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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 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

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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.”

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”.

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- 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;

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- (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 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

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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”)—
- (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

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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 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

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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—
- (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—

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- (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 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”;

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- (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
 - (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.”

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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 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—

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- “(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”.