SCHEDULES

SCHEDULE 1

Section 1.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

Description of wine or made-wine	*Rates of duty per hectolitre* £
Wine or made-wine of a strength not exceeding 2 per cent.	13.23
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	22.04
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	30.86
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	39.69
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	48.50
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	132.26
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	218.40
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	220.43

PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

Description of wine or made-wine	*Rates of duty per litre of alcohol in the wine or made-wine*
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.81

SCHEDULE 2

Section 49.

VALUE ADDED TAX: PENALTIES ETC.

Misdeclaration penalty under section 14 of the 1985 Act

1 (1) In subsection (2) of section 14 of the 1985 Act (penalty for misdeclaration or neglect imposed where the tax lost equals or exceeds certain amounts), for paragraphs (a) and (b) there shall be substituted "equals or exceeds whichever is the lesser of £1,000,000 and 30 per cent. of the relevant amount for that period."

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

"(4A) In this section "the relevant amount", in relation to a prescribed accounting period, means—

(a) for the purposes of a case falling within subsection (1)(a) above, the gross amount of tax for that period; and

(b) for the purposes of a case falling within subsection (1)(b) above, the true amount of tax for that period.

(4B) In this section "the gross amount of tax", in relation to a prescribed accounting period, means the aggregate of the following amounts, that is to say-

(a) the amount of credit for input tax which (subject to subsection (5A) below) should have been stated on the return for that period, and

(b) the amount of output tax which (subject to that subsection) should have been so stated.

(4C) In relation to any return which, in accordance with prescribed requirements, includes a single amount as the aggregate for the prescribed accounting period to which the return relates of—

(a) the amount representing credit for input tax, and

(b) any other amounts representing refunds or repayments of tax to which there is an entitlement,

references in this section to the amount of credit for input tax shall have effect (so far as they would not so have effect by virtue of subsection (5B) below) as references to the amount of that aggregate."

(3) In subsection (5A) of that section (account to be taken of corrections), for "subsection (5) above that the statement made by each of those returns is a correct

statement" there shall be substituted "subsections (4B) and (5) above that the statements made by each of those returns (so far as they are not inaccurate in any other respect) are correct statements".

(4) This paragraph shall have effect in relation to any prescribed accounting period beginning on or after such day as the Treasury may by order made by statutory instrument appoint, but an order under this sub-paragraph may appoint different days for the purposes of different provisions of this paragraph or for different purposes.

Misdeclaration penalty under section 14A of the 1985 Act

2 (1) In subsection (1)(b) of section 14A of the 1985 Act (misdeclaration resulting in understatements or overclaims), for the words from "whichever" to "period" there shall be substituted "whichever is the lesser of £500,000 and 10 per cent. of the gross amount of tax for that period".

(2) For subsections (2) and (3) of that section (liability for penalty where there are misdeclarations on three or more occasions) there shall be substituted the following subsections—

"(2) Subsection (3) below applies in any case where—

(a) there is a material inaccuracy in respect of any prescribed accounting period;

(b) the Commissioners serve notice on the person concerned (in this section referred to as a "penalty liability notice") specifying a penalty period for the purposes of this section;

(c) that notice is served before the end of five consecutive prescribed accounting periods beginning with the period in respect of which there was the material inaccuracy; and

(d) the period specified in the penalty liability notice as the penalty period is the period of eight consecutive prescribed accounting periods beginning with that in which the date of the notice falls.

(3) If, where a penalty liability notice has been served on any person, there is a material inaccuracy in respect of any of the prescribed accounting periods falling within the penalty period specified in the notice, that person shall be liable, except in relation to the first of those periods in respect of which there is a material inaccuracy, to a penalty equal to 15 per cent. of the tax for the prescribed accounting period in question which would have been lost if the inaccuracy had not been discovered."

(3) In subsection (4) of that section, for "subsections (4) to (5B)" there shall be substituted "subsections (4), (4B), (5A) and (5B)".

(4) In subsection (6) of that section (material inaccuracies not to be material in cases to which other sections apply), at the end there shall be inserted "except, in the case of an inaccuracy by reason of which a person is assessed to a penalty under section 14 above, for the purposes of subsection (2)(a) above."

(5) Subject to sub-paragraph (6) below, this paragraph shall have effect in relation to any prescribed accounting period beginning on or after such day as the Treasury may by order made by statutory instrument appoint.

(6) No penalty liability notice shall be served on or after the day appointed under sub-paragraph (5) above by reference to any material inaccuracy in respect of a prescribed

accounting period beginning before that day, and the penalty period specified in any penalty liability notice served before that day shall be deemed to end with the day before that day.

Mitigation of penalties

3 (1) After section 15 of the 1985 Act there shall be inserted the following section—

"**15A Mitigation of penalties under sections 13, 14, 14A and 15.**

(1) Where a person is liable to a penalty under any of sections 13, 14, 14A and 15 above, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to such amount (including nil) as they think proper.

(2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a value added tax tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.

(3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any value added tax tribunal shall be entitled to take into account in exercising their powers under this section.

(4) Those matters are—

(a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax;

(c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith."

(2) Subsection (4) of section 13 of the 1985 Act (mitigation of penalty under section 13) shall cease to have effect; and—

(a) in subsection (1) of that section, for "subsections (4) and (7)" there shall be substituted "subsection (7)";

(b) in paragraph (b) of subsection (5) of that section, for the words from "have power" to the end of that paragraph there shall be substituted "have power under section 15A below to reduce a penalty under this section,"; and

(c) in section 40(1A) of the Value Added Tax Act 1983 (tribunal not to modify penalties under the 1985 Act), for "section 13(4)" there shall be substituted "section 15A".

(3) This paragraph shall have effect in relation to any penalty under section 13, 14, 14A or 15 of the 1985 Act, other than one to which any person was assessed before the day on which this Act is passed.

Interest on tax etc. recovered or recoverable by assessment

4 (1) In subsections (1) and (3) of section 18 of the 1985 Act (interest on tax etc. recovered or recoverable by assessment), after the word "shall", in each subsection, there shall be inserted "(subject to subsection (3A) below)".

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

"(3A) Where (apart from this subsection)—

(a) the period before the assessment in question for which any amount would carry interest under subsection (1) above; or

(b) the period for which any amount would carry interest under subsection (3) above,

would exceed three years, the part of that period for which that amount shall carry interest under that subsection shall be confined to the last three years of that period."

(3) This paragraph shall apply in relation to interest on amounts assessed or, as the case may be, paid on or after such day as the Treasury may by order made by statutory instrument appoint.

Default surcharge

5 (1) In section 19 of the 1985 Act, in subsection (2) (surcharge liability notice if default for two accounting periods)—

(a) in paragraph (a) for "any two prescribed accounting periods" there shall be substituted "a prescribed accounting period",

(b) paragraph (b) shall be omitted, and

(c) in paragraph (c) for "later period referred to in paragraph (b)" there shall be substituted "period referred to in paragraph (a)".

(2) In subsection (3) of that section for "defaults in respect of two prescribed accounting periods and the second of those periods" there shall be substituted "a default in respect of a prescribed accounting period and that period".

(3) This paragraph shall apply in relation to any case where a person is in default for the purposes of section 19 of the 1985 Act and is so in default because of a failure of the Commissioners of Customs and Excise to receive a return, or an amount of tax, on or before a day falling on or after 1st October 1993; and in the case of sub-paragraph (2) above it is immaterial when the existing surcharge period began.

6 (1) For subsection (4) of section 19 of the 1985 Act (amount of surcharge) there shall be substituted the following subsection—

"(4) Subject to subsections (6) to (9) below, if a taxable person on whom a surcharge liability notice has been served—

(a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and

(b) has outstanding tax for that prescribed accounting period,

he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding tax for that prescribed accounting period and £30."

(2) In subsection (5) of that section (specified percentages for default surcharge)—

(a) for "subsection (4)(a) above" there shall be substituted "subsection (4) above", and

(b) after "surcharge period" there shall be inserted "and for which he has outstanding tax".

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

"(5A) For the purposes of subsections (4) and (5) above a person has outstanding tax for a prescribed accounting period if some or all of the tax for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person's outstanding tax for a prescribed accounting period is to so much of the tax for which he is so liable as has not been paid by that day."

(4) This paragraph shall apply in relation to any case where a person—

(a) is in default for the purposes of section 19 of the 1985 Act in respect of a prescribed accounting period ending within a surcharge period, and

(b) is so in default because of a failure of the Commissioners of Customs and Excise to receive a return, or an amount of tax, on or before a day falling on or after 30th September 1993.

7 (1) In subsection (5) of section 19 of the 1985 Act (specified percentages for default surcharge)—

(a) at the end of paragraph (b) there shall be inserted "and", and

(b) for paragraphs (c) and (d) there shall be substituted the following paragraph—

"(c) in relation to each such period after the second, the specified percentage is 15 per cent."

(2) Sub-paragraph (1) above shall apply in relation to any liability to a surcharge arising on or after 1st April 1993.

(3) In section 19(5) of the 1985 Act (as amended by sub-paragraph (1) above), for paragraphs (a) to (c) there shall be substituted the following paragraphs—

"(a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;

(b) in relation to the second such period, the specified percentage is 5 per cent.;

(c) in relation to the third such period, the specified percentage is 10 per cent.;

(d) in relation to each such period after the third, the specified percentage is 15 per cent."

(4) Sub-paragraph (3) above shall apply in relation to any liability to a surcharge arising on or after 1st October 1993.

Meaning of "the 1985 Act"

8 In this Schedule "the 1985 Act" means the Finance Act 1985.

SCHEDULE 3

Section 72.

CAR AND CAR FUEL BENEFITS: 1994-95 ONWARDS

Introductory

1 The Taxes Act 1988 shall be amended as follows.

Car benefits

2 (1) In section 157 (cars available for private use) for subsection (2) there shall be substituted the following subsection—

"(2) The cash equivalent of the benefit in the year concerned shall be ascertained in accordance with Schedule 6."

(2) Subsections (4) and (5) of that section shall be omitted.

3 (1) In subsection (5) of section 168 (interpretation of provisions relating to cars) for paragraph (d) there shall be substituted the following paragraph—

"(d) the date of a car's first registration is the date on which it was first registered under the Vehicles (Excise) Act 1971 or under corresponding legislation of any country or territory;".

(2) For paragraph (e) of that subsection there shall be substituted the following paragraph—

"(e) the price of a car as regards a year shall be determined in accordance with the provisions contained in or made under sections 168A to 168G; and".

4 The following sections shall be inserted after section 168—

"**168A Price of a car as regards a year.**

(1) Subject to the provisions contained in or made under sections 168B to 168G, for the purposes of this Chapter the price of a car as regards a year is—

(a) its list price, if it has one, or

(b) its notional price, if it has no list price;

and in this section any reference to the relevant car is to the particular car whose price as regards a year is being determined.

(2) The relevant car has a list price if a price was published by the car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for a car of that kind if sold in the United Kingdom singly in a retail sale in the open market on the relevant day.

(3) In a case where—

(a) subsection (2) above applies, and

(b) at the time when the relevant car was first made available to the employee the only qualifying accessories available with it were standard accessories,

the list price of the car is the price published as mentioned in subsection (2) above.

(4) In a case where—

(a) subsection (2) above applies,

(b) at the time when the relevant car was first made available to the employee a qualifying accessory which was an optional accessory was available with it, and

(c) in relation to each such accessory then available with the car a price was published by the car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for an equivalent accessory if sold with a car of the same kind as the relevant car in the United Kingdom singly in a retail sale in the open market on the relevant day,

the list price of the car is the price found under subsection (5) below.

(5) The price referred to in subsection (4) above is the total of—

(a) the price published as mentioned in subsection (2) above, and

(b) the price, or the sum of the prices, published as mentioned in subsection (4) above in relation to the optional accessory or (as the case may be) the optional accessories.

(6) In a case where—

(a) subsection (2) above applies, and

(b) at the time when the relevant car was first made available to the employee a qualifying accessory falling within subsection (7) below was available with the car,

the list price of the car is the price which would have been its list price under subsection (3) or (4) above (as the case may be) if no such accessory had been available with it at that time.

(7) An accessory falls within this subsection if—

(a) it is an optional accessory, and

(b) no price was published by the relevant car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for an equivalent accessory if sold with a car of the same kind as the relevant car in the United Kingdom singly in a retail sale in the open market on the relevant day.

(8) The notional price of a car is the price which might reasonably have been expected to be its list price if its manufacturer, importer or distributor (as the case may be) had published a price as the inclusive price appropriate for an equivalent car if sold in the United Kingdom singly in a retail sale in the open market on the relevant day; and "equivalent car" here means a car—

(a) of the same kind as the relevant car, and

(b) with accessories equivalent to the qualifying accessories available with the relevant car at the time when it was first made available to the employee.

(9) For the purposes of this section—

(a) the inclusive price is the price inclusive of any charge for delivery by the manufacturer, importer or distributor to the seller's place of business and of any relevant tax and, in the case of an accessory, of any charge for fitting it,

(b) the relevant day is the day immediately before the date of the relevant car's first registration,

(c) a standard accessory is an accessory equivalent to an accessory which, in arriving at the price published as mentioned in subsection (2) above, is assumed to be available with cars of the same kind as the relevant car, and

(d) an optional accessory is an accessory other than a standard accessory;

and "relevant tax" here means any customs or excise duty, any tax chargeable as if it were a duty of customs, any value added tax and any car tax.

(10) For the purposes of this section a qualifying accessory is an accessory which—

(a) is made available for use with the car without any transfer of the property in it,

(b) is made available by reason of the employee's employment,

(c) is attached to the car (whether or not permanently), and

(d) is not an accessory necessarily provided for use in the performance of the duties of the employee's employment.

(11) For the purposes of this section "accessory" includes any kind of equipment, but does not include a mobile telephone within the meaning given by section 159A(8)(a).

(12) For the purposes of this section the time when a car is first made available to an employee is the earliest time when the car is made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household.

168B Price of a car: accessories not included in list price

(1) This section applies where a car has a list price and in any year there are available with the car qualifying accessories which—

(a) fall within section 168A(7), and

(b) were available with the car at the time when it was first made available to the employee.

(2) As regards that year the price of the car shall be treated as the price found under section 168A, increased by the price of the accessories.

(3) For the purposes of this section the price of an accessory is—

(a) its list price, if it has one, or

(b) its notional price, if it has no list price.

(4) The list price of an accessory is the price published by or on behalf of its manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for such an accessory if sold in the United Kingdom singly in a retail sale in the open market at the relevant time; and the relevant time is the time immediately before the accessory concerned is first made available for use with the car (which may be before the car is first made available to the employee).

(5) The notional price of an accessory is the inclusive price which it might reasonably have been expected to fetch if sold in the United Kingdom singly in a retail sale in the open market immediately before it is first made available for use with the car (which may be before the car is first made available to the employee).

(6) Where the accessory is permanently attached to the car the sale assumed by subsection (4) or (5) above is one under which the seller is to attach it.

(7) For the purposes of this section the inclusive price is the price inclusive of—

(a) any charge for delivery by the manufacturer, importer or distributor to the seller's place of business, and

(b) any customs or excise duty, any tax chargeable as if it were a duty of customs and any value added tax.

(8) Subsections (10) to (12) of section 168A apply for the purposes of this section as they apply for the purposes of that.

168C Price of a car: accessories available after car first made available

(1) This section applies where in any year there are available with a car qualifying accessories which—

(a) were not available with the car at the time when it was first made available to the employee, and

(b) were not made available with the car before 1st August 1993,

but any accessory whose price is less than £100 shall be ignored for the purposes of this section.

(2) As regards that year the price of the car shall be treated as the price found under sections 168A and 168B, increased by the price of the accessories.

(3) Subsections (10) to (12) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(4) Subsections (3) to (6) of section 168B apply for the purposes of this section as they apply for the purposes of that, but ignoring for the purposes of this section the words "(which may be before the car is first made available to the employee)".

(5) The Treasury may by order substitute for the sum for the time being specified in subsection (1) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order.

168D Price of a car: capital contributions

(1) This section applies where the employee contributes a capital sum to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under sections 168A to 168C in determining the price of the car as regards a year.

(2) As regards each relevant year the price of the car shall be treated as the price found under sections 168A to 168C, reduced by the appropriate amount; and

relevant years are the year in which the capital sum is contributed and all subsequent years in which section 157 applies in the case of the car and the employee.

(3) As regards a relevant year the appropriate amount is whichever is the smaller of—

(a) the amount found under subsection (4) below as regards the year, and

(b) £5,000.

(4) As regards a relevant year the amount referred to in subsection (3) above is the amount of the capital sum, or the total amount of all the capital sums, which the employee has contributed (whether in the year in question or earlier) to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under sections 168A to 168C in determining the price of the car as regards the year in question.

(5) Subsections (10) and (11) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(6) The Treasury may by order substitute for the sum for the time being specified in subsection (3)(b) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order.

168E Price of a car: replacement accessories

(1) The Treasury may make regulations under this section as regards any case where—

(a) a qualifying accessory is available with a car in any year, and

(b) the accessory (the replacing accessory) replaces another accessory (the replaced accessory).

(2) Regulations under this section may provide that as regards the year—

(a) the price of the car shall be found as if the replacement had not been made and the replacing accessory were a continuation of the replaced accessory, or

(b) sections 168A to 168D shall apply to the car with such modifications to take account of the fact that the replacement has been made as are prescribed by the regulations.

(3) The regulations may—

(a) provide as mentioned in subsection (2)(a) above as regards some cases and as mentioned in subsection (2)(b) above as regards others;

(b) provide under subsection (2)(b) above that sections 168A to 168D shall apply with different modifications in different cases.

168F Price of a car: classic cars

(1) This section applies where—

(a) the price of a car as regards a year, found under the provisions contained in or made under sections 168A to 168E, is less than the market value of the car for the year,

(b) the age of the car at the end of the year is 15 years or more, and

(c) the market value of the car for the year is £15,000 or more.

(2) In such a case—

(a) the price of the car as regards the year is not the amount found under the provisions contained in or made under sections 168A to 168E;

(b) the price of the car as regards the year is the market value of the car for the year;

but paragraph (b) above is subject to subsection (5) below.

(3) The market value of a car for a year is the price which the car might reasonably have been expected to fetch on a sale in the open market on the material day, on the assumption that any qualifying accessories available with the car on the material day are included in the sale.

(4) For the purposes of subsection (3) above the material day is—

(a) the last day of the year concerned, or

(b) if earlier, the last day in the year on which the car is available to the employee.

(5) Where the employee contributes a capital sum to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under subsection (3) above in determining the price of the car as regards a year,

as regards each relevant year the price of the car shall be treated as the market value of the car for the year, reduced by the appropriate amount.

(6) For the purposes of subsection (5) above relevant years are the year in which the capital sum is contributed and all subsequent years in which section 157 applies in the case of the car and the employee.

(7) For the purposes of subsection (5) above the appropriate amount, in relation to a relevant year, is whichever is the smaller of—

(a) the amount found under subsection (8) below as regards the year, and

(b) £5,000.

(8) As regards a particular year the amount referred to in subsection (7) above is the amount of the capital sum, or the total amounts of all the capital sums, which the employee has contributed (whether in the year or earlier) to expenditure—

(a) on the provision of the car, or

(b) on the provision of any qualifying accessories which are taken into account in determining the price of the car as regards the year.

(9) Subsections (10) and (11) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(10) For the purposes of this section the last day in a year on which a car is available to an employee is the last day in the year on which the car is made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household.

(11) The Treasury may by order—

(a) substitute for the sum for the time being specified in subsection (1) (c) above a sum of a greater amount;

(b) substitute for the sum for the time being specified in subsection (7) (b) above a sum of a greater amount;

and any such substitution shall have effect as regards such years as are specified in the order.

168G Price of a car: cap for expensive car

(1) Where the price of a car as regards a year (as found under the provisions contained in or made under sections 168A to 168F) exceeds £80,000, the price of the car as regards the year is £80,000 and not the price as so found.

(2) The Treasury may by order substitute for the sum for the time being specified in subsection (1) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order."

5 For Schedule 6 there shall be substituted the following Schedule—

"SCHEDULE 6 Section 157.

TAXATION OF DIRECTORS AND OTHERS IN RESPECT OF CARS

Cash equivalent

1 Subject to paragraphs 2 to 7 below, the cash equivalent of the benefit is 35 per cent. of the price of the car as regards the year.

Reduction for business travel

2 (1) Subject to paragraphs 3 to 7 below, where it is shown to the inspector's satisfaction that the employee was required by the nature of his employment to use, and did use, the car for at least 18,000 miles of business travel in the year concerned, the cash equivalent of the benefit is the amount ascertained under paragraph 1 above, reduced by two thirds.

(2) Subject to paragraphs 3 to 7 below, where it is shown to the inspector's satisfaction that the employee was required by the nature of his employment to use, and did use, the car for at least 2,500 but less than 18,000 miles of business travel in the year concerned, the cash equivalent of the benefit is the amount ascertained under paragraph 1 above, reduced by one third.

3 In relation to a car which for part of the year concerned was unavailable—

(a) paragraph 2 above shall have effect as if the figure of 18,000, in each place where it occurs, were reduced by a number which bears to 18,000 the same proportion as the number of days in the year on which the car was unavailable bears to 365;

(b) paragraph 2(2) above shall have effect as if the figure of 2,500 were reduced by a number which bears to 2,500 the same proportion as the number of days in the year on which the car was unavailable bears to 365;

but this is subject to paragraph 4(b) below.

4 Where in any year an employee is taxable under section 157 in respect of two or more cars which are available to him concurrently, in relation to each of those cars other than the one which, in the period for which they are concurrently available, is used to the greatest extent for the employee's business travel—

(a) paragraph 2(1) above shall have effect as if for "two thirds" there were substituted "one third", and

(b) paragraph 2(2) above shall not have effect.

Reduction for age of car

5 Subject to paragraphs 6 and 7 below, where at the end of the year concerned the age of the car is 4 years or more, the cash equivalent of the benefit is the amount ascertained under the preceding provisions of this Schedule, reduced by one third.

Reduction for periods when car unavailable

6 Subject to paragraph 7 below, where for any part of the year concerned the car is unavailable, the cash equivalent of the benefit is the amount ascertained under the preceding provisions of this Schedule ("the full amount") reduced by an amount which bears to the full amount the same proportion as the number of days in the year on which the car is unavailable bears to 365.

Reduction for payments for use of car

7 (1) Where in the year concerned the employee is required, as a condition of the car being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the amount ascertained under the preceding provisions of this Schedule exceeds the relevant sum, the cash equivalent of the benefit is an amount equal to the excess;

(b) if the relevant sum exceeds or is equal to the amount ascertained under the preceding provisions of this Schedule, the cash equivalent of the benefit is nil.

(2) In sub-paragraph (1) above—

(a) "the relevant sum" means the amount paid by the employee, as there mentioned, in respect of the year concerned;

(b) the reference to the car being available for the employee's private use includes a reference to the car being available for the private use of others being members of his family or household.

Replacement cars

8 The Treasury may by regulations provide that where—

(a) a car is normally available to the employee but for a period of less than 30 days it is not available to him,

(b) another car is made available to the employee in order to replace the car mentioned in paragraph (a) above for the whole or part of the period, and

(c) such other conditions as may be prescribed by the regulations are fulfilled,

this Schedule shall have effect in relation to the cars concerned subject to such modifications as are prescribed by the regulations.

Meaning of "unavailable"

9 For the purposes of this Schedule a car is to be treated as being unavailable on any day if—

(a) the day falls before the first day on which the car is available to the employee,

(b) the day falls after the last day on which the car is available to the employee, or

(c) the day falls within a period, of 30 days or more, throughout which the car is not available to the employee.

General

10 For the purposes of this Schedule a car is available to an employee at a particular time if it is then made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household."

Car fuel benefits

6 (1) In section 158 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
1,400 or less	£600
More than 1,400 but not more than 2,000	£760
More than 2,000	£1,130

TABLE AB

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
2,000 or less	£550
More than 2,000	£710

TABLE B

Description of car	*Cash equivalent*
Any car	£1,130”

(2) In subsection (5) of that section (reductions in cash equivalent of car fuel benefit) for the words from “paragraph 2” to “Part II” there shall be substituted “paragraph 6”.

General

7 This Schedule shall have effect for the year 1994-95 and subsequent years of assessment.

SCHEDULE 4

Section 73.

VANS

1 The Taxes Act 1988 shall be amended as follows.

2 In section 154(2), in paragraph (b) (which excludes from the general charge on benefits in kind any benefits under the provisions there specified) after “section 157, 158,” there shall be inserted “159AA,”.

3 In section 155(1) (exclusion from charge of certain other benefits provided in connection with cars taxable under section 157)—

(a) after “car”, in each place where it occurs, there shall be inserted “or van”, and

(b) after “section 157” there shall be inserted “or 159AA”.

4 After section 159 there shall be inserted the following sections—

“**159AA Vans available for private use**

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

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

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

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

(2) The cash equivalent of the benefit in the year concerned shall be ascertained in accordance with Schedule 6A.

(3) Where in any year the benefit of a van is chargeable to tax under this section as the employee's income, he shall not be taxable—

(a) under Schedule E in respect of the discharge of any liability of his in connection with the van;

(b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—

(i) for obtaining money which is spent on goods or services in connection with the van, or

(ii) for obtaining such goods or services;

(c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the van.

159AB Pooled vans.

Section 159 shall apply in relation to vans as it applies in relation to cars, and for the purposes of the application of that section to vans—

(a) any reference in that section to a car shall be construed as a reference to a van,

(b) the reference in subsection (1) of that section to a car pool shall be construed as a reference to a van pool, and

(c) the reference in subsection (3) of that section to section 157 shall be construed as a reference to section 159AA."

5 In section 159A (mobile telephones) in subsection (8)(a) (meaning of "mobile telephone")—

(a) after "car", in each place where it occurs, there shall be inserted "or van", and

(b) after "section 157" there shall be inserted "or 159AA".

6 (1) In section 168 (interpretation) after subsection (5) there shall be inserted the following subsection—

"(5A) As respects vans, the following definitions apply—

(a) "van" means a mechanically propelled road vehicle which is—

(i) of a construction primarily suited for the conveyance of goods or burden of any description, and

(ii) of a design weight not exceeding 3,500 kilograms,

and which is not a motor cycle as defined in section 185(1) of the Road Traffic Act 1988;

(b) the age of a van at any time is the interval between the date of its first registration and that time;

(c) "business travel" means travelling which a person is necessarily obliged to do in the performance of the duties of his employment;

(d) the date of a van's first registration is the date on which it was first registered under the Vehicles (Excise) Act 1971 or under corresponding legislation of any country or territory;

(e) "design weight" means the weight which a vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden; and

(f) "private use", in relation to a van made available to any person, or to others being members of his family or household, means any use otherwise than for his business travel."

(2) In subsection (6) of that section (meaning of availability for private use by reason of employment) there shall be added at the end—

"(c) a van made available in any year to an employee, or to others being members of his family or household, by reason of his employment is deemed to be available in that year for his or their private use unless the terms on which the van is made available prohibit such use and no such use is made of the van in that year;

(d) a van made available to an employee, or to others being members of his family or household, by his employer is deemed to be made available to him or them by reason of his employment (unless the employer is an individual and it can be shown that the van was made so available in the normal course of his domestic, family or personal relationships)."

7 After Schedule 6 there shall be inserted the following Schedule—

"SCHEDULE 6A Section 159AA.

TAXATION OF DIRECTORS AND OTHERS IN RESPECT OF VANS

PART I

BASIC CASE

Cash equivalent

1 (1) This paragraph applies where the van mentioned in section 159AA(1)—

(a) is not a van to which Part II of this Schedule applies for the year concerned, or

(b) is a van to which that Part applies for the year concerned but is a shared van (within the meaning there given) for part only of the year.

(2) Subject to paragraphs 2 and 3 below, the cash equivalent of the benefit is—

(a) £500, if the van is aged less than 4 years at the end of the year concerned;

(b) £350, if the van is aged 4 years or more at the end of the year concerned.

Reductions for periods where van unavailable

2 (1) Subject to paragraph 3 below, where paragraph 1 above applies and for any part of the year concerned—

(a) the van is unavailable, or

(b) the van is a shared van (within the meaning given by Part II of this Schedule),

the cash equivalent of the benefit is the amount ascertained under paragraph 1 above (the full amount) reduced by an amount which bears to the full amount the same proportion as the number of excluded days in the year bears to 365.

(2) For the purposes of sub-paragraph (1) above a van is to be treated as being unavailable on any day if—

(a) the day falls before the first day on which the van is available to the employee,

(b) the day falls after the last day on which the van is available to the employee, or

(c) the day falls within a period, of 30 days or more, throughout which the van is not available to the employee.

(3) For the purposes of sub-paragraph (1) above an excluded day is a day on which the van falls within paragraph (a) or (b) of that sub-paragraph.

Reduction for payments for use of van

3 (1) Where paragraph 1 above applies and in the year concerned the employee is required, as a condition of the van being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the amount ascertained under paragraphs 1 and 2 above exceeds the relevant sum, the cash equivalent of the benefit is an amount equal to the excess;

(b) if the relevant sum exceeds or is equal to the amount ascertained under paragraphs 1 and 2 above, the cash equivalent of the benefit is nil.

(2) In sub-paragraph (1) above—

(a) "the relevant sum" means the amount paid by the employee, as there mentioned, in respect of the year concerned, and

(b) the reference to the van being available for the employee's private use includes a reference to the van being available for the private use of others being members of his family or household.

(3) If the van is a shared van (within the meaning given by Part II of this Schedule) for part of the year concerned, the reference in sub-paragraph (2) above to the year shall be construed as a reference to the part of the year when the van is not a shared van.

PART II

SHARED VANS

Introduction

4 (1) This Part of this Schedule applies to a van for a year if it is a shared van for any period in the year.

(2) A van is a shared van for a period if the period is one throughout which the van is available concurrently to more than one employee of the same employer.

(3) A van is also a shared van for a period if—

(a) the period is one throughout which the van is available to different employees of the same employer, but

(b) the circumstances are such that the employee or employees to whom the van is available at any given time in the period are not necessarily the same as the employee or employees to whom it is available at any other given time in the period.

(4) But if the van is available to one employee only for a period exceeding 30 days (an exclusive period)—

(a) the exclusive period shall not count towards any period that would otherwise fall within sub-paragraph (3) above;

(b) any period falling within sub-paragraph (3) above shall be treated as ending when the exclusive period begins (without prejudice to the start after the exclusive period of a further period falling within sub-paragraph (3) above).

(5) If a van would (apart from this sub-paragraph) be treated as shared during part of a day it shall be treated as shared throughout the day.

Benefit to employee

5 (1) This paragraph applies where for any year this Part of this Schedule—

(a) applies to a van, or

(b) applies to each of two or more vans made available by the same employer.

(2) For the purposes of this paragraph a participating employee is an employee to whom—

(a) the van is available for his private use while it is a shared van (where only one van is involved),

(b) one of the vans is available for his private use while it is a shared van (where more than one van is involved), or

(c) some or all of the vans are available for his private use while they are shared vans (where more than one van is involved);

but an employee is not a participating employee unless he makes private use of the van, or (if more than one is involved) he makes private use of at least one of them, at least once while it is a shared van.

(3) In sub-paragraph (2) above—

(a) any reference to a van being available for an employee's private use includes a reference to the van being available for the private use of others being members of his family or household, and

(b) any reference to an employee making private use of a van includes a reference to a member of his family or household making private use of it.

(4) This paragraph shall apply to each participating employee in the same way, irrespective of—

(a) the number available to a particular employee of the vans involved;

(b) the fact that a particular van involved is or is not available to him or used by him;

(c) the extent to which a particular van involved is available to him or used by him.

(5) Where this paragraph applies—

(a) find the basic value of the van for the year or (as the case may be) the basic value for the year of each van involved;

(b) take that basic value or (as the case may be) the aggregate of those basic values;

(c) find for each participating employee a portion of the figure taken under paragraph (b) above by dividing it equally among the participating employees.

(6) The figure found for a participating employee shall be taken to be the cash equivalent of the benefit to him in the year of—

(a) the van available to him while it is a shared van (where only one van is involved or only one of the vans involved is available to him), or

(b) the vans available to him while they are shared vans (where more than one van is involved and more than one of them is available to him).

Basic value

6 (1) Subject to sub-paragraph (2) below, the basic value of a van for a year is—

(a) £500, if the van is aged less than 4 years at the end of the year concerned;

(b) £350, if the van is aged 4 years or more at the end of the year concerned.

(2) Where for any part of the year—

(a) the van is not a shared van, or

(b) the van is incapable of use,

its basic value is the amount ascertained under sub-paragraph (1) above (the full value) reduced by an amount which bears to the full value the same proportion as the number of excluded days in the year bears to 365.

(3) For the purposes of sub-paragraph (2) above a van is to be treated as being incapable of use on any day if the day falls within a period, of 30 days or more, throughout which the van is incapable of being used at all.

(4) For the purposes of sub-paragraph (2) above an excluded day is a day on which the van falls within paragraph (a) or (b) of that sub-paragraph.

Limit of benefit

7 Where (apart from this paragraph) the figure found under paragraph 5 above for a participating employee for a year would exceed £500, the figure for the employee for the year shall be taken to be £500.

Alternative calculation

8 (1) In a case where—

(a) a figure is found under paragraph 5 or 7 above for a participating employee for a year, and

(b) the employee makes a claim for this paragraph to be applied,

the figure found for the employee for the year shall be taken to be the alternative figure found under this paragraph.

(2) The alternative figure is a figure found by—

(a) taking for each van involved the number of relevant days;

(b) aggregating the numbers found under paragraph (a) above where more than one van is involved;

(c) multiplying the number found under paragraph (a) (or paragraphs (a) and (b)) above by £5.

(3) For the purposes of sub-paragraph (2)(a) above a relevant day is a day which falls in the year and during which (or part of which) the employee, or a member of his family or household, makes private use of the van concerned while it is a shared van.

(4) For the purposes of section 95 of the Taxes Management Act 1970 (incorrect return etc.) a claim under this paragraph shall be taken to be a claim for relief.

Reduction for payments for use

9 (1) Where this Part of this Schedule applies and in the year concerned a participating employee is required, as a condition of the van or vans being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the figure found for the employee for the year under paragraph 5 or 7 or 8 above exceeds the relevant sum, the figure shall be taken to be a figure equal to the excess;

(b) if the relevant sum exceeds or is equal to the figure found for the employee for the year under paragraph 5 or 7 or 8 above, the figure shall be taken to be nil.

(2) For the purposes of this paragraph the relevant sum shall be found by—

(a) taking for any van involved the amount paid by the employee, as a condition of it being available for his private use, in respect of the period when the van is a shared van in the year concerned, and

(b) where more than one van is involved, aggregating the amounts found under paragraph (a) above.

(3) Any reference in this paragraph to a van being available for the employee's private use includes a reference to the van being available for the private use of others being members of his family or household.

PART III

GENERAL

Interaction of Parts I and II

10 (1) This paragraph applies where—

(a) a cash equivalent of the benefit of a van to an employee in a year is found under Part I of this Schedule, and

(b) a cash equivalent of the benefit of the same van (or of vans including the same van) to the employee in the year is found under Part II of this Schedule.

(2) Once the different cash equivalents are so found, the employee shall be charged to tax as if the van concerned were different vans, one having a cash equivalent found under Part I of this Schedule and the other having (or counting towards) a cash equivalent found under Part II of this Schedule.

Limit of cash equivalent

11 In a case where—

(a) the cash equivalent of the benefit of vans to an employee in a year would (apart from this paragraph) total more than £500, and

(b) no more than one of the vans is available to him for his private use, or the private use of others being members of his family or household, at any one time in the year,

the cash equivalent of the benefit of the vans to him in the year shall be £500.

Interpretation

12 For the purposes of this Schedule a van is available to an employee at a particular time if it is then made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household."

8 This Schedule shall have effect for the year 1993-94 and subsequent years of assessment.

SCHEDULE 5

Section 76.

REMOVAL EXPENSES AND BENEFITS

1 The following shall be inserted after section 191 of the Taxes Act 1988—

"Removal expenses and benefits

191A Removal expenses and benefits.

Schedule 11A to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

191B Removal benefits: beneficial loan arrangements

(1) This section applies where—

(a) there is a change in the residence of an employee,

(b) the conditions mentioned in paragraph 5(1) to (3) of Schedule 11A are fulfilled in relation to the change (construing the reference in paragraph 5(1) to paragraphs 3(2) and 4(2) of that Schedule as a reference to this subsection),

(c) a qualifying loan is raised by the employee in connection with the change and is made before the relevant day, and

(d) section 160(1) applies (or would apply apart from this section) in respect of the employee and the loan.

(2) For the purposes of this section a loan is a qualifying loan if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence, and

(d) the reason, or one of the reasons, for the loan being raised is that a period elapses between the date when expenditure is incurred in connection with the acquisition of the employee's interest in his new residence and the date when the proceeds of the disposal of the employee's interest in his former residence are available.

(3) The reference in subsection (1) above to a loan raised by the employee includes a reference to a loan raised by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(4) References in subsection (2) above to the employee having, disposing of or acquiring an interest in a residence include references to—

(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest;

and references to the employee's interest shall be construed accordingly.

(5) This section does not apply unless the total of the amounts mentioned in subsection (6) below is less than the qualifying limit for the time being specified in paragraph 24(9) of Schedule 11A.

(6) The amounts referred to in subsection (5) above are—

(a) the aggregate of the amounts of any sums which, by reason of the employee's employment and in connection with the change of residence, are paid to him, or to another person on his behalf, in respect of qualifying removal expenses, and

(b) the aggregate of any amounts represented by qualifying removal benefits which, by reason of the employee's employment and in connection with the change of residence, are provided for him or for others being members of his family or household.

(7) For the purposes of subsection (6) above—

(a) references to qualifying removal expenses and qualifying removal benefits shall be construed in accordance with Schedule 11A, and

(b) the reference to any amounts represented by qualifying removal benefits shall be construed in accordance with paragraph 24 of that Schedule.

(8) Where this section applies, for the purposes of section 160 and Schedule 7 the loan mentioned in subsection (1)(c) above shall be treated as if it had been made on the day after the day on which the relevant period expires; and the relevant period is a period, of the appropriate number of days, beginning with the day on which the loan is actually made.

(9) Where the loan is discharged on or before the day on which the relevant period expires subsection (8) above shall not apply; and in such a case the loan shall be ignored for the purposes of section 160 and Schedule 7.

(10) For the purposes of subsection (8) above the appropriate number is the number given by the following formula—

$$\frac{A \times B}{C \times D}$$

(11) For the purposes of subsection (10) above—

A is the amount by which the qualifying limit for the time being specified in paragraph 24(9) of Schedule 11A exceeds the total mentioned in subsection (5) above;

B is 365;

C is the maximum amount of the loan outstanding in the period beginning with the time when the loan is actually made and ending with the end of the relevant day;

D is the official rate of interest, within the meaning given by section 160(5), in force at the time when the loan is actually made.

(12) Where the number given by the formula set out in subsection (10) above is not a whole number, it shall be rounded up to the nearest whole number.

(13) An assessment in respect of the loan for a year of assessment ending before the relevant day may be made or determined on the assumption that the condition mentioned in subsection (5) above will not be fulfilled in relation

to the change of residence; but where an assessment has been made or determined on that assumption and that condition is fulfilled in relation to the change, on a claim in that behalf the assessment shall be adjusted accordingly.

(14) Nothing in subsection (8) above shall affect the operation of paragraph 10 of Schedule 7 in relation to the priority given by that paragraph to a loan falling within sub-paragraph (1)(b) of that paragraph.

(15) Any reference in this section to the relevant day is to the day which, by virtue of paragraph 6 of Schedule 11A, is the relevant day in relation to the change of residence concerned.

(16) Paragraphs 25 to 27 of Schedule 11A apply for the purposes of this section as they apply for the purposes of that Schedule."

2 The following Schedule shall be inserted after Schedule 11 to the Taxes Act 1988—

"SCHEDULE 11A

Section 191A.

REMOVAL EXPENSES AND BENEFITS

PART I

TAX RELIEF

1 (1) Where by reason of a person's employment—

(a) any sums are paid to that person (the employee) in respect of qualifying removal expenses,

(b) any sums are paid on behalf of the employee to another person in respect of qualifying removal expenses, or

(c) any qualifying removal benefit is provided for the employee or for others being members of his family or household,

the employee shall not thereby be regarded as receiving emoluments of the employment for any purpose of Case I or Case II of Schedule E.

(2) Sub-paragraph (1) above shall have effect subject to Part V of this Schedule.

2 (1) This paragraph applies where—

(a) any payment or benefit would (apart from paragraph 1 above) constitute emoluments of an employment for any purpose of Case I or Case II of Schedule E, and

(b) by virtue of that paragraph it is treated as not being such emoluments.

(2) The payment or benefit shall be treated as not being emoluments of the employment for any purpose of Case III of Schedule E.

PART II

QUALIFYING EXPENSES AND QUALIFYING BENEFITS

Qualifying removal expenses

3 (1) Expenses are not qualifying removal expenses unless they are eligible removal expenses and the conditions set out in this paragraph and paragraph 5 below are fulfilled.

(2) The expenses must be reasonably incurred by the employee in connection with a change of his residence.

(3) The expenses must be incurred on or before the relevant day.

Qualifying removal benefits

4 (1) A benefit is not a qualifying removal benefit unless it is an eligible removal benefit and the conditions set out in this paragraph and paragraph 5 below are fulfilled.

(2) The benefit must be reasonably provided in connection with a change of the employee's residence.

(3) The benefit must be provided on or before the relevant day.

Connection with employment

5 (1) The change of residence mentioned in paragraphs 3(2) and 4(2) above must result from—

(a) the employee becoming employed by an employer,

(b) an alteration of the duties of the employee's employment (where his employer remains the same), or

(c) an alteration of the place where the employee is normally to perform the duties of his employment (where both his employer and the duties of his employment remain the same).

(2) The change must be made wholly or mainly to allow the employee to have his residence within a reasonable daily travelling distance of—

(a) the place where he performs, or is to perform, the duties of his employment (where sub-paragraph (1)(a) above applies);

(b) the place where he performs, or is to perform, the new duties of his employment (where sub-paragraph (1)(b) above applies);

(c) the new place where he performs, or is to perform, the duties of his employment (where sub-paragraph (1)(c) above applies);

and any reference in this sub-paragraph to the place where the employee performs, or is to perform, duties of his employment is to the place where he normally performs, or is normally to perform, those duties.

(3) The employee's former residence must not be within a reasonable daily travelling distance of the place mentioned in sub-paragraph (2) above.

The relevant day

6 (1) Subject to sub-paragraph (2) below, the relevant day, in relation to a particular change of residence, is the day on which the relevant year ends; and for the purposes of this sub-paragraph the relevant year is the year of assessment next following the year of assessment in which—

(a) the employee begins to perform the duties of his employment (where paragraph 5(1)(a) above applies);

(b) the employee begins to perform the new duties of his employment (where paragraph 5(1)(b) above applies);

(c) the employee begins to perform the duties of his employment at the new place (where paragraph 5(1)(c) above applies).

(2) If it appears reasonable to the Board to do so, having regard to all the circumstances of a particular change of residence, they may direct that in relation to that change the relevant day is a day which—

(a) falls after the day mentioned in sub-paragraph (1) above, and

(b) is a day on which a year of assessment ends.

PART III

ELIGIBLE REMOVAL EXPENSES

Introduction

7 Expenses are eligible removal expenses if they fall into one of the following categories—

(a) expenses of disposal,

(b) expenses of acquisition,

(c) expenses of abortive acquisition,

(d) expenses of transporting belongings,

(e) travelling and subsistence expenses,

(f) bridging loan expenses, and

(g) duplicate expenses;

and paragraphs 8 to 14 below apply for the purpose of interpreting the preceding provisions of this paragraph.

Expenses of disposal

8 (1) Expenses fall within paragraph 7(a) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) that interest is disposed of, or is intended to be disposed of, in consequence of the change of residence, and

(c) the expenses fall within sub-paragraph (2) below.

(2) Expenses fall within this sub-paragraph if they consist of one of the following—

(a) legal expenses connected with the disposal or intended disposal of the employee's interest in his former residence (including

legal expenses connected with the redemption of any loan relating to the residence),

(b) any penalty for redeeming, for the purpose of the disposal or intended disposal, any loan relating to the residence,

(c) fees of any estate agent or auctioneer engaged in the disposal or intended disposal,

(d) expenses of advertising the disposal or intended disposal,

(e) charges for disconnecting, for the purpose of the disposal or intended disposal, public utilities serving the residence,

(f) expenses of maintaining, insuring, or preserving the security of the residence at any time when unoccupied pending the disposal or intended disposal, and

(g) any rent paid in respect of the residence at any such time.

(3) The reference in this paragraph to the employee having an interest in his former residence includes a reference to—

(a) one or more members of the employee's family or household having such an interest;

(b) the employee and one or more members of his family or household having such an interest;

and references to the disposal or intended disposal of the employee's interest in his former residence shall be construed accordingly.

(4) For the purposes of this paragraph a loan relates to a residence if the loan was raised to obtain an interest in the residence, or an interest in the residence forms security for the loan, or both.

Expenses of acquisition

9 (1) Expenses fall within paragraph 7(b) above if (and only if) the employee acquires an interest in his new residence and the expenses consist of one of the following—

(a) legal expenses connected with the acquisition by the employee of the interest (including legal expenses connected with any loan raised to acquire the interest),

(b) any procurement fees connected with any such loan,

(c) the costs of any insurance effected to cover risks which are incurred by the maker of any such loan and which arise because the amount of the loan is equal to the whole, or a substantial part, of the value of the interest,

(d) fees relating to any survey or inspection of the residence undertaken in connection with the acquisition by the employee of the interest,

(e) fees payable to an appropriate registry or appropriate register in connection with the acquisition by the employee of the interest,

(f) stamp duty charged on the acquisition, and

(g) charges for connecting any public utility for use by the employee, if the utility serves the residence.

(2) References in this paragraph to the employee acquiring an interest in his new residence include references to—

(a) one or more members of the employee's family or household acquiring such an interest;

(b) the employee and one or more members of his family or household acquiring such an interest.

(3) References in this paragraph to a loan are to a loan raised by the employee, by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(4) The reference in this paragraph to a utility for use by the employee includes a reference to a utility for use by the employee and one or more members of his family or household.

(5) For the purposes of this paragraph an appropriate registry is any of the following—

(a) Her Majesty's Land Registry;

(b) the Land Registry in Northern Ireland;

(c) the Registry of Deeds for Northern Ireland;

and an appropriate register is any register under the management and control of the Keeper of the Registers of Scotland.

Expenses of abortive acquisition

10 Expenses fall within paragraph 7(c) above if (and only if)—

(a) they are incurred with a view to the acquisition of an interest in a residence, the interest is not acquired, but (if it were) the residence would be the employee's new residence,

(b) they would fall within paragraph 7(b) above if the interest were acquired, and

(c) the interest is not acquired because of circumstances outside the control of the person seeking to acquire the interest, or because that person reasonably declines to proceed.

Expenses of transporting belongings

11 (1) Expenses fall within paragraph 7(d) above if (and only if) they consist of one of the following—

(a) expenses connected with transporting domestic belongings from the employee's former residence to his new residence, and

(b) the costs of any insurance effected to cover such transporting.

(2) For the purposes of this paragraph transporting includes—

(a) packing and unpacking belongings,

(b) temporarily storing them if a direct move from the former to the new residence is not made,

(c) detaching domestic fittings from the former residence if they are to be taken to the new residence, and

(d) attaching domestic fittings to the new residence, and adapting them, if they are brought from the old residence.

(3) For the purposes of this paragraph domestic belongings are those of the employee and of members of his family or household.

Travelling and subsistence expenses

12 (1) Expenses fall within paragraph 7(e) above if (and only if) they consist of one of the following—

(a) the costs of travelling and subsistence of the employee and members of his family or household while making temporary visits to the new area for purposes connected with the change,

(b) the employee's costs of travelling between his former residence and the place where he normally performs his new duties or (where paragraph 5(1)(c) above applies) between his former residence and the new place where he normally performs the duties of his employment,

(c) where paragraph 5(1)(b) or (c) above applies, the employee's costs of travelling, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and his original place of work,

(d) costs of the employee's subsistence (other than costs falling within paragraph (a) above),

(e) the employee's costs of travelling between his former residence and any temporary living accommodation of the employee,

(f) where paragraph 5(1)(b) or (c) above applies, the employee's costs of travelling, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and any temporary living accommodation of the employee,

(g) the costs of travelling of the employee and members of his family or household from the employee's former residence to his new residence in connection with the change,

(h) a relevant child's costs of subsistence while staying, for the purposes of securing the continuity of his education, in living accommodation in the old area after the change,

(i) a relevant child's costs of travelling between the accommodation mentioned in paragraph (h) above and the employee's new residence,

(j) a relevant child's costs of subsistence while staying, for the purposes of securing the continuity of his education, in living accommodation in the new area before the change, and

(k) a relevant child's costs of travelling between the accommodation mentioned in paragraph (j) above and the employee's former residence.

(2) For the purposes of this paragraph—

(a) the employee's new duties are the duties of his employment (where paragraph 5(1)(a) above applies) or the new duties of his employment (where paragraph 5(1)(b) above applies),

(b) the new area is the area round or near the place where the employee's new duties are, or are to be, normally performed, or (where paragraph 5(1)(c) above applies) the area round or near

the new place where the duties of the employee's employment are, or are to be, normally performed,

(c) the employee's original place of work is the place where, before the alteration mentioned in paragraph 5(1)(b) or (c) above, the employee normally performs the duties of his employment,

(d) a relevant child is a person who is a member of the employee's family or household and who is aged under 19 at the material time, and

(e) the old area is the area round or near the former residence of the employee.

(3) For the purposes of this paragraph the material time is the beginning of the year of assessment in which—

(a) the employee becomes employed by an employer,

(b) the alteration of the duties of the employee's employment becomes effective, or

(c) the alteration of the place where the employee is normally to perform the duties of his employment becomes effective.

(4) In a case where—

(a) expenses are incurred by the employee,

(b) the expenses would, apart from this sub-paragraph, fall within paragraph 7(e) above, and

(c) a deduction is allowable under any of sections 193 to 195 in respect of the whole or part of the expenses,

the expenses or, as the case may be, the part of them in respect of which the deduction is allowable shall be treated as not falling within paragraph 7(e) above.

Bridging loan expenses

13 (1) Expenses fall within paragraph 7(f) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence, and

(d) the expenses consist of interest falling within sub-paragraph (2) below.

(2) Interest falls within this sub-paragraph if it is payable by the employee in respect of a loan raised by him and the reason, or one of the reasons, for the loan being raised is that a period elapses between—

(a) the date when expenditure is incurred in connection with the acquisition of the employee's interest in his new residence, and

(b) the date when the proceeds of the disposal of the employee's interest in his former residence are available.

(3) Interest on so much of the loan as exceeds the market value of the employee's interest in his former residence (taken at the time his interest in his new residence is acquired) shall be regarded as not falling within sub-paragraph (2) above.

(4) Interest on so much of the loan as is not used for any of the following purposes shall also be regarded as not falling within sub-paragraph (2) above—

(a) the purpose of redeeming any loan relating to the employee's former residence and raised by him;

(b) the purpose of acquiring the employee's interest in his new residence.

(5) For the purposes of this paragraph a loan relates to a residence if the loan was raised to obtain an interest in the residence, or an interest in the residence forms security for the loan, or both.

(6) References in this paragraph to the employee having, disposing of or acquiring an interest in a residence include references to—

(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest;

and references to the employee's interest shall be construed accordingly.

(7) The reference in this paragraph to interest payable by the employee includes a reference to interest payable by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(8) References in this paragraph to a loan raised by the employee include references to a loan raised by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

Duplicate expenses

14 (1) Expenses fall within paragraph 7(g) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence,

(d) the expenses are incurred by the employee as a result of the change, and

(e) the expenses are incurred on the purchase of domestic goods intended to replace goods which were used at the employee's former residence but which are not suitable for use at his new residence.

(2) In arriving at the total of the expenses any amount mentioned in sub-paragraph (3) below shall be deducted from what would be the total apart from this sub-paragraph; and accordingly an amount equal to the aggregate of such amounts shall not be treated as eligible removal expenses.

(3) The amount is any amount obtained in respect of the sale of the replaced goods.

(4) References in this paragraph to the employee having, disposing of or acquiring an interest in a residence include references to—

(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest.

Power to amend

15 (1) The Treasury may make regulations amending the preceding provisions of this Part of this Schedule so as to secure that expenses that would not be eligible removal expenses (apart from the regulations) are such expenses.

(2) Any such regulations may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient; and such provisions may be made by way of amendment to other Parts of this Schedule, or otherwise.

(3) Any such regulations shall have effect as regards any change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after the specified day;

(b) an alteration, with effect from a time falling on or after the specified day, of the duties of the employee's employment;

(c) an alteration, with effect from a time falling on or after the specified day, of the place where the employee is normally to perform the duties of his employment;

and in this sub-paragraph "the specified day" means the day specified in the regulations for the purposes of this sub-paragraph.

PART IV

ELIGIBLE REMOVAL BENEFITS

Introduction

16 Benefits are eligible removal benefits if they fall into one of the following categories—

(a) benefits in respect of disposal,

(b) benefits in respect of acquisition,

(c) benefits in respect of abortive acquisition,

(d) benefits in respect of the transporting of belongings,

(e) travelling and subsistence benefits, and

(f) benefits in respect of the new residence;

and paragraphs 17 to 22 below apply for the purpose of interpreting the preceding provisions of this paragraph.

Benefits in respect of disposal

17 (1) A benefit falls within paragraph 16(a) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) that interest is disposed of, or is intended to be disposed of, in consequence of the change of residence, and

(c) the benefit falls within sub-paragraph (2) below.

(2) A benefit falls within this sub-paragraph if it consists of one of the following—

(a) legal services connected with the disposal or intended disposal of the employee's interest in his former residence (including legal services connected with the redemption of any loan relating to the residence),

(b) the waiving of any penalty for redeeming, for the purpose of the disposal or intended disposal, any loan relating to the residence,

(c) the services of an estate agent or auctioneer engaged in the disposal or intended disposal,

(d) services connected with the advertisement of the disposal or intended disposal,

(e) the disconnection, for the purpose of the disposal or intended disposal, of public utilities serving the residence, and

(f) services connected with the maintenance or insurance, or the preservation of the security, of the residence at any time when unoccupied pending the disposal or intended disposal.

(3) Sub-paragraphs (3) and (4) of paragraph 8 above apply for the purposes of this paragraph as they apply for the purposes of that.

Benefits in respect of acquisition

18 (1) A benefit falls within paragraph 16(b) above if (and only if) the employee acquires an interest in his new residence and the benefit consists of one of the following—

(a) legal services connected with the acquisition by the employee of the interest (including legal services connected with any loan raised to acquire the interest),

(b) the waiving of any procurement fees connected with any such loan,

(c) the waiving of any amount payable in respect of insurance effected to cover risks which are incurred by the maker of any such loan and which arise because the amount of the loan is equal to the whole, or a substantial part, of the value of the interest,

(d) any survey or inspection of the residence undertaken in connection with the acquisition by the employee of the interest, and

(e) the connection of any public utility for use by the employee, if the utility serves the residence.

(2) Sub-paragraphs (2) to (4) of paragraph 9 above apply for the purposes of this paragraph as they apply for the purposes of that.

Benefits in respect of abortive acquisition

19 A benefit falls within paragraph 16(c) above if (and only if)—

(a) it is provided with a view to the acquisition of an interest in a residence, the interest is not acquired, but (if it were) the residence would be the employee's new residence,

(b) it would fall within paragraph 16(b) above if the interest were acquired, and

(c) the interest is not acquired because of circumstances outside the control of the person seeking to acquire the interest, or because that person reasonably declines to proceed.

Benefits in respect of the transporting of belongings

20 (1) A benefit falls within paragraph 16(d) above if (and only if) it consists of one of the following—

(a) the transporting of domestic belongings from the employee's former residence to his new residence, and

(b) the effecting of insurance to cover such transporting.

(2) Sub-paragraphs (2) and (3) of paragraph 11 above apply for the purposes of this paragraph as they apply for the purposes of that.

Travelling and subsistence benefits

21 (1) A benefit falls within paragraph 16(e) above if (and only if) it consists of one of the following—

(a) subsistence, and facilities for travel, provided for the employee and members of his family or household while making temporary visits to the new area for purposes connected with the change,

(b) facilities provided for the employee for travel between his former residence and the place where he normally performs his new duties or (where paragraph 5(1)(c) above applies) between his former residence and the new place where he normally performs the duties of his employment,

(c) where paragraph 5(1)(b) or (c) above applies, facilities provided for the employee for travel, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and his original place of work,

(d) subsistence provided for the employee (other than subsistence falling within paragraph (a) above),

(e) facilities provided for the employee for travel between his former residence and any temporary living accommodation of the employee,

(f) where paragraph 5(1)(b) or (c) above applies, facilities provided for the employee for travel, before the alteration mentioned in

paragraph 5(1)(b) or (c), between his new residence and any temporary living accommodation of the employee,

(g) facilities provided for the employee and members of his family or household for travel from the employee's former residence to his new residence in connection with the change,

(h) subsistence provided for a relevant child while staying, for the purposes of securing the continuity of his education, in living accommodation in the old area after the change,

(i) facilities provided for a relevant child for travel between the accommodation mentioned in paragraph (h) above and the employee's new residence,

(j) subsistence provided for a relevant child while staying, for the purposes of securing the continuity of his education, in living accommodation in the new area before the change, and

(k) facilities provided for a relevant child for travel between the accommodation mentioned in paragraph (j) above and the employee's former residence.

(2) Where (apart from this sub-paragraph) a car or van would constitute a facility for the purposes of sub-paragraph (1) above, it shall not do so if the car or van—

(a) is provided as mentioned in that sub-paragraph,

(b) is also available at any relevant time to the employee, or to others being members of his family or household, for his or their private use not falling within that sub-paragraph, and

(c) is so available by reason of the employee's employment and without any transfer of the property in it.

(3) Sub-paragraphs (2) and (3) of paragraph 12 above apply for the purposes of this paragraph as they apply for the purposes of that.

(4) In this paragraph "car", "van" and "private use" have the same meanings as in Chapter II of this Part of this Act.

(5) Section 168(6) applies for the purposes of this paragraph as it applies for the purposes of Chapter II of this Part of this Act.

(6) For the purposes of this paragraph a relevant time is any time falling on or before the day which is the relevant day (within the meaning given by paragraph 6 above) in relation to the change of residence concerned.

(7) In a case where—

(a) a benefit is provided for the employee or a member of his family or household,

(b) the benefit would, apart from this sub-paragraph, fall within paragraph 16(e) above, and

(c) a deduction is allowable under any of sections 193 to 195 in respect of the whole or part of the cost of the benefit,

the benefit shall, subject to sub-paragraph (8) below, be treated as not falling within paragraph 16(e) above.

(8) Where a deduction is allowed as mentioned in sub-paragraph (7) above in respect of part only of the cost of the benefit, the extent to which

the benefit is treated as falling within paragraph 16(e) above shall be determined on a just and reasonable basis.

Benefits in respect of new residence

22 (1) A benefit falls within paragraph 16(f) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence,

(d) the benefit is provided as a result of the change, and

(e) the benefit consists of domestic goods provided to replace goods which were used at the employee's former residence but which are not suitable for use at his new residence.

(2) Sub-paragraph (4) of paragraph 14 above applies for the purposes of this paragraph as it applies for the purposes of that.

Power to amend

23 (1) The Treasury may make regulations amending the preceding provisions of this Part of this Schedule so as to secure that a benefit that would not be an eligible removal benefit (apart from the regulations) is such a benefit.

(2) Any such regulations may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient; and such provisions may be made by way of amendment to other Parts of this Schedule, or otherwise.

(3) Sub-paragraph (3) of paragraph 15 above applies to regulations made under this paragraph as it applies to regulations made under that.

PART V

THE QUALIFYING LIMIT

24 (1) In a case where, by reason of the employee's employment and in connection with a particular change of residence—

(a) any sums are paid as mentioned in paragraph 1(1)(a) or (b) above, or

(b) any qualifying removal benefit is provided as mentioned in paragraph 1(1)(c) above,

paragraph 1(1) above shall apply only to the extent that the total value to the employee, found under sub-paragraph (2) below, does not exceed the qualifying limit.

(2) The total value to the employee is the total of the following—

(a) the aggregate of the amounts of any sums paid as mentioned in paragraph 1(1)(a) or (b) above in connection with the change of residence;

(b) the aggregate of any amounts represented by qualifying removal benefits which are provided as mentioned in paragraph 1(1)(c) above in connection with the change.

(3) Subject to sub-paragraphs (4) to (8) below, for the purposes of sub-paragraph (2)(b) above the amount represented by a benefit is the amount which would be the cash equivalent of the benefit under Chapter II of this Part of this Act if the benefit were chargeable under the appropriate provision of that Chapter.

(4) In the case of a benefit which—

(a) consists of living accommodation provided for a person, and

(b) is, or would be apart from this Schedule, chargeable under section 145 and not under section 146,

for the purposes of sub-paragraph (2)(b) above the amount represented by the benefit is the amount which, if the benefit were so chargeable, would be the value to the employee of the accommodation for the period in which the accommodation is provided, less the appropriate sum.

(5) For the purposes of sub-paragraph (4) above the value to the employee of accommodation in any period shall be determined in accordance with section 145, and the reference in that sub-paragraph to the appropriate sum is to the total of—

(a) so much of any sum made good by the employee to those at whose cost the accommodation is provided as is properly attributable to the provision of the accommodation, and

(b) any amounts which, if the benefit were chargeable under section 145, would be deductible by virtue of section 145(3) from the amount to be treated as emoluments under section 145(1) as regards the benefit.

(6) In the case of a benefit which—

(a) consists of living accommodation provided for a person, and

(b) is, or would be apart from this Schedule, chargeable under both section 145 and section 146,

for the purposes of sub-paragraph (2)(b) above the amount represented by the benefit is the total of the amounts mentioned in sub-paragraph (7) below.

(7) The amounts referred to in sub-paragraph (6) above are—

(a) the amount which would be found under sub-paragraph (4) above if the benefit were chargeable under section 145 and not under section 146, and

(b) the amount which, if the benefit were chargeable under section 146, would be the additional value to the employee of the accommodation for the period in which the accommodation is provided, less the appropriate sum.

(8) For the purposes of sub-paragraph (7) above the additional value to the employee of accommodation in any period shall be determined in accordance with section 146, and the reference in that sub-paragraph to the appropriate sum is to the total of—

(a) so much of any rent paid by the employee in respect of the accommodation to the person providing it as exceeds the value to the employee of the accommodation for the period (determined in accordance with section 145), and

(b) any amounts which, if the benefit were chargeable under section 146, would be deductible by virtue of subsection (9) of that section from the amount to be treated as emoluments under that section as regards the benefit.

(9) The qualifying limit, as regards any change of residence, is £8,000.

(10) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (9) above a sum of a greater amount.

(11) Any such substitution shall have effect as regards any change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after the specified day;

(b) an alteration, with effect from a time falling on or after the specified day, of the duties of the employee's employment;

(c) an alteration, with effect from a time falling on or after the specified day, of the place where the employee is normally to perform the duties of his employment;

and in this sub-paragraph "the specified day" means the day specified in the order for the purposes of this sub-paragraph.

PART VI

GENERAL

Interpretation

25 In this Schedule—

(a) references to the residence of the employee are to his sole or main residence,

(b) references to the former residence of the employee are to his sole or main residence before the change,

(c) references to the new residence of the employee are to his sole or main residence after the change, and

(d) references to an interest in a residence are, in the case of a building, references to an estate or interest in the land concerned.

26 For the purposes of this Schedule a person is not a member of another person's family or household unless the former is—

(a) the latter's spouse, son, daughter, parent, servant, dependant or guest, or

(b) the spouse of a son or daughter of the latter.

27 In this Schedule references to employment include references to any office, and related expressions shall be construed accordingly.

28 References in this Schedule to subsistence are to food, drink and temporary living accommodation.

Commencement

29 This Schedule applies to any payment made, or any benefit provided, in connection with a change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after 6th April 1993,

(b) an alteration, with effect from a time falling on or after 6th April 1993, of the duties of the employee's employment, or

(c) an alteration, with effect from a time falling on or after 6th April 1993, of the place where the employee is normally to perform the duties of his employment."

SCHEDULE 6

Section 79.

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

The Taxes Act 1988

1 In each of sections 167(2A), 353(5), 369(3B), 683(2), 684(2) and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act, for "were charged at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,".

2 (1) In subsection (1) of section 233 of that Act (taxation of certain recipients and in respect of non-qualifying distributions)—

(a) for the words "basic rate", in each place where they occur, there shall be substituted "lower rate"; and

(b) in paragraph (c), the words "as income which is not chargeable at the lower rate and" shall be omitted.

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

"(1A) Where in any year of assessment the income of any person who is not a company includes a qualifying distribution in respect of which that person, not being resident in the United Kingdom, is not entitled to a tax credit—

(a) the amount or value of the distribution so far as it is comprised in—

(i) income to which an assessment such as is mentioned in paragraph (b) of subsection (1) above relates, or

(ii) income chargeable to tax in accordance with section 686 at the rate applicable to trusts,

shall be deemed for the purposes of that assessment or, as the case may be, that section to be the sum which if reduced by an amount equal to income tax on that sum at the lower rate would be equal to the amount or value of the distribution actually made; and

(b) that person shall be treated for the purposes of section 686 as having paid tax at the lower rate on any amount which under paragraph (a) above is deemed to be the amount or value of the distribution for the purpose of that section;

but no repayment shall be made of any income tax treated by virtue of this subsection as having been paid.

(1B) Where in any year of assessment the income of any trustees which is chargeable to income tax in accordance with section 686 includes any non-qualifying distribution (within the meaning of subsection (2) below), the trustees' liability under any assessment made in respect of income tax at the rate applicable to trusts on the amount or value of the distribution, or on any part of the distribution, shall be reduced by a sum equal to income tax at the lower rate on so much of the distribution as is assessed at the rate applicable to trusts."

(3) In subsection (2) of that section, in the definition of "excess liability"—

(a) for the words from "not chargeable" to "basic rate" there shall be substituted "were charged at the lower rate"; and

(b) for "any higher rate" there shall be substituted "the higher rate or, as the case may be, the rate applicable to trusts".

3 In each of sections 235(4) and 237(3) of that Act (taxation on distributions at the additional rate), for the words from "the additional rate" to "is made" there shall be substituted "the difference according to the rates in force at the time the distribution is made between the lower rate and the rate applicable to trusts".

4 In section 468E(2) of that Act (deemed rate of corporation tax in relation to authorised unit trusts), for "for a financial year shall be deemed to be the rate at which income tax at the basic rate" there shall be substituted "shall be deemed to be 22.5 per cent. for the financial year 1993 and for subsequent financial years shall be deemed to be the rate at which income tax at the lower rate".

5 (1) In subsection (2) of section 468F of that Act (distributions by authorised unit trusts to persons chargeable to corporation tax)—

(a) for "the payment" there shall be substituted "the unfranked portion of the payment"; and

(b) in paragraph (b), for "basic rate" there shall be substituted "lower rate".

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

"(2A) For the purposes of subsection (2) above the unfranked portion of the payment shall be calculated according to the following formula—

$$U = P \times \frac{1 - D}{I}$$

(2B) For the purposes of the formula in subsection (2A) above—

U is the unfranked portion of the payment;

P is the payment;

I is the gross amount of the income arising to the trustees in respect of the distribution period in question which has been brought into account in ascertaining the amount of income available for distribution to unit holders in respect of that period; and

D is so much of I as represents franked investment income from the investments subject to the trusts."

6 In each of sections 549(2), 689(2) and 699(2) of that Act (definitions of excess liability), for "were chargeable at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) were chargeable at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,".

7 (1) In each of subsections (2)(h) and (7)(a) of section 677 of that Act (sums paid to settlor), for the words from "the sum" to "additional rate" there shall be substituted "tax at the rate applicable to trusts".

(2) In subsection (6) of that section, for "both tax at the basic rate and tax at the additional rate" there shall be substituted "tax at the rate applicable to trusts".

(3) In subsection (7)(b) of that section, for "that sum" there shall be substituted "the amount of tax at that rate".

8 (1) In subsection (1) of section 686 of that Act (income of discretionary trusts subject to additional rate tax), for the words from "in addition" onwards there shall be substituted "be chargeable to income tax at the rate applicable to trusts, instead of at the basic rate or, in accordance with section 207A, at the lower rate."

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

"(1A) The rate applicable to trusts for any year of assessment shall be the rate equal to the sum of the basic rate and the additional rate in force for that year; and, for the purposes of assessments for the year 1993-94 and in relation to years of assessment for which tax at the basic rate and the additional rate was separately chargeable, references to the charging of income with tax at the rate applicable to trusts shall be taken to include references to the charging of income with tax both at the basic rate and at the additional rate."

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

"(2A) For the purposes of this section where—

(a) any trustees have expenses in any year of assessment ("management expenses") which are properly chargeable to income or would be so chargeable but for any express provisions of the trust, and

(b) there is income arising to them in that year ("the untaxed income") which does not bear income tax for that year by reason wholly or partly of the trustees not having been resident in the United Kingdom or being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom,

there shall be disregarded for the purposes of subsection (2)(d) above such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to all the income arising to the trustees in that year."

(4) In subsection (6) of that section (payments by personal representatives to trustees), for "basic rate" there shall be substituted "applicable rate".

9 (1) In subsection (2) of section 687 of that Act (deemed deduction from payment under discretionary trust), for the words from "a rate" to "in force" there shall be substituted "the rate applicable to trusts".

(2) In subsection (3) of that section—

(a) in paragraph (a), for "and charged at the additional as well as at the basic rate" there shall be substituted "which (not being income the tax on which falls within paragraph (aa) or (b) below) is charged at the rate applicable to trusts";

(b) after that paragraph there shall be inserted the following paragraph—

"(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the lower rate and the rate applicable to trusts, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;"

(c) in paragraph (b), as it has effect by virtue of section 79(2) of this Act, for "the additional rate" there shall be substituted "a rate equal to the difference between the lower rate and the rate applicable to trusts";

(d) in each of paragraphs (e) to (i) (except paragraph (g)), and in paragraph (j) as it so has effect, for the words from "at a rate" to "additional rate" there shall be substituted "at the rate applicable to trusts".

10 In section 694(2A) of that Act (special charge for trustees in certain cases), for "sum of the basic and additional rates" there shall be substituted "amount of the rate applicable to trusts".

11 (1) In each of sections 695(4)(a), 696(3) to (5) and 698(2) of that Act (deemed payments out of the residue of a deceased's estate), for the words "basic rate", wherever they occur, there shall be substituted "applicable rate".

(2) After section 698 of that Act there shall be inserted the following section—

"**698A Taxation at the lower rate of the income of beneficiaries**

(1) Subject to subsection (2) below, in so far as the income of any person is treated under this Part as having borne income tax at the lower rate, section 207A shall apply to that income as it applies to income chargeable under Schedule F.

(2) Subsection (1) above shall not apply to income paid indirectly through a trustee and treated as having borne income tax at the lower rate by virtue of section 698(3); but (subject to section 686(1)) section 207A shall apply as if the payment made to the trustee were income of the trustee chargeable under Schedule F."

(3) In section 701 of that Act (interpretation of provisions relating to deemed payments), after subsection (3) there shall be inserted the following subsection—

"(3A) "Applicable rate", in relation to any amount which a person is deemed by virtue of this Part to receive or to have a right to receive, means the basic rate or the lower rate according as the income of the residue of the estate out of which that amount is or would be paid bears tax at the basic rate or the lower rate; and in determining for the purposes of this Part whether or how much of any payment is or would be deemed to be made out of income that bears tax at one rate rather than another—

(a) such apportionments of the amounts bearing tax at different rates shall be made between different persons with interests in the residue

of the estate as are just and reasonable in relation to their different interests; and

(b) subject to paragraph (a) above, it shall be assumed that payments are to be made out of income bearing tax at the basic rate before they are made out of income bearing tax at the lower rate."

12 In section 703(5)(b) of that Act (cancellation of tax advantage), for "basic rate" there shall be substituted "lower rate".

13 In each of sections 720(5) and 764 of that Act (taxation of other income of trustees), for the words from "at a rate" to "additional rate" there shall be substituted "at the rate applicable to trusts".

14 In section 737 of that Act (manufactured dividends), after subsection (1) there shall be inserted the following subsection—

"(1A) In the case of any payment which under Schedule 23A is such that, in relation to a recipient chargeable to income tax, it would be chargeable under Schedule F, the deduction of tax which (apart from this subsection) would be deemed by virtue of subsection (1) above to have been made at the basic rate shall be deemed to have been made—

(a) at a rate of 22.5 per cent., if the payment is made on or after 6th April 1993 and before 6th April 1994; and

(b) at the lower rate, if the payment is made on or after 6th April 1994;

and, accordingly, section 350(1) shall have effect by virtue of that subsection in relation to any such payment so as to make the dividend manufacturer assessable and chargeable with income tax on the gross amount of the payment at the rate specified in paragraph (a) or, as the case may be, paragraph (b) above, instead of at the basic rate."

15 In section 832(1) of that Act (interpretation), after the definition of "qualifying policy" there shall be inserted the following definition—

""the rate applicable to trusts" shall be construed in accordance with section 686(1A);".

16 In section 835(6)(a) of that Act (year for which income included in total income), after "an amount" there shall be inserted "which is or (apart from section 78(3) of the Finance Act 1993) would be".

17 (1) In Schedule 3 to that Act (machinery provisions), in sub-paragraph (1) of paragraph 6A, for "basic rate" there shall be substituted "applicable rate".

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

"(2A) Payments of tax made on any person's behalf under this paragraph shall be treated as made for the purpose only of being applied in the discharge of that person's liability to tax charged (otherwise than by virtue of this paragraph) on the dividends or proceeds to which the payments relate."

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

"(4) For the purposes of sub-paragraph (1) above the applicable rate shall be—

(a) the lower rate, in the case of a foreign dividend which is neither interest nor any other annual payment which is made otherwise than by way of dividend; and

(b) the basic rate in any other case."

18 In paragraph 17(1) of Schedule 4 to that Act (taxation of trustees in respect of deep discount securities), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

19 In paragraph 2 of Schedule 23A to that Act (manufactured dividends and interest), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

"(5) Sub-paragraph (3)(c) above shall be without prejudice to the operation of subsection (3) of section 78 of the Finance Act 1993, where that subsection has effect by virtue of sub-paragraph (3)(a) above for determining the amount of any tax credit to which any person is entitled in respect of any manufactured dividend."

The Finance Act 1989 (c. 26)

20 In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 and in paragraph 11(1) of Schedule 11 to that Act (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

The Finance Act 1990 (c. 29)

21 In paragraph 19(1) of Schedule 10 to the Finance Act 1990 (taxation of trustees in respect of convertible securities), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

The Taxation of Chargeable Gains Act 1992 (c. 12)

22 (1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax), after subsection (3) there shall be inserted the following subsections—

"(3A) Income chargeable to income tax at the lower rate in accordance with section 207A of the Taxes Act, and any income which would be chargeable in accordance with that section if it were not chargeable at the higher rate, shall be disregarded in determining for the purposes of subsections (1A) and (1B) above—

(a) whether any individual has income for any year of assessment; or

(b) an individual's total income for any year of assessment.

(3B) Where any amount on which an individual is chargeable for a year of assessment to capital gains tax at a rate equivalent to the lower rate is or includes an amount ("the amount of the lower rate gains") on which he is so chargeable by virtue only of subsection (3A) above then—

(a) for the purposes of the Income Tax Acts and this section, the amount (if any) of income comprised in the individual's total income which is chargeable to income tax at the higher rate shall be determined as if the basic rate limit for that year were reduced in relation to that individual by the amount of the lower rate gains; and

(b) the amount (if any) on which, but for this paragraph, the individual would be chargeable under subsection (2) above to capital gains tax at a rate equivalent to the higher rate shall be treated as reduced by the amount of the lower rate gains or, if the amount to be reduced is not more than the amount of those gains, to nil."

(2) In subsection (4) of that section (definition of "unused part of an individual's basic rate band"), after "by which" there shall be inserted "(disregarding subsection (3B)(a) above)".

23 In section 5(1) of that Act (rate of tax in respect of capital gains accruing to trustees of an accumulation or discretionary settlement), for the words from "the sum" onwards there shall be substituted "the rate which for that year is applicable to trusts under section 686(1) of the Taxes Act."

24 In section 6(1) of that Act (which contains a definition of "excess liability"), for "were charged at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) of the Taxes Act were charged at the basic rate, or (so far as applicable in accordance with section 207A of that Act) the lower rate,".

Commencement

25 (1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.

(2) Paragraph 4 above shall have effect for the financial year 1993 and subsequent financial years.

(3) Paragraph 5(1)(a) and (2) above shall have effect where the date of payment is on or after 1st April 1993.

(4) Paragraphs 14 and 19 above shall have effect in relation to any payment of a manufactured dividend made on or after 6th April 1993.

(5) Paragraph 17 above shall have effect in relation to transactions effected on or after 6th April 1993.

SCHEDULE 7

Section 87.

RELIEF ON RETIREMENT OR RE-INVESTMENT

PART I

RETIREMENT RELIEF ETC.

Extension of references to "family company"

1 (1) In sections 157 and 163 to 165 of the Taxation of Chargeable Gains Act 1992 and in paragraph 12(2) of Schedule 6 and paragraph 7(1) of Schedule 7 to that Act (which contain provisions relating to retirement relief and provisions which apply the definition of "family company" in Schedule 6 for other purposes), for the

words "family company", wherever they occur, there shall be substituted "personal company".

(2) In paragraph 1(2) of Schedule 6 to that Act (definitions), after the definition of "permitted period" there shall be inserted the following definition—

> ""personal company", in relation to an individual, means any company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;".

Extension of references to full-time working directors etc.

2 (1) Subject to sub-paragraph (4) below, in sections 163 and 164 of that Act and in Schedule 6 to that Act (retirement relief), for the words "full-time working director", wherever they occur, there shall be substituted "full-time working officer or employee".

(2) In section 163(7)(b) of that Act, for "a director" there shall be substituted "an officer or employee".

(3) In section 164(2)(b) of that Act, for "director" there shall be substituted "officer or employee".

(4) In paragraph 1(2) of Schedule 6 to that Act, for the definition of "full-time working director" there shall be substituted—

> ""full-time working officer or employee", in relation to one or more companies, means any officer or employee who is required to devote substantially the whole of his time to the service of that company, or those companies taken together, in a managerial or technical capacity;".

PART II

ROLL-OVER RELIEF ON RE-INVESTMENT

3 After Chapter I of Part V of that Act there shall be inserted the following Chapter—

"CHAPTER IA

ROLL-OVER RELIEF ON RE-INVESTMENT

164A Relief on re-investment for individuals

(1) Subject to the following provisions of this Chapter, roll-over relief under this section shall be available where—

(a) a chargeable gain would (apart from this section) accrue to any individual ("the re-investor") on any material disposal by him of shares in or other securities of any company ("the initial holding"); and

(b) that individual acquires a qualifying investment at any time in the qualifying period.

(2) Subject to section 164C, where roll-over relief under this section is available, the re-investor shall, on making a claim as respects the qualifying investment, be treated—

(a) as if the consideration for the disposal of the initial holding were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the chargeable gain which apart from this subsection would accrue on the disposal of the initial holding, so far as that amount has not already been held over by way of reductions under this subsection,

(ii) the actual amount or value of the consideration for the acquisition of the qualifying investment,

(iii) in the case of a qualifying investment acquired otherwise than by a transaction at arm's length, the market value of that investment at the time of its acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the initial holding or of the other party to the transaction involving the qualifying investment.

(3) Subject to subsections (5) and (6) below, the disposal of shares in or other securities of a company is a material disposal for the purposes of this section if the conditions specified in subsection (4) below are satisfied in relation to a period of one year ending with—

(a) the date of the disposal; or

(b) if the company ceased at any time in the permitted period before the disposal to be a trading company or the holding company of a trading group, that time.

(4) The conditions mentioned in subsection (3) above are satisfied in relation to any period if throughout that period-

(a) the company has been a trading company or the holding company of a trading group;

(b) the company has been an unquoted company;

(c) the company has been the re-investor's personal company; and

(d) the re-investor has been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(5) Where, throughout a period ending at the same time as the period mentioned in subsection (3) above and beginning at a time ("the time of partial retirement") when the re-investor ceased to be such a full-time working officer or employee as is mentioned in subsection (4)(d) above—

(a) the conditions specified in subsection (4)(a) to (c) above were satisfied in relation to any company,

(b) the re-investor was an officer or employee of that company or, as the case may be, of one or more members of the group or association in question, and

(c) in that capacity, the re-investor devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the disposal of shares in or other securities of that company is a material disposal for the purposes of this section if the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time of partial retirement.

(6) Where—

(a) any company has ceased to be an unquoted company, and

(b) in the case of that company, all the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time when the company so ceased,

this section shall have effect in relation to an initial holding acquired by the re-investor at a time when the company in question was an unquoted company as if the company continued to be an unquoted company after that time until the disposal of that holding and as if the period mentioned in subsection (3) above included all such time (if any) as falls after the company's ceasing to be an unquoted company and before what would, apart from this subsection, have been the beginning of that period.

(7) Any question for the purposes of subsection (6) above as to when the shares or other securities comprised in the initial holding were acquired shall be determined by assuming, in relation to any disposals of shares or other securities regarded as forming part of a single asset, that shares or other securities acquired later are disposed of before those acquired earlier.

(8) For the purposes of this section a person shall be regarded as acquiring a qualifying investment where he acquires any eligible shares in a qualifying company if—

(a) he holds 5 per cent. or more of the eligible shares in that company—

(i) at any time after making the acquisition and in the period of 3 years after the disposal of the initial holding, or

(ii) at such time after the end of that period as the Board may by notice allow;

(b) that company has not ceased to be a qualifying company between the acquisition of those shares and that time; and

(c) that company is neither the company in which the initial holding has subsisted nor a company that was a member of the same group of companies as that company at the time of the disposal of the initial holding or of the acquisition of the qualifying investment.

(9) For the purposes of this section the acquisition of a qualifying investment shall be taken to be in the qualifying period if, and only if, it takes place—

(a) at any time in the period beginning 12 months before and ending 3 years after the disposal of the initial holding, or

(b) at such time before the beginning of that period or after it ends as the Board may by notice allow.

(10) The provisions of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied; and, without prejudice to the generality of this subsection, section 42(5) shall apply in relation to an adjustment under this section of the consideration for the acquisition of any shares as it applies in relation to an adjustment under any enactment to secure that neither a gain nor a loss accrues on a disposal.

(11) The provisions of this section for making any reduction shall apply before any provisions for calculating the amount of, or giving effect to, any relief under section 163 of 164, and references in this section to chargeable gains shall be construed accordingly.

(12) Without prejudice to section 52(4), where consideration is given for the acquisition or disposal of any assets some of which are shares or other securities to the acquisition or disposal of which a claim under this section relates and some of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

164B Roll-over relief on re-investment by trustees

(1) Subject to the following provisions of this section, section 164A shall apply, as it applies in such a case as is mentioned in subsection (1) of that section, where there is—

(a) a disposal by the trustees of a settlement of any shares in or other securities of a company which are part of the settled property; and

(b) such an acquisition by those trustees of eligible shares in a qualifying company as would for the purposes of that section be an acquisition of a qualifying investment at a time in the qualifying period,

but as if the disposal were a material disposal if, and only if, the conditions specified in subsection (2) below are satisfied in relation to the period of one year mentioned in section 164A(3).

(2) The conditions mentioned in subsection (1) above are satisfied in relation to any period if—

(a) the company has been a trading company or the holding company of a trading group throughout that period;

(b) the company has been an unquoted company throughout that period;

(c) throughout that period the company has been a personal company of a relevant beneficiary; and

(d) that relevant beneficiary has throughout that period been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(3) References in this section, in relation to the disposal of any shares or other securities by the trustees of any settlement, to a relevant beneficiary are references to any beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a

part of it which consists of or includes the shares or securities, but excluding, for this purpose, an interest for a fixed term.

(4) If, in the case of a disposal by any trustees of any shares or other securities, there is, in addition to the beneficiary in relation to whom the requirements of subsection (2)(d) above are satisfied ("the qualifying beneficiary"), at least one other beneficiary who, at the relevant time, has an interest in possession in, the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities—

(a) only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of section 164A(2)(a)(i); and

(b) no reduction under section 164A(2) shall be made in respect of the whole or any part of the balance of the gain.

(5) For the purposes of subsection (4) above the relevant proportion is the proportion which the interest specified in paragraph (a) below bears to the interests specified in paragraph (b) below, that is to say—

(a) the qualifying beneficiary's interest at the relevant time in the income of the part of the settled property comprising the shares or other securities in question; and

(b) the interests at that time in that income of all the beneficiaries (including the qualifying beneficiary) who at that time have interests in possession in that part.

(6) The reference in subsection (5) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.

(7) Section 164A shall not apply by virtue of this section unless immediately after the acquisition mentioned in subsection (1)(b) above the qualifying beneficiary has an interest in possession in the whole of the settled property, or in the part of it in which the acquired shares are comprised, which is the same as or, as the case may be, is equivalent to the interest at the relevant time by virtue of which he is the qualifying beneficiary.

(8) In this section "the relevant time", in relation to a disposal of any shares or other securities, means the time of the disposal or if, by virtue of paragraph (b) of subsection (3) of section 164A, the period mentioned in that subsection is treated in relation to that disposal as ending at any earlier time, that earlier time.

164C Restriction applying to retirement relief and roll-over relief on re-investment.

(1) Subject to the following provisions of this section, in the case of any disposal of shares in or other securities of any company in relation to which a claim is made under section 164A—

(a) the gains which (apart from sections 163 to 164B) would on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated,

(b) the amount available in respect of the disposal for relief under sections 163 and 164 and for the making of deductions under

section 164A(2) above shall be deemed to be confined to the appropriate proportion of the aggregated gains, and

(c) so much of the aggregated gains as exceeds the amount so available shall be disregarded for the purposes of sections 163 to 164B and, accordingly, shall constitute chargeable gains.

(2) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a company that is not a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the company's chargeable assets at the relevant time which is attributable to the value of the company's chargeable business assets; and

(b) the whole of the value of the company's chargeable assets at that time.

(3) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the trading group's chargeable assets at the relevant time which is attributable to the value of the trading group's chargeable business assets; and

(b) the whole of the value of the trading group's chargeable assets at that time.

(4) Where a company or trading group has no chargeable assets, "the appropriate proportion", in relation to the gains accruing on the disposal of shares in or other securities of that company or, as the case may be, of the holding company of that group, means the whole of those gains.

(5) Subject to subsection (6)(b) below, every asset of a company is for the purposes of this section a chargeable asset of that company except one, on the disposal of which by the company at the relevant time, no gain accruing to the company would be a chargeable gain.

(6) For the purposes of this section—

(a) any reference, in relation to a trading group, to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and

(b) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.

(7) Where the whole of the ordinary share capital of a 51 per cent. subsidiary of a holding company is not owned directly or indirectly by that company, then, for the purposes of this section, the value of the chargeable assets and of the chargeable business assets of that subsidiary shall be taken to be reduced according to the formula—

$$A \times \frac{B}{C}$$

(8) In subsection (7) above—

A is the value falling to be reduced of the chargeable assets or chargeable business assets of the subsidiary;

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

C is the whole of the ordinary share capital of the subsidiary;

and section 838 of the Taxes Act (definition of expressions in relation to subsidiaries) shall apply for construing that subsection and this subsection.

(9) In this section "chargeable business asset", in relation to any company, means a chargeable asset (including goodwill but not including any shares or other securities or any assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—

(a) the individual concerned,

(b) any personal company of that individual,

(c) a member of a trading group of which the holding company is a personal company of that individual, or

(d) a partnership of which that individual is a member.

(10) For the purposes of the application of this section to a case in which trustees dispose of any shares or other securities, the references in subsection (9) above to the individual concerned are references to the qualifying beneficiary.

(11) In this section "the relevant time" has the same meaning as in section 164B.

(12) This section shall be without prejudice to the provisions of paragraphs 7 to 11 of Schedule 6.

164D Relief carried forward into replacement shares

(1) This section shall apply where a person has acquired any eligible shares in a qualifying company ("the acquired holding") for a consideration which is treated as reduced, under section 164A or the following provisions of this section, by any amount ("the held-over gain") .

(2) If—

(a) the person who acquired the acquired holding disposes of eligible shares in the company in question ("the acquired shares"),

(b) that person at any time in the relevant period acquires other eligible shares ("the replacement shares") in a qualifying company which is not a relevant company;

(c) the acquisition of the replacement shares would, in relation to the disposal of the acquired shares, be treated (were the disposal a material disposal) as an acquisition of a qualifying investment for the purposes of section 164A, and

(d) roll-over relief is not available under section 164A in relation to the acquisition of the replacement shares,

that person shall, on making a claim as respects the acquisition of the replacement shares, be treated in relation to that acquisition in accordance with subsection (3) below.

(3) Where a person falls to be treated in accordance with this subsection in relation to the acquisition of the replacement shares, he shall be treated—

(a) as if the consideration for the disposal of the acquired shares were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the held-over gain on the acquisition of the acquired holding, so far as that amount has not already been carried forward under this section from any disposal of eligible shares in the company in question or been charged on a disposal or under section 164F,

(ii) the actual amount or value of the consideration for the acquisition of the replacement shares,

(iii) in the case of replacement shares acquired otherwise than by a transaction at arm's length, the market value of the replacement shares at the time of their acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the replacement shares were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the acquired shares or of the other party to the transaction involving the replacement shares.

(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

(a) in accordance with subsection (5) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal; and

(b) as charged under section 164F so far as it falls to be disregarded in accordance with subsection (11) of that section.

(5) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—

(a) shall, except in the case of a part disposal, be so much of the amount taken into account as so mentioned as is not carried forward under this section from the disposal in question; and

(b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—

(i) so much of the amount of the held-over gain as is not carried forward under this section from the disposal in question and has not already been either charged on a previous disposal or carried forward under this section from a previous disposal; and

(ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as a deduction in the computation of the gain accruing on the disposal in question.

(6) Where section 58 applies to any disposal of the whole or any part of the acquired holding to any individual—

(a) that individual shall not be treated for the purposes of subsection (1) above as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or this section; and

(b) the amount of the held-over gain which for the purposes of this section shall be treated as charged on the disposal shall be the amount that would have been charged on the disposal if it had been a disposal at market value.

(7) References in this section to an amount being carried forward from a disposal are references, in relation to the disposal of any shares, to the reduction by that amount, in accordance with subsection (3)(a) above, of the amount of the consideration for the disposal of those shares.

(8) Subsections (10) to (12) of section 164A shall apply in the case of any claim under this section as they apply in the case of a claim under that section.

(9) For the purposes of this section a company is a relevant company if it is—

(a) the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at the time of the disposal of the acquired holding or of the acquisition of the replacement shares;

(b) a company in relation to the disposal of any shares in which there has been a claim under this Chapter such that without that or an equivalent claim there would be no held-over gain in relation to the acquired holding; or

(c) a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

(10) In this section "the relevant period" means the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the disposal of the acquired shares, together with any such further period after the disposal as the Board may by notice allow.

164E Application of Chapter in cases of an exchange of shares

(1) Where—

(a) there is a transaction involving the issue of any shares in or debentures of any company in exchange for any shares in or debentures of another company ("the exchanged securities"),

(b) but for this section, section 127 would have effect in pursuance of section 135 for requiring the transaction to be treated for the

purposes of this Act as one that does not involve a disposal of the exchanged securities,

(c) any person would be entitled, if the transaction were treated as involving such a disposal, to make a claim for relief under this Chapter by reference to that disposal and an acquisition of eligible shares in a qualifying company, and

(d) that person makes an election under this section for the transaction to be treated as involving the disposal of the exchanged securities and claims that relief,

this Chapter and the other provisions of this Act shall have effect as if section 127 did not apply in the case of that transaction and, accordingly, as if that transaction did involve such a disposal, together with an acquisition of the shares or debentures that are issued in exchange.

(2) An election under this section shall be made by notice given to the Board not more than 2 years after the end of, as the case may be—

(a) the qualifying period mentioned in section 164A; or

(b) the relevant period, within the meaning of section 164D;

and an election made under this section in connection with a claim for relief under section 164B shall be made jointly by the trustees of the settlement and the qualifying beneficiary.

(3) Where, in order to give effect (in pursuance of an election under this section) to subsection (1) above, it is necessary to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim for relief in connection with which the election is made.

(4) For the purposes of subsection (3) above a claim for relief shall not be deemed to be finally determined until the amount of the relief allowed by virtue of the claim can no longer be varied, whether on appeal or by the order of any court or otherwise.

164F Failure of conditions of relief

(1) This section shall apply in any such case as is mentioned in section 164D(1), and references in this section to the acquired holding and the held-over gain shall be construed accordingly.

(2) Subject to the following provisions of this section, if at any time in the relevant period—

(a) the shares comprised in the acquired holding cease to be eligible shares,

(b) the company in which the acquired holding subsists ceases to be a qualifying company,

(c) the person who acquired the acquired holding becomes neither resident nor ordinarily resident in the United Kingdom, or

(d) any of the shares comprised in the acquired holding are included in the original shares (within the meaning of sections 127 to 130) in the case of any transaction with respect to which section 116 has effect,

a chargeable gain equal to the appropriate proportion of the held-over gain shall be treated as accruing to that person immediately before that time or, in

a case falling within paragraph (d) above, immediately before the disposal assumed for the purposes of section 116(10)(a).

(3) For the purposes of this section the appropriate proportion of the held-over gain is so much, if any, of that gain as has not already been either—

(a) charged on any disposal or under this section; or

(b) carried forward under section 164D from any disposal;

or, in a case to which subsection (2) above applies by virtue of paragraph (d) of that subsection or in accordance with subsection (7) below, such part of that proportion of that gain as is just and reasonable having regard to the extent to which the acquired holding comprises the original shares.

(4) Subject to subsection (5) below, subsections (4), (5) and (7) of section 164D shall apply for the purposes of this section as they apply for the purposes of that section.

(5) Where the acquired holding or any asset treated as comprised in a single asset with the whole or any part of that holding has been disposed of under section 58 by the individual who acquired that holding to another person ("the spouse")—

(a) the spouse shall not (subject to the following provisions of this subsection) be treated for the purposes of this section as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or 164D;

(b) the disposal shall not be included in the disposals on which the whole or any part of the held-over gain may be treated as charged for the purposes of this section;

(c) disposals by the spouse, as well as disposals by that individual, shall be taken into account for the purposes of section 164D(4) and (5) above, as applied for the purpose of this section;

(d) any charge under subsection (2) above (other than one by virtue paragraph (c) of that subsection) shall be apportioned between that individual and the spouse according to the extent to which the appropriate proportion of the held-over gain would be charged on the disposal by each of them of their respective holdings (if any);

(e) paragraph (c) of that subsection shall have effect as if the reference in that paragraph to that individual included a reference to the spouse;

(f) a charge by virtue of that paragraph shall be imposed only on a person who becomes neither resident nor ordinarily resident in the United Kingdom; and

(g) the amount of the charge imposed on any person by virtue of that paragraph shall be that part of the charge on the appropriate proportion of the held-over gain which would be apportioned to that person in a case to which paragraph (d) above applies.

(6) Subject to subsection (7) below, where the qualifying company in which the acquired holding subsists ceases to be an unquoted company this section shall have effect as if the relevant period ended immediately before it so ceased.

(7) Where there is a transaction by virtue of which any shares in a company are to be regarded under section 127 as the same asset as the acquired holding or

the whole or any part of an asset comprising that holding, this section shall not apply by virtue of subsection (2)(a) or (b) above except where—

(a) those shares are not, or cease to be, eligible shares in that company;

(b) neither that company nor (if different) the company in which the acquired holding subsisted—

(i) is or continues to be a qualifying company; or

(ii) would be or continue to be a qualifying company if it were an unquoted company;

(c) the transaction is one by virtue of which the shares comprised in the acquired holding cease to be eligible shares in pursuance of section 164L; or

(d) there is a transaction by virtue of which any shares at any time comprised in the acquired holding would have so ceased in pursuance of that section.

(8) This section shall not apply by virtue of subsection (2)(a) or (b) above where the company in which the acquired holding subsists is wound up or dissolved without winding up and—

(a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax; and

(b) the company's net assets (if any) are distributed to its members or dealt with as bona vacantia before the end of the period of 3 years from the commencement of the winding up or, as the case may be, from the dissolution.

(9) This section shall not apply by virtue of subsection (2)(c) above in relation to any person if—

(a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and

(b) he again becomes resident or ordinarily resident in the United Kingdom within the period of 3 years from the time when he ceases to be so, without having meanwhile disposed of any eligible shares in the company in question;

and, accordingly, no assessment shall be made by virtue of subsection (2)(c) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.

(10) For the purposes of subsection (9) above a person shall be taken to have disposed of an asset if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a disposal on which (within the meaning of section 164D) the whole or any part of the held-over gain would have been charged.

(11) Gains on disposals made after a chargeable gain has under this section been deemed to accrue in respect of the acquired holding to any person shall be computed as if so much of the held-over gain as is equal to the amount of the chargeable gain were to be disregarded.

(12) In this section "the relevant period" means (subject to subsection (6) above) the period of 3 years after the acquisition of the acquired holding.

164G Meaning of "qualifying company"

(1) Subject to section 164H, a company is a qualifying company for the purposes of this Chapter if it complies with this section.

(2) Subject to the following provisions of this section, a company complies with this section if it is—

(a) an unquoted company which exists wholly for the purpose of carrying on one or more qualifying trades or which so exists apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities;

(b) an unquoted company whose business consists entirely in the holding of shares in or other securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or

(c) an unquoted company whose business consists entirely in—

(i) the holding of such shares or securities, or the making of such loans; and

(ii) the carrying on of one or more qualifying trades.

(3) A company does not comply with this section if—

(a) it controls (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary or, without controlling it, has a 51 per cent. subsidiary which is not a qualifying subsidiary;

(b) it is under the control of another company (or of another company and a person connected with the other company) or, without being controlled by it, is a 51 per cent. subsidiary of another company; or

(c) arrangements are in existence by virtue of which the company could fall within paragraph (a) or (b) above;

and in this subsection "51 per cent. subsidiary" has the meaning given by section 838 of the Taxes Act.

(4) In this section "qualifying subsidiary", in relation to a company ("the holding company"), means any company which is a member of a group of companies of which the holding company is the principal company, and of which each of the members, or each of the members other than the holding company, is a company falling within subsection (5) below.

(5) A company falls within this subsection if—

(a) it is such a company as is mentioned in subsection (2)(a) above;

(b) it exists wholly for the purpose of holding and managing property used by the holding company or any of the holding company's other subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the holding company or any of those other subsidiaries will be derived, or

(ii) one or more qualifying trades so carried on;

(c) it would exist wholly for such a purpose apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities; or

(d) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(6) Without prejudice to the generality of subsection (2) above or to section 164F(8), a company ceases to comply with this section if—

(a) a resolution is passed, or an order is made, for the winding up of the company;

(b) in the case of a winding up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose; or

(c) the company is dissolved without winding up.

164H Property companies etc. not to be qualifying companies

(1) For the purposes of this Chapter a company is not a qualifying company at any time when the value of the interests in land held by the company is greater than half the value of the company's chargeable assets within the meaning of section 164C.

(2) For the purposes of this section the value of the interests in land held by a company at any time shall be arrived at by first aggregating the market value at that time of each of those interests and then deducting—

(a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);

(b) the amount of any unsecured debts of the company which do not fall due for payment before the end of the period of 12 months beginning with that time; and

(c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.

(3) In this section "interest in land" means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

(a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or

(b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

(4) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as, in law, to become part of it.

(5) In arriving at the value of any interest in land for the purposes of this section—

(a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and

(b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.

(6) Where a company is a member of a partnership which holds any interest in land—

(a) that interest shall, for the purposes of this section, be treated as an interest in land held by the company; but

(b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.

(7) Where a company is a member of a group of companies all the members of the group shall be treated as a single company for the purposes of this section; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.

164I Qualifying trades

(1) For the purposes of this Chapter—

(a) a trade is a qualifying trade if it complies with the requirements of this section; and

(b) the carrying on of any activities of research and development from which it is intended that a trade complying with those requirements will be derived shall be treated as the carrying on of a qualifying trade.

(2) Subject to the following provisions of this section, a trade complies with this section if neither that trade nor a substantial part of it consists in one or more of the following activities, that is to say—

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;

(b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;

(c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;

(d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;

(e) providing legal or accountancy services;

(f) providing services or facilities for any such trade carried on by another person as—

(i) consists, to a substantial extent, in activities within any of paragraphs (a) to (e) above; and

(ii) is a trade in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company providing the services or facilities;

(g) property development;

(h) farming;

but this subsection shall have effect in relation to a qualifying trade carried on by a member of a group of companies, as if the reference in paragraph (f) above to another person did not include a reference to the principal company of the group.

(3) For the purposes of subsection (2)(b) above—

(a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;

(b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption; and

(c) a trade is not an ordinary trade of wholesale or retail distribution if—

(i) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and

(ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value.

(4) In determining for the purposes of this Chapter whether a trade carried on by any person is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the following features, that is to say—

(a) the goods are bought by that person in quantities larger than those in which he sells them;

(b) the goods are bought and sold by that person in different markets;

(c) that person employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;

(d) there are purchases or sales from or to persons who are connected with that person;

(e) purchases are matched with forward sales or vice versa;

(f) the goods are held by that person for longer than is normal for goods of the kind in question;

(g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;

(h) that person does not take physical possession of the goods;

and for the purposes of this subsection the features specified in paragraphs (a) to (c) above shall be regarded as indications that the trade is such an ordinary trade and those in paragraphs (d) to (h) above shall be regarded as indications of the contrary.

(5) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in—

(i) the production of films; or

(ii) the production of films and the distribution of films produced by it within the period of 3 years before their distribution;

and

(b) all royalties and licence fees received by it are in respect of films produced by it within the preceding 3 years or sound recordings in relation to such films or other products arising from such films.

(6) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in research and development; and

(b) all royalties and licence fees received by it are attributable to research and development which it has carried out.

(7) A trade shall not be treated as failing to comply with this section by reason only of its consisting in letting ships, other than oil rigs or pleasure craft, on charter if—

(a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;

(b) every ship beneficially owned by the company is registered in the United Kingdom;

(c) the company is solely responsible for arranging the marketing of the services of its ships; and

(d) the conditions mentioned in subsection (8) below are satisfied in relation to every letting of a ship on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(8) The conditions are that—

(a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;

(b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;

(c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;

(d) under the terms of the charter the company is responsible as principal—

(i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind

generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and

(ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;

and

(e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between a company and another company which is a member of the same group of companies as that company, as if paragraph (c) were omitted.

(9) A trade shall not comply with this section unless it is conducted on a commercial basis and with a view to the realisation of profits.

164J Provisions supplementary to section 164I

(1) For the purposes of section 164I, in the case of a trade carried on by a company, a person has a controlling interest in that trade if—

(a) he controls the company;

(b) the company is a close company and he or an associate of his is a director of the company and either—

(i) the beneficial owner of, or

(ii) able, directly or through the medium of other companies or by any other indirect means, to control,

more than 30 per cent. of the ordinary share capital of the company; or

(c) not less than half of the trade could in accordance with section 344(2) of the Taxes Act be regarded as belonging to him;

and, in any other case, a person has a controlling interest in a trade if he is entitled to not less than half of the assets used for, or of the income arising from, the trade.

(2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(3) References in section 164I(2)(f) or subsection (1) above to a trade carried on by a person other than the company in question shall be construed as including references to any business, profession or vocation.

(4) In this section "director" shall be construed in accordance with section 417(5) of the Taxes Act.

164K Foreign residents

(1) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if at the time when he acquires them he is neither resident nor ordinarily resident in the United Kingdom.

(2) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he acquires them, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

(b) by virtue of the arrangements, he would not be liable in the United Kingdom to tax on a gain arising on a disposal of those shares immediately after their acquisition.

164L Anti-avoidance provisions

(1) For the purposes of this Chapter an acquisition of shares in a qualifying company shall not be treated as an acquisition of eligible shares if the arrangements for the acquisition of those shares, or any arrangements made before their acquisition in relation to or in connection with the acquisition, include—

(a) arrangements with a view to the subsequent re-acquisition, exchange or other disposal of the shares;

(b) arrangements for or with a view to the cessation of the company's trade or the disposal of, or of a substantial amount of, its chargeable business assets; or

(c) arrangements for the return of the whole or any part of the value of his investment to the individual acquiring the shares.

(2) If, after any eligible shares in a qualifying company have been acquired by any individual, the whole or any part of the value of that individual's investment is returned to him, those shares shall be treated for the purposes of this Chapter as ceasing to be eligible shares.

(3) For the purposes of this section there shall be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if the company—

(a) repays, redeems or repurchases any of its share capital or other securities which belong to that individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;

(b) repays any debt owed to that individual, other than a debt which was incurred by the company—

(i) on or after the acquisition of the shares; and

(ii) otherwise than in consideration of the extinguishment of a debt incurred before the acquisition of the shares;

(c) makes to that individual any payment for giving up his right to any debt on its extinguishment;

(d) releases or waives any liability of that individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;

(e) provides a benefit or facility for that individual;

(f) disposes of an asset to that individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;

(g) acquires an asset from that individual for a consideration which is or the value of which is more than the market value of the asset; or

(h) makes any payment to that individual other than a qualifying payment.

(4) For the purposes of this section there shall also be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if—

(a) there is a loan made by any person to that individual; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not acquired those shares or had not been proposing to do so.

(5) For the purposes of this section a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.

(6) References in this section to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment, and references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.

(7) References in this section to the making by any person of a loan to an individual include references—

(a) to the giving by that person of any credit to that individual; and

(b) to the assignment or assignation to that person of any debt due from that individual.

(8) In this section "qualifying payment" means—

(a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;

(b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;

(c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;

(d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;

(e) any payment for the supply of goods which does not exceed their market value;

(f) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;

(g) any reasonable and necessary remuneration which—

(i) is paid by any company for services rendered to that company in the course of a trade or profession; and

(ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule;

(h) a payment in discharge of an ordinary trade debt.

(9) In this section—

(a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit; and

(b) any reference to an individual includes a reference to an associate of his and any reference to a company includes a reference to a person connected with the company.

(10) This section shall have effect in relation to the acquisition of shares by the trustees of a settlement as if references to the individual acquiring the shares were references to those trustees or the individual who is the qualifying beneficiary by reference to whom this Chapter has or, as the case may be, would have effect in relation to that acquisition.

(11) In this section—

"arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable;

"chargeable business assets" has the same meaning as in section 164C; and

"ordinary trade debt" means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given does not exceed six months and is not longer than that normally given to customers of the person carrying on the trade or business.

164M Exclusion of double relief.

Where a person acquires any shares in a company those shares shall not be eligible shares or, as the case may be, shall cease to be eligible shares if that person or any person connected with him has made or makes a claim for relief in relation to those shares under Chapter III of Part VII of the Taxes Act (business expansion scheme).

164N Interpretation of Chapter IA

(1) In this Chapter—

"associate" has the meaning given in subsections (3) and (4) of section 417 of the Taxes Act, except that in those subsections, as applied for the purposes of this Chapter, "relative" shall not include a brother or sister;

"eligible shares" means (subject to sections 164L and 164M) any ordinary shares in a company which do not carry—

(a) any present or future preferential rights to dividends or to that company's assets on its winding up; or

(b) any present or future preferential right to be redeemed;

"farming" has the same meaning as in the Taxes Act;

"film" means an original master negative of a film, an original master film disc or an original master film tape;

"oil exploration" means searching for oil (within the meaning of Chapter V of Part XII of the Taxes Act);

"oil rig" means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;

"ordinary share capital" has the meaning given by section 832(1) of the Taxes Act;

"ordinary shares" means shares forming part of a company's ordinary share capital;

"pleasure craft" means any ship of a kind primarily used for sport or recreation;

"property development" means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 164H), with the sole or main object of realising a gain from disposing of the land when developed;

"research and development" means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program;

"sound recording" in relation to a film, means its sound track, original master audio disc or original master audio tape; and

"unquoted company" means a company none of the shares in or other securities of which are quoted on any recognised stock exchange or are dealt in on the Unlisted Securities Market.

(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it applies for the interpretation of sections 171 to 181.

(3) Subject to subsection (2) above, paragraph 1 of Schedule 6 shall have effect for the purposes of this Chapter as it has effect for the purposes of sections 163 and 164 and that Schedule.

(4) References in this Chapter to the reduction of an amount include references to its reduction to nil."

SCHEDULE 8

Section 88.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

The following is the Schedule to be inserted after Schedule 7 to the Taxation of Chargeable Gains Act 1992.

"SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

Application and construction of Schedule

1 (1) This Schedule shall have effect, in the case of a company which is or has been a member of a group of companies ("the relevant group"), in relation to any pre-entry losses of that company.

(2) In this Schedule "pre-entry loss", in relation to any company, means—

(a) any allowable loss that accrued to that company at a time before it became a member of the relevant group; or

(b) the pre-entry proportion of any allowable loss accruing to that company on the disposal of any pre-entry asset;

and for the purposes of this Schedule the pre-entry proportion of any loss shall be calculated in accordance with paragraphs 2 to 5 below.

(3) In this Schedule "pre-entry asset", in relation to any disposal, means (subject to sub-paragraph (4) below) any asset which was held, at the time immediately before it became a member of the relevant group, by any company (whether or not the one which makes the disposal) which is or has at any time been a member of that group.

(4) Subject to paragraph 3 below, an asset is not a pre-entry asset if—

(a) the company which held the asset at the time it became a member of the relevant group is not the company which makes the disposal; and

(b) since that time that asset has been disposed of otherwise than by a disposal to which section 171 applies;

but (without prejudice to sub-paragraph (8) below) where, on a disposal to which section 171 does not apply, any asset would cease to be a pre-entry asset by virtue of this sub-paragraph but the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

(5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which that asset is a pre-entry asset became a member of the relevant group; and for the purposes of this Schedule—

(a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to that company if it would be a pre-entry asset by reference to that company in respect of any one of those occasions; but

(b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in paragraph (a) above, are references to the later or latest of those occasions.

(6) Subject to so much of sub-paragraph (6) of paragraph 9 below as requires groups of companies to be treated as separate groups for the purposes of that paragraph, if—

(a) the principal company of a group of companies ("the first group") has at any time become a member of another group ("the second group") so that the two groups are treated as the same by virtue of subsection (10) of section 170, and

(b) the second group, together in pursuance of that subsection with the first group, is the relevant group,

then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.

(7) This sub-paragraph applies where—

(a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and

(b) the company which is the principal company of the relevant group immediately after that time—

(i) was not the principal company of any group immediately before that time; and

(ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

(8) For the purposes of this Schedule, but subject to paragraph 3 below—

(a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset; and

(b) if—

(i) any asset is treated (whether by virtue of paragraph (a) above or otherwise) as the same as an asset held by a company at a later time, and

(ii) the first asset would have been a pre-entry asset in relation to that company,

the second asset shall also be treated as a pre-entry asset in relation to that company;

and paragraph (a) above shall apply, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.

(9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).

(10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the company became a member of the relevant group, the provisions of section 213 shall be disregarded.

Pre-entry proportion of losses on pre-entry assets

2 (1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—

$$A \times \frac{B}{C} \times \frac{D}{E}$$

(2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—

A is the total amount of the allowable loss;

B is the sum of the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph and the indexed rise in that item;

C is the sum of the total amount of all the relevant allowable expenditure and the indexed rises in each of the items comprised in that expenditure;

D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and

E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.

(3) In sub-paragraph (2) above "the relevant pre-entry date", in relation to any item of relevant allowable expenditure, means whichever is the later of—

(a) the date on which that item of expenditure is, or (on the assumption applying by virtue of sub-paragraphs (4) and (5) below) would be, treated for the purposes of section 54 as having been incurred; and

(b) 1st April 1982.

(4) Where any asset ("the second asset") is treated by virtue of section 127 as the same as another asset ("the first asset") previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect, except in relation to the calculation of any indexed rise—

(a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and

(b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.

(5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—

(a) was held by a company at the time when it became a member of the relevant group, and

(b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,

as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the

first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.

(6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—

(a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and

(b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—

(i) is treated as an acquisition for such a consideration; or

(ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

(7) In sub-paragraphs (5) and (6) above, the reference in relation to the acquisition of any asset by any company, to the equivalent asset is a reference to any asset which (whether by virtue of paragraph 1(8) above or otherwise) would be treated in relation to that company as the same as the asset in question.

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

(a) a loss accrues to any company under section 116(10)(b), and

(b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

(9) In this paragraph—

"indexed rise" shall be construed in accordance with section 54 and, where the formula set out in sub-paragraph (1) above is applied for the purposes of paragraph 3 below, without regard to section 110; and

"relevant allowable expenditure", in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.

Disposals of pooled assets

3 (1) This paragraph shall apply (subject to paragraphs 4 and 5 below) where any assets acquired by any company fall to be treated with other assets as indistinguishable parts of the same asset ("a pooled asset") and the whole or any part of that asset is referable to pre-entry assets.

(2) For the purposes of this Schedule, where a pooled asset has at any time contained a pre-entry asset—

(a) the pooled asset shall be treated, until all the pre-entry assets included in that asset have (on the assumptions for which this paragraph provides) been disposed of, as incorporating a part which is referable to pre-entry assets; and

(b) the size of that part shall be determined in accordance with the following provisions of this paragraph.

(3) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does not exceed the proportion of that asset which is represented by any part of it which is not, at the time of the disposal, referable to pre-entry assets, that disposal shall be deemed for the purposes of this Schedule to be confined to assets which are not pre-entry assets so that—

(a) except where paragraph 4(2) below applies, no part of any loss accruing on that disposal shall be deemed to be a pre-entry loss, and

(b) the part of the pooled asset which after the disposal is to be treated as referable to pre-entry assets shall be correspondingly increased.

(4) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does exceed the proportion of that asset mentioned in sub-paragraph (3) above, that disposal shall be deemed for the purposes of this Schedule to relate to pre-entry assets only so far as required for the purposes of the excess, so that—

(a) any loss accruing on that disposal shall be deemed for the purposes of this Schedule to be an allowable loss on the disposal of a pre-entry asset;

(b) the pre-entry proportion of that loss shall be deemed (except where paragraph 4(3) below applies) to be the amount (so far as it does not exceed the amount of the loss actually accruing) which would have been the pre-entry proportion under paragraph 2 above of any loss accruing on the disposal of the excess if the excess were a separate asset; and

(c) the pooled asset shall be treated after the disposal as referable entirely to pre-entry assets.

(5) Where there is a disposal of the whole of a pooled asset or of any part of a pooled asset which, at the time of the disposal, is referable entirely to pre-entry assets, paragraphs (a) and (b) of sub-paragraph (4) above shall apply to the disposal of the asset or the part as they apply in relation to the assumed disposal of the excess mentioned in that sub-paragraph but, in the case of the disposal of the whole of a pooled asset only a part of which is referable to pre-entry assets, as if the reference in paragraph (b) of that sub-paragraph to the excess were a reference to that part.

(6) For the purpose of determining, under sub-paragraph (4) or (5) above, what would have been the pre-entry proportion of any loss accruing on the disposal of any assets as a separate asset it shall be assumed that none of the assets treated as comprised in that asset has ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of the determination.

(7) The assets which are comprised in any asset which is treated for any of the purposes of this paragraph as a separate asset shall be identified on the following assumptions, that is to say—

(a) that assets are disposed of in the order of the dates which for the purposes of paragraph 2 above are the relevant pre-entry dates in relation to the consideration for their acquisition;

(b) subject to that, that assets with earlier relevant times are disposed of before those with later relevant times;

(c) that disposals made when a company was not a member of the relevant group are made in accordance with the preceding provisions of this

paragraph, as they have effect in relation to the group of companies of which the company was a member at the time of the disposal or, as the case may be, of which it had most recently been a member before that time; and

(d) subject to paragraphs (a) to (c) above, that a company disposes of assets in the order in which it acquired them.

(8) Where in the case of any asset there is more than one date which is the relevant pre-entry date in relation to the consideration for its acquisition, the date taken into account for the purposes of sub-paragraph (7)(a) above shall be the date which is the earlier or earliest of those dates if any date which is the relevant pre-entry date in relation to the acquisition of an option to acquire that asset is disregarded.

(9) In applying the formula set out in paragraph 2(1) above in relation to the disposal of an asset which is treated for any of the purposes of this paragraph as comprised in a separate asset—

(a) the amount or value of any consideration for the acquisition or disposal of that asset; and

(b) the incidental costs of the acquisition or disposal of that asset,

shall be determined (to the exclusion of any apportionment under section 129 or 130) by apportioning any consideration or costs relating to both that asset and other assets acquired or disposed of at the same time according to the proportion that is borne by that asset to all the assets to which the consideration or costs related.

(10) Where—

(a) any asset ("the latest asset") falls (whether by virtue of paragraph 1(8) above or otherwise) to be treated as acquired at the same time as another asset ("the original asset") which was acquired before the latest asset, and

(b) the latest asset is either comprised in a pooled asset a part of which is referable to pre-entry assets or is or includes an asset which is to be treated as so comprised,

sub-paragraph (7) above shall apply not only in relation to the latest asset as if it were the original asset but also, in the first place, for identifying the asset which is to be treated as the original asset for the purposes of this paragraph.

(11) Sub-paragraphs (3)(b) and (4)(c) above shall have effect in relation to any disposal without prejudice to the effect of any subsequent acquisition of assets falling to be treated as part of a pooled asset on the determination of whether, and to what extent, any part of that pooled asset is to be treated as referable to pre-entry assets.

Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses

4 (1) This paragraph shall apply if—

(a) there is a disposal of any part of a pooled asset which for the purposes of paragraph 3 above is treated as incorporating a part which is referable to pre-entry assets;

(b) the assets disposed of are or include assets ("the post-entry element of the disposal") which for the purposes of that paragraph are treated as having been incorporated in the part of the pooled asset which is not referable to pre-entry assets;

(c) an allowable loss ("the actual loss") accrues on the disposal; and

(d) the amount which in computing the allowable loss is allowed as a deduction of relevant allowable expenditure ("the expenditure actually allowed")

exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(2) Subject to sub-paragraph (6) below, where the post-entry element of the disposal comprises all of the assets disposed of—

(a) the actual loss shall be treated for the purposes of this Schedule as a loss accruing on the disposal of a pre-entry asset; and

(b) the pre-entry proportion of that loss shall be treated as being the amount (so far as it does not exceed the amount of the actual loss) by which the expenditure actually allowed exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(3) Subject to sub-paragraph (6) below, where—

(a) the actual loss is treated by virtue of paragraph 3 above as a loss accruing on the disposal of a pre-entry asset, and

(b) the expenditure actually allowed exceeds the actual cost of the assets to which the disposal is treated as relating,

the pre-entry proportion of the loss shall be treated as being the amount which (so far as it does not exceed the amount of the actual loss) is equal to the sum of that excess and what would, apart from this paragraph and paragraph 5 below, be the pre-entry proportion of the loss accruing on the disposal.

(4) For the purposes of sub-paragraph (3) above the actual cost of the assets to which the disposal is treated as relating shall be taken to be the sum of—

(a) the relevant allowable expenditure attributable to the post-entry element of the disposal; and

(b) the amount which, in computing the pre-entry proportion of the loss in accordance with paragraph 3(4)(b) and (6) above, would be treated for the purposes of C in the formula in paragraph 2(1) above as the total amount allowable as a deduction of relevant allowable expenditure in respect of such of the assets disposed of as are treated as having been incorporated in the part of the pooled asset which is referable to pre-entry assets.

(5) Without prejudice to sub-paragraph (6) below, where sub-paragraph (2) or (3) above applies for the purpose of determining the pre-entry proportion of any loss, no election shall be capable of being made under paragraph 5 below for the purpose of enabling a different amount to be taken as the pre-entry proportion of that loss.

(6) Where—

(a) the pre-entry proportion of the loss accruing to any company on the disposal of any part of a pooled asset falls to be determined under sub-paragraph (2) or (3) above,

(b) the amount determined under that sub-paragraph exceeds the amount determined under sub-paragraph (7) below ("the alternative pre-entry loss"), and

(c) the company makes an election for the purposes of this sub-paragraph,

the pre-entry proportion of the loss determined under sub-paragraph (2) or (3) above shall be reduced to the amount of the alternative pre-entry loss.

(7) For the purposes of sub-paragraph (6) above the alternative pre-entry loss is whatever apart from this paragraph would have been the pre-entry proportion of the loss on the disposal in question, if for the purposes of this Schedule the identification of the assets disposed of were to be made disregarding the part of the pooled asset

which was not referable to pre-entry assets, except to the extent (if any) by which the part referable to pre-entry assets fell short of what was disposed of.

(8) An election for the purposes of sub-paragraph (6) above with respect to any loss shall be made by the company to which the loss accrued by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow;

and paragraph 5 below may be taken into account under sub-paragraph (7) above in determining the amount of the alternative pre-entry loss as if an election had been made under that paragraph but shall be so taken into account only if the election for the purposes of sub-paragraph (6) above contains an election corresponding to the election that, apart from this paragraph, might have been made under that paragraph.

(9) For the purposes of this paragraph the relevant allowable expenditure attributable to the post-entry element of the disposal shall be the amount which, in computing any allowable loss accruing on a disposal of that element as a separate asset, would have been allowed as a deduction of relevant allowable expenditure if none of the assets comprised in that element had ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of this sub-paragraph.

(10) For the purpose of identifying the assets which are to be treated for the purposes of sub-paragraph (9) above as comprised in the post-entry element of the disposal, a company shall be taken to dispose of assets in the order in which it acquired them.

(11) Paragraph 3(9) above shall apply for the purposes of sub-paragraph (9) above as it applies for the purposes of the application as mentioned in paragraph 3(9) above of the formula so mentioned; and paragraph 3(10) above shall apply for the purposes of this paragraph in relation to sub-paragraph (10) above as it applies for the purposes of paragraph 3 above in relation to sub-paragraph (7) of that paragraph.

(12) In this paragraph references to an amount allowed as a deduction of relevant allowable expenditure are references to the amount falling to be so allowed in accordance with section 38(1)(a) and (b) and (so far as applicable) section 42, together with the indexed rises in the items comprised in that expenditure or, as the case may be, in the appropriate portions of those items.

(13) In sub-paragraph (12) above "indexed rise" has the same meaning as it has by virtue of paragraph 2(9) above in relation to the application for the purposes of paragraph 3 above of the formula set out in paragraph 2(1) above.

(14) Nothing in this paragraph shall affect the operation of the rules contained in paragraph 3 above for determining, for any purposes other than those of sub-paragraph (7) above, how much of any pooled asset at any time consists of a part which is referable to pre-entry assets.

Alternative calculation by reference to market value

5 (1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—

(a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and

(b) that company makes an election for the purposes of this paragraph in relation to that loss,

the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.

(2) Those amounts are—

(a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and

(b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.

(3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.

(4) Sub-paragraph (5) below shall apply where—

(a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal ("the real disposal") of the whole or any part of a pooled asset; and

(b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.

(5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—

(a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and

(b) by apportioning any loss that would have accrued on that disposal between—

(i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and

(ii) the remainder of the assets so falling,

according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above,

and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.

(6) Assets fall within this sub-paragraph if—

(a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—

(i) comprised in the part of the pooled asset referable to pre-entry assets; and

(ii) disposed of on the real disposal;

(b) they were also comprised in such a pooled asset immediately after that time; and

(c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.

(7) Where—

(a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and

(b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets ("the relevant assets") which—

(i) are treated for the purposes of that determination as assets to which the disposal related, but

(ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets,

then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.

(8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow.

Restrictions on the deduction of pre-entry losses

6 (1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—

(a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and

(d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.

(2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—

(a) where it falls to be decided in respect of the setting of losses against gains in any accounting period ending before 16th March 1993 as if—

(i) pre-entry losses accruing in any such period had been set against chargeable gains before any other allowable losses accruing in that period were set against those gains;

(ii) pre-entry losses carried forward to any such period had been set against chargeable gains before any other allowable losses carried forward to that period were set against those gains; and

(iii) subject to sub-paragraphs (i) and (ii) above, the pre-entry losses carried forward to any accounting period ending on or after 16th March 1993 were identified with such losses as may be determined in accordance with such elections as may be made by the company to which they accrued;

and

(b) in any other case, in accordance with such elections as may be made by the company to which the loss accrued;

and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.

(3) An election by any company under this paragraph shall be made by notice to the inspector given—

(a) in the case of an election under sub-paragraph (2)(a)(iii) above, before the end of the period of two years beginning with the end of the accounting period of that company which was current on 16th March 1993; and

(b) in the case of an election under sub-paragraph (2)(b) above, before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.

(4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—

(a) that losses are set against gains in the order in which the losses accrued; and

(b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

Gains from which pre-entry losses are to be deductible

7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—

(a) on a disposal made by that company before the date on which it became a member of the relevant group ("the entry date");

(b) on the disposal of an asset which was held by that company immediately before the entry date; or

(c) on the disposal of any asset which—

(i) was acquired by that company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on by that company at the time immediately before the entry date

and which continued to be carried on by that company until the disposal.

(2) The pre-entry proportion of an allowable loss accruing to any company on the disposal of a pre-entry asset shall be deductible from a chargeable gain accruing to that company if—

(a) the gain is one accruing on a disposal made, before the date on which it became a member of the relevant group, by that company and that company is the one ("the initial company") by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset;

(b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before it became a member of the relevant group; or

(c) the gain is one accruing on the disposal of an asset which—

(i) was acquired by the initial company (whether before or after it became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before it became a member of the relevant group, by the initial company and which continued to be carried on by the initial company until the disposal.

(3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then, without prejudice to paragraph 9 below—

(a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;

(b) two or more assets shall be treated for the purposes of sub-paragraph (2)(b) above as assets held by the same company immediately before it became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company; and

(c) the acquisition of an asset shall be treated for the purposes of sub-paragraphs (1)(c) and (2)(c) above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the assset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.

(4) Paragraph 1(4) above shall apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was held at the time when a company became a member of the relevant group as it applies for determining whether that asset is a pre-entry asset in relation to that group by reference to that company.

(5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—

(a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) or (2) above, or

(b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,

a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) or (2) above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.

(6) Where—

(a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,

(b) that bond was not held as required by paragraph (b) of sub-paragraph (1) or (2) above at the time mentioned in that paragraph, and

(c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,

the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

Change of a company's nature

8 (1) If—

(a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by that company, or

(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, that company becomes a member of a group of companies,

the trade carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of paragraph 7(1)(c) and (2)(c) above in relation to any time before the company became a member of the group in question.

(2) In sub-paragraph (1) above the reference to a major change in the nature or conduct of a trade includes a reference to—

(a) a major change in the type of property dealt in, or services or facilities provided, in the trade; or

(b) a major change in customers, markets or outlets of the trade;

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a) above.

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

Identification of "the relevant group" and application of Schedule to every connected group

9 (1) This paragraph shall apply where there is more than one group of companies which would be the relevant group in relation to any company.

(2) Where any loss has accrued on the disposal by any company of any asset, this Schedule shall not apply by reference to any group of companies in relation to any loss accruing on that disposal unless—

(a) that group is a group in relation to which that loss is a pre-entry loss by virtue of paragraph 1(2)(a) above or, if there is more than one such group, the one of which that company most recently became a member;

(b) that group, in a case where there is no group falling within paragraph (a) above, is either—

(i) the group of which that company is a member at the time of the disposal, or

(ii) if it is not a member of a group of companies at that time, the group of which that company was last a member before that time;

(c) that group, in a case where there is a group falling within paragraph (a) above, is a group of which that company was a member at any time in the accounting period of that company in which it became a member of the group falling within that paragraph;

(d) that group is a group the principal company of which is or has been, or has been under the control of—

(i) the company by which the disposal is made, or

(ii) another company which is or has been a member of a group by reference to which this Schedule applies in relation to the loss in question by virtue of paragraph (a), (b) or (c) above;

or

(e) that group is a group of which either—

(i) the principal company of a group by reference to which this Schedule so applies, or

(ii) a company which has had that principal company under its control,

is or has been a member;

and sub-paragraphs (3) to (5) below shall apply in the case of any loss accruing on the disposal of any asset where, by virtue of this sub-paragraph, there are two or more groups ("connected groups") by reference to which this Schedule applies.

(3) This Schedule shall apply separately in relation to each of the connected groups (so far as they are not groups in relation to which the loss is a pre-entry loss by virtue of paragraph 1(2)(a) above) for the purpose of—

(a) determining whether the loss on the disposal of any asset is a loss on the disposal of a pre-entry asset; and

(b) calculating the pre-entry proportion of that loss.

(4) Subject to sub-paragraph (5) below, paragraph 6 above shall have effect—

(a) as if the pre-entry proportion of any loss accruing on the disposal of an asset which is a pre-entry asset in the case of more than one of the connected groups were the largest pre-entry proportion of that loss calculated in accordance with sub-paragraph (3) above; and

(b) so that, where the loss accruing on the disposal of any asset is a pre-entry loss by virtue of paragraph 1(2)(a) above in the case of any of the connected

groups, that loss shall be the pre-entry loss for the purposes of paragraph 6 above, and not any amount which is the pre-entry proportion of that loss in relation to any of the other groups.

(5) Where, on the separate application of this Schedule in the case of each of the groups by reference to which this Schedule applies, there is, in the case of the disposal of any asset, a pre-entry loss by reference to each of two or more of the connected groups, no amount in respect of the loss accruing on the disposal shall be deductible under paragraph 7 above from any chargeable gain if any of the connected groups is a group in the case of which, on separate applications of that paragraph in relation to each group, the amount deductible from that gain in respect of that loss is nil.

(6) Notwithstanding that the principal company of one group ("the first group") has become a member of another ("the second group"), those two groups shall not by virtue of section 170(10) be treated for the purposes of this paragraph as the same group if the principal company of the first group was under the control, immediately before it became a member of the second group, of a company which at that time was already a member of the second group.

(7) Where, in the case of the disposal of any asset—

(a) two or more groups which but for sub-paragraph (6) above would be treated as the same group are treated as separate groups by virtue of that sub-paragraph; and

(b) one of those groups is a group of which either—

(i) the principal company of a group by reference to which this Schedule applies by virtue of sub-paragraph (2)(a), (b) or (c) above in relation to any loss accruing on the disposal, or

(ii) a company which has had that principal company under its control,

is or has been a member,

this paragraph shall have effect as if that principal company had been a member of each of the groups mentioned in paragraph (a) above.

Appropriations to stock in trade

10 Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—

(a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and

(b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

Continuity provisions

11 (1) This paragraph applies where provision has been made by or under any enactment ("the transfer legislation") for the transfer of property, rights and liabilities to any person from—

(a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;

(b) a subsidiary of such a body; or

(c) a company wholly owned by the Crown.

(2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—

(a) accrued to the person from whom the transfer has been made; and

(b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.

(3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—

(a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; and

(b) no asset held by that company when it so became a member of that group shall by virtue of that fact be a pre-entry asset.

(4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—

(a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or

(b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.

(5) In this paragraph—

"enactment" includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the Interpretation Act 1978; and

"statutory functions" means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978, or under any statutory rules, within the meaning of the Statutory Rules (Northern Ireland) Order 1979.

Companies changing groups on certain transfers of shares etc.

12 For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—

(a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and

(b) that disposal is one on which, by virtue of any enactment specified in section 35(3)(d), neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group."

SCHEDULE 9

Section 97.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF TAXES ACT 1988 ETC

Insertion of Schedule 19AC into the Taxes Act 1988

1 The following Schedule shall be inserted after Schedule 19AB to the Taxes Act 1988—

"SCHEDULE 19AC

Section 444B.

MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1 In its application to an overseas life insurance company this Act shall have effect with the following modifications.

2 (1) In section 6(4), the words "and section 444D" shall be treated as inserted after the words "Part XI".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

3 (1) In subsection (2) of section 11, the following paragraphs shall be treated as inserted after paragraph (a)—

"(aa) where section 11B applies for an accounting period, any trading or other income arising in that period from assets which by virtue of that section are attributed to the branch or agency at the time the income arises (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and

(ab) where section 11C applies for an accounting period, any trading or other income falling within section 11C(2) in that period (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and".

(2) The following shall be treated as inserted after paragraph (b) of that subsection "and

(c) chargeable gains accruing to the company on the disposal of assets of the company's long term business fund situated outside the United Kingdom and used or held for the purposes of the branch or agency immediately before the disposal; and

(d) where section 11B applies for an accounting period, chargeable gains accruing to the company in that period on the disposal of assets which by virtue of that section are attributed to the branch or agency immediately before the disposal; and

(e) where section 11C applies for an accounting period, chargeable gains accruing to the company in that period by virtue of section 11C(3)."

(3) The following subsection shall be treated as inserted after that subsection—

"(2A) For the purposes of subsection (2)(c) above—

(a) section 275 of the 1992 Act (location of assets) shall apply as it applies for the purposes of that Act;

(b) "long term business fund" has the meaning given by section 431(2)."

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4 (1) The following sections shall be treated as inserted after section 11—

"**11A Overseas life insurance companies: interpretation of sections 11B and 11C**

(1) For the purposes of this section and sections 11B and 11C—

(a) an asset is at any time a section 11(2)(b) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b);

(b) an asset is at any time a section 11(2)(c) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(c);

(c) relevant contracts and policies are contracts and policies the effecting of which constitutes the carrying on of life assurance business;

and in this section and those sections any expression to which a meaning is given by section 431(2) has that meaning.

(2) For the purposes only of subsection (1)(a) and (b) above any enactment which—

(a) limits any chargeable gain on the disposal of an asset;

(b) treats any gain on the disposal of an asset as not being a chargeable gain; or

(c) treats any disposal of an asset as not giving rise to a chargeable gain,

shall be disregarded.

(3) For the purposes of sections 11B and 11C—

(a) the notional value at any time is the value at that time of the assets which the branch or agency would reasonably be expected to hold at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(b) the section 11B value at any time is the value at that time of such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of

any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(c) the section 11C value at any time is the value at that time of—

(i) such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency; and

(ii) the assets which by virtue of section 11B are attributed to the branch or agency at that time;

(d) a relevant fund is a fund of assets of the company (wherever those assets may be situated) any part of which is held in consequence of any relevant contracts, and any relevant policies, which at any time in the accounting period concerned are carried out at the branch or agency.

(4) In applying subsection (3)(a) above as regards a particular time, it shall be assumed that—

(a) at that time the branch or agency is a company resident in the United Kingdom, undertaking the activities it then actually undertakes;

(b) the terms of any dealings between the branch or agency and another part of the company are not (or not necessarily) their actual terms but are such as would be the terms if the branch or agency and the other part of the company were independent persons dealing at arm's length.

11B Overseas life insurance companies: attribution of assets

(1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11B value at those times.

(2) Where this section applies for an accounting period, assets shall be attributed to the branch or agency in that period in accordance with the following provisions of this section.

(3) There shall be attributed to the branch or agency in the accounting period such of the qualifying assets of the company as (having regard to the excess mentioned in subsection (1) above) it is just and reasonable to attribute to the branch or agency.

(4) For the purposes of subsection (3) above—

(a) where an asset is a qualifying asset for the whole of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or the agency for the whole or any part or parts of that period;

(b) where an asset is a qualifying asset for any portion of the accounting period it may, subject to paragraphs (c)

and (d) below, be attributed to the branch or agency for the whole or any part or parts of that portion;

(c) an asset shall not be attributed to the branch or agency for any period of time during which it is a section 11(2)(b) or section 11(2)(c) asset;

(d) an asset shall not be attributed to the branch or agency at any particular time unless it is held in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency.

(5) An asset of the company is a qualifying asset at any time if it is an asset of one or more of the following descriptions, that is to say—

(a) an asset which, in relation to any relevant contracts and any relevant policies which at that time are carried out at the branch or agency, is a linked asset within the meaning given by section 431(2);

(b) an asset which at that time is maintained in the United Kingdom as a result of a requirement imposed under section 39 of the Insurance Companies Act 1982, other than an asset not treated as so maintained by virtue of a direction under subsection (2) of that section;

(c) an asset which at that time is treated for the purposes of any such requirement as is mentioned in paragraph (b) above as maintained in the United Kingdom by virtue of a direction under subsection (2) of that section;

(d) an asset which at that time is held in respect of the business carried on by the branch or agency as a result of a condition of an order under section 68 of the Insurance Companies Act 1982;

(e) an asset which at that time is held in a fund which the company is required to maintain under the prudential legislation of a territory outside the United Kingdom in respect of the business carried on by the branch or agency;

(f) an asset which is identified in tax returns submitted to a taxing authority of a territory outside the United Kingdom as an asset which at that time is wholly referable to the business carried on by the branch or agency.

11C Overseas life insurance companies: additional income and gains

(1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11C value at those times.

(2) Where this section applies for an accounting period, the income which falls within this subsection in that period shall be the specified amount of each item of relevant income arising in that period from any assets of the relevant fund.

(3) Where this section applies for an accounting period, the chargeable gains accruing to the company in that period by virtue of this subsection shall be the specified amount of each relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(4) For the purposes of this section—

(a) relevant income is income other than income which falls within section 11(2)(a) or (aa);

(b) a relevant gain is a gain (other than a chargeable gain which falls within section 11(2)(b), (c) or (d)) which would be a chargeable gain if the company were resident in the United Kingdom.

(5) For the purposes of this section the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund shall be determined by the formula—

$$SI = I \times \frac{(NV - CV)}{RF}$$

(6) For the purposes of this section the specified amount of a relevant gain accruing to the company in the accounting period on the disposal of any assets of the relevant fund shall be determined by the formula—

$$SG = G \times \frac{(NV - CV)}{RF}$$

(7) In subsections (5) and (6) above—

SI is the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund;

I is an item of relevant income arising in that period from any assets of the relevant fund;

NV is the mean of the notional value at the beginning and end of that period;

CV is the mean of the section 11C value at the beginning and end of that period;

RF (subject to subsection (8) below) is the mean of the value of the relevant fund at the beginning and end of that period;

SG is the specified amount of a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund;

G is a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(8) Where the assets of the relevant fund at the beginning or end of the accounting period include—

(a) section 11(2)(b) or section 11(2)(c) assets; or

(b) assets which by virtue of section 11B are attributed to the branch or agency,

the value at that time of the relevant fund for the purposes of the definition of RF in subsection (7) above shall be reduced by the value at that time of those assets.

(9) Where in the accounting period the company has more than one relevant fund—

(a) in the definition of RF in subsection (7) above, the reference to the value of the relevant fund shall be treated as a reference to the value of the relevant funds; and

(b) any other reference in this section to the relevant fund shall be treated as a reference to the relevant funds."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5 (1) In section 76, the following subsections shall be treated as inserted after subsection (6)—

"(6A) In its application to an overseas life insurance company this section shall have effect as if—

(a) the reference in subsection (1)(ca) to any reinsurance commission were to any such reinsurance commission concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsection (1) to income and gains were to such income and gains concerned as are so attributable.

(6B) In their application to an overseas life insurance company section 75(5) and subsections (2) and (3)(b) above shall have effect as if for "242" there were substituted "444D"."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

6 (1) In subsection (2) of section 431, the following definition shall be treated as substituted for the definition of "investment reserve"—

""investment reserve", in relation to an overseas life insurance company, means the excess of the value of the relevant assets over the relevant liabilities, and for the purposes of this definition—

(a) relevant assets are such assets of the company's long term business fund as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and

(b) relevant liabilities are such liabilities of the long term business as are attributable to the branch or agency;

and in a case where section 11C applies, the value of the relevant assets shall be increased by the amount by which the notional value exceeds the section 11C value; and any expression used in this definition to which a meaning is given by section 11A has that meaning;".

(2) In that subsection, the following definition shall be treated as substituted for the definition of "liabilities"—

""liabilities", where the company concerned is an overseas life insurance company, does not include excluded liabilities and (subject to that) means—

(a) liabilities as estimated for the purposes of the company's periodical return, or

(b) in the case of liabilities not estimated for the purposes of such a periodical return, liabilities as estimated for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or

(c) in the case of liabilities not estimated for the purposes of such a periodical return or equivalent return, liabilities as found from the company's records;

and excluded liabilities are any liabilities that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company's insurance business;".

(3) In that subsection, the following words shall be treated as inserted after paragraph (b) of the definition of "overseas life assurance business"—

"but none of the life assurance business of an overseas life insurance company shall be treated as overseas life assurance business;".

(4) In that subsection, at the end of the definition of "overseas life assurance fund" the following words shall be treated as inserted ", but that Schedule shall not apply in the case of an overseas life insurance company".

(5) In that subsection, the following definition shall be treated as substituted for the definition of "value"—

""value", in relation to assets and where the company concerned is an overseas life insurance company, means—

(a) their value as taken into account for the purposes of the company's periodical return, or

(b) where their value is not taken into account for the purposes of such a periodical return, their value as taken into account for the purposes of any return equivalent to a periodical return and required to be

made by the company under the law of the territory in which the company is resident, or

(c) where their value is not taken into account for the purposes of such a periodical return or equivalent return, their value as found from the company's records;

and the reference in paragraph (c) above to the value of assets as found from the company's records is a reference to the market value as so found or, where applicable, the current value (within the meaning of the Directive of the Council of the European Communities dated 19th December 1991 No. 91/674/EEC (directive on the annual accounts and consolidated accounts of insurance undertakings)) as so found;".

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

7 (1) In section 432A, the following subsection shall be treated as inserted after subsection (2)—

"(2A) In the case of an overseas life insurance company—

(a) any income which falls within section 11(2)(aa) or (ab); and

(b) any chargeable gains or allowable losses which fall within section 11(2)(d) or (e),

shall be referable to life assurance business."

(2) The following subsection shall be treated as inserted after subsection (9) of that section—

"(9A) In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

8 (1) In subsection (1) of section 432B, the words "or treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989" shall be treated as inserted after the word "1982".

(2) The following words shall be treated as inserted at the end of subsection (2) of that section "; but this subsection shall not apply for

a period of account in relation to which paragraph 1(6), (7) or (8) of Schedule 8A to the Finance Act 1989 applies."

(3) The following subsection shall be treated as inserted after subsection (3) of that section—

"(4) In their application to an overseas life insurance company—

(a) subsection (3) above shall have effect as if after "with which an account is concerned" there were inserted "or in respect of which items are treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989"; and

(b) that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business."

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

9 (1) In section 434, the following subsection shall be treated as inserted after subsection (1)—

"(1A) Nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D."

(2) In subsection (2) of that section, the words "UK distribution income of an overseas life insurance company" shall be treated as substituted for the words "franked investment income of a company so resident".

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10 (1) In section 438, the following subsection shall be treated as inserted after subsection (3)—

"(3A) Subject to subsection (6) below, nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing under section 436 income from pension business."

(2) In subsections (6) and (6A) of that section, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11 (1) In subsection (2) of section 440A, in paragraphs (a) and (b) the words "UK securities" shall be treated as substituted for the word "securities" in the first place where it occurs in each paragraph.

(2) Paragraph (c) of that subsection shall be treated as omitted.

(3) In paragraphs (d) and (e) of that subsection, the words "UK securities" shall be treated as substituted for the word "securities".

(4) The following paragraphs shall be treated as inserted at the end of that subsection—

"(f) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs; and

(g) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs."

(5) The following subsection shall be treated as inserted after subsection (6) of that section—

"(7) For the purposes of this section—

(a) UK securities are such securities as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C securities are securities—

(i) (in a case where section 11C (other than subsection (9)) applies) which are assets of the relevant fund, other than UK securities; or

(ii) (in a case where that section including that subsection applies) which are assets of the relevant funds, other than UK securities;

(c) non-UK securities are securities which are not UK securities or section 11C securities;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

12 (1) In paragraph A of section 704, in sub-paragraph (e) the words "UK distribution income under section 444D" shall be treated as substituted for the words "a surplus of franked investment income under section 242 or 243".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

13 (1) In subsection (2) of section 794, the following shall be treated as inserted after paragraph (c) "and

(d) for tax paid under the law of any territory in respect of the UK branch income or UK branch gains of an overseas life insurance company for the chargeable period in question but only where the following conditions are fulfilled, namely—

(i) that the territory under whose law the tax was paid is not one in which the company is liable

to tax by reason of domicile, residence or place of management; and

(ii) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency concerned had been an insurance company resident in the United Kingdom and the income or gains in question had been income or gains of that company."

(2) The following subsections shall be treated as inserted after that subsection—

"(3) For the purposes of subsection (2)(d) above—

(a) "UK branch income", in relation to an overseas life insurance company, means such of its income falling within section 11(2)(a), (aa) or (ab) as arises from assets of its long term business fund;

(b) "UK branch gains", in relation to an overseas life insurance company, means such of its chargeable gains falling within section 11(2)(b), (c), (d) or (e) as accrue on the disposal of assets of its long term business fund;

(c) "long term business fund" has the meaning given by section 431(2).

(4) In relation to any item of income falling within section 11(2)(ab), or any chargeable gain falling within section 11(2)(e), the reference in subsection (2)(d) above to tax paid shall be construed as a reference to that part of the tax paid which bears to the whole of the tax paid the same proportion as that item of income, or that chargeable gain, bears to the relevant income, or relevant gain, by reference to which that item of income, or that chargeable gain, is, by virtue of section 11C, calculated; and, in relation to any such item of income or any such chargeable gain, the reference in section 790(4) to tax paid shall be construed accordingly."

(3) This paragraph shall apply in relation to chargeable periods beginning after 31st December 1992.

14 (1) In subsection (1) of section 811, the words "subsections (1A) and (2)" shall be treated as substituted for the words "subsection (2)".

(2) The following subsection shall be treated as inserted after that subsection—

"(1A) In relation to any item of income falling within section 11(2)(ab), the reference in subsection (1) above to any sum which has been paid in respect of tax on that income shall be construed as a reference to the part of that sum which bears to the whole of that sum the same proportion as that item of income bears to the relevant income by reference to which that item of income is, by virtue of section 11C, calculated."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

15 (1) In paragraph 1(8) of Schedule 19AB, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

Deemed disposal and reacquisition

2 (1) Where immediately before the relevant day the company referred to in section 11(2) of the Taxes Act 1988 is an overseas life insurance company, then, subject to sub-paragraph (4) below, it shall be deemed for the purposes of corporation tax on chargeable gains—

(a) to have disposed immediately before the relevant day of every asset to which sub-paragraph (2) below applies, and

(b) immediately to have reacquired every such asset,

at its market value at the time of the deemed disposal.

(2) This sub-paragraph applies to any asset which—

(a) was held by the company immediately before the relevant day, and

(b) at the beginning of that day is a chargeable asset in relation to the company.

(3) For the purposes of sub-paragraph (2) above an asset is at the beginning of the relevant day a chargeable asset in relation to the company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits by virtue of paragraph (c), (d) or (e) of section 11(2) of the Taxes Act 1988 (as that paragraph has effect by virtue of Schedule 19AC to that Act).

(4) Sub-paragraph (1) above shall not have effect in applying paragraph 2(2) of Schedule 28 to that Act in the case of a disposal by the company.

(5) For the purposes of this paragraph the relevant day is the first day of the company's first accounting period to begin after 31st December 1992.

SCHEDULE 10

Section 101.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF FINANCE ACT 1989

The following Schedule shall be inserted after Schedule 8 to the Finance Act 1989—

"SCHEDULE 8A

Section 89A.

MODIFICATION OF SECTIONS 83 AND 89 IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1 (1) In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act 1988) section 83 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) The reference in subsection (1)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(3) The reference in subsection (1)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(4) In determining for the purposes of subsection (1) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (3) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

(5) For the purposes of this paragraph—

(a) the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset; and

(b) any expression to which a meaning is given by section 11A of that Act has that meaning.

(6) Where for a period of account any investment income referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it arises in the period.

(7) Where for a period of account any increase in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(8) Where for a period of account any reduction in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(9) This paragraph shall apply in relation to periods of account beginning after 31st December 1992.

2 (1) In its application to an overseas life insurance company section 89 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) Any reference to franked investment income shall be treated as a reference to UK distribution income (as defined by section 444D(4) of the Taxes Act 1988).

(3) Any reference in subsection (5)(a) to income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(4) The reference in subsection (5)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(5) In subsection (5)(c) the reference to expenses shall be construed as a reference to such of the expenses concerned as are attributable to the branch or agency.

(6) In subsection (5)(d) the reference to interest shall be construed as a reference to such of the interest concerned as is so attributable.

(7) In determining for the purposes of subsection (5) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset does not fall within paragraph (a) or (b) of sub-paragraph (4) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account;

and sub-paragraph (5) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

(8) Where for a period of account any item consisting of income, expenses or interest referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it arises in the period.

(9) Where for a period of account any increase in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records

as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(10) Where for a period of account any reduction in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(11) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

SCHEDULE 11

Section 102.

Overseas life insurance companies: amendment of Taxation of Chargeable Gains Act 1992

The following Schedule shall be inserted after Schedule 7A to the Taxation of Chargeable Gains Act 1992—

"SCHEDULE 7B

Section 214B.

Modification of Act in relation to overseas life insurance companies

1 In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act) this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

2 (1) In section 13(5)(d), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to chargeable gains accruing to companies in accounting periods beginning after 31st December 1992.

3 (1) In section 16(3), the words "under section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "under section 10".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4 (1) In section 25, the following subsection shall be treated as substituted for subsection (7)—

"(7) For the purposes of this section an asset is at any time a chargeable asset in relation to an overseas life insurance company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b), (c), (d) or (e) of the Taxes Act."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5 (1) In section 140A(2), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to transfers taking place in accounting periods of company B beginning after 31st December 1992.

6 (1) In section 159(4)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals or acquisitions made in accounting periods beginning after 31st December 1992.

7 (1) In section 172(4), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals made or assumed to have been made in accounting periods beginning after 31st December 1992.

8 (1) In subsections (2)(a) and (3) of section 185, the words "or (4A)" shall be treated as inserted after the words "subsection (4)".

(2) The following subsections shall be treated as inserted after subsection (4) of that section—

"(4A) Subject to subsection (4B) below, if at any time after the relevant time the company is an overseas life insurance company—

(a) any assets of its long term business fund which, immediately after the relevant time—

(i) are situated outside the United Kingdom and are used or held for the purposes of the branch or agency in the United Kingdom through which the company carries on life assurance business; or

(ii) are attributed to the branch or agency by virtue of section 11B of the Taxes Act,

shall be excepted from subsection (2) above; and

(b) any new assets of its long term business fund which, after that time—

(i) are so situated and are so used or held; or

(ii) are so attributed,

shall be excepted from subsection (3) above.

(4B) Subsection (4A) above shall not apply if the relevant time falls before the relevant day; and for the purposes of this subsection the relevant day is the first day of the company's first accounting period to begin after 31st December 1992."

(3) In subsection (5) of that section, the following paragraph shall be treated as inserted after paragraph (b)—

"(ba) "life assurance business" and "long term business fund" have the meanings given by section 431(2) of the Taxes Act;".

9 (1) In section 191(1)(b), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10 (1) In section 212, the following subsection shall be treated as inserted after subsection (5)—

"(5A) In its application to an overseas life insurance company this section shall have effect as if the references in subsections (1) and (2) to assets were to such of the assets concerned as are—

(a) section 11(2)(b) assets;

(b) section 11(2)(c) assets; or

(c) assets which by virtue of section 11B of the Taxes Act are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11 (1) In section 213(4), the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "long term business".

(2) This paragraph shall apply in relation to events occurring in accounting periods beginning after 31st December 1992.

12 (1) In section 214, the following subsection shall be treated as inserted after subsection (11)—

"(12) In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (1), (2) and (6) to (10) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets; or

(ii) section 11(2)(c) assets;

(b) the references in subsections (1), (7) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply where the accounting period mentioned in section 214(6)(d) begins after 31st December 1992.

13 (1) In subsection (4) of section 214A, in item G the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "cessation of the carrying on".

(2) In subsection (6) of that section, the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "long term business".

(3) In subsection (11) of that section, the following words shall be treated as inserted at the end "; and, as it applies for the purposes of this section, the words "(with the modifications set out in subsection (12) of that section)" shall be treated as inserted after the words "section 214"."

14 (1) In section 228(6)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to acquisitions made in chargeable periods beginning after 31st December 1992."

SCHEDULE 12

Section 114.

INITIAL ALLOWANCES FOR AGRICULTURAL BUILDINGS

1 The Capital Allowances Act 1990 shall be amended as follows.

2 (1) In subsection (1) of section 124 (expenditure qualifying for allowances)—

(a) for "this Part, including" there shall be substituted "writing-down allowances or"; and

(b) in paragraph (b), for "this Part" there shall be substituted "writing-down allowances or, as the case may be, section 122".

(2) In subsection (2) of that section, for "this Part" there shall be substituted "writing-down allowances".

3 After section 124 there shall be inserted the following sections—

"**124A Initial allowances: contracts entered into between October 1992 and November 1993**

(1) Subject to the following provisions of this Part, if a person having a major interest in any agricultural land incurs any expenditure to which this section applies, there shall be made to him, for the chargeable period which is that related to the incurring of the expenditure, an allowance ("an initial allowance") equal to 20 per cent. of the amount of that expenditure.

(2) This section applies to any expenditure falling within section 123 which is incurred under a contract which—

(a) is entered into either—

(i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or

(ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;

but

(b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

(3) No expenditure on the construction of any building, fence or other works shall be taken into account for the purposes of any initial allowance under this Part unless it is incurred for the purposes of husbandry on the agricultural land in question; and no initial allowance shall be made under this Part in respect of expenditure on the construction of any building, fence or other works unless the building, fence or other works is or is to be first used for the purposes of husbandry on or before 31st December 1994.

(4) Where expenditure is incurred on a farmhouse or any asset (other than a farmhouse) which is to serve partly the purposes of husbandry and partly other purposes, the same apportionment of that expenditure shall be made

for the purposes of any initial allowance under this Part as is required by section 124(1)(a) or (b) to be made for the purposes of writing-down allowances.

(5) In a case where—

(a) any expenditure to which this section applies is incurred on the construction of any building, fence or other works; and

(b) either—

(i) when the building, fence or other works comes to be used it is not used for the purposes of husbandry; or

(ii) it has not come to be so used by the end of 31st December 1994,

the expenditure shall be left out of account for the purposes of initial allowances under this Part and, accordingly, any initial allowance made in respect of the expenditure under this section shall be withdrawn and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal.

(6) Subject to subsection (7) below, a person making a claim by virtue of this section as it applies for income tax purposes may require the initial allowance to be reduced to a specified amount; and a company may by notice given to the inspector not later than two years after the end of the chargeable period for which the allowance falls to be made disclaim the initial allowance or require it to be reduced to a specified amount.

(7) Subsection (6) above shall have effect as respects allowances falling to be made for accounting periods ending after the day appointed for the purposes of section 10 of the principal Act (pay and file) with the omission of the words "as it applies for income tax purposes" and the words from "and a company" onwards.

124B Restriction on writing-down allowance where initial allowance made.

Where an initial allowance under this Part is made for any chargeable period in respect of any expenditure on the construction of a building, fence or other works, a writing-down allowance in respect of that expenditure shall be made under this Part for the same chargeable period only if the building, fence or other works has come to be used for the purposes of husbandry before the end of that period."

4 (1) In subsection (1) of section 126 (transfers of relevant interest), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

(2) For subsection (2) of that section there shall be substituted the following subsection—

"(2) If, in a case falling within subsection (1) above, the date of the acquisition occurs during a chargeable period of the former owner or its basis period, the former owner shall be entitled—

(a) to the whole of any initial allowance for the chargeable period related to the acquisition; but

(b) only to an appropriate proportion of any writing-down allowance for the chargeable period so related;

and, similarly, if the date of the acquisition occurs during a chargeable period of the new owner or its basis period, the new owner shall be entitled only to an appropriate proportion of any writing-down allowance for the chargeable period (of his) related to the acquisition."

(3) In subsection (6) of that section (balancing increase of last writing-down allowance in respect of allowance lost on transfers), after "total allowances" there shall be inserted "(including any initial allowance)".

5 (1) After subsection (3) of section 127 (buildings etc. bought unused) there shall be inserted the following subsections—

"(3A) The expenditure referred to in subsection (1) above includes neither—

(a) expenditure which falls to be disregarded for the purposes of writing-down allowances by virtue of section 124(1); nor

(b) expenditure some or all of which is expenditure to which section 124A applies.

(3B) Accordingly, any expenditure which is treated as incurred under subsection (2)(c) above shall be treated (without prejudice to section 124(2)) as incurred for the purposes mentioned in section 124(1)."

(2) In subsection (4) of that section, for "and (3)" there shall be substituted "(3) and (3B)".

6 After section 127 there shall be inserted the following section—

"**127A Purchases of buildings and structures: cases involving initial allowances**

(1) This section shall apply (subject to subsection (2) below) where—

(a) there is expenditure on the construction of any building, fence or other works ("the actual expenditure") which—

(i) is expenditure falling within section 123; and

(ii) is not expenditure which would fall to be disregarded for the purposes of writing-down allowances by virtue of section 124(1);

(b) some or all of the actual expenditure is expenditure to which section 124A applies or would be such expenditure if it were capital expenditure; and

(c) before the building, fence or other works comes to be used, the relevant interest is sold.

(2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—

(a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and

(b) has been entitled to that interest since before 1st November 1992,

section 124A(2) above shall have effect for the purposes of subsection (1)(b) above and subsection (6) below as if for the words from "contract which" onwards there were substituted "contract entered into either before

1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with."

(3) Where this section applies—

(a) the actual expenditure shall be left out of account for the purposes of this Part and, accordingly—

(i) any initial allowance or writing-down allowance made in respect of the actual expenditure shall be withdrawn; and

(ii) all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal;

(b) section 126 shall not apply;

(c) the person who buys the relevant interest shall be treated for the purposes of this Part as having incurred, on the date when the purchase price becomes payable, expenditure falling within section 123 on the construction of the building, fence or other works ("the deemed expenditure"); and

(d) the deemed expenditure shall be treated (without prejudice to section 124(2) and 124A(5)) as incurred for the purposes of husbandry on the agricultural land in question.

(4) The deemed expenditure—

(a) shall be whichever is the lesser of the net price paid by the person concerned for the purchase of the relevant interest and the actual expenditure; and

(b) shall be regarded as comprising a section 124A element and a residual element.

(5) The section 124A element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

(6) In subsection (5) above—

A is the deemed expenditure;

B is so much of the actual expenditure as is expenditure to which section 124A applies or expenditure that would be such expenditure if it were capital expenditure; and

C is the actual expenditure.

(7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 124A element.

(8) Notwithstanding the provisions of subsection (3)(c) above—

(a) the section 124A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and

(b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.

(9) Where the relevant interest is sold more than once before the building, fence or other works is used, subsections (2) and (3)(c) and (d) above shall have effect only in relation to the last of those sales."

7 (1) In subsection (1) of section 128 (balancing allowances and charges), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

(2) In subsection (2) of that section, for "this Part less the aggregate of any writing-down allowances" there shall be substituted "any allowances under this Part less the aggregate of any such allowances".

(3) In subsection (3) of that section, after "purposes of" there shall be inserted "allowances under".

(4) In subsection (6) of that section, for "writing-down allowances" there shall be substituted "allowances under this Part".

8 In section 129(1) (balancing events), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

9 In section 131(2) (application of Chapter I of Part V to forestry buildings etc.), in the words after paragraph (b), before "subject" there shall be inserted "with the omission of sections 124A, 127(3A)(b) and 127A and".

10 In section 146(3) (allowances under Parts V and VI not to exceed expenditure), after "made under" there shall be inserted "Part V or".

SCHEDULE 13

Section 115.

FIRST-YEAR ALLOWANCES FOR MACHINERY AND PLANT

1 The Capital Allowances Act 1990 shall be amended as follows.

2 In section 23(6) (interpretation of information provisions relating to first-year allowances), at the end there shall be inserted "and references in this section to a first-year allowance shall not include references to a first-year allowance in respect of expenditure to which section 22 applies by virtue only of subsection (3B) of that section."

3 In section 30(2)(c) (special provision for ships), for "section" there shall be substituted "sections 46(8)(e) and".

4 In section 38(m) (assets attracting first-year allowances not to be treated as short-life assets), after "section 22" there shall be inserted "(2), (3) or (3A)".

5 (1) In subsection (2)(a) of section 39 (definition of a qualifying purpose), for "subsections (2) and (3)" there shall be substituted "subsections (2) to (3B)".

(2) In subsection (8)(b) of that section (anti-avoidance provision in respect of chartering), after "new expenditure," there shall be inserted "a first-year allowance by virtue of section 22(3B) or".

6 After subsection (8) of section 42 (modifications in relation to "old expenditure" of provisions relating to overseas leasing) there shall be inserted the following subsection—

"(9) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue only of subsection (3B) of that section, this section shall have effect—

(a) as if subsection (4) above included a reference to a first-year allowance made in respect of that expenditure; and

(b) for the purposes of paragraph (a) above, as if the reference in that subsection to an event occurring such that there is no right to that allowance included a reference to an event occurring such that, if subsection (3) included a reference to first-year allowances, there would be no such right."

7 (1) In subsection (1) of section 43 (cases where section applies), for "This section" there shall be substituted "Subsections (2) and (3) below".

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

"(4) Section 22(6A)(a) shall not prevent a first-year allowance being made in respect of expenditure incurred by any person on the provision of machinery or plant for leasing where it appears that—

(a) the machinery or plant will be leased as mentioned in subsection (1) above; and

(b) the circumstances are such that subsection (2) above will require the whole or any part of the expenditure to be treated as not falling within section 42(1);

and any first-year allowance made by virtue of this subsection in respect of that expenditure shall be made on the same assumptions and subject to the same apportionments (if any) as it appears would, by virtue of subsection (3) above, be applicable in the case of a writing-down allowance."

8 In section 44 (further provisions in relation to joint lessees in cases involving new expenditure), after subsection (4) there shall be inserted the following subsection—

"(5) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if—

(a) references to section 43(2) included references to section 43(4);

(b) references to a normal writing-down allowance included references to a first-year allowance; and

(c) the reference in subsection (2) above to the separate item of machinery or plant referred to in section 43(3)(a) were, in relation to a first-year allowance, a reference to the machinery or plant in respect of which, in accordance with section 43(4), that allowance is or is treated as made."

9 In section 46 (recovery of allowances made in respect of plant and machinery subsequently let to a foreign resident), after subsection (7) there shall be inserted the following subsection—

"(8) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if—

(a) in subsection (1) above, after "qualified for a" there were inserted "first-year allowance or any";

(b) in subsection (2) above—

(i) in paragraph (a), at the beginning there were inserted "the aggregate of any first-year allowance and"; and

(ii) in paragraph (b), after the word "no" there were inserted "first-year allowance or";

(c) in subsection (5) above—

(i) after "and a" there were inserted "first-year allowance or"; and

(ii) in paragraph (a), for the words from "it referred" to the end of the paragraph there were substituted "that allowance were such a first-year allowance or, as the case may be, normal writing-down allowance as is referred to in paragraph (a) of that subsection and the references to the expenditure in respect of which an allowance is made were construed accordingly;"

(d) in subsection (6) above—

(i) in paragraph (a), after "for a" there were inserted "first-year allowance or"; and

(ii) in the words after paragraph (b), for "a normal writing-down allowance has been made" there were substituted "the allowance that has been made is a first-year allowance or normal writing-down allowance";

and

(e) in subsection (7) above—

(i) in paragraph (a), after "section" there were inserted "30(2)(c) or"; and

(ii) for "section 31" there were substituted "section 30 or 31"."

10 In section 48 (information provisions in relation to joint lessees in cases involving new expenditure), after subsection (6) there shall be inserted the following subsection—

"(7) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if the references in subsections (1) and (2) above to a normal writing-down allowance included references to a first-year allowance; but nothing in this subsection shall prevent subsection (1) above from continuing to apply where the use for permitted leasing is after the expenditure has qualified for one allowance and before it qualifies for another."

11 (1) In subsection (3) of section 50, in paragraph (i) of the definition of "old expenditure" (old expenditure to include expenditure falling within section 22) after "22" there shall be inserted "other than expenditure to which that section applies by virtue only of subsection (3B) of that section".

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

"(4A) In the case of expenditure to which section 22 applies by virtue only of subsection (3B) of that section, any reference in this Chapter to the expenditure having qualified for a first-year allowance is a reference to such an allowance having fallen to be made in respect of the whole or any part of that expenditure."

12 (1) In section 81 (assets used for purposes not attracting capital allowances and assets received by way of gift), after subsection (1) there shall be inserted the following subsection—

"(1A) Subject to section 63, in a case falling within subsection (1)(a) or (b) above, the assumptions applied by that subsection in relation to sections 24 to 26—

(a) shall apply in relation to section 22 as they apply in relation to those sections but only for the purposes of first-year allowances by virtue of section 22(3B); and

(b) where those assumptions require any person to be treated as having incurred expenditure in a chargeable period related to any event, shall apply for those purposes as if they required that person to be treated as having incurred that expenditure on the date of that event."

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

"(2A) Where a person is treated as having incurred capital expenditure on the provision of machinery or plant by virtue of subsection (1)(a) above, he shall be treated for the purposes of section 75(1), as it has effect in relation to first-year allowances by virtue of section 22(3B), as having done so by way of purchase from a person connected with him."

(3) Sub-paragraph (2) above shall have effect in cases where machinery or plant is brought into use on or after 14th April 1993.

13 (1) In subsection (1)(a) of section 147 (exclusion of double allowances), after "those Parts" there shall be inserted "or section 22".

(2) In subsection (2) of that section, after "any person" there shall be inserted "an allowance is made under section 22 in respect of any capital expenditure or".

SCHEDULE 14

Section 120.

PAY AND FILE: MISCELLANEOUS AMENDMENTS

Failure to give notice of liability for corporation tax

1 In section 10(3) of the Taxes Management Act 1970 (penalty for failure to give notice of liability for corporation tax for accounting periods ending after appointed day), for the words from "borne" onwards there shall be substituted "which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable".

Further claims etc. where assessment made

2 In section 43A(1)(a) of that Act of 1970 (section to apply where assessment made by virtue of section 29(3) of that Act), after "section 29(3) of this Act" there shall be inserted "or section 412(3) of the principal Act".

Interest on overdue corporation tax: transitional cases

3 (1) Section 86 of that Act of 1970 (interest on overdue tax) shall be amended as follows.

(2) In subsection (3)(b), for "subject to subsection (3A)" there shall be substituted "subject to subsections (3A) and (4A)".

(3) In subsection (3A), at the beginning there shall be inserted "Subject to subsection (4A) below,".

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

"(4A) For the purposes of this section where—

(a) a notice served under section 11 above at any time after the appointed day for the purposes of section 82 of the Finance (No. 2) Act 1987 (amendment of section 11 for the purposes of pay and file) is to be taken as requiring a company to make a return for any accounting period ending on or before the day appointed for the purposes of section 10 of the principal Act; and

(b) the tax charged by any assessment to corporation tax for that accounting period does not become due and payable until after the date nine months from the end of that accounting period,

the reckonable date, in relation to tax charged for that accounting period by that assessment, is the date mentioned in paragraph (b) above (instead of the date which would otherwise be determined under subsection (3) or (3A) above).

(4B) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section in a case where the reckonable date is determined under subsection (4A) above and may stay or compound any proceedings for the recovery thereof."

Interest on overdue corporation tax: pay and file cases

4 (1) In subsection (4) of section 87A of that Act of 1970 (which is set out in section 85 of the Finance (No. 2) Act 1987 and makes provision from an appointed day for interest on overdue corporation tax), at the beginning there shall be inserted the words "Subject to subsection (7) below".

(2) For subsection (6) of that section there shall be substituted the following subsections—

"(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period ("the later period") has been set off for the purposes of corporation tax against profits of a preceding accounting period ("the earlier period");

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and

(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later

period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and

(b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above."

Effect on interest of reliefs

5 In section 91(1B) of that Act of 1970 (subsection (1A) subject to section 87A(4)), after "section 87A(4)" there shall be inserted "(6) and (7)".

Failure to make return for corporation tax

6 (1) In subsection (6) of section 94 of that Act of 1970 (penalty for failure to make return for corporation tax within eighteen months of end of return period), as it is to apply with respect to the failures mentioned in section 83 of the Finance (No. 2) Act 1987 (failures after appointed day), after the word "before", in the first place where it occurs, there shall be inserted "whichever is the later of the end of the final day for the delivery of the return and".

(2) In subsection (7) of that section, as it is so to apply, (calculation of unpaid tax for the purposes of penalty), for the words from "borne" onwards there shall be substituted "which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable".

Things to be done by companies

7 In section 108(1) of that Act of 1970 (which includes provision requiring companies to act for the purposes of the Taxes Acts through their proper officers), after "proper officer of the company" there shall be inserted "or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose".

Relief under section 393 of the Taxes Act 1988

8 (1) In relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 or of section 396 of the Taxes Act 1988 without the making of a claim, the Taxes Act 1988 shall have effect with the following amendments.

(2) In section 343(3) (company reconstructions without change of ownership), the word "claim", in the second place where it occurs, shall be omitted.

(3) In section 395 (leasing contracts and company reconstructions)—

(a) in subsection (1)(b), for the words "to claim relief under section 393(1) or 393A(1)" there shall be substituted "under section 393(1) or in pursuance of a claim under section 393A(1) to relief"; and

(b) in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief" shall be omitted.

(4) In section 398 (transactions in deposits), for the words from "he may" onwards there shall be substituted "the amount of his loss may be set off in pursuance of a claim under section 392 or, as the case may be, against which the amount of his loss may be set off under section 396".

(5) In section 400(2)(a) (write-off of government investments), the words "or, if a claim had been made under that subsection, would be" shall be omitted.

9 In section 65(6) of the Finance (No. 2) Act 1992 (I minus E basis for life assurance business not to be affected by certain claims), after paragraph (b) there shall be inserted the words—

"but, in relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 of the Taxes Act 1988 without the making of a claim, this section shall have effect as if references to the making of a claim under that subsection were references to the setting off of any loss under that subsection."

Interest on tax overpaid

10 (1) In subsection (7) of section 826 of the Taxes Act 1988 (interest on overpaid tax)—

(a) at the beginning, there shall be inserted the words "Subject to subsection (7AA) below,";

(b) in paragraph (c), for "made for the earlier period" there shall be substituted "paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period"; and

(c) in the words after paragraph (c), for the words from "of corporation tax" to "resulting from" there shall be substituted "referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of the claim under".

(2) In subsection (7A) of that section, for "any increase in the amount of that repayment" there shall be substituted "so much of the amount of that repayment as falls to be made".

(3) After subsection (7A) of that section there shall be inserted the following subsection—

"(7AA) Where, in a case falling within subsection (7A)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1), an amount of surplus advance corporation tax, as defined in section 239(3); and

(b) pursuant to a claim under section 239(3) the whole or any part of that amount is to be treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

then subsection (7) above shall have effect in relation to the claim under the said subsection (3) as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (7) above were a reference to the period which, in relation to the claim under section 393A(1), would be the later period for the purposes of subsection (7A) above."

(4) In subsection (7B) of that section, for "any increase in the amount of that payment" there shall be substituted "so much of the amount of that payment as falls to be made".

(5) Sub-paragraph (3) above shall have effect, subject to sub-paragraph (6) below, in relation to any claim under section 393A(1) of the Taxes Act 1988 as a result of which there is an amount of surplus advance corporation tax in an accounting period ending after the day appointed for the purposes of section 826 of that Act.

(6) Where in the case of any claim in relation to which sub-paragraph (3) above has effect—

(a) the case is one falling within subsection (7AA)(a) and (b) of section 826 of the Taxes Act 1988; but

(b) the period mentioned in subsection (7AA)(b) ended on or before the appointed day for the purposes of that section,

subsection (7AA) of that section shall not apply but section 825(4)(a) of that Act shall have effect as if the reference to the accounting period in the case of which the amount of surplus advance corporation tax arose were a reference to the period which, in relation to the claim, would be the later period for the purposes of subsection (7A) of section 826 of that Act.

Surrender of refunds

11 In section 102 of the Finance Act 1989 (surrender of company tax refund etc. within group), after subsection (4) there shall be inserted the following subsection—

"(4A) Where subsection (4) above has effect in relation to any amount and there is, by virtue of any of subsections (7) to (7C) of section 826 of the Taxes Act 1988, a period for which the whole or any part of that amount would not, had the refund been made to the surrendering company, have carried interest under that section, that period shall be treated as excluded—

(a) from any period for which any refund made by virtue of subsection (4) above to the recipient company in respect of some or all of that amount or, as the case may be, that part of it is to carry interest under that section; and

(b) from any period for which a sum representing some or all of that amount or part would (apart from this subsection) be treated by virtue of subsection (4) above as not carrying interest under section 87A of the Taxes Management Act 1970;

and in determining for the purposes of this subsection which part of any amount is applied in discharging a liability of the recipient company to pay any corporation tax and which part is represented by a refund to the recipient company, it shall be assumed that the part in relation to which there is a period which would not have carried interest under section 826 of the Taxes

Act 1988 is applied in preference to any other part of that amount in or towards discharging the liability."

SCHEDULE 15

Section 134.

EXCHANGE GAINS AND LOSSES: ALTERNATIVE CALCULATION

Introduction

1 (1) This paragraph applies where regulations under this Schedule provide that the amount of an initial exchange gain or initial exchange loss accruing to a company as regards an asset, liability or contract for an accrual period shall be found in accordance with the alternative method of calculation.

(2) In such a case the amount shall not be found in accordance with section 125(2) or (4) of this Act or section 126(3) or (5) or section 127(3) or (4) (as the case may be) but shall be found by—

(a) taking the accrued amount for each day in the accrual period, and

(b) adding the amounts found under paragraph (a) above.

(3) Subject to regulations under this Schedule, the accrued amount for a day in the accrual period shall be found by—

(a) taking the amount of the initial exchange gain or initial exchange loss found in accordance with section 125(2) or (4) of this Act or section 126(3) or (5) or section 127(3) or (4) (as the case may be), and

(b) dividing it by the number of days in the period.

(4) Where an accrual period does not begin at the beginning of a day, the part of the day that falls within the accrual period shall be treated for the purposes of this Schedule as a complete day.

(5) Where an accrual period does not end at the end of a day, the part of the day that falls within the accrual period shall be treated for the purposes of this Schedule as a complete day.

Exempt circumstances

2 (1) Regulations may provide that where—

(a) as regards an asset, liability or contract an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125, 126 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) at any time on a day in the period the asset or contract was held, or the liability was owed, by the company in exempt circumstances, and

(c) such other conditions as may be prescribed are fulfilled,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any such day as is mentioned in sub-paragraph (1) above the accrued amount shall be ascertained in accordance with prescribed rules.

(3) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which an asset or contract is held, or a liability is owed, in exempt circumstances.

(4) For the purposes of this paragraph an asset or contract is held, or a liability is owed, in exempt circumstances at a given time if it is then held or owed—

(a) for the purposes of long term insurance business;

(b) for the purposes of mutual insurance business;

(c) for the purposes of the occupation of commercial woodlands;

(d) by a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988;

(e) by a self-build society approved at that time for the purposes of section 489 of that Act.

(5) In this paragraph—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

Unremittable income

3 (1) Regulations may provide that where—

(a) as regards an asset falling within section 153(1)(a) or (b) of this Act an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) at any time on a day in the period income represented by the asset was unremittable, and

(c) such other conditions as may be prescribed are fulfilled,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any such day as is mentioned in sub-paragraph (1) above the accrued amount shall be ascertained in accordance with prescribed rules.

(3) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which the income represented by an asset is unremittable.

(4) For the purposes of this paragraph income is unremittable if—

(a) in relation to the income, a notice under subsection (2) of section 584 of the Taxes Act 1988 (relief for unremittable overseas income) has been delivered to the inspector in accordance with subsection (6) of that section,

(b) it has been shown to the satisfaction of the Board that the conditions mentioned in paragraphs (a) and (b) of section 584(2) are satisfied with respect to the income, and

(c) those conditions have not ceased to be satisfied with respect to it.

Matched liabilities

4 (1) Regulations may provide that where—

(a) as regards a liability an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) the liability falls within section 153(2)(a) of this Act,

(c) the liability is eligible to be matched on any day in the accrual period with an asset held by the company, and such other conditions as may be prescribed are fulfilled, and

(d) an election is made in accordance with the regulations to match the liability with the asset on any such day and the election has effect by virtue of the regulations,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any day in respect of which an election has effect the accrued amount shall be ascertained in accordance with prescribed rules.

(3) The question whether a liability is eligible to be matched with an asset shall be determined in accordance with prescribed rules, and in particular regulations may include provision that—

(a) only liabilities of a prescribed description are eligible to be matched with assets;

(b) only assets of a prescribed description are eligible to be matched with liabilities;

(c) liabilities of a prescribed description are eligible to be matched only with assets of a prescribed description.

(4) Regulations may include provision that on any day—

(a) a liability may be partially matched;

(b) an asset may be partially matched;

(c) one asset may be matched with two or more liabilities (wholly or partially);

(d) one liability may be matched with two or more assets (wholly or partially).

(5) Regulations may include provision that an election relating to an asset or assets shall be treated as made in relation to another asset or other assets (as where assets are replaced by others).

(6) Regulations may include provision—

(a) that an election may in prescribed circumstances have effect from a time before it is made;

(b) that an election may be varied;

(c) that an election may not be revoked;

(d) that an election must be made by the company (subject to any provision under sub-paragraph (7) below).

(7) Regulations may provide that where the company is a relevant controlled foreign company an election may be made by a United Kingdom resident company which has (or may be made jointly by United Kingdom resident companies which together have) a majority interest in the company; and—

(a) a company is a relevant controlled foreign company if Chapter IV of Part XVII of the Taxes Act 1988 applies in relation to the accounting period of the company which constitutes the accrual period or in which the accrual period falls;

(b) paragraph 4(3) of Schedule 24 to that Act (majority interest) applies for the purposes of this sub-paragraph.

(8) Regulations may include provision—

(a) that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (b) below);

(b) that prescribed conditions shall be treated as not having been fulfilled if the inspector gives notification that he is not satisfied that they are fulfilled;

(c) for an appeal from the inspector's notification;

(d) for a notification to be given to the company or companies making the election.

(9) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which a liability is matched.

(10) Regulations may also provide as mentioned in one or more of the following paragraphs—

(a) that a chargeable gain (or chargeable gains) shall be treated as accruing to a relevant person for the purposes of the Taxation of Chargeable Gains Act 1992;

(b) that an allowable loss (or allowable losses) shall be treated as accruing to a relevant person for the purposes of that Act;

(c) that the operation of that Act as regards a relevant person shall be otherwise adjusted in accordance with prescribed rules (whether the adjustment results in the incidence of tax on the person being greater or smaller).

(11) For the purposes of sub-paragraph (10) above each of the following is a relevant person—

(a) the company mentioned in sub-paragraph (1) above;

(b) any person who has at any time acquired a matched asset (or part of a matched asset) since the company acquired it;

and a matched asset is an asset which has at any time been to any extent matched with a liability in pursuance of an election.

(12) Regulations may make provision—

(a) as to the occasion on which a chargeable gain or allowable loss mentioned in sub-paragraph (10) above is to be treated as accruing, as to the amount to be treated as the amount of the gain or loss, and as to other matters relating to the gain or loss;

(b) as to the timing and extent of any adjustment mentioned in sub-paragraph (10)(c) above and as to other matters relating to the adjustment.

Combination of circumstances

5 (1) This paragraph applies where regulations under more than one of paragraphs 2 to 4 above apply—

(a) as regards the same asset or liability, and

(b) for the same accrual period.

(2) Regulations may provide that, as regards any day falling within the period and identified in accordance with prescribed rules, the accrued amount shall be ascertained in accordance with rules prescribed under this paragraph (rather than provisions made under any of those paragraphs).

Arm's length test

6 Where regulations make provision under any of paragraphs 2 to 5 above, they may provide that for the purposes of section 136(11) of this Act amounts X and Y shall be found without regard to matters which are prescribed and would otherwise have had to be taken into account under the regulations.

Local currency

7 Where regulations make provision under any of paragraphs 2 to 5 above, section 149 of this Act shall have effect as if the references to sections 125 to 127 included references to this Schedule and the provisions of the regulations.

General

8 Regulations may be so framed that the accrued amount as regards a day is nil (so that, depending on the circumstances, an initial exchange gain or initial exchange loss may be extinguished).

9 Regulations may make different provision about exchange gains (on the one hand) and exchange losses (on the other).

SCHEDULE 16

Section 165.

EXCHANGE GAINS AND LOSSES: TRANSITIONALS

Introduction

1 For the purposes of this Schedule an existing asset, liability or contract is an asset, liability or contract to which this Chapter applies by virtue of section 165(2) or (3) of this Act or by virtue of regulations under section 165(4) of this Act.

General provision

2 (1) Regulations may make such provision as the Treasury think fit with regard to the application of this Chapter to an existing asset, liability or contract (such as provision for finding the basic valuation of an asset or liability).

(2) Nothing in the following provisions of this Schedule shall prejudice the generality of sub-paragraph (1) above.

Attributed gain or loss

3 (1) Regulations may provide that—

(a) an amount found in accordance with prescribed rules shall be attributed to an existing asset or liability, and

(b) the amount shall be characterised as a gain or loss in accordance with prescribed rules.

(2) The regulations may provide that an attributed gain or loss shall be set off against exchange losses or exchange gains accruing as regards the asset or liability; and for this purpose—

(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(3) The regulations may provide that if an event of a prescribed description occurs as regards the asset or liability at a time falling on or after the commencement day of the company concerned and at a time when all or part of an attributed gain or loss is outstanding—

(a) an initial exchange gain or initial exchange loss of an amount found in accordance with prescribed rules shall be treated as accruing to the company as regards the asset or liability, or

(b) a chargeable gain or allowable loss of an amount found in accordance with prescribed rules shall be treated as accruing to the company as regards the asset or liability for the purposes of the Taxation of Chargeable Gains Act 1992.

(4) The regulations may provide that where—

(a) apart from provision under this sub-paragraph, an allowable loss would be treated as accruing by virtue of provision made under sub-paragraph (3)(b) above, and

(b) the company concerned makes an election in accordance with prescribed rules,

the loss shall not be treated as accruing and relief of an amount equal to it shall be given to the company in such form and manner as may be prescribed.

(5) The regulations may provide that where provision under this paragraph has effect the outstanding attributed gain or loss shall be treated as reduced or extinguished.

(6) The regulations may make provision—

(a) as to the time when an initial exchange gain or initial exchange loss is to be treated as accruing and as to the extent to which it is to be treated as an exchange gain or loss of a trade or of part of a trade or as a non-trading exchange gain or loss;

(b) as to the occasion on which a chargeable gain or allowable loss is to be treated as accruing;

(c) as to other matters relating to setting off against, or the accrual of, gains or losses as mentioned in this paragraph.

Adjustment of exchange gain or loss

4 (1) Regulations may provide that where an exchange gain or exchange loss accrues to a company as regards an existing asset or liability (or would so accrue apart from the regulations)—

(a) the amount of the gain or loss shall be deemed to be increased in accordance with prescribed rules,

(b) the amount of the gain or loss shall be deemed to be reduced in accordance with prescribed rules, or

(c) the gain or loss shall be deemed not to accrue.

(2) For the purposes of this paragraph—

(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(3) The regulations may be framed by reference to—

(a) exchange differences arising as regards the asset or liability at any time while the company actually holds or owes it (whether any such time falls before, on or after the company's commencement day);

(b) such other factors as the Treasury think fit;

and for this purpose exchange differences are gains and losses attributable to fluctuations in currency exchange rates.

(4) The regulations may include provision designed to prevent provision under them being avoided by the replacement (or partial replacement) of assets or liabilities by other assets or liabilities.

Allowable losses

5 (1) Regulations may provide that where—

(a) an allowable loss of a prescribed description has accrued to a qualifying company for the purposes of the Taxation of Chargeable Gains Act 1992,

(b) the loss has accrued before the company's commencement day,

(c) all or part of the loss has not been allowed as a deduction under that Act, and

(d) prescribed conditions (whether relating to the making of a claim or otherwise) are fulfilled,

the loss shall be set off against exchange gains accruing to the company.

(2) For the purposes of this paragraph an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain.

(3) The regulations may provide that the loss may only be set off—

(a) to the extent that it has not been allowed as a deduction under the Taxation of Chargeable Gains Act 1992;

(b) against exchange gains accruing as regards assets or liabilities of a prescribed description.

(4) The regulations may include rules for ascertaining whether an allowable loss of a prescribed description has or has not been allowed as a deduction under the Taxation of Chargeable Gains Act 1992.

Miscellaneous

6 (1) Regulations may provide—

(a) that provision under paragraph 3 above or provision under paragraph 4 above or provision under neither of them shall apply in the case of an asset or liability according to the circumstances of the case;

(b) that provision under paragraph 3(3)(a) above or provision under paragraph 3(3)(b) above shall apply in the case of an asset or liability according to the circumstances of the case.

(2) The circumstances may be framed by reference to—

(a) whether, and how, exchange differences arising as regards the asset or liability would be taken into account for tax purposes apart from this Chapter;

(b) such other factors as the Treasury think fit;

and for this purpose exchange differences are gains and losses attributable to fluctuations in currency exchange rates.

SCHEDULE 17

Section 169.

EXCHANGE GAINS AND LOSSES: CHARGEABLE GAINS

Introduction

1 In this Schedule "the 1992 Act" means the Taxation of Chargeable Gains Act 1992.

Currency

2 (1) In a case where—

(a) there is for the purposes of the 1992 Act a disposal of currency other than sterling by a qualifying company, and

(b) immediately before the disposal the company did not hold the currency in exempt circumstances (within the meaning given by paragraph 3 below),

for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.

(2) This paragraph applies to disposals on or after the company's commencement day.

3 (1) For the purposes of paragraph 2 above a company holds currency in exempt circumstances at a given time if—

(a) the purposes for which it then holds the currency are or include any of the purposes mentioned in sub-paragraph (2) below,

(b) it is a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988, or

(c) it is a self-build society approved at that time for the purposes of section 489 of that Act.

(2) The purposes referred to in sub-paragraph (1)(a) above are—

(a) the purposes of long term insurance business;

(b) the purposes of mutual insurance business;

(c) the purposes of the occupation of commercial woodlands.

(3) In this paragraph—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

Debts other than securities

4 (1) In a case where—

(a) there is for the purposes of the 1992 Act a disposal of a debt by a qualifying company,

(b) the right to settlement under the debt is a qualifying asset,

(c) the settlement currency of the debt is a currency other than sterling,

(d) immediately before the disposal the company did not hold the debt in exempt circumstances, and

(e) the debt is not a debt on a security,

for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.

(2) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a debt.

(3) This paragraph applies to disposals on or after the company's commencement day.

Debts on securities: disposals

5 (1) In a case where—

(a) a right to settlement under a debt on a security is a qualifying asset,

(b) there is for the purposes of the 1992 Act a disposal of the security by a qualifying company, and

(c) immediately before the disposal the company did not hold the security in exempt circumstances,

in applying section 117 of that Act (qualifying corporate bonds) in relation to the disposal, subsection (1)(b) (corporate bond must be in sterling) shall be ignored.

(2) Sub-paragraph (3) below applies where—

(a) the conditions in sub-paragraph (1)(a) to (c) above are fulfilled, and

(b) the settlement currency of the debt is a currency other than sterling.

(3) In applying section 117 of the 1992 Act in relation to the disposal—

(a) the definition of normal commercial loan for the purposes of subsection (1)(a) shall have effect as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 were omitted;

(b) subsection (10) (securities issued within group) shall be ignored.

(4) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a security.

(5) This paragraph applies to disposals on or after the company's commencement day.

Debts on securities: relief

6 (1) This paragraph applies where—

(a) a qualifying company has made a loan,

(b) the debt is a debt on a security, and

(c) the right to settlement under the debt is a qualifying asset.

(2) In applying section 117 of the 1992 Act (qualifying corporate bonds) for the purposes of section 254 of that Act (relief for debts on qualifying corporate bonds) section 117(1)(b) (corporate bond must be in sterling) shall be ignored.

(3) If the settlement currency of the debt is a currency other than sterling, in applying section 117 of that Act for the purposes of section 254 of that Act—

(a) the definition of normal commercial loan for the purposes of section 117(1)(a) shall have effect as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 were omitted;

(b) section 117(10) (securities issued within group) shall be ignored.

(4) In applying section 254(6) of that Act in the case of a security which would not be a qualifying corporate bond apart from sub-paragraph (2) or (3) above, the allowable amount shall be found by taking what that amount would be apart from this sub-paragraph and deducting an amount equal to the amount of any exchange loss (or the aggregate amount of any exchange losses) accruing to the company as regards the asset for a period or periods ending on or before the relevant date.

(5) For the purposes of sub-paragraph (4) above—

(a) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;

(b) the relevant date is the date when the security's value became negligible or the outstanding amount of the principal of the loan was irrecoverable or proved to be irrecoverable (as the case may be).

(6) Where apart from this sub-paragraph the amount of an exchange loss would be an amount expressed in a currency other than the basic currency, it shall be treated for the purposes of this paragraph as the basic currency equivalent on the day the claim is made of the amount so expressed; and the basic currency is the currency in which the allowable amount is expressed.

(7) For the purposes of sub-paragraph (6) above the basic currency equivalent of an amount on a particular day is the basic currency equivalent calculated by reference to the London closing exchange rate for that day.

(8) This paragraph applies to claims made on or after the company's commencement day (whenever the loan was made).

Reconstructions, groups etc.

7 (1) This paragraph applies where there is for the purposes of the 1992 Act a disposal or acquisition of an asset which is—

(a) currency,

(b) a debt which is not a debt on a security and the right to settlement under which is a qualifying asset,

(c) a security (as defined in section 132 of the 1992 Act) where the right to settlement under the debt on the security is a qualifying asset, or

(d) an obligation which by virtue of section 143 of the 1992 Act (futures and options) is regarded as an asset to the disposal of which that Act applies and which is a duty under a currency contract.

(2) In a case where—

(a) the condition mentioned in sub-paragraph (3) below is fulfilled, and

(b) section 139, 171 or 172 of the 1992 Act (reconstructions, groups etc.) would, apart from this paragraph, apply as regards the disposal or acquisition,

the section concerned shall not apply as regards the disposal and the corresponding acquisition or (as the case may be) shall not apply as regards the acquisition and the corresponding disposal.

(3) The condition is that stated in paragraph (a) or (b) below (as the case may be)—

(a) the disposal is by a qualifying company and immediately before the disposal the asset is held wholly for qualifying purposes;

(b) the acquisition is by a qualifying company and immediately after the acquisition the asset is held wholly for qualifying purposes.

(4) For the purposes of this paragraph qualifying purposes are purposes which constitute one or both of the following—

(a) purposes of long term insurance business;

(b) purposes of mutual insurance business;

and "long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982.

(5) This paragraph applies where the disposal or acquisition (as the case may be) is made on or after the commencement day of the company mentioned in sub-paragraph (3) (a) or (b) above (as the case may be).

Indexation allowance

8 In construing section 103(7) of the 1992 Act (restriction on availability of indexation allowance: non-chargeable assets) the effect of paragraphs 2 and 4 above shall be ignored.

SCHEDULE 18

Section 170.

EXCHANGE GAINS AND LOSSES: AMENDMENTS

Taxes Management Act 1970 (c. 9)

1 In section 87A of the Taxes Management Act 1970 (interest on overdue tax for accounting periods ending after appointed day) the following subsection shall be inserted after subsection (4)—

"(4A) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) disregarding the effect of subsection (5) or (6) (as the case may be) of that section, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax resulting from the claim under subsection (5) or (6) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable, as mentioned in subsection (1) above."

Income and Corporation Taxes Act 1988 (c. 1)

2 In section 56 of the Taxes Act 1988 (transactions in deposits or debts) the following subsections shall be inserted after subsection (3)—

"(3A) Subsection (3B) below applies where—

(a) profits or gains arise from the disposal of a right to which subsection (2) above applies and fall to be charged to tax under Case VI of Schedule D by virtue of that subsection, and

(b) the profits or gains arise to a qualifying company.

(3B) For the purposes of the charge under Case VI the profits or gains—

(a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the right for any accrual period or periods constituting or falling within the holding period;

(b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the right for any accrual period or periods constituting or falling within the holding period.

(3C) For the purposes of subsections (3A) and (3B) above—

(a) "accrual period" and "qualifying company" have the same meanings as in Chapter II of Part II of the Finance Act 1993;

(b) the question whether a non-trading exchange gain or loss accrues to the company as regards the right for an accrual period shall be decided in accordance with that Chapter.

(3D) For the purposes of subsection (3B) above the holding period is the period which—

(a) begins when the company acquired (or last acquired) the right before the disposal, and

(b) ends when the disposal is made."

3 (1) Section 242 of the Taxes Act 1988 (set-off of losses etc. against surplus of franked investment income) shall be amended as mentioned in sub-paragraphs (2) and (3) below.

(2) In subsection (2) after paragraph (e) there shall be inserted—

"(f) the setting of amounts against profits under section 131(4) of the Finance Act 1993."

(3) In subsection (8) after paragraph (d) there shall be inserted—

"(e) if and so far as the purpose for which the claim is made is the setting of an amount against profits under subsection (4) of section 131 of the Finance Act 1993, the time limit that would, by virtue of subsection (14) of that section, be applicable in the case of a claim under subsection (4) of that section."

4 In section 407 of the Taxes Act 1988 (relationship between group relief and other relief) in subsection (2) at the end of paragraph (b) there shall be inserted "and", and after that paragraph there shall be inserted—

"(c) relief under section 131(7) of the Finance Act 1993 in respect of the whole or part of a relievable amount for an accounting period after the accounting period the profits of which are being computed;

and the reference in paragraph (c) above to a relievable amount shall be construed in accordance with section 131 of the Finance Act 1993."

5 In section 826 of the Taxes Act 1988 (interest on tax overpaid) the following subsection shall be inserted after subsection (7B)—

"(7C) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) a repayment falls to be made of corporation tax for the earlier period,

then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from the claim under subsection (5) or (6) (as the case may be) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

6 In Schedule 27 to the Taxes Act 1988 (distributing funds) in paragraph 5 (United Kingdom equivalent profits) the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) In applying sub-paragraph (1) above the effect of sections 125 to 133 of the Finance Act 1993 (exchange gains and losses) shall be ignored."

Finance Act 1989 (c. 26)

7 In Schedule 11 to the Finance Act 1989 (deep gain securities) the following shall be inserted after paragraph 5—

"Exchange gains and losses

5A (1) This paragraph applies where—

(a) there is a transfer or redemption of a deep gain security, and

(b) the person making the transfer or (as the case may be) the person who was entitled to the security immediately before redemption is a qualifying company.

(2) For the purposes of paragraph 5 above the amount treated as income—

(a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period;

(b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period.

(3) For the purposes of this paragraph—

(a) the underlying right is the right to settlement under the debt on the security;

(b) "accrual period" and "qualifying company" have the same meanings as in Chapter II of Part II of the Finance Act 1993;

(c) the question whether a non-trading exchange gain or loss accrues to the company as regards the underlying right for an accrual period shall be decided in accordance with that Chapter.

(4) For the purposes of this paragraph the holding period is the period which—

(a) begins when the company acquired (or last acquired) the security before the transfer or redemption, and

(b) ends when the transfer or redemption is made."

SCHEDULE 19

Section 173.

LLOYD'S UNDERWRITERS: ASSESSMENT AND COLLECTION OF TAX

PART I

DETERMINATION OF A SYNDICATE'S PROFIT OR LOSS

Preliminary

1 In this Part of this Schedule "profit or loss", in relation to a syndicate, means the aggregate amount of such of the profits or losses of all the members of the syndicate (taken together) as arise—

(a) directly from their membership of the syndicate, or

(b) from assets forming part of premiums trust funds,

and "profits" and "losses" shall be construed accordingly.

Returns by managing agent

2 (1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to a syndicate's managing agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (2) below, a return of the syndicate's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice; and

(b) accompanied by such accounts, statements and reports as may be so required.

(2) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) the 1st September next following the end of the closing year for the year of assessment; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(3) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final date for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(4) In sub-paragraph (3) above "the prescribed amount" means £60 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(5) If a syndicate's managing agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members of the syndicate.

(6) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (2) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (5) above to the return being incorrect includes a reference to any of those documents being incorrect.

Determinations by inspector

3 (1) If the inspector is satisfied that a return under paragraph 2(1) above affords correct and complete information concerning the syndicate's profit or loss for a year of assessment, he shall determine that profit or loss accordingly.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 2(1) above, or there is no such return, the inspector shall determine the syndicate's profit or loss for that year to the best of his judgment.

(3) If the inspector discovers that a determination under sub-paragraph (1) or (2) above—

(a) understates the syndicate's profits for the year of assessment; or

(b) overstates the syndicate's losses for that year,

he may, by a determination under this sub-paragraph, vary the first-mentioned determination accordingly.

(4) Notice of a determination under this paragraph shall be served on the syndicate's managing agent and shall state the time within which any appeal against the determination may be made under paragraph 4 below.

(5) After notice of a determination under this paragraph has been served on the syndicate's managing agent, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.

Appeals

4 (1) A syndicate's managing agent may appeal against a determination under paragraph 3 above by a notice of appeal in writing given to the inspector within thirty days after the date of the notice of determination.

(2) An appeal under this paragraph shall be to the General Commissioners, except that the agent may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(3) Subsections (5) to (5E) of section 31 of the Management Act shall apply for the purposes of an election under sub-paragraph (2) above as they apply for the purposes of an election under subsection (4) of that section.

Modification of determinations pending appeal

5 (1) Where a syndicate's managing agent appeals against a determination under paragraph 3 above, then, for the purpose of establishing, in the event of a member of the syndicate appealing against an assessment made on him, the amount of tax the payment of which should, pending the determination of that appeal, be postponed under section 55 of the Management Act, that section shall apply to the first-mentioned appeal with the modifications specified in sub-paragraph (2) below.

(2) The modifications are as follows—

(a) any reference to the notice of assessment shall be construed as a reference to the notice of determination;

(b) any reference to the appellant believing that he is overcharged to tax by the assessment shall be construed as a reference to him believing that the determination overstates the syndicate's profits, or understates the syndicate's losses, for the year of assessment;

(c) any reference to the appellant having grounds for so believing, or there being reasonable grounds for so believing, shall be construed in accordance with paragraph (b) above;

(d) any reference to a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal shall be construed as a reference to a direction that the determination shall, pending the determination of the appeal, have effect for the purpose stated in sub-paragraph (1) above as if the syndicate's profits there stated were reduced, or the syndicate's losses there stated were increased, by such amount as may be specified in the direction;

(e) any reference to an amount of tax so determined, or to the amount of tax which should be so postponed, shall be construed in accordance with paragraph (d) above; and

(f) subsections (2) and (9) and, in subsection (6), paragraphs (a) and (b) and the word "and" immediately preceding paragraph (a) shall be omitted.

Apportionments of syndicate's profit or loss

6 (1) Where a determination of a syndicate's profit or loss for a year of assessment is made, varied or modified (whether under the foregoing provisions of this Schedule or on appeal), the inspector may, by notice in writing to the syndicate's managing agent, require him to make to the inspector, within the specified period, a return apportioning, between the members of the syndicate, the syndicate's profit or loss as stated in the determination as so made, varied or modified.

(2) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return within the specified period, fails to deliver the return within that period, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(3) In sub-paragraph (2) above "the prescribed amount" means £5 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(4) In this paragraph "the specified period" means such period, not being less than thirty days and beginning with the day following the date of the notice under sub-paragraph (1) above, as may be specified in that notice.

Individual members: effect of determinations

7 (1) A determination of a syndicate's profit or loss for a year of assessment (whether as originally made or as varied or modified) shall, for the purpose of determining the liability to tax of each member of the syndicate, be conclusive against that member that the syndicate's profit or loss for that year is as there stated.

(2) Where a determination of a syndicate's profit or loss for a year of assessment is varied or modified at any time after the issue of a notice of assessment assessing any member of the syndicate to tax—

(a) section 31 of the Management Act (right of appeal) and section 55 of that Act (postponement of tax) shall have effect, in relation to that member, as if any reference to the date of the notice of assessment, or the date of the issue of the notice of assessment, were a reference to the date of the variation or modification; and

(b) in the case of a variation, an assessment which gives effect to the determination as varied shall not be out of time if it is made within one year of the date of the variation.

(3) Sub-paragraph (2)(b) above shall not apply in the case of a variation under paragraph 3(3) above which is made later than six years after the end of the closing year.

Assessment of individual members: time limits

8 For the purposes of sections 36 and 40 of the Management Act (extension of time in cases of fraudulent or negligent conduct) anything done or omitted to be done by a syndicate's managing agent shall be deemed to have been done or omitted to be done by each member of the syndicate.

PART II

PAYMENTS ON ACCOUNT OF TAX

Preliminary

9 In this Part of this Schedule "profit or loss", in relation to a member and any person who is his members' agent, means the aggregate amount of the profits or losses which, in the accounts of the syndicates of which he is a member and in relation to which that person is his members' agent, are shown as arising to him, and "profit" and "loss" shall be construed accordingly.

Returns by members' agent

10 (1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to a members' agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (4) below and as respects each member for whom he acts, a return of the member's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice, and

(b) accompanied by such statements and reports as may be so required, and

(c) in the case of a profit, containing a statement of the amount of tax which would be payable on that profit if income tax were payable on the whole of it at the basic rate in force for the year of assessment.

(2) For the purposes of a return under sub-paragraph (1) above of a member's profit, there shall be added to that profit—

(a) any amount which in respect of the year of assessment is paid out of his special reserve fund;

(b) in the case of the year 1992-93, 40 per cent. of any relevant depreciation for the underwriting year 1992; and

(c) in the case of the year 1993-94, 15 per cent. of any relevant depreciation for the underwriting year 1993.

(3) For the purposes of a return under sub-paragraph (1) above of a member's profit, there may be deducted from that profit—

(a) any amount which in respect of the year of assessment is paid into his special reserve fund;

(b) any of the following which is or is intended to be claimed in his return for the year as being deductible from his profit, namely—

(i) any amount in respect of disbursements and expenses wholly and exclusively laid out for the purposes of his underwriting business, and

(ii) any amount which is so deductible by virtue of section 178(1) of this Act;

(c) in the case of the year 1992-93, 40 per cent. of any relevant appreciation for the underwriting year 1992; and

(d) in the case of the year 1993-94, 15 per cent. of any relevant appreciation for the underwriting year 1993.

(4) In sub-paragraph (2) above "relevant depreciation", in relation to the underwriting year 1992 or 1993, means any amount representing the depreciation in value for that year of assets forming part of a premiums trust fund of the member; and in sub-paragraph (3) above "relevant appreciation" shall be construed accordingly.

(5) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) 1st October in the year of assessment following the closing year for the year of assessment; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(6) If a members' agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final day for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(7) In sub-paragraph (6) above "the prescribed amount" means £60 for each fifty members for whom he acts and in respect of whom there is such a failure (counting any number of such members less than fifty, and any number left over, as fifty).

(8) If a members' agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members for whom he acts and in respect of whose returns there is such fraud or negligence.

(9) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (1) or (5) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (8) above to the return being incorrect includes a reference to any of those documents being incorrect.

Payments on account of tax

11 (1) In the case of a member's profit for a year of assessment, his members' agent shall, on or before the 1st January next following the end of the closing year for that year, pay to the collector, on account of the member's liability to tax, the amount stated in his return for that year under paragraph 10(1)(c) above.

(2) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as between the member and his members' agent—

(a) where the amount so paid exceeds the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the member to the agent; and

(b) where the amount so paid is less than the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the agent to the member.

(3) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as respects the member's liability to tax for that year—

(a) where the amount in which the member is charged to tax exceeds the amount so paid, the amount of the excess shall be the amount of tax due and payable; and

(b) where that amount exceeds the amount in which the member is so charged, the amount of the excess shall be treated as tax overpaid.

(4) Any amount which is payable under sub-paragraph (1) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date when it becomes payable until payment, whether or not that date is a non-business day within the meaning of the Bills of Exchange Act 1882.

(5) Section 90 of the Management Act shall apply for the purposes of this paragraph as it applies for the purposes of any provision of Part IX of that Act.

Assessment on members' agent

12 (1) If a members' agent delivers a return in accordance with paragraph 10 above but does not pay to the collector in accordance with paragraph 11 above the amount of tax stated in the return, the inspector may make an assessment on the agent in that amount whether or not it has been paid when the assessment is made.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 10 above, or there is no such return, he may make an assessment on the members' agent to the best of his judgment.

(3) Any income tax due under an assessment made by virtue of sub-paragraph (1) or (2) above shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

PART III

REPAYMENT OF TAX DEDUCTED ETC. FROM INVESTMENT INCOME

13 (1) In relation to an underwriting year, a syndicate's managing agent may, by notice in writing at any time during the period of six years beginning with the 1st March next following the end of the closing year for that year, make a claim to the inspector—

(a) for the repayment of tax suffered by way of deduction on such of the syndicate's investment income as is allocated to that year in accordance with the rules or practice of Lloyd's; or

(b) for the payment of the tax credit in respect of any qualifying distribution forming part of such of that income as is so allocated.

(2) The syndicate's managing agent shall provide such information in support of the claim as the inspector may reasonably require.

(3) Where an amount is repaid or paid to a syndicate's managing agent under this paragraph, he shall—

(a) apportion that amount between the members of the syndicate in proportion to their interests in that part of the syndicate's investment income which has suffered tax by way of deduction or (as the case may be) that part of that income which includes the qualifying distribution; and

(b) except in so far as it is required to meet a share of a loss of the syndicate, pay the amount so apportioned to each member, within 90 days of the repayment, to the members' agent of that member.

(4) The provisions of section 824 of the Taxes Act 1988 (repayment supplements: individuals and others) shall not apply to any repayment of tax made under this paragraph.

(5) In this paragraph "investment income", in relation a syndicate, means the aggregate amount of the profits arising to all the members of the syndicate (taken together) from assets forming part of premiums trust funds.

SCHEDULE 20

Section 175.

LLOYD'S UNDERWRITERS: SPECIAL RESERVE FUNDS

PART I

REQUIREMENTS FOR AND TAX CONSEQUENCES OF NEW-STYLE FUNDS

Preliminary

1 (1) In this Part of this Schedule—

"the arrangements" means the arrangements mentioned in section 175(1) of this Act;

"cash call" means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd's, is made to a member by the agent of a syndicate of which he is a member;

"overall premium limit", in relation to a member and an underwriting year, means the maximum amount which, under the rules of Lloyd's, the member may accept by way of premiums in that year;

"stop-loss payment" means a payment of insurance money under a stop-loss insurance or a payment out of the High Level Stop Loss Fund;

"syndicate profit", in relation to a member and an underwriting year, means the amount by which the aggregate of his profits exceeds the aggregate of his losses for the year, and "syndicate loss" shall be construed accordingly.

(2) For the purposes of the definitions of "syndicate profit" and "syndicate loss" in sub-paragraph (1) above—

(a) any reference to profits or losses of a member is a reference to profits or losses which, in the accounts of the syndicates of which he is a member, are shown as arising to him, and

(b) any payments under paragraph 3(1), 4(1), (2), (3) or (6), 5(1), (4) or (7) or 6(2) below shall be disregarded.

General requirements

2 (1) The arrangements must provide—

(a) for the setting up, in relation to any member, of a special reserve fund vested in one or more trustees who have control over it, and

(b) for the appointment of an authorised fund manager (who may be the trustees or one of the trustees) to invest the capital of the fund and to vary the investments;

and in this sub-paragraph "authorised" means authorised under the rules of Lloyd's.

(2) The arrangements must provide for the income arising from the assets of the member's special reserve fund being held on trust for the member or his personal representatives or assigns.

(3) The arrangements must be such as to secure that, except as required or permitted (whether expressly or by necessary implication) by this Part or Part II of this Schedule, no payments shall be made into or out of the member's special reserve fund.

Payments into fund out of syndicate profits

3 (1) The arrangements must be such as to secure that, if the member has made a syndicate profit for an underwriting year, he has the right to make, into his special reserve fund, payments the amount of which is not in the aggregate greater than whichever of the following is the less, namely—

(a) 50 per cent. of that profit; and

(b) the amount (if any) by which 50 per cent. of the member's overall premium limit for the closing year exceeds the value of the fund as at the end of that year.

(2) Any payments which a member is entitled to make by virtue of sub-paragraph (1) above must be made before the end of such period as may be prescribed.

(3) Where the member did not accept premiums in the closing year, the reference in sub-paragraph (1)(b) above to the member's overall premium limit for that year shall be construed as a reference to that limit for the latest underwriting year in which he did so.

Payments out of fund to cover cash calls

4 (1) The arrangements must be such as to secure that, if a cash call is made on the member in respect of an underwriting year, there shall be made into a premiums trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount of the call, or the amount of his special reserve fund, whichever is the less.

(2) Where the aggregate amount of any payments made under sub-paragraph (1) above in respect of any year is found to exceed the amount of the member's syndicate loss for the year, there shall be made into his special reserve fund, out of a premiums trust fund or ancillary trust fund of his, payments the amount of which is equal in the aggregate to the amount of the excess.

(3) Where a stop-loss payment is made to the member in respect of his syndicate loss for any year, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(4) In sub-paragraph (3) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (5) below as does not exceed the aggregate amount mentioned in paragraph (b) of that sub-paragraph.

(5) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments under sub-paragraph (1) above as reduced by the aggregate amount of any payments under sub-paragraph (2) above,

exceeds in the aggregate the amount of the member's syndicate loss.

(6) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount (if any) to which sub-paragraph (7) below applies or the amount of his special reserve fund, whichever is the less.

(7) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (2) or (3) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(8) Any payments required by sub-paragraph (1), (2), (3) or (6) above shall be made before the end of such period as may be prescribed.

Payments out of fund to cover syndicate losses

5 (1) The arrangements must be such as to secure that, if the member has sustained a syndicate loss for an underwriting year, there shall be made into a premiums trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the net amount of the loss or the amount of his special reserve fund, whichever is the less.

(2) Sub-paragraphs (3) and (4) below apply where a stop-loss payment is made to the member in respect of his syndicate loss for any year.

(3) If any payments are subsequently made for the year under sub-paragraph (1) above, the aggregate amount of those payments shall be determined as if the net amount of the syndicate loss were reduced by the amount of the stop-loss payment.

(4) If any payments have previously been made for the year under sub-paragraph (1) above, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(5) In sub-paragraph (4) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (6) below as does not exceed the amount mentioned in paragraph (b) of that sub-paragraph.

(6) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments made under sub-paragraph (1) above,

exceeds in the aggregate the net amount of the member's syndicate loss.

(7) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the aggregate of the amounts (if any) to which sub-paragraphs (8) and (9) below apply or the amount of his special reserve fund, whichever is the less.

(8) This sub-paragraph applies to any amount which—

(a) has not been paid out of the member's special reserve fund under sub-paragraph (1) above, but

(b) would have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(9) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (4) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(10) Any payments required by sub-paragraph (1), (4) or (7) above shall be made before the end of such period as may be prescribed.

(11) In this paragraph "net amount", in relation to a member's syndicate loss for any year, means the amount of the loss as reduced by the amount of any payments made under paragraph 4(1) above for the year.

Valuation and payments out of fund of excess amounts

6 (1) The arrangements must be such as to secure that the fund manager of a member's special reserve fund—

(a) shall determine in the prescribed manner the value of the fund as at the end of the year 1994 and each subsequent underwriting year; and

(b) shall report the value so determined to the member;

and the report shall also state such other matters as may be prescribed.

(2) If the value of the fund as so determined in respect of any underwriting year exceeds 50 per cent. of—

(a) the member's overall premium limit for that year; or

(b) where he did not accept premiums in that year, his overall premium limit for the last underwriting year in which he did so,

there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the excess.

(3) The payments required by sub-paragraph (2) above shall be made before the end of such period as may be prescribed.

Payments out of fund on cessation

7 (1) The arrangements must provide that, on the member ceasing to carry on his underwriting business, whether by reason of death or otherwise, the amount of his special reserve fund, so far as not required for giving effect to the requirements

of paragraph 4 or 5 above, shall be paid over to the member or his personal representatives or assigns.

(2) For the purposes of sub-paragraph (1) above, a payment of an amount shall be in money or money's worth or both, as the member or his personal representatives or assigns may direct.

Entitlement of member for tax purposes

8 A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of his special reserve fund.

Tax exemption for profits arising from assets of fund

9 (1) Profits or losses arising from assets forming part of a special reserve fund shall be excluded for the purposes of income tax under the Income Tax Acts, and for the purposes of capital gains tax under the Gains Tax Acts.

(2) Where for any underwriting year income tax has been deducted from any profits arising from assets forming part of a special reserve fund, the fund manager may, at any time after the end of that year, claim repayment of that tax.

(3) Where for any underwriting year the income arising from assets forming part of a special reserve fund includes a qualifying distribution, the fund manager may, at any time after the end of that year, claim to have any tax credit in respect of that distribution paid to him.

Tax consequences of payments into and out of fund

10 (1) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the corresponding underwriting year, are made into his special reserve fund under paragraph 3(1) above shall be deducted as an expense.

(2) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment—

(a) the aggregate amount of any payments which, in respect of the corresponding underwriting year, are made out of his special reserve fund under paragraph 4(1) or 5(1) above shall be treated as a trading receipt; and

(b) the aggregate amount of any payments which, in respect of that year, are made into that fund under paragraph 4(2) or (3) or 5(4) above shall be deducted as an expense.

(3) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, as a result of the repayment of stop-loss payments in the corresponding underwriting year, are made out of his special reserve fund under paragraph 4(6) or 5(7) above shall be treated as a trading receipt.

(4) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the corresponding underwriting year's closing year, are made out of his special reserve fund under paragraph 6(2) above shall be treated as a trading receipt.

Tax consequences of cessation

11 (1) This paragraph applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.

(2) In computing for the purposes of income tax the profits of the member's underwriting business for the final year of assessment, any payment under paragraph 7(1) above which is made to him or his personal representatives or assigns out of his special reserve fund shall be treated—

(a) as made immediately after the end of the relevant year; and

(b) as being a trading receipt of an amount equal to that mentioned in sub-paragraph (3) below.

(3) The amount referred to in sub-paragraph (2) above is the value of the fund, as determined under paragraph 6(1) above for the relevant year and—

(a) as reduced by the aggregate amount of any payments under paragraph 4(1) or (6) or 5(1) or (7) above made after the end of that year;

(b) as increased by the aggregate amount of any payments under paragraph 4(2) or (3) or 5(4) above so made; and

(c) as increased by the amount of any tax repayment or tax credit received under paragraph 9(2) or (3) above after the end of that year.

(4) Where an asset is transferred to the member or his personal representatives or assigns under paragraph 7(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be an acquisition of the asset by the member or his personal representatives or assigns for a consideration equal to its market value as at the end of the relevant year.

(5) In this paragraph "the relevant year" means, subject to the provisions of any regulations made by the Board, the underwriting year immediately preceding that in which the member's deposit at Lloyd's is paid over to him or his personal representatives or assigns.

PART II

WINDING UP OF OLD-STYLE FUNDS

Preliminary

12 (1) In this Part of this Schedule—

"new-style fund" means a special reserve fund set up under the arrangements mentioned in section 175(1) of this Act;

"old-style fund" means a special reserve fund set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988;

"the relevant period", in relation to an old-style fund, means the period of three months beginning with the closing date.

(2) For the purposes of sub-paragraph (1) above, the closing date for an old-style fund shall be the earliest date on which each of the following has occurred as respects the year 1991-92 and earlier years of assessments, namely—

(a) the time for making any payments into the fund under section 452(5) of the Taxes Act 1988 has expired, or the member has given notice to the inspector that he will not be making any (or any further) such payments; and

(b) any payments required by section 453(1) of that Act to be made out of the fund have been so made.

Winding up of old-style funds

13 (1) A member may, at any time before the end of the relevant period, direct that so much of the capital of any old-style fund of his as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be transferred, at the end of that period, into his new-style fund; and a transfer of an amount of capital under this sub-paragraph shall be in money or money's worth or both, as the member may direct.

(2) Where an amount of capital is transferred into a member's new-style fund under sub-paragraph (1) above, there shall be paid into that fund by the Board an amount equal to the amount of tax which, if the amount transferred were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for the year 1992-93, would have been so deducted.

(3) If a member does not give a direction under sub-paragraph (1) above in relation to any old-style fund of his, so much of the capital of that fund as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(4) In either event, the remaining capital of any old-style fund of a member shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(5) For the purposes of sub-paragraphs (1) and (3) above, any payments made out of an old-style fund under section 453(1) of the Taxes Act 1988 shall be treated as having been met, so far as possible, out of payments made into the fund under section 452(5) of that Act.

Tax consequences of winding up

14 (1) Where an asset is transferred into a member's new-style fund under paragraph 13(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be a disposal of the asset by the member for a consideration equal to its market value.

(2) Sub-paragraph (3) below applies where an amount is paid over to the member or his personal representatives or assigns under paragraph 13(3) above.

(3) In computing for the purposes of income tax the profits of the member's underwriting business for the year 1992-93, it shall be assumed—

(a) that the amount paid were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for that year; and

(b) that the corresponding gross amount were a trading receipt for that year.

SCHEDULE 21

Section 187.

OIL TAXATION: SUPPLEMENTARY PROVISIONS ABOUT INFORMATION

PART I

RESTRICTIONS ON POWERS UNDER SECTION 187

1 References in this Part of this Schedule to subsection (2), subsection (3) or subsection (5) are references to those subsections of section 187 of this Act.

2 Before a notice is given to a person by the Board under subsection (2), subsection (3) or subsection (5), the person must have been given a reasonable opportunity to deliver (or, in the case of subsection (3), to deliver or make available) the documents in question or to furnish the particulars in question; and the Board must not apply for consent under subsection (5) until the person has been given that opportunity.

3 (1) Subject to sub-paragraph (2) below, where a notice is given to any person under subsection (3), the Board shall give a copy of the notice to the taxpayer to whom it relates.

(2) If, on an application by the Board, a Special Commissioner so directs, a copy of a notice under subsection (3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the Board has reasonable grounds for suspecting the taxpayer of fraud.

4 (1) A notice under subsection (2) does not oblige a person to deliver documents or furnish particulars relating to the conduct of any pending appeal by him.

(2) A notice under subsection (3) or subsection (5) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.

(3) In this paragraph, "appeal" means appeal relating to tax.

5 To comply with a notice under subsection (2), and as an alternative to delivering documents to comply with a notice under subsection (3) or subsection (5), copies of documents may be delivered instead of the originals; but—

(a) the copies must be photographic or otherwise by way of facsimile; and

(b) if so required by the Board in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).

6 (1) A notice under subsection (3) does not oblige a person to deliver or make available any document the whole of which originates more than six years before the date of the notice.

(2) Sub-paragraph (1) above does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph; and it can only be so expressed where the Board has applied to a Special Commissioner for, and obtained, his approval.

(3) For the purpose of sub-paragraph (2) above, the Commissioner shall give approval only if satisfied, on the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

7 A notice under subsection (3) or subsection (5) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.

8 (1) Subject to paragraphs 9 and 10 below, a notice under subsection (3) or subsection (5) —

(a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment; and

(b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.

(2) In sub-paragraph (1) above "relevant communications" means communications between the tax adviser and—

(a) a person in relation to whose tax affairs he has been appointed, or

(b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in this paragraph "tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).

9 (1) Subject to paragraph 11 below, paragraph 8 above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the Board.

(2) For the purposes of this paragraph, a person stands in relation to another as a tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are those to whom he stands or has stood in that relationship.

10 Subject to paragraph 11 below, in the case of a notice under subsection (5), paragraph 8 above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.

11 Paragraph 8 above is not disapplied by paragraph 9 or paragraph 10 above in the case of any document if—

(a) the information within paragraph 9 or paragraph 10 is contained in some other document; and

(b) either—

(i) that other document, or a copy of it, has been delivered to the Board, or

(ii) that other document has been inspected by an officer of the Board.

12 Where paragraph 8 above is disapplied by paragraph 9 or paragraph 10 above in the case of a document, the person to whom the notice is given either shall deliver the document to the Board or make it available for inspection by an officer of the Board or shall—

(a) deliver to the Board a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within paragraph 9 or paragraph 10; and

(b) if so required by the Board, make available for inspection by a named officer of the Board such parts of the document as contain that information;

and failure to comply with any requirement under sub-paragraph (b) above shall constitute a failure to comply with the notice.

PART II

MEANING OF "DOCUMENTS"

13 In this Part of this Schedule "the relevant provisions" means subsections (2) to (5) of section 187 of this Act and Part I above.

14 (1) Subject to sub-paragraph (2) below, in the relevant provisions "document" has the same meaning as it has—

(a) in relation to England and Wales, in Part I of the Civil Evidence Act 1968;

(b) in relation to Scotland, in Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968; and

(c) in relation to Northern Ireland, in Part I of the Civil Evidence Act (Northern Ireland) 1971.

(2) In the relevant provisions references to documents do not include—

(a) personal records, as defined in section 12 of the Police and Criminal Evidence Act 1984 or, as respects Northern Ireland, in Article 14 of the Police and Criminal Evidence (Northern Ireland) Order 1989, or

(b) journalistic material, as defined in section 13 of that Act or, as respects Northern Ireland, in Article 15 of that Order,

and references to particulars do not include particulars contained in such personal records or journalistic material.

(3) Subject to sub-paragraph (2) above, references in the relevant provisions to documents and particulars are to those specified or described in the notice in question, and—

(a) the notice shall require documents to be delivered or made available or particulars to be furnished within such period, being a period of not less than thirty days after the date of the notice, as may be specified in the notice; and

(b) the person to whom they are delivered or made available or furnished may take copies of them or of extracts from them.

SCHEDULE 22

Section 210.

TRADING FUNDS

Introduction

1 The Government Trading Funds Act 1973 shall be amended as follows.

Reserves

2 (1) The following section shall be inserted after section 2—

"**2AA Initial reserves**

(1) An order providing for any assets and liabilities to be appropriated as assets and liabilities of a trading fund may make—

(a) provision for any part of the amount by which the values of the assets exceed the amounts of the liabilities to be treated as reserves in the accounts of the trading fund, and

(b) provision about the maintenance of such reserves.

(2) For the purposes of subsection (1) above "reserves" means reserves whether general, capital or otherwise; and an order may provide for different kinds of reserves.

(3) Nothing in subsection (1) above shall prejudice the operation of section 4(2) of this Act in relation to a trading fund; and nothing in section 4(2) of this Act shall prejudice the operation of subsection (1) above in relation to a trading fund.

(4) This section applies in relation to an order made after the day on which the Finance Act 1993 was passed."

(2) In section 2(3) (originating debt where fund established) in paragraph (b) after "capital" there shall be inserted "or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts".

(3) In section 2(4) (addition to originating debt where additional assets and liabilities appropriated to fund) in paragraph (b) after "capital" there shall be inserted "or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts".

Public dividend capital etc.

3 In section 2A (public dividend capital) the following subsection shall be inserted after subsection (2) (limited power of Minister to issue public dividend capital to fund)—

"(2A) If the responsible Minister considers it appropriate to do so, he may with Treasury concurrence issue out of money provided by Parliament an amount to the fund as public dividend capital; and this subsection shall have effect instead of subsection (2) above after the day on which the Finance Act 1993 was passed."

Maximum borrowing etc.

4 (1) The following section shall be inserted after section 2B—

"**2C Maximum borrowing etc**

(1) Where an order made after the day on which the Finance Act 1993 was passed establishes a trading fund, the order shall provide that the aggregate of the following shall not exceed the maximum specified in the order—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(2) Where an order made on or before the day on which the Finance Act 1993 was passed establishes a trading fund, and the order specifies the maximum amount that may be issued to the fund under section 2B of this Act, the order shall be taken to provide that the aggregate of the following shall not exceed that maximum—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(3) The sum of the maxima in force in respect of all trading funds at any time shall not exceed £2,000 million.

(4) The Treasury may by order made by statutory instrument increase or further increase the limit in subsection (3) above by any amount, not exceeding £1,000 million, specified in the order but not so as to make the limit exceed £4,000 million.

(5) No order under subsection (4) above shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House."

(2) In section 2B (borrowing by funds) subsections (6) to (9) (which are superseded by the new section 2C) shall be omitted.

SCHEDULE 23

Section 213.

REPEALS

PART I

EXCISE DUTIES

(1) BEER DUTY

Chapter	*Short title*	*Extent of repeal*
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 42, in subsection (2) paragraph (a) and in paragraph (b) the words "or removal to the Isle of Man", and in subsections (3) and (4) the word "remove," in each place where it occurs. Section 43. Section 45(1)(b). Section 51.
1979 c. 58.	The Isle of Man Act 1979.	In Schedule 1, paragraph 30.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 10.

These repeals have effect in accordance with section 4 of this Act.

(2) BLENDING OF ALCOHOLIC LIQUORS

Chapter	*Short title*	*Extent of repeal*
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 55, paragraph (e) of subsection (5) and the word "and" immediately preceding that paragraph, and subsection (5A).

These repeals have effect in accordance with section 5 of this Act.

(3) MIXING OF WINE AND SPIRITS

Chapter	*Short title*	*Extent of repeal*
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 58(2).

This repeal has effect in accordance with section 6 of this Act.

(4) HYDROCARBON OIL DUTY: FUEL SUBSTITUTES

Chapter	*Short title*	*Extent of repeal*
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 4. Section 7. Section 16. Section 19(6). In section 20AA(1)(a), the words "petrol substitute, spirits used for making power methylated spirits". Section 21(1)(b). In section 27(1), the definitions of "petrol substitute" and "power methylated spirits". Part II of Schedule 3.
1979 c. 8.	The Excise Duties (Surcharges or Rebates) Act 1979.	In section 1(1)(a), the words "(other than power methylated spirits)".
1986 c. 41.	The Finance Act 1986.	In paragraph 4 of Schedule 5, "13".

The power in section 11(5) of this Act applies to these repeals as it applies to that section.

(5) HYDROCARBON OIL DUTY: FUEL MEASUREMENT

Chapter	*Short title*	*Extent of repeal*
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 2(5). In section 15(1), the words "shown to the satisfaction of the Commissioners to have been".

The power in section 12(8) of this Act applies to these repeals as it applies to that section.

(6) VEHICLES EXCISE DUTY

Chapter	*Short title*	*Extent of repeal*
1985 c. 54.	The Finance Act 1985.	In Schedule 2, paragraph 6.
1988 c. 39.	The Finance Act 1988.	Section 4(2).
1989 c. 26.	The Finance Act 1989.	Section 6(6).
1990 c. 29.	The Finance Act 1990.	Section 5(7).

These repeals have effect in relation to licences taken out after 16th March 1993.

Chapter	*Short title*	*Extent of repeal*
1991 c. 31.	The Finance Act 1991.	Section 4(4).
1992 c. 20.	The Finance Act 1992.	Section 4(3) and (4).
These repeals have effect in relation to licences taken out after 16th March 1993.		

(7) REPEALS CONNECTED WITH LOTTERY DUTY

Chapter	*Short title*	*Extent of repeal*
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1), in the definition of "the revenue trade provisions of the customs and excise Acts", the word "and" at the end of paragraph (b) and, in the definition of "revenue trader", the word "or" at the end of paragraph (a)(i).
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Section 6(4).
1986 c. 41.	The Finance Act 1986.	In Schedule 4, paragraph 2(2).
These repeals come into force in accordance with section 41 of this Act.		

PART II

VALUE ADDED TAX

(1) FUEL AND POWER

Chapter	*Short title*	*Extent of repeal*
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, Group 7.
This repeal comes into force in accordance with section 42 of this Act.		

(2) FUEL SCALES

Chapter	*Short title*	*Extent of repeal*
1986 c. 41.	The Finance Act 1986.	In Schedule 6— (a) in paragraph 2(1) and (2), the words "Subject to paragraph 3 below,", in each place where they occur; and
These repeals have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.		

Chapter	*Short title*	*Extent of repeal*
		(b) paragraph 3 and the Table B set out after that paragraph.
These repeals have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.		

(3) ACQUISITIONS

Chapter	*Short title*	*Extent of repeal*
1983 c. 55.	The Value Added Tax Act 1983.	In section 5(9), in the words after paragraph (b), the words from "a supply of goods" to "below or there is". Section 32B. In section 48(1), in the definition of "taxable person", the words "(subject to section 32B(3) above)".
1992 c. 48.	The Finance (No. 2) Act 1992.	In paragraph 6(2) of Schedule 3, paragraph (b) and the word "and" immediately preceding it.
These repeals come into force in accordance with section 44(4) of this Act.		

(4) PENALTIES

Chapter	*Short title*	*Extent of repeal*
1985 c. 54.	The Finance Act 1985.	Section 13(4). Section 19(2)(b).
The repeal of section 13(4) of the Finance Act 1985 has effect in accordance with paragraph 3(3) of Schedule 2 to this Act and the repeal of section 19(2)(b) of that Act has effect in accordance with paragraph 5(3) of that Schedule.		

(5) REPEALS CONNECTED WITH ABOLITION OF CAR TAX

Chapter	*Short title*	*Extent of repeal*
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 4, in paragraph 3A(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 4A, in paragraph 2(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 7, in paragraph 2(3B) the words "or of a

Chapter	*Short title*	*Extent of repeal*
		chargeable vehicle within the meaning of the Car Tax Act 1983" and the words "or of such a vehicle".

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) TEMPORARY RELIEF FOR INTEREST PAYMENTS

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 354(5) and (6). Section 356D(9). Section 357(4). Section 371. In paragraph 10(1) and (2) of Schedule 7, the words "354(5) and (6)", in each place.

These repeals come into force in accordance with section 57 of this Act.

(2) CHARITIES

Chapter	*Short title*	*Extent of repeal*
1990 c. 29.	The Finance Act 1990.	Section 24.
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 26.

1. The repeal of section 24 of the Finance Act 1990 has effect for the year 1993-94 and subsequent years of assessment.
2. The repeal of section 26 of the Finance (No. 2) Act 1992 has effect in accordance with section 67 of this Act.

(3) CAR BENEFITS

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 157(4) and (5).

These repeals have effect for the year 1994-95 and subsequent years of assessment.

(4) CAR FUEL

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 158(5), the words "or 3".
This repeal has effect for the year 1993-94.		

(5) HEAVIER COMMERCIAL VEHICLES (CONSEQUENTIAL REPEAL)

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 159A(8)(a), the word "but" at the end of sub-paragraph (i).
This repeal has effect for the year 1993-94 and subsequent years of assessment.		

(6) TAXATION OF DISTRIBUTIONS

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 233(1)(c), the words "as income which is not chargeable at the lower rate and".
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 5(2)(a), the words "(liability to income tax at the additional rate)".
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 19, in subsection (3), the words "233(2)" and, in subsection (4), the words "233(1)(c)".
These repeals have effect for the year 1993-94 and subsequent years of assessment.		

(7) RETIREMENT RELIEF ETC.

Chapter	*Short title*	*Extent of repeal*
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In paragraph 1 of Schedule 6, in sub-paragraph (2), the definitions of "family company", "family" and "relative", and sub-paragraphs (3) and (4).
These repeals come into force in accordance with section 87(2) of this Act.		

(8) INSURANCE COMPANIES

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 432A(10).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 212— (a) in subsection (2), the words from "and in relation to" onwards; (b) subsections (3), (4), (6) and (8). Section 213(9). Section 214(3) to (5).

The repeal of section 212(8) of the Taxation of Chargeable Gains Act 1992 has effect, in accordance with section 91(1) of this Act, in relation to the accounting periods mentioned in section 212(8), and the other repeals have effect in relation to accounting periods beginning on or after 1st January 1993.

(9) OVERSEAS LIFE INSURANCE COMPANIES

Chapter	*Short title*	*Extent of repeal*
1970 c. 9.	The Taxes Management Act 1970.	In section 31(3), the word "445".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 11(3), the words "Subject to section 447,". Section 445. Section 446(1). Section 447(1), (2) and (4). Section 448. Section 449. Section 724(5) to (8). In section 811(2), paragraph (c) and the word "and" immediately preceding it. In Schedule 19AB, paragraph 1(9).
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraph 7(1)(a), (2), (4) and (5).

These repeals have effect in accordance with section 103 of this Act.

(10) INDEXATION

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 1(5). Section 257C(2).
1990 c. 29.	The Finance Act 1990.	Section 17(2).

These repeals have effect in accordance with section 107 of this Act.

(11) PAY AND FILE

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 343(3), the word "claim", in the second place where it occurs. In section 395, in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief". In section 400(2)(a), the words "or, if a claim had been made under that subsection, would be".
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 2 and 9.

The repeals in the Income and Corporation Taxes Act 1988 and the repeal of paragraph 9 of Schedule 15 to the Finance Act 1991 have effect in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Income and Corporation Taxes Act 1988.

(12) LLOYD'S UNDERWRITERS ETC.

Chapter	*Short title*	*Extent of repeal*
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 450 to 457. Section 710(14). In section 711(8), the words "or section 725(9)" and the words "or straddling", in both places where they occur. Section 720(3). In section 721, subsections (5) and (6). Section 725. In Schedule 4, paragraph 18. Schedule 19A.

Chapter	*Short title*	*Extent of repeal*
1989 c. 26.	The Finance Act 1989.	In section 43, subsections (6) and (7). In section 92, subsections (4) to (7). In Schedule 11, paragraph 10.
1990 c. 29.	The Finance Act 1990.	In Schedule 10, paragraph 18.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Sections 206 to 209.
1993 c. 34.	The Finance Act 1993.	In section 183, subsections (4) to (8).

1. The repeal of section 450(6) of the Income and Corporation Taxes Act 1988 has effect in relation to acquisitions or disposals made, or treated as made, after 31st December 1993.
2. The following repeals, namely—
   the repeals in sections 710, 711, 720 and 721 of and Schedule 4 to the Income and Corporation Taxes Act 1988 and the repeal of section 725 of that Act;
   the repeal in Schedule 11 to the Finance Act 1989;
   the repeal in Schedule 10 to the Finance Act 1990;
   the repeals of sections 207 and 208 of the Taxation of Chargeable Gains Act 1992; and
   the repeals of subsections (4) to (6) of section 183 of this Act,
3. The repeals in section 43 of the Finance Act 1989 have effect in relation to periods of account ending on or after 30th June 1993.
4. The following repeals, namely—
   the repeals of subsections (2) to (5) of section 206 and subsections (1), (2) and (6) of section 209 of the Taxation of Chargeable Gains Act 1992; and
   the repeals of subsections (7) and (8) of section 183 of this Act,
   have effect for the year of assessment 1994-95 and subsequent years of assessment.
5. The other repeals have effect for the year 1992-93 and subsequent years of assessment.

PART IV

OIL TAXATION

Chapter	*Short title*	*Extent of repeal*
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 2, in the Table in paragraph 1, in the modification relating to section 98 of the Taxes Management Act 1970, the words “or to paragraph 7 of this Schedule”; and paragraph 7.

PART V

INHERITANCE TAX

Chapter	*Short title*	*Extent of repeal*
1984 c. 51.	The Inheritance Tax Act 1984.	In section 267(4), the words "but without regard to any dwelling-house available in the United Kingdom for his use".

This repeal has effect in accordance with section 208 of this Act.

PART VI

STATUTORY EFFECT OF RESOLUTIONS ETC.

Chapter	*Short title*	*Extent of repeal*
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1, in subsection (1) the words "car tax" and subsection (1A). In section 5(1), paragraph (c) and the word "or" immediately preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 8, subsections (4) to (6).

The repeals in the Provisional Collection of Taxes Act 1968 have effect in accordance with section 205 of this Act.

PART VII

TRADING FUNDS

Chapter	*Short title*	*Extent of repeal*
1973 c. 63.	The Government Trading Funds Act 1973.	In section 2B, subsections (6) to (9).