

## SCHEDULES

### SCHEDULE 13

Section 100.

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### *General provisions*

- 1 (1) The continuity of the law relating to VAT shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made or otherwise coming into existence after the commencement of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.
- (4) Without prejudice to paragraphs (1) to (3) above, in any case where as respects the charge to VAT on any supply, acquisition or importation made at a time before 1st September 1994 but falling in a prescribed accounting period to which Part I applies
- (a) an enactment applicable to that charge to VAT is not re-enacted in this Act or is re-enacted with amendments which came into force after that time, or
  - (b) a repealed enactment corresponding to an enactment in this Act did not apply to that charge to VAT,

any question arising under Part I and relating to that charge to VAT shall continue to be determined in accordance with the law in force at that time.

##### *Validity of subordinate legislation*

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

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*Provisions related to the introduction of VAT*

- 3 Where a vehicle in respect of which purchase tax was remitted under section 23 of the Purchase Tax Act 1963 (vehicles for use outside the United Kingdom) is brought back to the United Kingdom the vehicle shall not, when brought back, be treated as imported for the purpose of VAT chargeable on the importation of goods.

*Supply in accordance with pre-21.4.75 arrangements*

- 4 Where there were in force immediately before 21st April 1975 arrangements between the Commissioners and any taxable person for supplies made by him (or such supplies made by him as were specified in the arrangements) to be treated as taking place at times or on dates which, had section 6(10) been in force when the arrangements were made, could have been provided for by a direction under that section, he shall be treated for the purposes of that section as having requested the Commissioners to give a direction thereunder to the like effect, and the Commissioners may give a direction (or a general direction applying to cases of any class or description specified in the direction) accordingly.

*President, chairmen etc of tribunals*

- 5 (1) Any appointment to a panel of chairmen of the tribunals current at the commencement of this Act and made by the Treasury before the passing of the 1983 Act shall not be affected by the repeal by this Act of paragraph 8 of Schedule 10 to that Act.
- (2) The terms of appointment of any person who was appointed to the office of President of the tribunal or chairman or other member of the tribunals before 1st April 1986 and holds that office on the coming into force of this Act shall continue to have effect notwithstanding the re-enactment, as Schedule 12 to this Act, of Schedule 8 to the 1983 Act as amended by Schedule 8 to the Finance Act 1985.

*Overseas suppliers accounting through their customers*

- 6 Notwithstanding the repeal by this Act of section 32B of the 1983 Act, that section shall continue to apply in relation to any supply in relation to which section 14 does not apply by virtue of section 14(8), and for the purposes to this paragraph section 32B shall have effect as if it were included in Part III of this Act, any reference in section 32B to any enactment repealed by this Act being read as a reference to the corresponding provision of this Act.

*Supplies of fuel and power for domestic or charity use*

- 7 (1) Section 2 shall have effect in relation to—
- (a) so much of any supply made on or after 1st April 1994 and before 1st April 1995 as would be zero-rated if the Group set out in sub-paragraph (3) below were included in Schedule 8; and
  - (b) any equivalent acquisition or importation taking place on or after 1st April 1994 and before 1st April 1995,
- as if a rate of 8 per cent. were substituted for the rate specified in subsection (1) of that section.

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- (2) The reference in sub-paragraph (1) above to an equivalent acquisition or importation, in relation to any supply which would be zero-rated if the Group set out in sub-paragraph (3) below were included in Schedule 8, is a reference, as the case may be, to—
- (a) any acquisition from another member State of goods the supply of which would be such a supply; or
  - (b) any importation from a place outside the member States of any such goods.
- (3) The Group referred to above is the following—

#### GROUP 4A

##### FUEL AND POWER FOR DOMESTIC OR CHARITY USE

###### *Item No*

- 1 Supplies for qualifying use of—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
  - (d) fuel oil, gas oil or kerosene; or
  - (e) electricity, heat or air-conditioning.

###### *Notes:*

- (1) “Qualifying use” means—
- (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.
- (2) The following supplies are always for domestic use—
- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within paragraph (b) of item 1, or of petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
  - (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;

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- (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.
- (3) Supplies not within Note (2) are for domestic use if and only if the goods supplied are for use in—
- (a) a building, or part of a building, which consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.
- (4) Use for a relevant residential purpose means use as—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (5) Self-catering holiday accommodation includes any accommodation advertised or held out as such.
- (6) “Houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- (7) Where there is a supply of goods partly for qualifying use and partly not—
- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
  - (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.
- (8) Paragraph (a) of item 1 shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (9) Paragraphs (b) and (c) of item 1 do not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.
- (10) Paragraph (d) of item 1 does not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.

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- (11) “Fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.
- (12) “Gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (13) “Kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (14) “Heavy oil” shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979.

*Zero-rated supplies of goods and services*

- 8 (1) A supply of services made after the commencement of this Act in pursuance of a legally binding obligation incurred before 21st June 1988 shall if—
  - (a) the supply fell within item 2 of Group 8A of Schedule 5 to the 1983 Act immediately before 1st April 1989, and
  - (b) it was by virtue of paragraph 13(1) of Schedule 3 to the Finance Act 1989 a zero-rated supply,be a zero-rated supply for the purposes of this Act.
- (2) Where a grant, assignment or other supply is zero-rated by virtue of this paragraph, it is not a relevant zero-rated supply for the purposes of paragraph 1 of Schedule 10.

*Bad debt relief*

- 9 (1) Claims for refunds of VAT relating to supplies made before 27th July 1990 may continue to be made in accordance with section 22 of the 1983 Act notwithstanding the repeal of that section by the Finance Act 1990.
- (2) Claims for refunds of VAT relating to supplies made after 31st March 1989 and before the commencement of this Act may be made in accordance with section 36 of this Act but—
  - (a) a claim shall not be made under section 36 in relation to any supply as respects which a claim is made under section of the 1983 Act, and
  - (b) in relation to supplies made before 1st April 1992 subsection (1)(c) of that section shall have effect with the substitution of “one year” for “6 months”.

*Supplies during construction of buildings and works*

- 10 (1) Nothing in paragraphs 5 and 6 of Schedule 10 shall apply—
  - (a) in relation to a person who has constructed a building if he incurred before 21st June 1988 a legally binding obligation to make a grant or assignment of a major interest in, or in any part of, the building or its site;
  - (b) in relation to a building or work if there was incurred before that date a legally binding obligation to make in relation to the building or work a supply within item 2 of Group 8 of Schedule 5 to the 1983 Act;
  - (c) in relation to a person who has constructed a building if—
    - (i) he incurred before that date a legally binding obligation to construct the building or any development of which it forms part, and

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- (ii) planning permission for the construction of the building was granted before that date, and
- (iii) he has made a grant or assignment of a major interest in, or in any part of, the building or its site before 21st June 1993.

(2) Sub-paragraph (1) above shall not apply in any case where the Commissioners required proof of any of the matters specified in paragraph (a), (b) or (c)(i) above to be given to their satisfaction by the production of documents made before 21st June 1988 and that requirement was not complied with.

### *Offences and Penalties*

11       Where an offence for the continuation of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

12       Part IV of this Act, except section 72, shall not apply in relation to any act done or omitted to be done before 25th July 1985, and the following provision of this Schedule shall have effect accordingly.

13       (1) Section 72 shall have effect in relation to any offence committed or alleged to have been committed at any time (“the relevant time”) before the commencement of this Act subject to the following provisions of this paragraph.

- (2) Where the relevant time falls between 25th July 1983 and 26th July 1985 (the dates of passing of the 1983 and 1985 Finance Acts respectively), section 72 shall apply—
  - (a) with the substitution in subsection (1)(b), (3)(ii) and (8)(b) of “2 years” for “7 years”;
  - (b) with the omission of subsections (2) and (4) to (7).

14       (1) The provisions of this paragraph have effect in relation to section 59.

(2) Section 59 shall apply in any case where a person is in default in respect of a prescribed accounting period which has ended before the commencement of this Act, but shall have effect in any case where the last day referred to in subsection (1) of that section falls before 1st October 1993 subject to the following modifications—

- (a) for the words “a prescribed accounting period” in subsection (2)(a) there shall be substituted “any two prescribed accounting periods”;
- (b) with the addition of the following paragraph in subsection (2)—
  - “(aa) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and”;
- (c) for the words “period referred to in paragraph (a)” in subsection (2)(b) there shall be substituted “later period referred to in paragraph (aa)”;
- (d) for the words “a default in respect of a prescribed accounting period and that period” in subsection (3) there shall be substituted “defaults in respect of two prescribed accounting periods and the second of those periods”.

(3) Section 59 shall have effect, in any case where a person has been served with a surcharge liability notice and that person is in default in respect of a prescribed accounting period because of a failure of the Commissioners to receive a return or an amount of VAT on or before a day falling before 30th September 1993 with the omission of—

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- (a) subsection (4)(b);
  - (b) the words in subsection (5) “and for which he has outstanding VAT”; and
  - (c) subsection (6).
- 15 (1) Section 63 does not apply in relation to returns and assessments made for prescribed accounting periods beginning before 1st April 1990 but subject to that shall have effect in relation to the cases referred to in the following sub-paragraphs subject to the modifications there specified.
- (2) Subsection (1) shall have effect in a case falling within paragraph (b) of that subsection where the assessment was made on or before 10th March 1992 with the substitution of “20 per cent.” for “15 per cent.”.
- (3) In relation to any prescribed accounting period beginning before 1st December 1993 section 63 shall have effect with the substitution—
  - (a) for the words in subsection (2) following “exceeds” of “either 30 per cent. of the true amount of the VAT for that period or whichever is the greater of £10,000 and 5 per cent. of the true amount of VAT for that period.” and with the omission of subsections (4) to (6); and
  - (b) for the words in subsection (8) from “subsections” to “statements” of “subsection (7) that the statement by each of those returns is a correct statement”.
- (4) In relation to any prescribed accounting period beginning before 1st June 1994 section 63 shall have effect with the substitution for subsection (3) of the following subsection—

“(3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—

  - (a) the amount (if any) by which credit for input tax for that period was overstated; and
  - (b) the amount (if any) by which output tax for that period was understated;

but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the VAT for that period which would have been so lost.” and in subsection (8) for “this section” there shall be substituted “subsections (5) and (7) above”.
- 16 (1) In relation to any prescribed accounting period beginning before 1st December 1993 section 64 shall have effect subject to the following modifications—
  - (a) in subsection (1)(b) for the words from “whichever” to “period” there shall be substituted “whichever is the greater of £100 and 1 per cent. of the true amount of VAT for that period”;
  - (b) for subsections (2) and (3) there shall be substituted—

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

    - (a) there is a material inaccuracy in respect of any two prescribed accounting periods, and
    - (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one, and

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- (c) after 29th July 1988 the Commissioners serve notice on the person concerned (“a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.
- (3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned that person shall be liable to a penalty equal to 15 per cent. of the VAT for that period which would have been lost if the inaccuracy had not been discovered.”;
- (c) in subsection (4) for “(5)” there shall be substituted “(7)”;
- (d) in subsection (6) the words from “except” to the end shall be omitted.
- (2) A penalty liability notice shall not be served under section 64 by reference to any material inaccuracy in respect of a prescribed accounting period beginning before 1st December 1993, 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.
- 17 Section 70 shall not apply in relation to any penalty to which a person has been assessed before 27th July 1993 and in the case of any penalty in relation to which that section does not apply by virtue of this paragraph, section 60 shall have effect subject to the following modifications—
- (a) in subsection (1) for “subsection (6)” there shall be substituted “subsections (3A) and (6)”;
- (b) after subsection (3) there shall be inserted—
- “(3A) If a person liable to a penalty under this section has co-operated with the Commissioners in the investigation of his true liability to tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection, the Commissioners or tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Commissioners in their investigation.”;
- (c) in subsection (4)(b) for the words from “under” to “this section” there shall be substituted “to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation”;
- and in section 61(6) for “70” there shall be substituted “60(3A)
- 18 Section 74 shall not apply in relation to prescribed accounting periods beginning before 1st April 1990 and subsection (3) of that section shall not apply in relation to interest on amounts assessed or, as the case may be, paid before 1st October 1993.
- Importation of goods*
- 19 Nothing in this Act shall prejudice the effect of the Finance (No.2) Act 1992 (Commencement No.4 and Transitional Provisions) Order 1992 and accordingly—



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- (a) where Article 4 of that Order applies immediately before the commencement of this Act in relation to any importation of goods, that Article and the legislation repealed by this Act shall continue to apply in relation to that importation as if this Act had not been enacted, and
- (b) where Article 5 of that Order applies in relation to any goods, this Act shall apply in relation to those goods in accordance with that Article and Article 6 of that Order.

#### *Assessments*

- 20 An assessment may be made under section 73 in relation to amounts paid or credited before the commencement of this Act but—
- (a) in relation to an amount paid or credited before 30th July 1990 section 73(2) shall have effect with the omission of the words from “or which” to “out to be”, and
  - (b) in relation to amounts repaid or paid to any person before the passing of the Finance Act 1982 section 73 shall have effect with the omission of subsection (2).

#### *Set-off of credits*

- 21 Section 81 shall have effect in relation to amounts becoming due before 10th May 1994 with the omission of subsections (4) and (5).

#### *VAT tribunals*

- 22 (1) Without prejudice to paragraph 1 above, section 83 applies to things done or omitted to be done before the coming into force of this Act and accordingly references in Part V to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act or by any enactment repealed by such an enactment.
- (2) Section 84 shall have effect before such day as may be appointed for the purposes of section 18(3) of the Finance Act 1994 with the substitution for subsection (5) of the following subsection—
- “(5) No appeal shall lie with respect to any matter that has been or could have been referred to arbitration under section 127 of the Management Act as applied by section 16.”

#### *Isle of Man*

- 23 Nothing in paragraph 7 of Schedule 14 shall affect the validity of any Order made under section 6 of the Isle of Man Act 1979 and, without prejudice to section 17 of the Interpretation Act 1978, for any reference in any such Order to any enactment repealed by this Act there shall be substituted a reference to the corresponding provision of this Act.