Finance Act 1997

1997 CHAPTER 16

PART I

EXCISE DUTIES

Alcoholic liquor duties

1 Rates of duty on spirits and wines of equivalent strength

(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits), for "£19.78" there shall be substituted "£18.99".

(2) In Part II of the Table of rates of duty in Schedule 1 to that Act (wine or made-wine of a strength exceeding 22 per cent.), for "19.78" there shall be substituted "18.99".

(3) This section shall be deemed to have come into force at 6 o'clock in the evening of 26th November 1996.

2 Rates of duty on lower strengths of wine and made-wine

(1) For Part I of the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine of a strength not exceeding 22 per cent.) there shall be substituted—

"**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 4 per cent.	43.28
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	59.51
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	140.44
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.	195.63
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent. or of a strength exceeding 8.5 per cent. but not exceeding 15 per cent.	200.64
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	187.24"

(2) This section shall be deemed to have come into force on 1st January 1997.

3 Duty on sparkling cider

(1) In subsection (1A) of section 62 of the Alcoholic Liquor Duties Act 1979 (rates of excise duty on cider)—

(a) in paragraph (a), after "exceeding 7.5 per cent." there shall be inserted "which is not sparkling cider"; and

(b) immediately before the word "and" at the end of that paragraph there shall be inserted the following paragraph—

"(aa) £36.45 per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent.;".

(2) After subsection (6) of that section there shall be inserted the following subsection—

"(7) References in this section to making cider shall be construed as including references to producing sparkling cider by rendering cider sparkling; and references in this section to cider made in the United Kingdom, to makers of cider and to making cider for sale shall be construed accordingly."

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

"**62A Meaning of "sparkling" etc. in section 62**

(1) This section applies for the purposes of section 62 above.

(2) Cider which is for the time being in a closed bottle is sparkling if, due to the presence of carbon dioxide, the pressure in the bottle, measured at a temperature of 20 degrees C, is not less than 3 bars in excess of atmospheric pressure.

(3) Cider which is for the time being in a closed bottle is sparkling regardless of the pressure in the bottle if the bottle has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(4) Cider which is not for the time being in a closed container is sparkling if it has characteristics similar to those of cider which has been removed from a closed bottle and which, before removal, fell within subsection (2) above.

(5) Cider shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either—

(a) falls within subsection (2) above; or

(b) takes on characteristics similar to those of cider which has been removed from a closed bottle and which, before removal, fell within subsection (2) above.

(6) Cider which has not previously been rendered sparkling by virtue of subsection (5) above shall be regarded as having been rendered sparkling if it is transferred into a closed bottle which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(7) Cider which is in a closed bottle and has not previously been rendered sparkling by virtue of subsection (5) or (6) above shall be regarded as having been rendered sparkling if the stopper of its bottle is exchanged for a stopper of a kind mentioned in subsection (6) above."

(4) In section 64 of that Act (remission or repayment of duty on spoilt cider), after subsection (1) there shall be inserted the following subsection—

"(1A) In subsection (1) above the references to a maker of cider include references to any person who is taken for the purposes of section 62 above to be a maker of cider."

(5) This section shall be deemed to have come into force on 1st January 1997.

(6) Any order or regulations made under section 62 or 64 of the Alcoholic Liquor Duties Act 1979 before 1st January 1997—

(a) shall have effect (but only if and for so long as the order or regulations would be in force apart from this subsection) as if the amendments made to that Act by this section had been made before the making of the order or regulations, and

(b) shall be deemed at all times on or after that date so to have had effect.

4 Cider labelled as strong cider

(1) After the section 62A inserted into the Alcoholic Liquor Duties Act 1979 by section 3 above there shall be inserted the following section—

"**62B Cider labelled as strong cider**

(1) For the purposes of this Act, any liquor which would apart from this section be standard cider and which—

(a) is in an up-labelled container, or

(b) has, at any time after 31st December 1996 when it was in the United Kingdom, been in an up-labelled container,

shall be deemed to be strong cider, and not standard cider.

(2) Accordingly, references in this Act to making cider include references to—

(a) putting standard cider in an up-labelled container; or

(b) causing a container in which there is standard cider to be up-labelled.

(3) Where, by virtue of this section, any duty is charged under section 62 above on any cider, a rebate shall be allowed in respect of the amount of any duty charged on that cider under that section otherwise than by virtue of this section.

(4) For the purposes of this section—

(a) "standard cider" means cider which is not sparkling and is of a strength not exceeding 7.5 per cent.; and

(b) "strong cider" means cider which is not sparkling and is of a strength exceeding 7.5 per cent.

(5) For the purposes of this section a container is up-labelled if there is anything on—

(a) the container itself,

(b) a label or leaflet attached to or used with the container, or

(c) any packaging used for or in association with the container,

which states or tends to suggest that the strength of any liquor in that container falls within the strong cider strength range.

(6) For the purposes of subsection (5) above, a strength falls within the strong cider strength range if it exceeds 7.5 per cent. but is less than 8.5 per cent."

(2) This section shall be deemed to have come into force on 1st January 1997.

5 Cider labelled as made-wine

(1) After section 55A of the Alcoholic Liquor Duties Act 1979 there shall be inserted the following section—

"**55B Cider labelled as made-wine**

(1) For the purposes of this Act, any liquor which would apart from this section be cider and which—

(a) is in an up-labelled container, or

(b) has, at any time after 31st December 1996 when it was in the United Kingdom, been in an up-labelled container,

shall be deemed to be made-wine, and not cider.

(2) Accordingly, references in this Act to producing made-wine include references to—

(a) putting cider in an up-labelled container; or

(b) causing a container in which there is cider to be up-labelled.

(3) For the purposes of this Act, where any liquor is deemed by this section to be made-wine, it shall be deemed—

(a) if it is in an up-labelled container, to be made-wine of the strength that the labelling for the container states or tends to suggest; and

(b) if it is no longer in an up-labelled container, to be made-wine of the strength stated or suggested by the labelling for the up-labelled container in which it was contained when it was first deemed by this section to be made-wine.

(4) Subsection (3)(a) above has effect subject to any provision that may be made by regulations under section 2(3) above.

(5) Where, by virtue of this section, any duty is charged under section 55 above on any liquor, a rebate shall be allowed in respect of the amount of any duty charged on that liquor under section 62 below.

(6) For the purposes of this section a container is up-labelled if the labelling for the container states or tends to suggest that the strength of any liquor in that container is or exceeds 8.5 per cent.

(7) In this section references to the labelling for any container are references to anything on—

(a) the container itself,

(b) a label or leaflet attached to or used with the container, or

(c) any packaging used for or in association with the container."

(2) In section 1 of that Act (interpretation)—

(a) in subsection (5) (meaning of "made-wine"), after "subsection (10)" there shall be inserted "and section 55B(1)"; and

(b) in subsection (6) (meaning of "cider"), after "means" there shall be inserted ", subject to section 55B(1) below,".

(3) In section 2(3A) of that Act (regulations may provide for duty to be charged by reference to strengths shown on bottle labels)—

(a) after the word "beer,", in the first place where it occurs, there shall be inserted "cider,"; and

(b) for the words "spirits, beer, wine or made-wine", in the second place where they occur, there shall be substituted "liquor in that bottle or other container".

(4) In section 56(1)(c) of that Act (restriction on use of wine in production of made-wine), after "of wine" there shall be inserted "or cider".

(5) Subsections (1) and (2) above shall be deemed to have come into force on 1st January 1997.

Hydrocarbon oil duties

6 Rates of hydrocarbon oil duties and of rebates

(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, for "£0.3912" (duty on light oil) and "£0.3430" (duty on heavy oil) there shall be substituted "£0.4168" and "£0.3686", respectively.

(2) In section 8(3) of that Act (duty on road fuel gas), for "£0.2817" there shall be substituted "£0.2113".

(3) In section 11(1) of that Act (rebate on heavy oil), for "£0.0181" (fuel oil) and "£0.0233" (gas oil) there shall be substituted "£0.0194" and "£0.0250", respectively.

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel), for "£0.0181" there shall be substituted "£0.0194".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 26th November 1996.

7 Ultra low sulphur diesel

(1) In section 1 of the Hydrocarbon Oil Duties Act 1979 (definitions of oil)—

(a) in subsection (1), for "(2) to (4)" there shall be substituted "(2) to (6)"; and

(b) after subsection (4) there shall be inserted the following subsections—

"(5) "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.

(6) "Ultra low sulphur diesel" means gas oil the sulphur content of which does not exceed 0.005 per cent. by weight or is nil."

(2) In section 6 of that Act (excise duty on hydrocarbon oil), in subsection (1) (as amended by section 6 above), for the words from "the rate of £0.4168" to the end of the subsection there shall be substituted "the rates specified in subsection (1A) below."

(3) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) The rates at which the duty shall be charged are—

(a) £0.4168 a litre in the case of light oil;

(b) £0.3586 a litre in the case of ultra low sulphur diesel; and

(c) £0.3686 a litre in the case of heavy oil which is not ultra low sulphur diesel."

(4) In subsection (3) of that section, for "that subsection" there shall be substituted "subsection (1A) above".

(5) In section 11(1) of that Act (rebate on heavy oil)—

(a) in paragraph (b), after "gas oil" there shall be inserted "which is not ultra low sulphur diesel";

(b) for the word "and" at the end of that paragraph there shall be substituted—

"(ba) in the case of ultra low sulphur diesel, of £0.0250 a litre less than the rate at which the duty is for the time being chargeable; and"; and

(c) in paragraph (c), for "other than fuel oil and" there shall be substituted "which is neither fuel oil nor".

(6) In section 13AA(6) of that Act (rate for rebated gas oil), for "section 6(1) above in the case of heavy oil" there shall be substituted "section 6(1A) above in the case of heavy oil which is not ultra low sulphur diesel,".

(7) In subsection (1) of section 24 of that Act (control of use of duty-free and rebated oil), after "section 9(1) or (4)," there shall be inserted "section 11,".

(8) In section 27(1) of that Act (interpretation)—

(a) after the definition of "aviation gasoline" there shall be inserted the following definition—

""gas oil" has the meaning given by section 1(5) above;" and

(b) after the definition of "road vehicle" there shall be inserted the following definition—

""ultra low sulphur diesel" has the meaning given by section 1(6) above."

(9) In Schedule 2A to that Act (mixing of heavy oil)—

(a) in paragraph 4(a), after "section 11(1)(b)" there shall be inserted "or (ba)";

(b) in paragraph 6(b), after "section 11(1)(b)" there shall be inserted "or (ba)";

(c) after paragraph 6 there shall be inserted—

"Mixing different types of partially rebated gas oil

6A A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced by mixing—

(a) ultra low sulphur diesel in respect of which a rebate has been allowed under section 11(1)(ba) of this Act; and

(b) gas oil in respect of which a rebate has been allowed under section 11(1)(b) of this Act.";

(d) in paragraph 7 (complex mixtures of heavy oils), for the words from "if such a mixture" to the end of the paragraph there shall be substituted "if the production of a mixture of two of the components of that mixture is a contravention of any of paragraphs 4 to 6A above.";

(e) in paragraph 8(4) (rate for light oil), for "section 6(1)" there shall be substituted "section 6(1A)";

(f) in paragraph 9(2) (rate for heavy oil), for "in the case of heavy oil by section 6(1) of this Act" there shall be substituted "by section 6(1A) of this Act in the case of heavy oil which is not ultra low sulphur diesel"; and

(g) in paragraph 11 (interpretation), for ""fuel oil" and "gas oil" have the same meanings

""fuel oil" has the same meaning".

(10) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Tobacco products duty

8 Rates of tobacco products duty

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £65.97 per thousand cigarettes.
2. Cigars	£98.02 per kilogram.
3. Hand-rolling tobacco	£87.74 per kilogram.
4. Other smoking tobacco and chewing tobacco	£43.10 per kilogram.

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 26th November 1996.

Air passenger duty

9 Rates of air passenger duty

(1) In subsection (2) of section 30 of the Finance Act 1994 (rate of duty for journeys ending in the UK, another EEA State or certain territories for whose external relations either the UK or another member State is responsible), for "£5" there shall be substituted "£10".

(2) In subsection (4) of that section (rate of duty in other cases), for "£10" there shall be substituted "£20".

(3) This section applies in cases where, in accordance with section 28(2)(a) of that Act (duty becomes due when aircraft first takes off on passenger's flight), duty becomes due on or after 1st November 1997.

Gaming duty

10 Gaming duty to replace gaming licence duty

(1) A gaming licence shall not be required under section 13 of the Betting and Gaming Duties Act 1981 (gaming licence duty) for any gaming on or after 1st October 1997; but a duty of excise (to be known as "gaming duty") shall be charged in accordance with section 11 below on any premises in the United Kingdom where gaming to which this section applies ("dutiable gaming") takes place on or after that date.

(2) Subject to subsections (3) and (4) below, this section applies to gaming by way of any of the following games, that is to say, baccarat, punto banco, big six, blackjack, boule, casino stud poker, chemin de fer, chuck-a-luck, craps, crown and anchor, faro, faro bank, hazard, poker dice, pontoon, French roulette, American roulette, super pan 9, trente et quarante, vingt-et-un, and wheel of fortune.

(3) This section does not apply to any lawful gaming which is gaming to which any of the following provisions applies and takes place in accordance with the requirements of that provision, that is to say—

(a) section 2(2) of the Gaming Act 1968 or Article 55(2) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (private parties);

(b) section 6 of that Act (premises licensed for the sale of liquor);

(c) section 34 of that Act or Article 108 of that Order (certain gaming machines);

(d) section 41 of that Act or Article 126 of that Order (gaming at entertainments not held for private gain);

(e) section 15 or 16 of the Lotteries and Amusements Act 1976 or Article 153 or 154 of that Order (amusements with prizes).

(4) This section does not apply to any gaming which takes place on premises in respect of which a club or miners' welfare institute is for the time being registered under Part II of the Gaming Act 1968.

(5) The Treasury may by order made by statutory instrument add to the games mentioned in subsection (2) above if it appears to them, having regard to the character of the game and the circumstances in which it is played, that it is appropriate to do so.

(6) Any reference in this section, or in an order under subsection (5) above, to a particular game shall be taken to include a reference to any game (by whatever name called) which is essentially similar to that game.

11 Rate of gaming duty

(1) Gaming duty shall be charged on premises for every accounting period which contains a time when dutiable gaming takes place on those premises.

(2) Subject to subsection (3) below, the amount of gaming duty which is charged on any premises for any accounting period shall be calculated, in accordance with the following Table, by—

(a) applying the rates specified in that Table to the parts so specified of the gross gaming yield in that period from the premises; and

(b) aggregating the results.

TABLE

Part of gross gaming yield	*Rate*
The first £450,000	2½ per cent.
The next £2,250,000	12½ per cent.
The next £2,700,000	25 per cent.
The remainder	33⅓ per cent.

(3) Where, in an accounting period, unregistered gaming takes place on any premises, the amount of gaming duty which is charged on those premises for that period shall be equal to 33⅓ per cent. of the gross gaming yield in that period from the premises.

(4) For the purposes of subsection (3) above, unregistered gaming takes place on premises in an accounting period if—

(a) dutiable gaming takes place on those premises at any time in that period, and

(b) at that time those premises are not specified in the entry on the gaming duty register for a person by whom at that time they are notifiable for the purposes of paragraph 6 of Schedule 1 to this Act.

(5) The Commissioners may by regulations—

(a) provide for the cases in which dutiable gaming is to be treated as taking place on any premises for part only of an accounting period; and

(b) in relation to such cases, provide for the parts of the gross gaming yield specified in the first column of the Table in subsection (2) above to be reduced in relation to those premises for that accounting period in such manner as may be determined in accordance with the regulations.

(6) Where the Commissioners are satisfied—

(a) that dutiable gaming is, has been or may be taking place in the course of any accounting period at different premises situated at the same location or in very close proximity to each other, and

(b) that the activities carried on at those premises are connected or form part of the same business or are, or are comprised in, connected businesses,

the Commissioners may direct that for the purposes of gaming duty the different premises are to be treated as different parts of the same premises.

(7) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision of the Commissioners to make or vary a direction under subsection (6) above as if that decision were a decision of a description specified in Schedule 5 to that Act.

(8) For the purposes of this section the gross gaming yield from any premises in any accounting period shall consist of the aggregate of—

(a) the gaming receipts for that period from those premises; and

(b) where a provider of the premises (or a person acting on his behalf) is banker in relation to any dutiable gaming taking place on those premises in that period, the banker's profits for that period from that gaming.

(9) For the purposes of subsection (8) above the gaming receipts for an accounting period from any premises are the receipts in that period from charges made in connection with any dutiable gaming which has taken place on the premises other than—

(a) so much of any charge as represents value added tax, and

(b) any charge the payment of which confers no more than an entitlement to admission to the premises.

(10) In subsection (8) above the reference to the banker's profits from any gaming is a reference to the amount (if any) by which the value specified in paragraph (a) below exceeds the value specified in paragraph (b) below, that is to say—

(a) the value, in money or money's worth, of the stakes staked with the banker in any such gaming; and

(b) the value, in money or money's worth, of the winnings paid by the banker to those taking part in such gaming otherwise than on behalf of a provider of the premises.

(11) The Treasury may by order made by statutory instrument amend subsections (8) to (10) above.

12 Liability to pay gaming duty

(1) The liability to pay the gaming duty charged on any premises for any accounting period shall fall jointly and severally on—

(a) every person who is a provider of the premises at a time in that period when dutiable gaming takes place there;

(b) every person concerned in the organisation or management of any dutiable gaming taking place on those premises in that period;

(c) where any of the persons mentioned in paragraphs (a) and (b) above is a body corporate that is treated as a member of a group for the purposes of Part I of Schedule 1 to this Act, every body corporate that is treated as a member of that group for those purposes; and

(d) where any of the persons mentioned in paragraphs (a) to (c) above is a body corporate, every director of that body.

(2) A person shall for the purposes of this section be conclusively presumed to be a provider of premises at any time if at that time—

(a) he is registered on the gaming duty register, and

(b) those premises are specified in his entry on that register.

(3) The Commissioners may by regulations make provision—

(a) for apportioning the liability for any gaming duty charged on any premises for an accounting period between different persons; and

(b) for the amount of gaming duty charged on any premises for the different parts of a period for which an apportionment falls to be made to be computed (in accordance with regulations made by virtue of section 11(5)(b) above) as if each part of the period were the only part of the period during which dutiable gaming has taken place on those premises.

(4) The Commissioners may by regulations impose obligations on any of the persons mentioned in subsection (1) above requiring them to make payments on account of any gaming duty that is likely to be chargeable on any premises.

(5) Any failure by any person to pay any amount of gaming duty due from him—

(a) shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount that has not been paid; and

(b) shall also attract daily penalties.

(6) Where, in accordance with any regulations under subsection (4) above, any amount has become payable on account of gaming duty by any person, that amount shall be deemed—

(a) for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), to be an amount which has become due from that person in respect of gaming duty;

(b) for the purposes of section 116 of the Customs and Excise Management Act 1979 (time and place etc. for payment of excise duty), to be an amount of gaming duty that has become payable; and

(c) for the purposes of subsection (5) above, sections 51 and 52 below and section 137(1) of the Customs and Excise Management Act 1979 (recovery of duty), to be an amount of gaming duty due from that person;

and an amount paid on account of gaming duty shall be deemed for the purposes of section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid duty) to be an amount paid by way of that duty.

13 Supplemental provisions relating to gaming duty

(1) Schedule 1 to this Act (which makes supplemental provision with respect to gaming duty) shall have effect.

(2) Schedule 2 to this Act (which amends the Customs and Excise Management Act 1979 and contains other amendments) shall have effect.

14 Subordinate legislation relating to gaming duty

(1) Any power conferred on the Commissioners by section 11 or 12 above or Schedule 1 to this Act to make regulations—

(a) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and

(b) shall include power to make different provision for different cases.

(2) A statutory instrument containing an order under section 10(5) or 11(11) above—

(a) shall be laid before the House of Commons after being made; and

(b) shall cease to have effect (without prejudice to anything previously done under the order or to the making of a new order) at the end of the period of 28 days after the day on which it was made unless it has been approved, before the end of that period, by a resolution of that House.

(3) In reckoning the period of 28 days mentioned in subsection (2)(b) above, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

15 Interpretation of gaming duty provisions

(1) This section shall have effect for the purposes of construing the gaming duty provisions of this Act, that is to say, sections 10 to 14 above, this section and Schedule 1 to this Act.

(2) The gaming duty provisions of this Act shall be construed as one with the Customs and Excise Management Act 1979.

(3) In the gaming duty provisions of this Act—

"accounting period" means, subject to the provisions of Schedule 1 to this Act, a period of six months beginning with 1st April or 1st October;

"dutiable gaming" means gaming to which section 10 above applies;

"gaming" means gaming within the meaning of the Gaming Act 1968 or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

"the gaming duty register" means the register maintained under paragraph 1 of Schedule 1 to this Act;

"premises" includes any place and any means of transport and shall be construed subject to section 11(6) above;

"provider", in relation to any premises where gaming takes place, means any person having a right to control the admission of persons to those

premises, whether or not he has a right to control the admission of persons to the gaming.

(4) For the avoidance of doubt it is hereby declared that the imposition or payment of gaming duty does not make lawful any gaming which is otherwise unlawful.

Vehicle excise duty

16 Increase in general rate

(1) In Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty), in paragraph 1(2) (the general rate), for "£140" there shall be substituted "£145".

(2) This section applies in relation to licences taken out after 26th November 1996.

17 Exemption for vehicles for disabled persons

In paragraph 19 of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exemption for vehicles for disabled persons), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(2A) This paragraph shall have effect as if a person were in receipt of a disability living allowance by virtue of entitlement to the mobility component at the higher rate in any case where—

(a) he has ceased to be in receipt of it as a result of having ceased to satisfy a condition of receiving the allowance or of receiving the mobility component at that rate;

(b) that condition is either—

(i) a condition relating to circumstances in which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution; or

(ii) a condition specified in regulations made by the Secretary of State;

and

(c) he would continue to be entitled to receive the mobility component of the allowance at the higher rate but for his failure to satisfy that condition."

18 Provisions applying to exempt vehicles

Schedule 3 to this Act (which contains provisions applying to exempt vehicles) shall have effect.

19 Issue of licences before payment of duty

(1) After section 19A of the Vehicle Excise and Registration Act 1994 there shall be inserted the following section—

"**19B Issue of licences before payment of duty**

(1) The Secretary of State may, if he thinks fit, issue a vehicle licence or a trade licence to a person who has agreed with the Secretary of State to pay the duty payable on the licence in a manner provided for in the agreement.

(2) In a case where—

(a) a vehicle licence or a trade licence is issued to a person in accordance with subsection (1),

(b) the duty payable on the licence is not received by the Secretary of State in accordance with the agreement, and

(c) the Secretary of State sends a notice by post to the person informing him that the licence is void as from the time when it was granted,

the licence shall be void as from the time when it was granted.

(3) In a case where—

(a) paragraphs (a) and (b) of subsection (2) apply,

(b) the Secretary of State sends a notice by post to the person requiring him to secure that the duty payable on the licence is paid within such reasonable period as is specified in the notice,

(c) the requirement in the notice is not complied with, and

(d) the Secretary of State sends a further notice by post to the person informing him that the licence is void as from the time when it was granted,

the licence shall be void as from the time when it was granted."

(2) In subsection (1)(a) of section 35A of that Act (dishonoured cheques)—

(a) after "19A(2)(b)" there shall be inserted "or 19B(2)(c)"; and

(b) after "19A(3)(d)" there shall be inserted "or 19B(3)(d)".

20 Removal and disposal of vehicles

(1) In paragraph 3 of Schedule 2A to the Vehicle Excise and Registration Act 1994 (immobilisation, removal and disposal of vehicles), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

"(1) The regulations may make provision with respect to any case where—

(a) an authorised person has reason to believe that an offence under section 29(1)—

(i) is being committed as regards a vehicle which is stationary on a public road; or

(ii) was being committed as regards a vehicle at a time when an immobilisation device which is fixed to the vehicle was fixed to it in accordance with the regulations;

and

(b) such conditions as may be prescribed are fulfilled."

(2) In sub-paragraph (2) of that paragraph, for "an authorised person, or a person acting under the direction of an authorised person" there shall be substituted "the authorised person, or a person acting under his direction".

(3) In sub-paragraph (6) of that paragraph, for "when the immobilisation device was fixed" there shall be substituted "when the vehicle was removed".

(4) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

PART II

INSURANCE PREMIUM TAX

New rates of tax

21 Rate of tax

(1) For section 51 of the Finance Act 1994 (rate of tax) there shall be substituted—

"**51 Rate of tax**

(1) Tax shall be charged—

(a) at the higher rate, in the case of a premium which is liable to tax at that rate; and

(b) at the standard rate, in any other case.

(2) For the purposes of this Part—

(a) the higher rate is 17.5 per cent.; and

(b) the standard rate is 4 per cent."

(2) In section 73(1) of the Finance Act 1994 (general interpretation) there shall be inserted at the appropriate places—

"(a) "the higher rate" shall be construed in accordance with section 51 above;"

"(b) "the standard rate" shall be construed in accordance with section 51 above;".

22 Premiums liable to tax at the higher rate

(1) After section 51 of the Finance Act 1994 (rate of tax) there shall be inserted—

"**51A Premiums liable to tax at the higher rate**

(1) A premium received under a taxable insurance contract by an insurer is liable to tax at the higher rate if it falls within one or more of the paragraphs of Part II of Schedule 6A to this Act.

(2) Part I of Schedule 6A to this Act shall have effect with respect to the interpretation of that Schedule.

(3) Provision may be made by order amending Schedule 6A as it has effect for the time being.

(4) This section is subject to section 69 below."

(2) In section 74 of the Finance Act 1994 (regulations and orders)—

(a) in subsection (4) (order under section 71 to be subject to affirmative procedure) after "An order under section" there shall be inserted "51A or"; and

(b) in subsection (6) (regulations or orders, other than an order under section 71, to be subject to negative procedure) after "(other than an order under section" there shall be inserted "51A or".

(3) After Schedule 6 to the Finance Act 1994 there shall be inserted the Schedule set out in Schedule 4 to this Act.

23 Charge to tax where different rates apply

(1) For section 69 of the Finance Act 1994 (reduced chargeable amount) there shall be substituted—

"**69 Charge to tax where different rates of tax apply**

(1) This section applies for the purpose of determining the chargeable amount in a case where a contract provides cover falling within any one of the following paragraphs, that is to say—

(a) cover for one or more exempt matters,

(b) cover for one or more standard rate matters, or

(c) cover for one or more higher rate matters,

and also provides cover falling within another of those paragraphs.

(2) In the following provisions of this section "the non-exempt premium" means the difference between—

(a) the amount of the premium; and

(b) such part of the premium as is attributable to any exempt matter or matters or, if no part is so attributable, nil.

(3) If the contract provides cover for one or more exempt matters and also provides cover for either—

(a) one or more standard rate matters, or

(b) one or more higher rate matters,

the chargeable amount is such amount as, with the addition of the tax chargeable at the standard rate or (as the case may be) the higher rate, is equal to the non-exempt premium.

(4) If the contract provides cover for both—

(a) one or more standard rate matters, and

(b) one or more higher rate matters,

the higher rate element and the standard rate element shall be found in accordance with the following provisions of this section.

(5) For the purposes of this section—

(a) "the higher rate element" is such portion of the non-exempt premium as is attributable to the higher rate matters (including tax at the higher rate); and

(b) "the standard rate element" is the difference between—

(i) the non-exempt premium; and

(ii) the higher rate element.

(6) In a case falling within subsection (4) above, tax shall be charged separately—

(a) at the standard rate, by reference to the standard rate chargeable amount, and

(b) at the higher rate, by reference to the higher rate chargeable amount,

and the tax chargeable in respect of the premium is the aggregate of those amounts of tax.

(7) For the purposes of this section—

"the higher rate chargeable amount" is such amount as, with the addition of the tax chargeable at the higher rate, is equal to the higher rate element;

"the standard rate chargeable amount" is such amount as, with the addition of the tax chargeable at the standard rate, is equal to the standard rate element.

(8) References in this Part to the chargeable amount shall, in a case falling within subsection (4) above, be taken as referring separately to the standard rate chargeable amount and the higher rate chargeable amount.

(9) In applying subsection (2)(b) above, any amount that is included in the premium as being referable to tax (whether or not the amount corresponds to the actual amount of tax payable in respect of the premium) shall be taken to be wholly attributable to the non-exempt matter or matters.

(10) In applying subsection (5)(a) above, any amount that is included in the premium as being referable to tax at the higher rate (whether or not the amount corresponds to the actual amount of tax payable at that rate in respect of the premium) shall be taken to be wholly attributable to the higher rate element.

(11) Subject to subsections (9) and (10) above, any attribution under subsection (2)(b) or (5)(a) above shall be made on such basis as is just and reasonable.

(12) For the purposes of this section—

(a) an "exempt matter" is any matter such that, if it were the only matter for which the contract provided cover, the contract would not be a taxable insurance contract;

(b) a "non-exempt matter" is a matter which is not an exempt matter;

(c) a "standard rate matter" is any matter such that, if it were the only matter for which the contract provided cover, tax at the standard rate would be chargeable on the chargeable amount;

(d) a "higher rate matter" is any matter such that, if it were the only matter for which the contract provided cover, tax at the higher rate would be chargeable on the chargeable amount.

(13) If the contract relates to a lifeboat and lifeboat equipment, the lifeboat and the equipment shall be taken together in applying this section.

(14) For the purposes of this section "lifeboat" and "lifeboat equipment" have the same meaning as in paragraph 6 of Schedule 7A to this Act."

(2) Accordingly, in section 50 of the Finance Act 1994 (chargeable amount) in subsection (3) (which provides that subsection (2) has effect subject to section 69) for "Subsection (2)" there shall be substituted "Subsections (1) and (2)".

24 Commencement of sections 21 to 23

(1) Except as provided by subsection (2) below, sections 21 to 23 above have effect in relation to a premium which falls to be regarded for the purposes of Part III of the Finance Act 1994 as received under a taxable insurance contract by an insurer on or after 1st April 1997.

(2) Sections 21 to 23 above do not have effect in relation to a premium if the premium—

(a) is in respect of a contract made before 1st April 1997; and

(b) falls, by virtue of regulations under section 68 of the Finance Act 1994 (special accounting scheme), to be regarded for the purposes of Part III of that Act as received under the contract by the insurer on a date before 1st August 1997.

(3) Subsection (2) above does not apply in relation to a premium if the premium—

(a) is an additional premium under the contract;

(b) falls as mentioned in subsection (2)(b) above to be regarded as received under the contract by the insurer on or after 1st April 1997; and

(c) is in respect of a risk which was not covered by the contract before 1st April 1997.

(4) Without prejudice to the generality of subsections (1) to (3) above, those subsections shall be construed in accordance with sections 67A to 67C of the Finance Act 1994 (which are inserted by section 29 below).

Taxable intermediaries and their fees

25 Certain fees to be treated as premiums under higher rate contracts

(1) After section 52 of the Finance Act 1994 there shall be inserted—

"**52A Certain fees to be treated as premiums under higher rate contracts**

(1) This section applies where—

(a) at or about the time when a higher rate contract is effected, and

(b) in connection with that contract,

a fee in respect of an insurance-related service is charged by a taxable intermediary to a person who is or becomes the insured (or one of the insured) under the contract or to a person who acts for or on behalf of such a person.

(2) Where this section applies—

(a) a payment in respect of the fee shall be treated for the purposes of this Part as a premium received under a taxable insurance contract by an insurer, and

(b) that premium—

(i) shall be treated for the purposes of this Part as so received at the time when the payment is made, and

(ii) shall be chargeable to tax at the higher rate.

(3) Tax charged by virtue of subsection (2) above shall be payable by the taxable intermediary as if he were the insurer under the contract mentioned in paragraph (a) of that subsection.

(4) For the purposes of this section, a contract of insurance is a "higher rate contract" if—

(a) it is a taxable insurance contract; and

(b) the whole or any part of a premium received under the contract by the insurer is (apart from this section) liable to tax at the higher rate.

(5) For the purposes of this Part a "taxable intermediary" is a person falling within subsection (6) below who—

(a) at or about the time when a higher rate contract is effected, and

(b) in connection with that contract,

charges a fee in respect of an insurance-related service to a person who is or becomes the insured (or one of the insured) under the contract or to a person who acts for or on behalf of such a person.

(6) A person falls within this subsection if—

(a) he is a supplier of goods or services falling within subsection (7) below; or

(b) he is connected with a supplier of goods or services falling within that subsection; or

(c) he is a person who pays—

(i) the whole or any part of the premium received under that contract, or

(ii) a fee connected with the arranging of that contract,

to a supplier of goods or services falling within subsection (7) below or to a person who is connected with a supplier of goods or services falling within that subsection.

(7) A person is a supplier of goods or services falling within this subsection if—

(a) he is a supplier of motor cars or motor cycles, within the meaning of paragraph 2 of Schedule 6A to this Act;

(b) he is a supplier of relevant goods, within the meaning of paragraph 3 of that Schedule; or

(c) he is a tour operator or travel agent.

(8) For the purposes of this section, any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act 1988.

(9) In this section—

"insurance-related service" means any service which is related to, or connected with, insurance;

"tour operator" and "travel agent" have the same meaning as in paragraph 4 of Schedule 6A to this Act."

(2) The amendment made by subsection (1) above has effect in relation to payments in respect of fees charged on or after the day on which this Act is passed.

26 Registration of taxable intermediaries

After section 53 of the Finance Act 1994 (registration of insurers) there shall be inserted—

"**53AA Registration of taxable intermediaries**

(1) A person who—

(a) is a taxable intermediary, and

(b) is not registered,

is liable to be registered.

(2) The register kept under this section may contain such information as the Commissioners think is required for the purposes of the care and management of the tax.

(3) A person who—

(a) at any time forms the intention of charging taxable intermediary's fees, and

(b) is not already charging such fees in the course of another business,

shall notify the Commissioners of those facts.

(4) A person who at any time—

(a) ceases to have the intention of charging taxable intermediary's fees in the course of his business, and

(b) has no intention of charging such fees in the course of another business of his,

shall notify the Commissioners of those facts.

(5) Where a person is liable to be registered by virtue of subsection (1) above, the Commissioners shall register him with effect from the time when he begins to charge taxable intermediary's fees in the course of the business concerned; and it is immaterial whether or not he notifies the Commissioners under subsection (3) above.

(6) Where a person—

(a) notifies the Commissioners under subsection (4) above, and

(b) satisfies them of the facts there mentioned,

the Commissioners shall cancel his registration with effect from the earliest practicable time after he ceases to charge taxable intermediary's fees in the course of any business of his.

(7) In a case where—

(a) the Commissioners are satisfied that a person has ceased to charge taxable intermediary's fees in the course of any business of his, but

(b) he has not notified them under subsection (4) above,

they may cancel his registration with effect from the earliest practicable time after he so ceased.

(8) For the purposes of this section regulations may make provision—

(a) as to the time within which a notification is to be made;

(b) as to the form and manner in which any notification is to be made and as to the information to be contained in or provided with it;

(c) requiring a person who has made a notification to notify the Commissioners if any information contained in or provided in connection with it is or becomes inaccurate;

(d) as to the correction of entries in the register.

(9) In this Part "taxable intermediary's fees" means fees which, to the extent of any payment in respect of them, are chargeable to tax by virtue of section 52A above."

27 Supplementary provisions

(1) The Finance Act 1994 shall be amended in accordance with the following provisions of this section.

(2) In section 53A (information required to keep register up to date) in subsection (1)(b), after the words "register kept under section 53" there shall be inserted "or 53AA".

(3) In section 55 (credit)—

(a) after "insurer", wherever occurring other than in subsection (2), there shall be inserted "or taxable intermediary";

(b) in subsection (1), after "premium" there shall be inserted "or taxable intermediary's fee (as the case may be)";

(c) in subsection (3)(f), after "registrable" there shall be inserted "(whether under section 53 or section 53AA)";

(d) in subsection (5), after "insurer's" there shall be inserted "or taxable intermediary's"; and

(e) in subsection (8)(a), after "premium" there shall be inserted "or taxable intermediary's fee".

(4) In section 57 (tax representatives)—

(a) after "insurer", wherever occurring, there shall be inserted "or taxable intermediary";

(b) after "insurer's", wherever occurring, there shall be inserted "or taxable intermediary's"; and

(c) in subsection (1)(a), after "registered under section 53" there shall be inserted "or, as the case may be, section 53AA".

(5) In section 58 (rights and duties of tax representatives)—

(a) after "insurer", wherever occurring, there shall be inserted "or taxable intermediary"; and

(b) after "insurer's", wherever occurring, there shall be inserted "or taxable intermediary's".

(6) In section 59 (review of Commissioners' decisions) in subsection (1) (which specifies the kinds of decision to which the section applies) after paragraph (b) there shall be inserted—

"(bb) whether a payment falls to be treated under section 52A(2) above as a premium received under a taxable insurance contract by an insurer and chargeable to tax at the higher rate;".

(7) In section 62 (partnership, bankruptcy, transfer of business etc) in subsections (1) and (5), after "insurer", wherever occurring, there shall be inserted "or taxable intermediary".

(8) In section 63(1) (which details the functions of representative members of groups of companies)—

(a) after paragraph (a) there shall be inserted—

"(aa) any business carried on by a member of the group who is a taxable intermediary shall be treated as carried on by the representative member,"; and

(b) after paragraph (b) there shall be inserted—

"(bb) the representative member shall be taken to be the taxable intermediary in relation to any taxable intermediary's fees as regards which a member of the group is the actual taxable intermediary,".

(9) In section 73 (interpretation) in subsection (1) there shall be inserted at the appropriate places—

"(a) "taxable intermediary" shall be construed in accordance with section 52A above;"

"(b) "taxable intermediary's fees" has the meaning given by section 53AA(9) above."

(10) At the beginning of subsection (3) of that section (meaning of "registrable person") there shall be inserted "Subject to subsection (3A) below," and after that subsection there shall be inserted—

"(3A) References in sections 53A and 54 above and paragraphs 1, 9 and 12 of Schedule 7 to this Act to a registrable person include a reference to a person who—

(a) is registered under section 53AA above; or

(b) is liable to be registered under that section."

(11) In Schedule 7, in paragraph 14 (penalty for failing to register under section 53)—

(a) in sub-paragraph (1), after "section 53(2)" there shall be inserted "or 53AA(3)"; and

(b) in sub-paragraph (2)(a), after "section 53" there shall be inserted "or, as the case may be, section 53AA".

Miscellaneous

28 Amounts charged by other intermediaries

(1) In section 72 of the Finance Act 1994 (interpretation: premium) after subsection (1) there shall be inserted—

"(1A) Where an amount is charged to the insured by any person in connection with a taxable insurance contract, any payment in respect of that amount is to be regarded as a payment received under that contract by the insurer unless—

(a) the payment is chargeable to tax at the higher rate by virtue of section 52A above; or

(b) the amount is charged under a separate contract and is identified in writing to the insured as a separate amount so charged."

(2) The amendment made by subsection (1) above has effect in relation to payments received in respect of amounts charged on or after 1st April 1997.

29 Prevention of pre-emption

(1) After section 67 of the Finance Act 1994 there shall be inserted—

"**67A Announced increase in rate of tax: certain premiums treated as received on date of increase**

(1) This section applies in any case where a proposed increase is announced by a Minister of the Crown in the rate at which tax is to be charged on a premium if it is received by the insurer on or after a date specified in the announcement ("the date of the change").

(2) In a case where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the date of the change, and

(b) the period of cover for the risk begins on or after the date of the change,

for the purposes of this Part the premium shall be taken to be received on the date of the change.

(3) Subsection (4) below applies where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the date of the change;

(b) the period of cover for the risk begins before the date of the change and ends on or after the first anniversary of the date of the change; and

(c) the premium, or any part of it, is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change.

(4) For the purposes of this Part—

(a) so much of the premium as is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change shall be taken to be received on the date of the change; and

(b) so much as is so attributable shall be taken to be a separate premium.

(5) In determining whether the condition in subsection (2)(a) or (3)(a) above is satisfied, the provisions of regulations made by virtue of subsection (3) or (7) of section 68 below apply as they would apart from this section; but, subject to that, where subsection (2) or (4) above applies—

(a) that subsection shall have effect notwithstanding anything in section 68 below or regulations made under that section; and

(b) any regulations made under that section shall have effect as if the entry made in the accounts of the insurer showing the premium as due to him had been made as at the date of the change.

(6) Any attribution under this section shall be made on such basis as is just and reasonable.

(7) In this section—

"increase", in relation to the rate of tax, includes the imposition of a charge to tax by adding to the descriptions of contract which are taxable insurance contracts;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.

67B Announced increase in rate of tax: certain contracts treated as made on date of increase

(1) This section applies in any case where—

(a) an announcement falling within section 67A(1) above is made; but

(b) a proposed exception from the increase in question is also announced by a Minister of the Crown; and

(c) the proposed exception is to apply in relation to a premium only if the conditions described in subsection (2) below are satisfied in respect of the premium.

(2) Those conditions are—

(a) that the premium is in respect of a contract made before the date of the change;

(b) that the premium falls, by virtue of regulations under section 68 below, to be regarded for the purposes of this Part as received under the contract by the insurer before such date ("the concessionary date") as is specified for the purpose in the announcement.

(3) In a case where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the concessionary date, and

(b) the period of cover for the risk begins on or after the date of the change,

the rate of tax applicable in relation to the premium shall be determined as if the contract had been made on the date of the change.

(4) Subsection (5) below applies where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the concessionary date;

(b) the period of cover for the risk begins before the date of the change and ends on or after the first anniversary of the date of the change; and

(c) the premium, or any part of it, is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change.

(5) Where this subsection applies—

(a) the rate of tax applicable in relation to so much of the premium as is attributable to such of the period of cover as falls on or after the

first anniversary of the date of the change shall be determined as if the contract had been made on the date of the change; and

(b) so much of the premium as is so attributable shall be taken to be a separate premium.

(6) Any attribution under this section shall be made on such basis as is just and reasonable.

(7) In this section—

"the date of the change" has the same meaning as in section 67A above;

"Minister of the Crown" has the same meaning as in section 67A above.

67C Announced increase in rate of tax: exceptions and apportionments

(1) Sections 67A(2) and 67B(3) above do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for a premium to be received by or on behalf of the insurer before the date when cover begins.

(2) Sections 67A(3) and (4) and 67B(4) and (5) above do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for cover to be provided for a period exceeding twelve months.

(3) If a contract relates to more than one risk, then, in the application of section 67A(2), 67A(3) and (4), 67B(3) or 67B(4) and (5) above—

(a) the reference in section 67A(2)(b) or (3)(b) or 67B(3)(b) or (4)(b), as the case may be, to the risk shall be taken as a reference to any given risk,

(b) so much of the premium as is attributable to any given risk shall be taken for the purposes of section 67A(2), 67A(3) and (4), 67B(3) or 67B(4) and (5) above, as the case may be, to be a separate premium relating to that risk,

(c) those provisions shall then apply separately in the case of each given risk and the separate premium relating to it, and

(d) any further attribution required by section 67A(3) and (4) or 67B(4) and (5) above shall be made accordingly,

and subsections (1) and (2) above shall apply accordingly.

(4) Any attribution under this section shall be made on such basis as is just and reasonable."

(2) In the application of sections 67A to 67C of the Finance Act 1994 in relation to the increases in insurance premium tax effected by this Part and the exceptions from those increases—

(a) the announcement relating to those increases, as described in section 67A(1), and to those exceptions, as described in section 67B(1), shall be taken to have been made on 26th November 1996;

(b) "the date of the change" is 1st April 1997; and

(c) "the concessionary date" is 1st August 1997.

(3) The amendment made by subsection (1) above has effect on and after 26th November 1996.

30 Tax point for payroll deductions

(1) After subsection (7) of section 72 of the Finance Act 1994 (insurance premiums to be treated as received by the insurer when received by another person on his behalf) there shall be inserted—

"(7A) Where any person is authorised by or on behalf of an employee to deduct from anything due to the employee under his contract of employment an amount in respect of a payment due under a taxable insurance contract, subsection (7) above shall not apply to the receipt on behalf of the insurer by the person so authorised of the amount deducted."

(2) After subsection (8) of that section there shall be inserted—

"(8A) Where, by virtue of subsection (7A) above, subsection (7) above does not apply to the receipt of an amount by a person and the whole or part of the amount is referable to commission to which he is entitled—

(a) if the whole of the amount is so referable, the amount shall be treated as received by the insurer when it is deducted by that person; and

(b) otherwise, the part of the amount that is so referable shall be treated as received by the insurer when the remainder of the payment concerned is or is treated as received by him."

(3) This section applies in relation to amounts deducted on or after the day on which this Act is passed.

PART III

VALUE ADDED TAX

Registration

31 Aggregation of businesses

(1) In Schedule 1 to the Value Added Tax Act 1994 (registration in respect of taxable supplies), after paragraph 1 there shall be inserted the following paragraph—

"1A (1) Paragraph 2 below is for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of VAT.

(2) In determining for the purposes of sub-paragraph (1) above whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links."

(2) In sub-paragraph (2) of paragraph 2 of that Schedule (power of Commissioners to make direction for aggregation of businesses)—

(a) in paragraph (b), the words from "which should properly" to "described in the direction" shall be omitted;

(b) in paragraph (c), for "that business" there shall be substituted "the business described in the direction"; and

(c) paragraph (d) (Commissioners to be satisfied before making direction for aggregation that avoidance is one of the main reasons for division) shall be omitted;

and, accordingly, in sub-paragraph (4) of that paragraph (power of Commissioners to make supplementary direction) the word "properly" shall be omitted.

(3) In section 84(7) of that Act (determination of appeals against directions), for the words from "as to the matters" onwards there shall be substituted "that there were grounds for making the direction."

(4) This section has effect in relation to the making of directions on or after the day on which this Act is passed.

32 Voluntary registration

For sub-paragraph (2) of paragraph 10 of Schedule 1 to the Value Added Tax Act 1994 (non-taxable supplies in respect of which a person is entitled to be registered) there shall be substituted the following sub-paragraph—

"(2) A supply is within this sub-paragraph if—

(a) it is made outside the United Kingdom but would be a taxable supply if made in the United Kingdom; or

(b) it is specified for the purposes of subsection (2) of section 26 in an order made under paragraph (c) of that subsection."

Zero-rating

33 Sale of goods donated to charity

(1) In Group 15 of Schedule 8 to the Value Added Tax Act 1994 (charities etc), for Note (1) there shall be substituted the following Note—

"(1) Item 1 shall apply only if—

(a) the supply is a sale of goods donated to that charity or taxable person;

(b) the sale takes place as a result of the goods having been made available to the general public for purchase (whether in a shop or elsewhere); and

(c) the sale does not take place as a result of any arrangements (whether legally binding or not) which related to the goods and were entered into by each of the parties to the sale before the goods were made available to the general public."

(2) This section has effect in relation to supplies made on or after 26th November 1996.

34 Charitable institutions providing care etc

(1) In Group 15 of Schedule 8 to the Value Added Tax Act 1994 (charities etc), after Note (4) there shall be inserted the following Notes—

"(4A) Subject to Note (5B), a charitable institution shall not be regarded as providing care or medical or surgical treatment for handicapped persons unless—

(a) it provides care or medical or surgical treatment in a relevant establishment; and

(b) the majority of the persons who receive care or medical or surgical treatment in that establishment are handicapped persons.

(4B) "Relevant establishment" means—

(a) a day-centre, other than a day-centre which exists primarily as a place for activities that are social or recreational or both; or

(b) an institution which is—

(i) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or

(ii) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;

and in paragraph (b) above the references to the provisions of any enactment or Northern Ireland legislation are references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom."

(2) After Note (5) to that Group there shall be inserted the following Notes—

"(5A) Subject to Note (5B), items 4 to 7 do not apply where the eligible body falls within Note (4)(f) unless the relevant goods are or are to be used in a relevant establishment in which that body provides care or medical or surgical treatment to persons the majority of whom are handicapped.

(5B) Nothing in Note (4A) or (5A) shall prevent a supply from falling within items 4 to 7 where—

(a) the eligible body provides medical care to handicapped persons in their own homes;

(b) the relevant goods fall within Note (3)(a) or are parts or accessories for use in or with goods described in Note (3)(a); and

(c) those goods are or are to be used in or in connection with the provision of that care."

(3) This section has effect in relation to supplies made on or after 26th November 1996.

Buildings and land

35 References to grants

(1) Section 96 of the Value Added Tax Act 1994 (interpretation) shall have effect, and be deemed always to have had effect, with the following subsection inserted after subsection (10), namely—

"(10A) Where—

(a) the grant of any interest, right, licence or facilities gives rise for the purposes of this Act to supplies made at different times after the making of the grant, and

(b) a question whether any of those supplies is zero-rated or exempt falls to be determined according to whether or not the grant is a grant of a description specified in Schedule 8 or 9 or paragraph 2(2) or (3) of Schedule 10,

that question shall be determined according to whether the description is applicable as at the time of supply, rather than by reference to the time of the grant."

(2) Paragraph 3 of Schedule 10 to that Act (interpretation of the option to tax) shall have effect, and be deemed always to have had effect, with the following sub-paragraphs inserted after sub-paragraph (5)—

"(5A) Where—

(a) an election under paragraph 2 above is made in relation to any land, and

(b) apart from this sub-paragraph, a grant in relation to that land would be taken to have been made (whether in whole or in part) before the time when the election takes effect,

that paragraph shall have effect, in relation to any supplies to which the grant gives rise which are treated for the purposes of this Act as taking place after that time, as if the grant had been made after that time.

(5B) Accordingly, the references in paragraph 2(9) above and sub-paragraph (9) below to grants being exempt or taxable shall be construed as references to supplies to which a grant gives rise being exempt or, as the case may be, taxable."

(3) Amendments corresponding to those made by subsections (1) and (2) above shall be deemed to have had effect, for the purposes of the cases to which it applied, in relation to the Value Added Tax Act 1983; and any provisions about the coming into force of any amendment of that Act shall be deemed to have had effect accordingly.

(4) Nothing in this section shall be taken to affect the operation, in relation to times before its repeal took effect, of paragraph 4 of Schedule 10 to the Value Added Tax Act 1994 or of any enactment re-enacted in that paragraph.

36 Buildings intended to be used as dwellings

(1) After paragraph 2(2) of Schedule 10 to the Value Added Tax Act 1994 (under which the option to tax is not available in respect of buildings intended for use as dwellings), there shall be inserted the following sub-paragraphs—

"(2A) Subject to the following provisions of this paragraph, where—

(a) an election has been made for the purposes of this paragraph in relation to any land, and

(b) a supply is made that would fall, but for sub-paragraph (2)(a) above, to be treated as excluded by virtue of that election from Group 1 of Schedule 9,

then, notwithstanding sub-paragraph (2)(a) above, that supply shall be treated as so excluded if the conditions in sub-paragraph (2B) below are satisfied.

(2B) The conditions mentioned in sub-paragraph (2A) above are—

(a) that an agreement in writing made, at or before the time of the grant, between—

(i) the person making the grant, and

(ii) the person to whom it is made,

declares that the election is to apply in relation to the grant; and

(b) that the person to whom the supply is made intends, at the time when it is made, to use the land for the purpose only of making a supply which is zero-rated by virtue of paragraph (b) of item 1 of Group 5 of Schedule 8."

(2) This section has effect in relation to supplies made on or after the day on which this Act is passed.

37 Supplies to non-taxable persons etc

(1) Paragraphs 2(3A) and 3(8A) of Schedule 10 to the Value Added Tax Act 1994 (which relate to grants of land made to connected persons where they are not fully taxable) shall not have effect in relation to any supply made after 26th November 1996.

(2) In paragraph 2 of that Schedule (election to waive exemption), after sub-paragraph (3) there shall be inserted the following sub-paragraphs—

"(3AA) Where an election has been made under this paragraph in relation to any land, a supply shall not be taken by virtue of that election to be a taxable supply if—

(a) the grant giving rise to the supply was made by a person ("the grantor") who was a developer of the land; and

(b) at the time of the grant, it was the intention or expectation of—

(i) the grantor, or

(ii) a person responsible for financing the grantor's development of the land for exempt use,

that the land would become exempt land (whether immediately or eventually and whether or not by virtue of the grant) or, as the case may be, would continue, for a period at least, to be such land."

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

"3A (1) This paragraph shall have effect for the construction of paragraph 2(3AA) above.

(2) For the purposes of paragraph 2(3AA) above a grant made by any person in relation to any land is a grant made by a developer of that land if—

(a) the land, or a building or part of a building on that land, is an asset falling in relation to that person to be treated as a capital item for the purposes of any regulations under section 26(3) and (4) providing for adjustments relating to the deduction of input tax; and

(b) the grant was made at a time falling within the period over which such regulations allow adjustments relating to the deduction of input tax to be made as respects that item.

(3) In paragraph 2(3AA) above and this paragraph the references to a person's being responsible for financing the grantor's development of the land for exempt use are references to his being a person who, with the intention or in the expectation that the land will become, or continue (for a period at least) to be, exempt land—

(a) has provided finance for the grantor's development of the land; or

(b) has entered into any agreement, arrangement or understanding (whether or not legally enforceable) to provide finance for the grantor's development of the land.

(4) In sub-paragraph (3)(a) and (b) above the references to providing finance for the grantor's development of the land are references to doing any one or more of the following, that is to say—

(a) directly or indirectly providing funds for meeting the whole or any part of the cost of the grantor's development of the land;

(b) directly or indirectly procuring the provision of such funds by another;

(c) directly or indirectly providing funds for discharging, in whole or in part, any liability that has been or may be incurred by any person for or in connection with the raising of funds to meet the cost of the grantor's development of the land;

(d) directly or indirectly procuring that any such liability is or will be discharged, in whole or in part, by another.

(5) The references in sub-paragraph (4) above to the provision of funds for a purpose referred to in that sub-paragraph include references to—

(a) the making of a loan of funds that are or are to be used for that purpose;

(b) the provision of any guarantee or other security in relation to such a loan;

(c) the provision of any of the consideration for the issue of any shares or other securities issued wholly or partly for raising such funds; or

(d) any other transfer of assets or value as a consequence of which any such funds are made available for that purpose.

(6) In sub-paragraph (4) above the references to the grantor's development of the land are references to the acquisition by the grantor of the asset which—

(a) consists in the land or a building or part of a building on the land, and

(b) in relation to the grantor falls to be treated for the purposes mentioned in sub-paragraph (2)(a) above as a capital item;

and for the purposes of this sub-paragraph the acquisition of an asset shall be taken to include its construction or reconstruction and the carrying out in relation to that asset of any other works by reference to which it falls to be treated for the purposes mentioned in sub-paragraph (2)(a) above as a capital item.

(7) For the purposes of paragraph 2(3AA) above and this paragraph land is exempt land if, at a time falling within the period mentioned in sub-paragraph (2)(b) above—

(a) the grantor,

(b) a person responsible for financing the grantor's development of the land for exempt use, or

(c) a person connected with the grantor or with a person responsible for financing the grantor's development of the land for exempt use,

is in occupation of the land without being in occupation of it wholly or mainly for eligible purposes.

(8) For the purposes of this paragraph, but subject to sub-paragraphs (10) and (12) below, a person's occupation at any time of any land is not capable of being occupation for eligible purposes unless he is a taxable person at that time.

(9) Subject to sub-paragraphs (10) to (12) below, a taxable person in occupation of any land shall be taken for the purposes of this paragraph to be in occupation of that land for eligible purposes to the extent only that his occupation of that land is for the purpose of making supplies which—

(a) are or are to be made in the course or furtherance of a business carried on by him; and

(b) are supplies of such a description that any input tax of his which was wholly attributable to those supplies would be input tax for which he would be entitled to a credit.

(10) For the purposes of this paragraph—

(a) occupation of land by a body to which section 33 applies is occupation of the land for eligible purposes to the extent that the body occupies the land for purposes other than those of a business carried on by that body; and

(b) any occupation of land by a Government department (within the meaning of section 41) is occupation of the land for eligible purposes.

(11) For the purposes of this paragraph, where land of which any person is in occupation—

(a) is being held by that person in order to be put to use by him for particular purposes, and

(b) is not land of which he is in occupation for any other purpose,

that person shall be deemed, for so long as the conditions in paragraphs (a) and (b) above are satisfied, to be in occupation of that land for the purposes for which he proposes to use it.

(12) Sub-paragraphs (8) to (11) above shall have effect where land is in the occupation of a person who—

(a) is not a taxable person, but

(b) is a person whose supplies are treated for the purposes of this Act as supplies made by another person who is a taxable person,

as if the person in occupation of the land and that other person were a single taxable person.

(13) For the purposes of this paragraph a person shall be taken to be in occupation of any land whether he occupies it alone or together with one or more other persons and whether he occupies all of that land or only part of it.

(14) Any question for the purposes of this paragraph whether one person is connected with another shall be determined in accordance with section 839 of the Taxes Act."

(4) Subsections (2) and (3) above have effect in relation to any supply made on or after the day on which this Act is passed, other than a supply arising from a relevant pre-commencement grant.

(5) Subject to subsection (6) below, a grant is a relevant pre-commencement grant for the purposes of this section if it is either—

(a) a grant made before 26th November 1996; or

(b) a grant made on or after that date and before 30th November 1999 in pursuance of an agreement in writing entered into before 26th November 1996.

(6) For the purposes of this section a grant is not a relevant pre-commencement grant by virtue of paragraph (b) of subsection (5) above unless the terms on which the grant has been made are terms which, as terms for which provision was made by the agreement mentioned in that paragraph, were fixed before 26th November 1996.

Exempt insurance supplies

38 Exempt insurance supplies

(1) In Schedule 9 to the Value Added Tax Act 1994 (exemptions), for Group 2 (insurance) there shall be substituted the following Group—

"**GROUP 2 — INSURANCE**

Item No

1 The provision of insurance or reinsurance by a person who provides it in the course of—

(a) any insurance business which he is authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on, or

(b) any business in respect of which he is exempted under section 2 of that Act from the requirement to be so authorised.

2 The provision by an insurer or reinsurer who belongs outside the United Kingdom of—

(a) insurance against any of the risks or other things described in Schedules 1 and 2 to the Insurance Companies Act 1982, or

(b) reinsurance relating to any of those risks or other things.

3 The provision of insurance or reinsurance by the Export Credits Guarantee Department.

4 The provision by an insurance broker or insurance agent of any of the services of an insurance intermediary in a case in which those services—

(a) are related (whether or not a contract of insurance or reinsurance is finally concluded) to any such provision of insurance or reinsurance as falls, or would fall, within item 1, 2 or 3; and

(b) are provided by that broker or agent in the course of his acting in an intermediary capacity.

Notes:

(1) For the purposes of item 4 services are services of an insurance intermediary if they fall within any of the following paragraphs—

(a) the bringing together, with a view to the insurance or reinsurance of risks, of—

(i) persons who are or may be seeking insurance or reinsurance, and

(ii) persons who provide insurance or reinsurance;

(b) the carrying out of work preparatory to the conclusion of contracts of insurance or reinsurance;

(c) the provision of assistance in the administration and performance of such contracts, including the handling of claims;

(d) the collection of premiums.

(2) For the purposes of item 4 an insurance broker or insurance agent is acting "in an intermediary capacity" wherever he is acting as an intermediary, or one of the intermediaries, between—

(a) a person who provides any insurance or reinsurance the provision of which falls within item 1, 2 or 3, and

(b) a person who is or may be seeking insurance or reinsurance or is an insured person.

(3) Where—

(a) a person ("the supplier") makes a supply of goods or services to another ("the customer"),

(b) the supply of the goods or services is a taxable supply and is not a zero-rated supply,

(c) a transaction under which insurance is to be or may be arranged for the customer is entered into in connection with the supply of the goods or services,

(d) a supply of services which are related (whether or not a contract of insurance is finally concluded) to the provision of insurance in pursuance of that transaction is made by—

(i) the person by whom the supply of the goods or services is made, or

(ii) a person who is connected with that person and, in connection with the provision of that insurance, deals directly with the customer,

and

(e) the related services do not consist in the handling of claims under the contract for that insurance,

those related services do not fall within item 4 unless the relevant requirements are fulfilled.

(4) For the purposes of Note (3) the relevant requirements are—

(a) that a document containing the statements specified in Note (5) is prepared;

(b) that the matters that must be stated in the document have been disclosed to the customer at or before the time when the transaction mentioned in Note (3)(c) is entered into; and

(c) that there is compliance with all such requirements (if any) as to—

(i) the preparation and form of the document,

(ii) the manner of disclosing to the customer the matters that must be stated in the document, and

(iii) the delivery of a copy of the document to the customer,

as may be set out in a notice that has been published by the Commissioners and has not been withdrawn.

(5) The statements referred to in Note (4) are—

(a) a statement setting out the amount of the premium under any contract of insurance that is to be or may be entered into in pursuance of the transaction in question; and

(b) a statement setting out every amount that the customer is, is to be or has been required to pay, otherwise than by way of such a premium, in connection with that transaction or anything that is to be, may be or has been done in pursuance of that transaction.

(6) For the purposes of Note (3) any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act.

(7) Item 4 does not include—

(a) the supply of any market research, product design, advertising, promotional or similar services; or

(b) the collection, collation and provision of information for use in connection with market research, product design, advertising, promotional or similar activities.

(8) Item 4 does not include the supply of any valuation or inspection services.

(9) Item 4 does not include the supply of any services by loss adjusters, average adjusters, motor assessors, surveyors or other experts except where—

(a) the services consist in the handling of a claim under a contract of insurance or reinsurance;

(b) the person handling the claim is authorised when doing so to act on behalf of the insurer or reinsurer; and

(c) that person's authority so to act includes written authority to determine whether to accept or reject the claim and, where accepting it in whole or in part, to settle the amount to be paid on the claim.

(10) Item 4 does not include the supply of any services which—

(a) are supplied in pursuance of a contract of insurance or reinsurance or of any arrangements made in connection with such a contract; and

(b) are so supplied either—

(i) instead of the payment of the whole or any part of any indemnity for which the contract provides, or

(ii) for the purpose, in any other manner, of satisfying any claim under that contract, whether in whole or in part."

(2) This section has effect in relation to supplies made on or after the day on which this Act is passed.

Bad debt relief

39 Bad debt relief

(1) In section 36 of the Value Added Tax Act 1994, paragraph (b) of subsection (4) (condition of bad debt relief that property in goods supplied has passed) shall not apply in the case of any claim made under that section in relation to a supply of goods made after the day on which this Act is passed.

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

"(4A) Where—

(a) a person is entitled under subsection (2) above to be refunded an amount of VAT, and

(b) that VAT has at any time been included in the input tax of another person,

that other person shall be taken, as from the time when the claim for the refund is made, not to have been entitled to any credit for input tax in respect of the VAT that has to be refunded on that claim."

(3) Subsection (2) above has effect in relation to any entitlement under section 36 of that Act of 1994 to a refund of VAT charged on a supply made after 26th November 1996.

(4) In subsection (5) of that section (regulations), after paragraph (e) there shall be inserted the following paragraph—

"(ea) make provision, where there is a repayment by virtue of paragraph (e) above, for restoring the whole or any part of an entitlement to credit for input tax;".

(5) No claim for a refund may be made in accordance with section 22 of the Value Added Tax Act 1983 (old scheme for bad debt relief) at any time after the day on which this Act is passed.

Groups of companies

40 Groups containing bodies of different descriptions

(1) In section 43 of the Value Added Tax Act 1994 (groups of companies), after subsection (1) there shall be inserted the following subsections—

"(1AA) Where—

(a) it is material, for the purposes of any provision made by or under this Act ("the relevant provision"), whether the person by or to whom a supply is made, or the person by whom goods are acquired or imported, is a person of a particular description,

(b) paragraph (b) or (c) of subsection (1) above applies to any supply, acquisition or importation, and

(c) there is a difference that would be material for the purposes of the relevant provision between—

(i) the description applicable to the representative member, and

(ii) the description applicable to the body which (apart from this section) would be regarded for the purposes of this Act as making the supply, acquisition or importation or, as the case may be, as being the person to whom the supply is made,

the relevant provision shall have effect in relation to that supply, acquisition or importation as if the only description applicable to the representative member were the description in fact applicable to that body.

(1AB) Subsection (1AA) above does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person."

(2) In subsection (2) of that section (self supplies), at the end there shall be inserted "and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order."

(3) Subsection (1) above has effect in relation to any supply made after 26th November 1996 and in relation to any acquisition or importation taking place after that date.

41 Group supplies using an overseas member

(1) In section 43 of the Value Added Tax Act 1994 (groups of companies), after subsection (2) there shall be inserted the following subsections—

"(2A) A supply made by a member of a group ("the supplier") to another member of the group ("the UK member") shall not be disregarded under subsection (1)(a) above if—

(a) it would (if there were no group) be a supply of services falling within Schedule 5 to a person belonging in the United Kingdom;

(b) those services are not within any of the descriptions specified in Schedule 9;

(c) the supplier has been supplied (whether or not by a person belonging in the United Kingdom) with services falling within any of paragraphs 1 to 8 of Schedule 5;

(d) the supplier belonged outside the United Kingdom when it was supplied with the services mentioned in paragraph (c) above; and

(e) the services so mentioned have been used by the supplier for making the supply to the UK member.

(2B) Subject to subsection (2C) below, where a supply is excluded by virtue of subsection (2A) above from the supplies that are disregarded in pursuance of subsection (1)(a) above, all the same consequences shall follow under this Act as if that supply—

(a) were a taxable supply in the United Kingdom by the representative member to itself, and

(b) without prejudice to that, were made by the representative member in the course or furtherance of its business.

(2C) A supply which is deemed by virtue of subsection (2B) above to be a supply by the representative member to itself—

(a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;

(b) shall be deemed for the purposes of paragraph 1 of Schedule 6 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of section 839 of the Taxes Act (connected persons); and

(c) subject to paragraph (b) above, shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.

(2D) For the purposes of subsection (2A) above where—

(a) there has been a supply of the assets of a business of a person ("the transferor") to a person to whom the whole or any part of that business was transferred as a going concern ("the transferee"),

(b) that supply is either—

(i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or

(ii) a supply that would have fallen to be so treated if it had taken place in the United Kingdom,

and

(c) the transferor was supplied with services falling within paragraphs 1 to 8 of Schedule 5 at a time before the transfer when the transferor belonged outside the United Kingdom,

those services, so far as they are used by the transferee for making any supply falling within that Schedule, shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the United Kingdom.

(2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) above—

(a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and

(b) there are services falling within paragraphs 1 to 8 of Schedule 5 which, if used by the transferor for making supplies falling within that Schedule, would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the United Kingdom,

that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging outside the United Kingdom at the time of their deemed supply to him; and this subsection shall apply accordingly through any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection."

(2) Subject to subsection (3) below, subsection (1) above has effect in relation to supplies made on or after 26th November 1996.

(3) Section 43 of the Value Added Tax Act 1994 shall have effect in relation to supplies made after the day on which this Act is passed with the provisions inserted by subsection (1) above modified in accordance with subsections (4) and (5) below.

(4) In subsection (2A), in paragraph (c) for the words from "services" to the end of the paragraph there shall be substituted "any services falling within paragraphs 1 to 8 of Schedule 5 which do not fall within any of the descriptions specified in Schedule 9;".

(5) In subsection (2C), at the beginning there shall be inserted "Except in so far as the Commissioners may by regulations otherwise provide,".

Incidental and supplemental provisions etc.

42 Services subject to the reverse charge

In section 8 of the Value Added Tax Act 1994 (reverse charge on supplies falling within Schedule 5), after subsection (6) there shall be inserted the following subsections—

"(7) The power of the Treasury by order to add to or vary Schedule 5 shall include power to make such incidental, supplemental, consequential and transitional provision in connection with any addition to or variation of that Schedule as they think fit.

(8) Without prejudice to the generality of subsection (7) above, the provision that may be made under that subsection includes—

(a) provision making such modifications of section 43(2A) to (2E) as the Treasury may think fit in connection with any addition to or variation of that Schedule; and

(b) provision modifying the effect of any regulations under subsection (4) above in relation to any services added to the Schedule."

43 Payments on account: appeals

In section 28 of the Value Added Tax Act 1994 (payments on account), after subsection (2) there shall be inserted the following subsection—

"(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Commissioners under that or any other order under this section as may be specified in the order."

PART IV

PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

Value added tax

44 Liability of Commissioners to interest

(1) Section 78 of the Value Added Tax Act 1994 (interest) shall have effect, and be deemed always to have had effect, with the insertion of the following subsection after subsection (1)—

"(1A) In subsection (1) above—

(a) references to an amount which the Commissioners are liable in consequence of any matter to pay or repay to any person are references, where a claim for the payment or repayment has to be made, to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and

(b) the amounts referred to in paragraph (d) do not include any amount payable under this section."

(2) That section shall have effect in relation to any claim made on or after 18th July 1996, and shall be deemed always to have had effect in relation to such a claim, with the substitution of the following subsection for subsection (11)—

"(11) A claim under this section shall not be made more than three years after the end of the applicable period to which it relates."

(3) That section shall have effect, and be deemed always to have had effect, with the substitution of the following paragraph for paragraph (a) of subsection (12)—

"(a) references to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off (whether under section 81(3) or otherwise) of the Commissioners' liability to pay that amount; and".

(4) For subsections (8) and (9) of that section (periods in respect of which the Commissioners are not liable to interest) there shall be substituted the following subsections—

"(8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period by which the Commissioners' authorisation of the

payment of interest is delayed by the conduct of the person who claims the interest.

(8A) The reference in subsection (8) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

(a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;

(b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—

(i) at or before the time of the making of a claim, or

(ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

(c) the making, as part of or in association with either—

(i) the claim for interest, or

(ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(9) In determining for the purposes of subsection (8A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—

(a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and

(b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—

(i) that they have received a complete answer to their request for information;

(ii) that they have received all that they need in answer to that request; or

(iii) that it is unnecessary for them to be provided with any information in answer to that request."

(5) Subsection (4) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

(6) Amendments corresponding to those made by subsections (1) and (3) above shall be deemed to have had effect, for the purposes of the cases to which the enactments applied, in relation to the enactments directly or indirectly re-enacted in section 78 of the Value Added Tax Act 1994.

45 Assessment for overpayments of interest

(1) After section 78 of the Value Added Tax Act 1994 there shall be inserted the following section—

"**78A Assessment for interest overpayments**

(1) Where—

(a) any amount has been paid to any person by way of interest under section 78, but

(b) that person was not entitled to that amount under that section,

the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.

(2) An assessment made under subsection (1) above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.

(3) Where an amount has been assessed and notified to any person under subsection (1) above, that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him and may be recovered accordingly.

(4) Subsection (3) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.

(5) An assessment under subsection (1) above shall be a recovery assessment for the purposes of section 84(3A).

(6) Sections 74 and 77(6) apply in relation to assessments under subsection (1) above as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.

(7) Where by virtue of subsection (6) above any person is liable to interest under section 74—

(a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and

(b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;

and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.

(8) For the purposes of this section notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts."

(2) In section 83 of that Act (matters subject to appeal), after paragraph (s) there shall be inserted the following paragraph—

"(sa) an assessment under section 78A(1) or the amount of such an assessment;".

(3) In section 84 of that Act (further provisions as to appeals), after subsection (3) there shall be inserted the following subsection—

"(3A) An appeal against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, shall not be entertained unless—

(a) the amount notified by the assessment has been paid or deposited with the Commissioners; or

(b) on being satisfied that the appellant would otherwise suffer hardship, the Commissioners agree, or the tribunal decides, that the appeal should be entertained notwithstanding that that amount has not been so paid or deposited."

(4) Subsection (1) above shall be deemed to have come into force on 4th December 1996 in relation to amounts paid by way of interest at any time on or after 18th July 1996.

(5) Subsections (2) and (3) above shall be deemed to have come into force on 4th December 1996 in relation to assessments made on or after that date.

(6) Section 76(10) of the Value Added Tax Act 1994 (notification to representative of person who made acquisition) shall have effect, and be deemed always to have had effect, as if for "the person who made the acquisition in question" there were substituted "another".

46 Repayments of overpayments: unjust enrichment

(1) In section 80 of the Value Added Tax Act 1994, after subsection (3) (defence of unjust enrichment to claim for repayment of an overpayment) there shall be inserted the following subsections—

"(3A) Subsection (3B) below applies for the purposes of subsection (3) above where—

(a) there is an amount paid by way of VAT which (apart from subsection (3) above) would fall to be repaid under this section to any person ("the taxpayer"), and

(b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.

(3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—

(a) of whether or to what extent the repayment of an amount to the taxpayer would enrich him; or

(b) of whether or to what extent any enrichment of the taxpayer would be unjust.

(3C) In subsection (3B) above—

"the quantified amount" means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted,

for any business carried on by him, from the making of the mistaken assumptions; and

"VAT provisions" means the provisions of—

(a) any enactment, subordinate legislation or Community legislation (whether or not still in force) which relates to VAT or to any matter connected with VAT; or

(b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation."

(2) After section 80 of that Act there shall be inserted the following sections—

"**80A Arrangements for reimbursing customers**

(1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 80(3) except where the arrangements—

(a) contain such provision as may be required by the regulations; and

(b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.

(2) In this section "reimbursement arrangements" means any arrangements for the purposes of a claim under section 80 which—

(a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and

(b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.

(3) Without prejudice to the generality of subsection (1) above, the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes—

(a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;

(b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;

(c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;

(d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.

(4) Regulations under this section may impose obligations on such persons as may be specified in the regulations—

(a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c) above;

(b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d) above.

(5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.

(6) Regulations under this section may—

(a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and

(b) make different provision for different circumstances.

(7) Regulations under this section may have effect (irrespective of when the claim for repayment was made) for the purposes of the making of any repayment by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.

80B Assessments of amounts due under section 80A arrangements

(1) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of section 80A(4)(a), the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.

(2) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (1) above as they apply in the case of an assessment under section 78A(1).”

(3) In section 83 of that Act (matters subject to appeal), after paragraph (t) there shall be inserted the following paragraph—

“(ta) an assessment under section 80B(1) or the amount of such an assessment;”.

(4) Subsection (1) above has effect for the purposes of making any repayment on or after the day on which this Act is passed, even if the claim for that repayment was made before that day.

47 Repayments and assessments: time limits

(1) For subsections (4) and (5) of section 80 of the Value Added Tax Act 1994 (time limit for making claim for a repayment of an overpayment) there shall be substituted the following subsection—

“(4) The Commissioners shall not be liable, on a claim made under this section, to repay any amount paid to them more than three years before the making of the claim.”

(2) Subject to subsections (3) and (4) below, subsection (1) above shall be deemed to have come into force on 18th July 1996 as a provision applying, for the purposes of the making of any repayment on or after that date, to all claims under section 80 of the

Value Added Tax Act 1994, including claims made before that date and claims relating to payments made before that date.

(3) Subsection (4) below applies as respects the making of any repayment on or after 18th July 1996 on a claim under section 80 of the Value Added Tax Act 1994 if—

(a) legal proceedings for questioning any decision ("the disputed decision") of the Commissioners, or of an officer of the Commissioners, were brought by any person at any time before that date,

(b) a determination has been or is made in those proceedings that the disputed decision was wrong or should be set aside,

(c) the claim is one made by that person at a time after the proceedings were brought (whether before or after the making of the determination), and

(d) the claim relates to—

(i) an amount paid by that person to the Commissioners on the basis of the disputed decision, or

(ii) an amount paid by that person to the Commissioners before the relevant date (including an amount paid before the making of the disputed decision) on grounds which, in all material respects, correspond to those on which that decision was made.

(4) Where this subsection applies in the case of any claim—

(a) subsection (4) of section 80 of the Value Added Tax Act 1994 (as inserted by this section) shall not apply, and shall be taken never to have applied, in relation to so much of that claim as relates to an amount falling within subsection (3)(d)(i) or (ii) above, but

(b) the Commissioners shall not be liable on that claim, and shall be taken never to have been liable on that claim, to repay any amount so falling which was paid to them more than three years before the proceedings mentioned in subsection (3)(a) above were brought.

(5) In subsection (3)(d) above—

(a) the reference to the relevant date is a reference to whichever is the earlier of 18th July 1996 and the date of the making of the determination in question; and

(b) the reference to an amount paid on the basis of a decision, or on any grounds, includes an amount so paid on terms (however expressed) which questioned the correctness of the decision or, as the case may be, of those grounds.

(6) After the subsection (4) inserted in section 80 of the Value Added Tax Act 1994 by this section there shall be inserted the following subsections—

"(4A) Where—

(a) any amount has been paid, at any time on or after 18th July 1996, to any person by way of a repayment under this section, and

(b) the amount paid exceeded the Commissioners' repayment liability to that person at that time,

the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.

(4B) For the purposes of subsection (4A) above the Commissioners' repayment liability to a person at any time is—

(a) in a case where any provision affecting the amount which they were liable to repay to that person at that time is subsequently deemed to have been in force at that time, the amount which the Commissioners are to be treated, in accordance with that provision, as having been liable at that time to repay to that person; and

(b) in any other case, the amount which they were liable at that time to repay to that person.

(4C) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (4A) above as they apply in the case of an assessment under section 78A(1)."

(7) In section 83 of that Act (matters subject to appeal), in paragraph (t), after "80" there shall be inserted ", an assessment under subsection (4A) of that section or the amount of such an assessment".

(8) Nothing contained in—

(a) any regulations under section 25(1) of, or paragraph 2 of Schedule 11 to, that Act relating to the correction of errors or the making of adjustments, or

(b) any requirement imposed under any such regulations,

shall be taken, in relation to any time on or after 18th July 1996, to have conferred an entitlement on any person to receive, by way of repayment, any amount to which he would not have had any entitlement on a claim under section 80 of that Act.

(9) Subsections (6) to (8) above shall be deemed to have come into force on 4th December 1996.

(10) Section 77 of the Value Added Tax Act 1994 (time limits etc. for assessments) shall have effect, and be deemed in relation to any assessment made on or after 18th July 1996 to have had effect, with the substitution in subsections (1) and (4), for the words "6 years", wherever they occur, of the words "3 years".

(11) In this section—

"the Commissioners" means the Commissioners of Customs and Excise; and

"legal proceedings" means any proceedings before a court or tribunal.

(12) Without prejudice to the generality of paragraph 1(2) of Schedule 13 to the Value Added Tax Act 1994 (transitional provisions), the references in this section, and in subsection (4) of section 80 of that Act (as inserted by this section), to a claim under that section include references to a claim first made under section 24 of the Finance Act 1989 (which was re-enacted in section 80).

48 Set-off of credits and debits

(1) In section 81 of the Value Added Tax Act 1994 (which makes provision for the set-off of credits and debits), after subsection (3) there shall be inserted the following subsection—

"(3A) Where—

(a) the Commissioners are liable to pay or repay any amount to any person under this Act,

(b) that amount falls to be paid or repaid in consequence of a mistake previously made about whether or to what extent amounts were payable under this Act to or by that person, and

(c) by reason of that mistake a liability of that person to pay a sum by way of VAT, penalty, interest or surcharge was not assessed, was not enforced or was not satisfied,

any limitation on the time within which the Commissioners are entitled to take steps for recovering that sum shall be disregarded in determining whether that sum is required by subsection (3) above to be set against the amount mentioned in paragraph (a) above."

(2) Subsection (1) above shall be deemed to have come into force on 18th July 1996 as a provision applying for determining the amount of any payment or repayment by the Commissioners on or after that date, including a payment or repayment in respect of a liability arising before that date.

49 Transitional provision for set-offs etc

(1) Where—

(a) at any time before 4th December 1996, any person ("the taxpayer") became liable to pay any sum ("the relevant sum") to the Commissioners by way of VAT, penalty, interest or surcharge,

(b) at any time on or after 18th July 1996 and before 4th December 1996 an amount was set against the whole or any part of the relevant sum,

(c) the amount set against that sum was an amount which is treated under section 47 above as not having been due from the Commissioners at the time when it was set against that sum, and

(d) as a consequence, the taxpayer's liability to pay the whole or a part of the relevant sum falls to be treated as not having been discharged in accordance with section 81(3) of the 1994 Act,

the Commissioners may, to the best of their judgement, assess the amount of the continuing liability of the taxpayer and notify it to him.

(2) In subsection (1) above the reference to the continuing liability of the taxpayer is a reference to so much of the liability to pay the relevant sum as—

(a) would have been discharged if the amount mentioned in subsection (1)(b) above had been required to be set against the relevant sum in accordance with section 81(3) of the 1994 Act, but

(b) falls, by virtue of section 47 above, to be treated as not having been discharged in accordance with section 81(3) of that Act.

(3) The taxpayer's only liabilities under the 1994 Act in respect of his failure, on or after the time mentioned in subsection (1)(b) above, to pay an amount assessable under this section shall be—

(a) his liability to be assessed for that amount under this section; and

(b) liabilities arising under the following provisions of this section.

(4) Subsections (2) to (8) of section 78A of the 1994 Act apply in the case of an assessment under subsection (1) above as they apply in the case of an assessment under section 78A(1) of that Act.

(5) The 1994 Act shall have effect as if the matters specified in section 83 of that Act (matters subject to appeal) included an assessment under this section and the amount of such an assessment.

(6) Nothing contained in—

(a) any regulations under section 25(1) of, or paragraph 2 of Schedule 11 to, the 1994 Act relating to the correction of errors or the making of adjustments, or

(b) any requirement imposed under any such regulations,

shall be taken, in relation to any time on or after 18th July 1996, to have conferred on any person any entitlement, otherwise than in accordance with section 81(3) of that Act, to set any amount, as an amount due from the Commissioners, against any sum which that person was liable to pay to the Commissioners by way of VAT, penalty, interest or surcharge.

(7) In this section—

"the 1994 Act" means the Value Added Tax Act 1994; and

"the Commissioners" means the Commissioners of Customs and Excise.

(8) This section shall be deemed to have come into force on 4th December 1996.

(9) Where at any time on or after 4th December 1996 and before the day on which this Act is passed any assessment corresponding to an assessment under this section was made under a resolution of the House of Commons having effect in accordance with the provisions of the Provisional Collection of Taxes Act 1968, this section has effect, on and after the day on which this Act is passed, as if that assessment were an assessment under this section and as if any appeal brought under that resolution had been brought under this section.

Excise duties and other indirect taxes

50 Overpayments, interest, assessments, etc

(1) Schedule 5 to this Act (which makes provision in relation to excise duties, insurance premium tax and landfill tax which corresponds to that made for VAT by sections 44 to 48 above) shall have effect.

(2) Schedule 6 to this Act (which makes further provision for the assessment of amounts payable under enactments relating to excise duty) shall also have effect.

Enforcement of payment

51 Enforcement by distress

(1) The Commissioners may by regulations make provision—

(a) for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay—

(i) any amount of relevant tax due from him, or

(ii) any amount recoverable as if it were relevant tax due from him;

(b) for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations; and

(c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.

(2) The provision that may be contained in regulations under this section shall include, in particular—

(a) provision for the levying of distress, by any person authorised to do so under the regulations, on goods or chattels located at any place whatever (including on a public highway); and

(b) provision authorising distress to be levied at any such time of the day or night, and on any such day of the week, as may be specified or described in the regulations.

(3) Regulations under this section may—

(a) make different provision for different cases, and

(b) contain any such incidental, supplemental, consequential or transitional provision as the Commissioners think fit;

and the transitional provision that may be contained in regulations under this section shall include transitional provision in connection with the coming into force of the repeal by this Act of any other power by regulations to make provision for or in connection with the levying of distress.

(4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(5) The following are relevant taxes for the purposes of this section, that is to say—

(a) any duty of customs or excise, other than vehicle excise duty;

(b) value added tax;

(c) insurance premium tax;

(d) landfill tax;

(e) any agricultural levy of the European Community.

(6) In this section "the Commissioners" means the Commissioners of Customs and Excise.

(7) Regulations made under this section shall not have effect in Scotland.

52 Enforcement by diligence

(1) Where any amount of relevant tax or any amount recoverable as if it were relevant tax is due and has not been paid, the sheriff, on an application by the Commissioners accompanied by a certificate by them—

(a) stating that none of the persons specified in the application has paid the amount due from him;

(b) stating that payment of the amount due from each such person has been demanded from him; and

(c) specifying the amount due from and unpaid by each such person,

shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by any of the diligences mentioned in subsection (2) below, of the amount remaining due and unpaid.

(2) The diligences referred to in subsection (1) above are—

(a) a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
(b) an earnings arrestment;
(c) an arrestment and action of furthcoming or sale.

(3) Subject to subsection (4) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of poinding and sale) the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.

(4) No fees shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the Commissioners for, sums paid to him by the debtor in respect of the amount owing.

(5) The following are relevant taxes for the purposes of this section, that is to say—
(a) any duty of customs or excise, other than vehicle excise duty;
(b) value added tax;
(c) insurance premium tax;
(d) landfill tax;
(e) any agricultural levy of the European Community.

(6) In this section "the Commissioners" means the Commissioners of Customs and Excise.

(7) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

(8) This section extends only to Scotland.

53 Amendments consequential on sections 51 and 52

(1) In section 117 of the Customs and Excise Management Act 1979 (execution and distress against revenue traders), after subsection (4) there shall be inserted the following subsection—

"(4A) This section does not apply for the purposes of levying distress in accordance with regulations under section 51 of the Finance Act 1997 or for the purposes of any execution under section 52 of that Act by diligence."

(2) In section 11(1)(a) of the Finance Act 1994 (walking possession agreements in connection with enforcement of excise duty)—
(a) for the words from "by virtue of" to "1981" there shall be substituted "in accordance with regulations under section 51 of the Finance Act 1997 (enforcement by distress)"; and
(b) after "default')" there shall be inserted "who has refused or neglected to pay any amount of relevant duty or any amount recoverable as if it were an amount of relevant duty due from him".

(3) In section 13(6) of the Finance Act 1994 (assessment for penalties), for the words "duty of excise", in each place where they occur, there shall be substituted "relevant duty".

(4) In section 18(8) of the Finance Act 1994 (saving relating to section 18(1), (2) and (4)), for ", (2) and (4)" there shall be substituted "and (2)".

(5) In paragraph 19(1)(a) of Schedule 7 to the Finance Act 1994 (walking possession agreements in connection with enforcement of insurance premium tax), for "paragraph 7(7) above" there shall be substituted "section 51 of the Finance Act 1997 (enforcement by distress)".

(6) In section 48 of the Value Added Tax Act 1994 (VAT representatives), after subsection (7) there shall be inserted the following subsection—

"(7A) A sum required by way of security under subsection (7) above shall be deemed for the purposes of—

(a) section 51 of the Finance Act 1997 (enforcement by distress) and any regulations under that section, and

(b) section 52 of that Act (enforcement by diligence),

to be recoverable as if it were VAT due from the person who is required to provide it."

(7) In section 68(1)(a) of the Value Added Tax Act 1994 (walking possession agreements), for "paragraph 5(4) of Schedule 11" there shall be substituted "section 51 of the Finance Act 1997 (enforcement by distress)".

(8) In paragraph 24(1)(a) of Schedule 5 to the Finance Act 1996 (walking possession agreements in connection with the enforcement of landfill tax), for "paragraph 13(1) above" there shall be substituted "section 51 of the Finance Act 1997 (enforcement by distress)".

(9) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

PART V

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax charge, rates and reliefs

54 Charge and rates of income tax for 1997-98

(1) Income tax shall be charged for the year 1997-98, and for that year—

(a) the lower rate shall be 20 per cent.;

(b) the basic rate shall be 23 per cent.; and

(c) the higher rate shall be 40 per cent.

(2) For the year 1997-98 section 1(2) of the Taxes Act 1988 shall apply as if the amount specified in paragraph (aa) (the lower rate limit) were £4,100; and, accordingly, section 1(4) of that Act (indexation) shall apply for the year 1997-98 in relation only to the amount specified in section 1(2)(b) of that Act (the basic rate limit).

(3) In section 686(1A) of the Taxes Act 1988 (meaning of "the rate applicable to trusts"), for the words "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" there shall be substituted ", in relation to any year of assessment for which income tax is charged, shall be 34 per cent. or such other rate as Parliament may determine".

(4) Subsection (3) above has effect in relation to the year 1997-98 and subsequent years of assessment.

(5) Section 559(4) of the Taxes Act 1988 (deductions from payments to sub-contractors in the construction industry) shall have effect—

(a) in relation to payments made on or after 1st July 1997 and before the appointed day (within the meaning of section 139 of the Finance Act 1995), with "23 per cent." substituted for "24 per cent."; and

(b) in relation to payments made on or after that appointed day, as if the substitution for which section 139(1) of the Finance Act 1995 provided were a substitution of "the relevant percentage" for "23 per cent."

55 Modification of indexed allowances

(1) For the year 1997-98 the amounts specified in the provisions mentioned in subsection (2) below shall be taken to be as set out in that subsection; and, accordingly, section 257C(1) of the Taxes Act 1988 (indexation), so far as it relates to the amounts so specified, shall not apply for the year 1997-98.

(2) In section 257 of that Act (personal allowance)—

(a) the amount in subsection (1) (basic allowance) shall be £4,045;

(b) the amount in subsection (2) (allowance for persons aged 65 or more but not aged 75 or more) shall be £5,220; and

(c) the amount in subsection (3) (allowance for persons aged 75 or more) shall be £5,400.

56 Blind person's allowance

(1) In subsection (1) of section 265 of the Taxes Act 1988 (blind person's allowance), for "£1,250" there shall be substituted "£1,280".

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

"(1A) Section 257C (indexation) shall have effect (using the rounding up rule in subsection (1)(b) of that section) for the application of this section for the year 1998-99 and any subsequent year of assessment as it has effect for the application of sections 257 and 257A."

(3) Subsection (1) above shall apply for the year 1997-98 and, subject to subsection (2) above, for subsequent years of assessment.

57 Limit on relief for interest

For the year 1997-98 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

Corporation tax charge and rate

58 Charge and rate of corporation tax for 1997

Corporation tax shall be charged for the financial year 1997 at the rate of 33 per cent.

59 Small companies

For the financial year 1997—

(a) the small companies' rate shall be 23 per cent.; and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

Payments for wayleaves

60 Wayleaves for electricity cables, telephone lines, etc

(1) Section 120 of the Taxes Act 1988 (payments for wayleaves for electricity cables, telephone lines, etc.) shall be amended as follows.

(2) In subsection (1) (payments charged under Schedule D subject to deduction of tax)—

(a) at the beginning there shall be inserted "Subject to subsection (1A) below,"; and

(b) the words from "and, subject to" onwards (which provide for the deduction of tax) shall be omitted.

(3) After subsection (1) there shall be inserted the following subsection—

"(1A) If—

(a) the profits and gains arising to any person for any chargeable period include both rent in respect of any such easement as is mentioned in subsection (1) above and amounts which are charged to tax under Schedule A, and

(b) some or all of the land to which the easement relates is included in the land by reference to which the amounts charged under Schedule A arise,

then, for that period, that rent shall be charged to tax under Schedule A, instead of being charged under Schedule D."

(4) Subsections (2) to (4) and, in subsection (5), paragraph (c) and the word "and" immediately preceding it shall cease to have effect.

(5) This section has effect in relation to payments made on or after 6th April 1997.

Schedule E

61 Phasing out of relief for profit-related pay

(1) Chapter III of Part V of the Taxes Act 1988 (profit-related pay) shall have effect as if, in section 171(4) (£4,000 limit on relief for profit period of twelve months), for "£4,000" there were substituted—

(a) in relation to profit-related pay paid by reference to profit periods beginning on or after 1st January 1998 and before 1st January 1999, "£2,000"; and

(b) in relation to profit-related pay paid by reference to profit periods beginning on or after 1st January 1999 and before 1st January 2000, "£1,000".

(2) That Chapter shall not have effect in relation to any payment made by reference to a profit period beginning on or after 1st January 2000.

(3) Accordingly—

(a) a scheme shall not be registered under that Chapter if the only payments for which it provides are payments by reference to profit periods beginning on or after 1st January 2000; and

(b) registration under that Chapter shall end on 31st December 2000.

62 Travelling expenses etc

(1) For subsection (1) of section 198 of the Taxes Act 1988 (relief for necessary expenses) there shall be substituted the following subsections—

"(1) If the holder of an office or employment is obliged to incur and defray out of the emoluments of that office or employment—

(a) any amount necessarily expended on travelling in the performance of the duties of the office or employment,

(b) any other expenses of travelling which are not expenses of ordinary commuting but are attributable to the attendance of the holder of the office or employment at any place on an occasion when his attendance at that place is in the performance of the duties of the office or employment, or

(c) any amount not comprised in expenses falling within paragraph (a) or (b) above but expended wholly, exclusively and necessarily in the performance of the duties of the office or employment,

then (subject to subsection (1A) below) there may be deducted from the emoluments to be assessed the amount which is so incurred and defrayed.

(1A) Where—

(a) any person holding an office or employment undertakes any travelling the expenses of which fall within paragraph (a) or (b) of subsection (1) above, and

(b) in consequence of his doing so, he does not incur expenses of ordinary commuting which it is likely he would have incurred had he not undertaken that travelling,

the amount (if any) which is deductible under subsection (1) above in respect of that travelling, or in respect of expenses incurred as mentioned in paragraph (c) of that subsection in connection with that travelling, shall be reduced by the amount of the expenses of ordinary commuting that have been saved.

(1B) For the purposes of subsection (1A) above the amount of any saving on ordinary commuting shall be calculated by using the same method for the expenses of the travelling comprised in ordinary commuting as would be used in the employee's case for calculating the deductible expenses of that travelling if it were not ordinary commuting."

(2) After section 198 of that Act there shall be inserted the following section—

"**198A Interpretation of section 198**

(1) For the purposes of section 198 and this section ordinary commuting, in relation to the holder of an office or employment, is—

(a) travelling, in either direction, between a permanent workplace of his and a place mentioned in subsection (4) below (including any travel via another place so mentioned); or

(b) travelling between two places in a case where, because of the proximity of one place to another, the journey in question is, for practical purposes, the same as a journey which would constitute ordinary commuting by virtue of paragraph (a) above.

(2) For the purposes of section 198 and this section a permanent workplace, in relation to the holder of an office or employment, is any place which—

(a) he regularly attends in the performance of the duties of the office or employment and otherwise than for the purpose of performing a task of limited duration or for some other temporary purpose; and

(b) is not a place falling within subsection (4)(a) below.

(3) The holder of an office or employment who does not have a permanent workplace apart from this subsection but is a person who—

(a) in the performance of the duties of the office or employment, attends different places within a particular area, and

(b) performs his duties at places in that area because his duties (except so far as requiring his attendance at places outside that area for the purpose of carrying out tasks of limited duration or for other temporary purposes) are defined by reference to that area,

shall be deemed for the purposes of section 198 and this section to have a permanent workplace comprising the whole area.

(4) The places referred to in subsection (1) above, in relation to the holder of an office or employment, are—

(a) his home or any other place which he uses, otherwise than in the performance of the duties of that office or employment, as a permanent or temporary place of residence,

(b) any place that he is visiting for social or personal reasons and otherwise than in the performance of the duties of that office or employment,

(c) any place that he attends, otherwise than in the performance of the duties of that office or employment, for the purposes of any trade, profession or vocation carried on by him, and

(d) any place that he attends in the performance of the duties of another office or employment held by him.

(5) For the purposes of this section attendance for limited purposes at—

(a) a place which forms the base from which a person works in the performance of the duties of his office or employment, or

(b) the place at which he is allocated the tasks that he is to carry out in the performance of those duties,

shall not be taken to involve attendance at that place to perform a task of limited duration or for a temporary purpose.

(6) For the purposes of this section, where on any occasion a person attends any place in the performance of the duties of any office or employment or performs those duties within a particular area—

(a) the tasks which he carries out on that occasion at that place, or within that area, shall not be taken to be tasks of limited duration, and

(b) the purposes for which, on that occasion, he attends that place or performs duties within that area shall not be taken to be temporary purposes,

if subsection (7) below applies to the place or area as respects that occasion.

(7) This subsection applies to a place or area as respects any occasion on which a task is carried out, or duties are performed, by a person holding an office or employment if—

(a) the task is carried out, or the duties are performed—

(i) in the course of a period of continuous work at that place or within that area; or

(ii) at a time which it would be reasonable, on that occasion, to assume will be included in such a period;

and

(b) the period of continuous work is one of which more than twenty-four months has expired before that occasion or is one which it would be reasonable, on that occasion, to assume will in due course be either—

(i) a period of more than twenty-four months; or

(ii) a period comprising all or almost all of the period for which the person holding the office or employment is likely to continue to hold it after that occasion.

(8) The reference in subsection (7) above to a period of continuous work at a place or within an area is (subject to subsection (9) below) a reference to any continuous period throughout which the duties of the office or employment in question fall to be performed wholly or mainly at that place or, as the case may be, within that area.

(9) For the purposes of subsection (8) above any actual or contemplated modification of the place at which, or of the area within which, the duties of any office or employment fall to be performed shall be disregarded unless it is such that it has had, or would have, a significant effect on the expenses of any travel by the person holding the office or employment to or from the place or area where those duties fall wholly or mainly to be performed.

(10) For the purposes of this section, where a person holds any office or employment with a company, the reference in subsection (4)(d) above to another office or employment does not, in relation to that office or employment, include a reference to an office or employment with another company in the same group of companies.

(11) For the purposes of subsection (10) above two companies shall be taken to be members of the same group if, and only if, one of them is a 51 per cent. subsidiary of the other or they are both 51 per cent. subsidiaries of a third company.”

(3) In section 158 of the Taxes Act 1988 (car fuel scales), in subsection (6) at the beginning there shall be inserted "Subject to subsection (7) below,"; and after that subsection there shall be inserted the following subsection—

"(7) Subsection (6) above does not apply in the relevant year unless the employee is required to make good, and does make good, to the person providing the fuel so much of the expenses incurred by him in or in connection with the provision of fuel for business travel as, for the purposes of section 198(1A), would be taken to represent expenses of ordinary commuting which (disregarding the requirement to make good) have been saved in consequence of the business travel having been undertaken."

(4) In subsections (5) and (5A) of section 168 of the Taxes Act 1988 (meaning of business travel), for paragraph (c) there shall be substituted, in each case, the following paragraph—

"(c) "business travel", in relation to any employee, means any travelling the expenses of which, if incurred out of the emoluments of his employment, would be deductible under section 198;".

(5) This section has effect for the year 1998-99 and subsequent years of assessment.

63 Work-related training

(1) After section 200A of the Taxes Act 1988 there shall be inserted the following sections—

"**200B Work-related training provided by employers**

(1) This section applies for the purposes of Schedule E where any person ("the employer") incurs expenditure on providing work-related training for a person ("the employee") who holds an office or employment under him.

(2) Subject to section 200C, the emoluments of the employee from the office or employment shall not be taken to include—

(a) any amount in respect of that expenditure; or

(b) any amount in respect of the benefit of the work-related training provided by means of that expenditure.

(3) For the purposes of this section the employer shall be taken to incur expenditure on the provision of work-related training in so far only as he incurs expenditure in paying or reimbursing—

(a) the cost of providing any such training to the employee; or

(b) any related costs.

(4) In subsection (3) above "related costs", in relation to any work-related training provided to the employee, means—

(a) any costs which are incidental to the employee's undertaking the training and are incurred wholly and exclusively as a result of his doing so;

(b) any expenses incurred in connection with an assessment (whether by examination or otherwise) of what the employee has gained from the training; and

(c) the cost of obtaining for the employee any qualification, registration or award to which he has or may become entitled as a result of undertaking the training or of undergoing such an assessment.

(5) In this section "work-related training" means any training course or other activity which is designed to impart, instill, improve or reinforce any knowledge, skills or personal qualities which—

(a) is or, as the case may be, are likely to prove useful to the employee when performing the duties of any relevant employment; or

(b) will qualify him, or better qualify him—

(i) to undertake any relevant employment; or

(ii) to participate in any charitable or voluntary activities that are available to be undertaken in association with any relevant employment.

(6) In this section "relevant employment", in relation to the employee, means—

(a) any office or employment which he holds under the employer or which he is to hold under the employer or a person connected with the employer;

(b) any office or employment under the employer or such a person to which he has a serious opportunity of being appointed; or

(c) any office or employment under the employer or such a person as respects which he can realistically expect to have such an opportunity in due course.

(7) Section 839 (meaning of "connected person") applies for the purposes of this section.

200C Expenditure excluded from section 200B

(1) Section 200B shall not apply in the case of any expenditure to the extent that it is incurred in paying or reimbursing the cost of any facilities or other benefits provided or made available to the employee for one or more of the following purposes, that is to say—

(a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b);

(b) rewarding the employee for the performance of the duties of his office or employment under the employer, or for the manner in which he has performed them;

(c) providing the employee with an employment inducement which is unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b).

(2) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that those expenses would be deductible under section 198 if the employee—

(a) undertook the training in question in the performance of the duties of his office or employment under the employer; and

(b) incurred those expenses out of the emoluments of that office or employment.

(3) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing the cost of providing the employee with, or with the use of, any asset except where—

(a) the asset is provided or made available for use only in the course of the training;

(b) the asset is provided or made available for use in the course of the training and in the performance of the duties of the employee's office or employment but not for any other use;

(c) the asset consists in training materials provided in the course of the training; or

(d) the asset consists in something made by the employee in the course of the training or incorporated into something so made.

(4) Section 200B shall apply in the case of expenditure in connection with anything that is a qualifying course of training for the purposes of section 588 to the extent only that section 588(1) does not have effect.

(5) Section 200B shall not apply in the case of any expenditure incurred in enabling the employee to meet, or in reimbursing him for, any payment in respect of which there is an entitlement to relief under section 32 of the Finance Act 1991 (vocational training).

(6) In subsection (1) above the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of any leisure activity.

(7) In this section—

"employment inducement", in relation to the employee, means an inducement to remain in, or to accept, any office or employment with the employer or a person connected with the employer;

"subsistence" includes food and drink and temporary living accommodation; and

"training materials" means stationery, books or other written material, audio or video tapes, compact disks or floppy disks.

(8) Section 839 (meaning of "connected person") applies for the purposes of this section.

200D Other work-related training

(1) For the purposes of Schedule E, where—

(a) any person ("the employee") who holds an office or employment under another ("the employer") is provided by reason of that office or employment with any benefit,

(b) that benefit consists in any work-related training or is provided in connection with any such training, and

(c) the amount which (apart from this section and sections 200B and 200C) would be included in respect of that benefit in the emoluments of the employee ("the chargeable amount") is or includes an amount that does not represent expenditure incurred by the employer,

the questions whether and to what extent those emoluments shall in fact be taken to include an amount in respect of that benefit shall be determined in accordance with those sections as if the benefit had been provided by means of a payment by the employer of an amount equal to the whole of the chargeable amount.

(2) In this section "work-related training" has the same meaning as in section 200B."

(2) In section 200A(3)(b) of that Act (definition of a qualifying absence from home), the word "either" before sub-paragraph (i) shall be omitted and, at the end of sub-paragraph (ii), there shall be inserted "or

(iii) expenses the amount of which, having been paid or reimbursed by the person under whom he holds that office or employment, is excluded from his emoluments in pursuance of section 200B, or

(iv) expenses the amount of which would be so excluded if it were so paid or reimbursed."

(3) This section applies for the year 1997-98 and subsequent years of assessment.

Relieved expenditure, losses etc.

64 Postponed company donations to charity

(1) In section 339 of the Taxes Act 1988 (company donations to charity), after subsection (7) there shall be inserted the following subsections—

"(7AA) Where—

(a) a covenanted donation to a charity is made by a company which is wholly owned by a charity,

(b) the requirements of subsection (7) above for that donation to be regarded as a charge on income are satisfied,

(c) the disposition or covenant under which the donation is made required it to be made in an accounting period of the company which ended before the time when it is in fact made, and

(d) the donation is made within nine months of the end of that period,

the donation shall be deemed for the purposes of section 338 to be a charge on income paid in the accounting period in which it was required to be made, and not in any later period.

(7AB) For the purposes of this section a company is wholly owned by a charity if it is either—

(a) a company with an ordinary share capital every part of which is owned by a charity (whether or not the same charity); or

(b) a company limited by guarantee in whose case every person who—

(i) is beneficially entitled to participate in the divisible profits of the company, or

(ii) will be beneficially entitled to share in any net assets of the company available for distribution on its winding up,

is or must be a charity or a company wholly owned by a charity.

(7AC) For the purposes of subsection (7AB) above ordinary share capital of a company shall be taken to be owned by a charity if there is a charity which—

(a) within the meaning of section 838 directly or indirectly owns that share capital; or

(b) would be taken so to own that share capital if references in that section to a body corporate included references to a charity which is not a body corporate."

(2) This section has effect in relation to donations made in accounting periods beginning on or after 1st April 1997.

65 National Insurance contributions

(1) Section 617 of the Taxes Act 1988 (social security benefits and contributions) shall be amended as follows.

(2) In subsection (3) (which provides that, subject to subsection (4) and (5), no relief or deduction shall be given in respect of National Insurance contributions) the words "and (5)" shall be omitted in consequence of the repeal of subsection (5) by section 147 of the Finance Act 1996.

(3) For subsection (4) (exception from subsection (3) for secondary Class 1 contributions which are allowable as a deduction in certain computations) there shall be substituted—

"(4) Subsection (3) above shall not apply to a contribution if it is a secondary Class 1 contribution or Class 1A contribution (within the meaning of Part I of either of those Acts) and is allowable—

(a) as a deduction in computing profits or gains;

(b) as expenses of management deductible under section 75 or under that section as applied by section 76;

(c) as expenses of management or supervision deductible under section 121;

(d) as a deduction under section 198 from the emoluments of an office or employment; or

(e) as a deduction under section 332(3)(a) from the profits, fees or emoluments of the profession or vocation of a clergyman or minister of any religious denomination."

(4) Subsection (2) above has effect in relation to the year 1996-97 and subsequent years of assessment.

(5) Subsection (3) above has effect in relation to contributions paid on or after 26th November 1996.

66 Expenditure on production wells etc

(1) After section 91B of the Taxes Act 1988 there shall be inserted the following section—

"**91C Mineral exploration and access**

Where—

(a) a person carrying on a trade incurs expenditure on mineral exploration and access as defined in section 121(1) of the Capital Allowances Act 1990 in an area or group of sands in which the presence of mineral deposits in commercial quantities has already been established, and

(b) if the presence in that area or group of sands of mineral deposits in commercial quantities had not already been established, that expenditure would not have been allowed to be deducted in computing the profits or gains of the trade for the purposes of tax,

that expenditure shall not be so deducted."

(2) In section 115 of the Capital Allowances Act 1990 (certain expenditure on purchased assets treated as expenditure on mineral exploration and access if attributable to previous trader's expenditure on mineral exploration and access), after subsection (2) there shall be inserted the following subsection—

"(2A) Expenditure incurred by the previous trader which is or has been deducted in computing, for the purposes of tax, the profits or gains of a trade carried on by him shall not be treated as expenditure on mineral exploration and access for the purposes of subsection (1)(b)."

(3) Subsection (1) above applies to expenditure which—

(a) is incurred on or after 26th November 1996; but

(b) is not incurred before 26th November 1997 in pursuance of a contract entered into before 26th November 1996.

(4) The reference in subsection (3) above to expenditure incurred in pursuance of a contract entered into before 26th November 1996 does not, in the case of a contract varied on or after that date, include a reference to so much of any expenditure of the sort described in section 91C of the Taxes Act 1988 as exceeds the amount of expenditure of that sort that would have been incurred if that contract had not been so varied.

(5) Subsection (2) above applies in relation to claims made on or after 26th November 1996.

67 Annuity business of insurance companies

(1) In section 437 of the Taxes Act 1988 (extent to which payments in respect of new annuities are to be treated as charges on income), for subsections (1A) and (1B) there shall be substituted the following subsection—

"(1A) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the profits for any accounting period of a company's life assurance business, new annuities paid by the company in that period shall be brought into account by treating an amount equal to the income limit for that period as a sum disbursed as expenses of management of the company for that period."

(2) In subsection (1C) of that section (interpretation of section), after "this section" there shall be inserted "(but subject to subsections (1CA) to (1CD) below)"; and after that subsection there shall be inserted the following subsections—

"(1CA) Where a new annuity ("the actual annuity") is a steep-reduction annuity, the income limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

(a) the contract providing for the actual annuity provided instead for the annuities identified by subsections (1CB) and (1CC) below; and

(b) the consideration for each of those annuities were to be determined by the making of a just and reasonable apportionment of the consideration for the actual annuity.

(1CB) The annuities mentioned in subsection (1CA)(a) above are—

(a) an annuity the payments in respect of which are confined to the payments in respect of the actual annuity that fall to be made before the earliest time for the making in respect of the actual annuity of a reduced payment such as is mentioned in section 437A(1)(c); and

(b) subject to subsection (1CC) below, an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a) above.

(1CC) Where an annuity identified by paragraph (b) of subsection (1CB) above ("the later annuity") would itself be a steep-reduction annuity, the annuities mentioned in subsection (1CA)(a) above—

(a) shall not include the later annuity; but

(b) shall include, instead, the annuities which would be identified by subsection (1CB) above (with as many further applications of this subsection as may be necessary for securing that none of the annuities mentioned in subsection (1CA)(a) above is a steep-reduction annuity) if references in that subsection to the actual annuity were references to the later annuity.

(1CD) Subsections (1CA) to (1CC) above shall be construed in accordance with section 437A."

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

"**437A Meaning of "steep-reduction annuity" etc**

(1) For the purposes of section 437 an annuity is a steep-reduction annuity if—

(a) the amount of any payment in respect of the annuity (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives;

(b) the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and

(c) those payments include a payment ("a reduced payment") of an amount which is substantially smaller than the amount of at least one of the earlier payments in respect of that annuity to which the annuitant is entitled.

(2) Where there are different intervals between payments to which an annuitant is entitled in respect of any annuity, the question whether or not the conditions in subsection (1)(b) and (c) above are satisfied in the case of that annuity shall be determined by assuming—

(a) that the annuitant's entitlement, after the first payment, to payments in respect of that annuity is an entitlement to payments at yearly intervals on the anniversary of the first payment; and

(b) that the amount to which the annuitant is assumed to be entitled on each such anniversary is equal to the annuitant's assumed entitlement for the year ending with that anniversary.

(3) For the purposes of subsection (2) above an annuitant's assumed entitlement for any year shall be determined as follows—

(a) the annuitant's entitlement to each payment in respect of the annuity shall be taken to accrue at a constant rate during the interval between the previous payment and that payment; and

(b) his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.

(4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.

(5) Where—

(a) any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—

(i) is substantially smaller than the amount of, or

(ii) accrues at a rate substantially less than,

an earlier payment in respect of that annuity, and

(b) the annuitant or, as the case may be, every annuitant is an individual who is beneficially entitled to all the rights conferred on him as such an annuitant,

that question shall be determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of the occurrence of a death.

(6) Where the amount of any one or more of the payments to which an annuitant is entitled in respect of an annuity depends on any contingency, his entitlement to payments in respect of that annuity shall be determined for the purposes of section 437(1CA) to (1CC) and this section according to whatever (applying any relevant actuarial principles) is the most likely outcome in relation to that contingency.

(7) Where any agreement or arrangement has effect for varying the rights of an annuitant in relation to a payment in respect of any annuity, that payment shall be taken, for the purposes of section 437(1CA) to (1CC) and this section, to be a payment of the amount to which the annuitant is entitled in accordance with that agreement or arrangement.

(8) References in this section to a contingency include references to a contingency that consists wholly or partly in the exercise by any person of any option."

(4) Section 434B(2) of that Act (treatment of annuities paid by an insurance company) shall cease to have effect and accordingly—

(a) in section 76(2A)(b) of that Act (limit on expenses of management of insurance companies), the word "and" shall be inserted at the end of

sub-paragraph (ii), and sub-paragraph (iv) (together with the word "and" immediately preceding it) shall be omitted; and

(b) in section 337(2B) of that Act, for "the references in sections 338(2) and 434B(2)" there shall be substituted "the reference in section 338(2)".

(5) In paragraph 9B of Schedule 19AC to that Act (subsection (3) inserted in section 434B in relation to overseas life insurance companies), for the words from the beginning to "An" there shall be substituted—

"9B The following section shall be treated as inserted after section 434A—

"**434AA Treatment of annuities**

An"."

(6) In sub-paragraph (1) of paragraph 16 of Schedule 7 to the Finance Act 1991 (which makes transitional provision for annuities under contracts made in accounting periods beginning before 1st January 1992), for the words before paragraph (a) there shall be substituted—

"(1) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the profits for any accounting period of an insurance company's life assurance business, an amount equal to the lesser of the following amounts shall be treated (if it is not nil) as a sum disbursed as expenses of management of the company for that period, that is to say—".

(7) Subsections (1) and (4) to (6) above have effect in relation to accounting periods beginning after 5th March 1997.

(8) Subsections (2) and (3) above have effect in relation to accounting periods ending on or after 5th March 1997 but do not affect the computation of the capital elements contained in any annuity payments made before that date.

68 Consortium claims for group relief

In section 410 of the Taxes Act 1988 (group relief not available in certain cases including those where a person, either alone or with connected persons, controls 75% or more of the voting rights in a company owned by a consortium), in the definition of "connected persons" in subsection (5) after "in accordance with section 839" there shall be inserted "but as if subsection (7) of that section (persons acting together to control a company are connected) were omitted".

Distributions etc.

69 Special treatment for certain distributions

Schedule 7 to this Act (which makes provision for the treatment of distributions arising on the purchase etc. by a company of its own shares and for cases where a distribution has a connection with a transaction in securities) shall have effect.

70 Distributions of exempt funds

(1) In subsection (5) of section 236 of the Taxes Act 1988 (meaning of "relevant profits") —

(a) in paragraph (a), after "franked investment income" there shall be inserted "and foreign income dividends"; and

(b) in paragraph (b), for "and franked investment income" there shall be substituted ", franked investment income and foreign income dividends".

(2) After subsection (7) of that section there shall be inserted the following subsection—

"(8) In this section "foreign income dividends" shall be construed in accordance with Chapter VA of Part VI."

(3) This section has effect (subject to subsection (4) below) for the purposes of computing the relevant profits (within the meaning of section 236 of the Taxes Act 1988) arising to a company in any period falling wholly or partly after 7th October 1996.

(4) No foreign income dividend paid before 8th October 1996 shall be included or, as the case may be, excluded by virtue of this section from any such profits as are mentioned in subsection (3) above.

71 Set-off against franked investment income

Section 242 of the Taxes Act 1988 (set-off of losses against surplus franked investment income) shall have effect, and be deemed always to have had effect, as if at the end of paragraph (c) of subsection (6) (power to carry set-off forward) there were inserted "and

(d) in relation to relief given in respect of amounts available to be set against profits under section 83 of the Finance Act 1996 or paragraph 4 of Schedule 11 to that Act or under section 131(4) of the Finance Act 1993 (which are provisions relating to deficits on loan relationships, foreign exchange losses and losses on certain financial instruments);".

72 FIDs paid to unauthorised unit trusts

(1) In section 246D(5) of the Taxes Act 1988 (section 233(1) and (1A) of that Act not to apply to FIDs paid to individuals, personal representatives or certain trustees), after "representatives" there shall be inserted ", a foreign income dividend paid to the trustees of a unit trust scheme to which section 469 applies".

(2) This section has effect in relation to distributions made on or after 26th November 1996.

73 Tax advantages to include tax credits

(1) In section 709 of the Taxes Act 1988 (meaning of "tax advantage" etc. in Chapter I of Part XVII of that Act), after subsection (2) there shall be inserted the following subsection—

"(2A) In this Chapter references to a relief and to a repayment of tax include, respectively, references to a tax credit and to a payment of any amount in respect of a tax credit."

(2) This section—

(a) has effect for the purposes of the application of provisions of Chapter I of Part XVII of the Taxes Act 1988 in relation to chargeable periods ending at any time, including times before the passing of this Act, but

(b) without prejudice to the construction of that Chapter apart from this section, does not apply in the case of a tax credit in respect of a distribution made before 8th October 1996.

Investments etc.

74 Enterprise investment scheme

Schedule 8 to this Act (which amends the provisions in Chapter III of Part VII of the Taxes Act 1988 about the companies which are qualifying companies for the purposes of the enterprise investment scheme and makes related amendments to that Chapter) shall have effect.

75 Venture capital trusts

(1) Section 842AA of the Taxes Act 1988 (venture capital trusts) shall have effect, and be deemed always to have had effect, with the following subsections inserted after subsection (5)—

"(5A) Subsection (5B) below applies where—

(a) there has been an issue of ordinary share capital of a company ("the first issue"),

(b) an approval of that company for the purposes of this section has taken effect on or before the day of the making of the first issue, and

(c) a further issue of ordinary share capital of that company has been made since the making of the first issue.

(5B) Where this subsection applies, the use to which the money raised by the further issue is put, and the use of any money deriving from that use, shall be disregarded in determining whether any of the conditions specified in subsection (2)(b) and (c) above are, have been or will be fulfilled in relation to—

(a) the accounting period in which the further issue is made; or

(b) any later accounting period ending no more than three years after the making of the further issue."

(2) Subsection (6) of that section (withdrawal of approval) shall have effect, and be deemed always to have had effect, with the insertion of the following paragraph before the word "or" at the end of paragraph (c)—

"(ca) in a case where the use of any money falls to be disregarded for any accounting period in accordance with subsection (5B) above—

(i) that the first accounting period of the company for which the use of that money will not be disregarded will be a period in relation to which a condition specified in subsection (2) above will fail to be fulfilled; or

(ii) that the company has not fulfilled such other conditions as may be prescribed by regulations made by the Board in

relation to, or to any part of, an accounting period for which the use of that money falls to be disregarded;".

(3) Schedule 9 to this Act (which amends the provisions of Schedule 28B to the Taxes Act 1988 defining "qualifying holdings") shall have effect.

76 Stock lending and manufactured payments

Schedule 10 to this Act (which makes provision for the treatment for the purposes of income tax, corporation tax and capital gains tax of stock lending arrangements and manufactured payments) shall have effect.

77 Bond washing and repos

(1) After subsection (2A) of section 731 of the Taxes Act 1988 (disapplication of bond washing rules where buyer has to make manufactured payment) there shall be inserted the following subsections—

"(2B) Subject to subsection (2E) below, where there is a repo agreement in relation to any securities—

(a) neither—

(i) the purchase of the securities by the interim holder from the original owner, nor

(ii) the repurchase of the securities by the original owner,

shall be a purchase of those securities for the purposes of subsection (2) above; and

(b) neither—

(i) the sale of the securities by the original owner to the interim holder, nor

(ii) the sale by the interim holder under which the securities are bought back by the original owner,

shall be taken for the purposes of subsection (2) above to be a subsequent sale of securities previously purchased by the seller.

(2C) Accordingly, where there is a repo agreement, the securities repurchased by the original owner shall be treated for the purposes of subsection (2) above (to the extent that that would not otherwise be the case) as if they were the same as, and were purchased by the original owner at the same time as, the securities sold by him to the interim holder.

(2D) For the purposes of subsections (2B) and (2C) above there is a repo agreement in relation to any securities if there is an agreement in pursuance of which a person ("the original owner") sells the securities to another ("the interim holder") and, in pursuance of that agreement or a related agreement, the original owner—

(a) is required to buy back the securities;

(b) will be required to buy them back on the exercise by the interim holder of an option conferred by the agreement or related agreement; or

(c) is entitled, in pursuance of any obligation arising on a person's becoming entitled to receive an amount in respect of the redemption of those securities, to receive from the interim holder an amount equal to the amount of the entitlement.

(2E) Subsections (2B) and (2C) above do not apply if—

(a) the agreement or agreements under which the arrangements are made for the sale and repurchase of the securities are not such as would be entered into by persons dealing with each other at arm's length; or

(b) any of the benefits or risks arising from fluctuations, before the securities are repurchased, in the market value of the securities in question accrues to or falls on the interim holder.

(2F) Section 730B applies for the purposes of subsections (2B) to (2E) above as it applies for the purposes of section 730A."

(2) This section applies in relation to cases in which the interest becomes payable on or after the day on which this Act is passed.

78 National Savings Bank interest

(1) In section 349(3) of the Taxes Act 1988 (cases where yearly interest may be paid without deduction of tax), after paragraph (b) there shall be inserted the following paragraph—

"(ba) to interest paid on deposits with the National Savings Bank; or".

(2) This section applies to interest whenever paid (including interest paid before the day on which this Act is passed).

79 Payments under certain life insurance policies

(1) In this section "relevant excepted benefit" means so much of any qualifying payment under a relevant life insurance policy as—

(a) is a sum falling, but for this section, to be treated for the purposes of the Tax Acts as an amount of interest or as an annual payment;

(b) is not a sum paid or falling to be paid by virtue of provisions of that policy which, taken alone, would constitute a different sort of policy; and

(c) does not represent interest for late payment on—

(i) any other part of that qualifying payment, or

(ii) the whole or any part of any other qualifying payment under the policy.

(2) For the purposes of subsection (1)(c) above, interest on the whole or any part of a qualifying payment under a policy ("the relevant amount") is interest for late payment if it is interest for a period beginning on or after the date of the occurrence of the event or contingency as a result of the occurrence of which the relevant amount falls to be paid.

(3) The Tax Acts shall have effect, and be deemed always to have had effect, as if—

(a) a relevant excepted benefit were neither an amount of interest nor an annual payment;

(b) the payments which are relevant capital payments for the purposes of section 541 of the Taxes Act 1988 (computation of gain in the case of life policies) included the payment of a relevant excepted benefit;

(c) on the payment of a relevant excepted benefit there were a surrender—

(i) except in a case falling within sub-paragraph (ii) below, of a part of the rights conferred by the policy in question; and

(ii) in a case where the payment of the benefit (or of that benefit together with any interest falling within subsection (1)(c) above) comprises the whole of the last payment to be made under the policy, of all of the remaining rights so conferred;

and

(d) the value of the part or rights treated as surrendered on the payment of a relevant excepted benefit were equal to the amount of the payment.

(4) For the purposes of this section a qualifying payment under a relevant life insurance policy is any amount which has been or is to be paid under that policy by the insurer.

(5) In this section "relevant life insurance policy" means any contract of insurance (whenever effected) which—

(a) is of a description applying to contracts the effecting and carrying out of which falls within Class I or III of the classes of long term business specified in Schedule 1 to the Insurance Companies Act 1982; and

(b) is neither—

(i) an annuity contract, nor

(ii) a contract effected in the course of a company's pension business (within the meaning given by section 431B of the Taxes Act 1988 or the corresponding enactment in force when the contract was effected).

(6) In subsection (1)(b) above, the reference to a different sort of policy is a reference to any contract of a description applying to contracts the effecting and carrying out of which falls within any class of business specified in Schedule 1 or 2 to the Insurance Companies Act 1982 other than the Classes I and III specified in Schedule 1.

(7) This section shall be deemed to have had effect, for the purposes of the cases to which the enactments applied, in relation to enactments directly or indirectly re-enacted in the Tax Acts, as it has effect in relation to those Acts.

(8) For the purposes of subsection (7) above the reference in subsection (3)(b) above to section 541 of the Taxes Act 1988 shall be taken to include a reference to any corresponding provision contained in the enactments directly or indirectly re-enacted in the Tax Acts.

80 Futures and options: transactions with guaranteed returns

(1) After section 127 of the Taxes Act 1988 there shall be inserted the following section—

"**127A Futures and options: transactions with guaranteed returns**

Schedule 5AA (which makes provision for the taxation of the profits and gains arising from transactions in futures and options that are designed to produce guaranteed returns) shall have effect."

(2) After Schedule 5 to that Act there shall be inserted, as Schedule 5AA to that Act, the Schedule set out in Schedule 11 to this Act.

(3) In section 128 of that Act (profits arising from commodity and financial futures etc. to be taxed only under the provisions relating to chargeable gains)—

(a) after the word "which", where it first occurs, there shall be inserted "is not chargeable to tax in accordance with Schedule 5AA and"; and

(b) for "that Schedule" there shall be substituted "Schedule D".

(4) In section 399 of that Act (withdrawal of loss relief for losses from dealing in futures etc.), after subsection (1) there shall be inserted the following subsection—

"(1A) Subsection (1) above does not apply to a loss arising from a transaction to which Schedule 5AA applies."

(5) In section 469(9) of that Act (sections 686 and 687 disapplied in relation to unauthorised unit trusts), at the end there shall inserted "except as respects income to which section 686 is treated as applying by virtue of paragraph 7 of Schedule 5AA."

(6) Subject to subsection (7) below, this section and Schedule 11 to this Act shall have effect, and be deemed to have had effect, for chargeable periods ending on or after 5th March 1997 in relation to profits and gains realised, and losses sustained, on or after that date.

(7) In relation to profits and gains realised, and losses sustained, on or after 5th March 1997, paragraph 1(6) and (7) of the Schedule 5AA to the Taxes Act 1988 (rule against double counting) inserted by this section shall be deemed to have had effect for chargeable periods beginning before that date (as well as for those beginning on or after that date).

Transfer of assets abroad

81 Transfer of assets abroad

(1) After section 739(1) of the Taxes Act 1988 (prevention of avoidance of income tax by means of transfer of assets with or without associated operations) there shall be inserted the following subsection—

"(1A) Nothing in subsection (1) above shall be taken to imply that the provisions of subsections (2) and (3) below apply only if—

(a) the individual in question was ordinarily resident in the United Kingdom at the time when the transfer was made; or

(b) the avoiding of liability to income tax is the purpose, or one of the purposes, for which the transfer was effected."

(2) This section applies irrespective of when the transfer or associated operations took place, but applies only to income arising on or after 26th November 1996.

Leasing and loan arrangements

82 Finance leases and loans

Schedule 12 to this Act (which makes provision about arrangements such as are treated for certain accounting purposes as finance leases or loans) shall have effect.

83 Loan relationships: transitions

(1) Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be amended as follows.

(2) In subsection (5) of section 90 (changes in accounting methods), before the word "and" at the end of paragraph (a) there shall be inserted the following paragraph—

"(aa) the relationship is one to which the company in question is still a party at the end of the period or part of a period for which the accruals basis of accounting is used,".

(3) In that subsection for the words after paragraph (b) there shall be substituted—

"that amount shall be computed using for the closing value as at the end of that period or part of a period the amount specified in subsection (6) below."

(4) For subsection (6) of that section (amounts used for computations under subsection (5)) there shall be substituted the following subsection—

"(6) That amount is—

(a) in a case to which subsection (3) above applies, the amount taken for the purposes of subsection (3)(a)(ii) above to be the closing value as at the end of the period for which the accruals basis of accounting is used; and

(b) in a case to which subsection (2) above applies, the amount which, without the making of the assumptions mentioned in subsection (4) above, would be taken to be the closing value as at the end of the part of the period for which that basis is used."

(5) Subsections (2) to (4) above apply where the period or part of a period for which the superseded accounting method is or was used is a period ending on or after 14th November 1996.

(6) Schedule 13 to this Act (which contains amendments of the transitional provisions in Schedule 15 to the Finance Act 1996) shall have effect.

Capital allowances

84 Writing-down allowances on long-life assets

Schedule 14 to this Act (which reduces the rate at which expenditure on long-life assets is written down for the purposes of writing-down allowances) shall have effect.

85 Schedule A cases etc

Schedule 15 to this Act (which makes provision in relation to capital allowances for cases where persons have income chargeable to tax under Schedule A or make lettings of furnished holiday accommodation in the United Kingdom) shall have effect.

86 Capital allowances on fixtures

Schedule 16 to this Act (which makes amendments relating to the provisions of the Capital Allowances Act 1990 about fixtures) shall have effect.

Chargeable gains

87 Re-investment relief

Schedule 17 to this Act (which amends Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.

88 Conversion of securities: QCBs and debentures

(1) The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) In paragraph (a) of subsection (3) of section 132 (meaning of conversion of securities) —

(a) after "includes" there shall be inserted "any of the following, whether effected by a transaction or occurring in consequence of the operation of the terms of any security or of any debenture which is not a security, that is to say";

(b) after sub-paragraph (i) there shall be inserted the following sub-paragraphs—

"(ia) a conversion of a security which is not a qualifying corporate bond into a security of the same company which is such a bond, and

(ib) a conversion of a qualifying corporate bond into a security which is a security of the same company but is not such a bond, and".

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

"(4) In subsection (3)(a)(ia) above the reference to the conversion of a security of a company into a qualifying corporate bond includes a reference to—

(a) any such conversion of a debenture of that company that is deemed to be a security for the purposes of section 251 as produces a security of that company which is a qualifying corporate bond; and

(b) any such conversion of a security of that company, or of a debenture that is deemed to be a security for those purposes, as produces a debenture of that company which, when deemed to be a security for those purposes, is such a bond.

(5) In subsection (3)(a)(ib) above the reference to the conversion of a qualifying corporate bond into a security of the same company which is not such a bond includes a reference to any conversion of a qualifying corporate bond which produces a debenture which—

(a) is not a security; and

(b) when deemed to be a security for the purposes of section 251, is not such a bond."

(4) In section 116(2) (qualifying corporate bonds), after the word "section", in the first place where it occurs, there shall be inserted "references to a transaction include references to any conversion of securities (whether or not effected by a transaction) within the meaning of section 132 and".

(5) In section 251(6) (deemed securities), after paragraph (d) there shall be inserted—

"and any debenture which results from a conversion of securities within the meaning of section 132, or is issued in pursuance of rights attached to such a

debenture, shall be deemed for the purposes of this section to be a security (as defined in that section)."

(6) This section has effect for the purposes of the application of the Taxation of Chargeable Gains Act 1992 in relation to any disposal on or after 26th November 1996 and shall so have effect, where a conversion took place at a time before that date, as if it had come into force before that time.

89 Earn-out rights

(1) After section 138 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**138A Use of earn-out rights for exchange of securities**

(1) For the purposes of this section an earn-out right is so much of any right conferred on any person ("the seller") as—

(a) constitutes the whole or any part of the consideration for the transfer by him of shares in or debentures of a company ("the old securities");

(b) consists in a right to be issued with shares in or debentures of another company ("the new company");

(c) is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the new securities") is unascertainable at the time when the right is conferred; and

(d) is not capable of being discharged in accordance with its terms otherwise than by the issue of the new securities.

(2) Where—

(a) there is an earn-out right,

(b) the exchange of the old securities for the earn-out right is an exchange to which section 135 would apply, in a manner unaffected by section 137, if the earn-out right were an ascertainable amount of shares in or debentures of the new company, and

(c) the seller elects under this section for the earn-out right to be treated as a security of the new company,

this Act shall have effect, in the case of the seller and every other person who from time to time has the earn-out right, in accordance with the assumptions specified in subsection (3) below.

(3) Those assumptions are—

(a) that the earn-out right is a security within the definition in section 132;

(b) that the security consisting in the earn-out right is a security of the new company and is incapable of being a qualifying corporate bond for the purposes of this Act;

(c) that references in this Act (including those in this section) to a debenture include references to a right that is assumed to be a security in accordance with paragraph (a) above; and

(d) that the issue of shares or debentures in pursuance of such a right constitutes the conversion of the right, in so far as it is discharged by the issue, into the shares or debentures that are issued.

(4) For the purposes of this section where—

(a) any right which is assumed, in accordance with this section, to be a security of a company ("the old right") is extinguished,

(b) the whole of the consideration for the extinguishment of the old right consists in another right ("the new right") to be issued with shares in or debentures of that company,

(c) the new right is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the replacement securities") is unascertainable at the time when the old right is extinguished,

(d) the new right is not capable of being discharged in accordance with its terms otherwise than by the issue of the replacement securities, and

(e) the person on whom the new right is conferred elects under this section for it to be treated as a security of that company,

the assumptions specified in subsection (3) above shall have effect in relation to the new right, in the case of that person and every other person who from time to time has the new right, as they had effect in relation to the old right.

(5) An election under this section in respect of any right must be made, by a notice given to an officer of the Board—

(a) in the case of an election by a company within the charge to corporation tax, within the period of two years from the end of the accounting period in which the right is conferred; and

(b) in any other case, on or before the first anniversary of the 31st January next following the year of assessment in which that right is conferred.

(6) An election under this section shall be irrevocable.

(7) Subject to subsections (8) to (10) below, where any right to be issued with shares in or debentures of a company is conferred on any person, the value or quantity of the shares or debentures to be issued in pursuance of that right shall be taken for the purposes of this section to be unascertainable at a particular time if, and only if—

(a) it is made referable to matters relating to any business or assets of one or more relevant companies; and

(b) those matters are uncertain at that time on account of future business or future assets being included in the business or assets to which they relate.

(8) Where a right to be issued with shares or debentures is conferred wholly or partly in consideration for the transfer of other shares or debentures or the extinguishment of any right, the value and quantity of the shares or debentures to be issued shall not be taken for the purposes of this section to be unascertainable in any case where, if—

(a) the transfer or extinguishment were a disposal, and

(b) a gain on that disposal fell to be computed in accordance with this Act,

the shares or debentures to be issued would, in pursuance of section 48, be themselves regarded as, or as included in, the consideration for the disposal.

(9) Where any right to be issued with shares in or debentures of a company comprises an option to choose between shares in that company and debentures of that company, the existence of that option shall not, by itself, be taken for the purposes of this section either—

(a) to make unascertainable the value or quantity of the shares or debentures to be issued; or

(b) to prevent the requirements of subsection (1)(b) and (d) or (4)(b) and (d) above from being satisfied in relation to that right.

(10) For the purposes of this section the value or quantity of shares or debentures shall not be taken to be unascertainable by reason only that it has not been fixed if it will be fixed by reference to the other and the other is ascertainable.

(11) In subsection (7) above "relevant company", in relation to any right to be issued with shares in or debentures of a company, means—

(a) that company or any company which is in the same group of companies as that company; or

(b) the company for whose shares or debentures that right was or was part of the consideration, or any company in the same group of companies as that company;

and in this subsection the reference to a group of companies shall be construed in accordance with section 170(2) to (14)."

(2) Subject to subsections (3) to (8) below—

(a) the section 138A inserted by subsection (1) above shall be deemed always to have been a section of the Taxation of Chargeable Gains Act 1992; and

(b) the enactments applying to chargeable periods beginning before 6th April 1992 shall be deemed always to have included a corresponding section.

(3) Subject to subsections (4) to (6) below, an election under section 138A of the Taxation of Chargeable Gains Act 1992 in respect of a right conferred on any person before 26th November 1996 may be made at any time before the end of the period for the making of such an election in respect of a right conferred on that person on that date.

(4) An election in respect of a right conferred on any person shall not be made by virtue of subsection (3) above at any time after the final determination of his liability to corporation tax or capital gains tax for the chargeable period in which the right was in fact conferred on him.

(5) A notice given to an officer of the Board before the day on which this Act is passed shall not have effect as an election under section 138A of the Taxation of Chargeable Gains Act 1992, or the corresponding provision applying to chargeable periods beginning before 6th April 1992, except in accordance with subsection (6) below.

(6) Where—

(a) any person has given a notification to an officer of the Board before the day on which this Act is passed, and

(b) that notification was given either—

(i) in anticipation of the right to make an election under section 138A of the Taxation of Chargeable Gains Act 1992, or

(ii) for the purposes of an extra-statutory concession available to be used by that person for purposes similar to those of that section,

that notification shall, unless the Board otherwise direct, be treated as if it were a valid and irrevocable election made by that person for the purposes of that section or, as the case may be, the corresponding provision.

(7) Where any notification given as mentioned in subsection (6)(b)(ii) above is treated as an election for the purposes of section 138A of the Taxation of Chargeable Gains Act 1992 or any corresponding provision, that section or, as the case may be, the corresponding provision shall be taken to have no effect by virtue of that election in relation to any disposal before 26th November 1996 of any asset which—

(a) was issued to any person in pursuance of an earn-out right;

(b) was issued to any person in pursuance of any such right as is mentioned in subsection (4) of that section; or

(c) falls for the purposes of that Act to be treated as the same as an asset issued at any time to any person in pursuance of such a right as is mentioned in paragraph (a) or (b) above but is not an asset first held by that person before that time.

(8) Subsection (7) above shall not prevent section 138A of the Taxation of Chargeable Gains Act 1992 from being taken, for the purposes of applying that Act to any disposal on or after 26th November 1996, to have had effect in relation to—

(a) any disposal before that date on which, by virtue of any of the enactments specified in section 35(3)(d) of that Act, neither a gain nor a loss accrued,

(b) any deemed disposal before that date by reference to which a gain or loss falls to be calculated in accordance with section 116(10)(a) of that Act, or

(c) any transaction before that date that would have fallen to be treated as a disposal but for section 127 of that Act.

Double taxation relief

90 Restriction of relief for underlying tax

(1) After section 801 of the Taxes Act 1988 there shall be inserted the following section—

"**801A Restriction of relief for underlying tax**

(1) This section applies where—

(a) a company resident in the United Kingdom ("the United Kingdom company") makes a claim for an allowance by way of credit in accordance with this Part;

(b) the claim relates to underlying tax on a dividend paid to that company by a company resident outside the United Kingdom ("the overseas company");

(c) that underlying tax is or includes an amount in respect of tax ("the high rate tax") payable by—

(i) the overseas company, or

(ii) such a third, fourth or successive company as is mentioned in section 801,

at a rate in excess of the relievable rate; and

(d) the whole or any part of the amount in respect of the high rate tax which is or is included in the underlying tax would not be, or be included in, that underlying tax but for the existence of, or for there having been, an avoidance scheme.

(2) Where this section applies, the amount of the credit to which the United Kingdom company is entitled on the claim shall be determined as if the high rate tax had been tax at the relievable rate, instead of at a rate in excess of that rate.

(3) For the purposes of this section tax shall be taken to be payable at a rate in excess of the relievable rate if, and to the extent that, the amount of that tax exceeds the amount that would represent tax on the relevant profits at the relievable rate.

(4) In subsection (3) above "the relevant profits", in relation to any tax, means the profits of the overseas company or, as the case may be, of the third, fourth or successive company which, for the purposes of this Part, are taken to bear that tax.

(5) In this section "the relievable rate" means the rate of corporation tax in force when the dividend mentioned in subsection (1)(b) above was paid.

(6) In this section "an avoidance scheme" means any scheme or arrangement which—

(a) falls within subsection (7) below; and

(b) is a scheme or arrangement the purpose, or one of the main purposes, of which is to have an amount of underlying tax taken into account on a claim for an allowance by way of credit in accordance with this Part.

(7) A scheme or arrangement falls within this subsection if the parties to it include both—

(a) the United Kingdom company, a company related to that company or a person connected with the United Kingdom company; and

(b) a person who was not under the control of the United Kingdom company at any time before the doing of anything as part of, or in pursuance of, the scheme or arrangement.

(8) In this section "arrangement" means an arrangement of any kind, whether in writing or not.

(9) Section 839 (meaning of "connected persons") applies for the purposes of this section.

(10) Subsection (5) of section 801 (meaning of "related company") shall apply for the purposes of this section as it applies for the purposes of that section.

(11) For the purposes of this section a person who is a party to a scheme or arrangement shall be taken to have been under the control of the United Kingdom company at all the following times, namely—

(a) any time when that company would have been taken (in accordance with section 416) to have had control of that person for the purposes of Part XI;

(b) any time when that company would have been so taken if that section applied (with the necessary modifications) in the case of partnerships and unincorporated associations as it applies in the case of companies; and

(c) any time when that person acted in relation to that scheme or arrangement, or any proposal for it, either directly or indirectly under the direction of that company."

(2) This section has effect in relation to dividends paid to a company resident in the United Kingdom at any time on or after 26th November 1996.

91 Disposals of loan relationships with or without interest

(1) Section 807A of the Taxes Act 1988 (disposals and acquisitions of company loan relationships with or without interest) shall be amended as follows.

(2) At the beginning of subsection (2) there shall be inserted "Subject to subsection (2A) below,".

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

"(2A) Tax attributable to interest accruing to a company under a loan relationship does not fall within subsection (2) above if—

(a) at the time when the interest accrues, that company has ceased to be a party to that relationship by reason of having made the initial transfer under or in accordance with any repo or stock-lending arrangements relating to that relationship; and

(b) that time falls during the period for which those arrangements have effect."

(4) In subsection (3)(b), after "related transaction" there shall be inserted "other than the initial transfer under or in accordance with any repo or stock-lending arrangements relating to that relationship".

(5) After subsection (6) there shall be inserted the following subsection—

"(6A) In this section "repo or stock-lending arrangements" has the same meaning as in paragraph 15 of Schedule 9 to the Finance Act 1996 (repo transactions and stock-lending); and, in relation to any such arrangements—

(a) a reference to the initial transfer is a reference to the transfer mentioned in sub-paragraph (3)(a) of that paragraph; and

(b) a reference to the period for which the arrangements have effect is a reference to the period from the making of the initial transfer until whichever is the earlier of the following—

(i) the discharge of the obligations arising by virtue of the entitlement or requirement mentioned in sub-paragraph (3)(b) of that paragraph; and

(ii) the time when it becomes apparent that the discharge mentioned in sub-paragraph (i) above will not take place."

(6) Subsections (2) and (3) above have effect in relation to interest accruing on or after 1st April 1996.

(7) Subsection (4) above has effect in relation to transactions made on or after 26th November 1996.

Repayment supplement

92 Time from which entitlement runs

(1) Section 824 of the Taxes Act 1988 (repayment supplements), where it has effect as amended by paragraph 41 of Schedule 19 to the Finance Act 1994, shall be amended in accordance with subsections (2) to (4) below.

(2) For paragraphs (a) and (b) of subsection (3) there shall be substituted the following paragraphs—

"(a) if the repayment is—

(i) the repayment of an amount paid in accordance with the requirements of section 59A of the Management Act on account of income tax for a year of assessment, or

(ii) the repayment of income tax for such a year which is not income tax deducted at source,

the relevant time is the date of the payment that is being repaid;

(b) if the repayment is of income tax deducted at source for a year of assessment, the relevant time is the 31st January next following that year; and".

(3) In paragraph (c) of that subsection, for the words from "the relevant time" to the end of that paragraph there shall be substituted "the relevant time is the date on which the penalty or surcharge was paid".

(4) For subsection (4) there shall be substituted the following subsections—

"(4) For the purposes of subsection (3) above, where a repayment in respect of income tax for a year of assessment is made to any person, that repayment—

(a) shall be attributed first to so much of any payment made by him under section 59B of the Management Act as is a payment in respect of income tax for that year;

(b) in so far as it exceeds the amount (if any) to which it is attributable under paragraph (a) above, shall be attributed in two equal parts to each of the payments made by him under section 59A of the Management Act on account of income tax for that year;

(c) in so far as it exceeds the amounts (if any) to which it is attributable under paragraphs (a) and (b) above, shall be attributed to income tax deducted at source for that year; and

(d) in so far as it is attributable to a payment made in instalments shall be attributed to a later instalment before being attributed to an earlier one.

(4A) In this section any reference to income tax deducted at source for a year of assessment is a reference to—

(a) income tax deducted or treated as deducted from any income, or treated as paid on any income, in respect of that year, and

(b) amounts which, in respect of that year, are tax credits to which section 231 applies,

but does not include a reference to amounts which, in that year, are deducted at source under section 203 in respect of previous years."

(5) In subsection (2) of section 283 of the Taxation of Chargeable Gains Act 1992 (repayment supplements), for the words from "the relevant time" to the end of that subsection there shall be substituted "the relevant time is the date on which the tax was paid".

(6) This section has effect as respects the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect as respects the year 1996-97.

PART VI

INHERITANCE TAX

93 Rate bands

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

TABLE OF RATES OF TAX

Portion of value		
Lower limit (£)	*Upper limit (£)*	*Rate of tax*
		Per cent.
0	215,000	Nil
215,000	—	40

(2) Subsection (1) above shall apply to any chargeable transfer made on or after 6th April 1997; and section 8 of that Act (indexation of rate bands) shall not have effect as respects any difference between the retail prices index for the month of September 1995 and that for the month of September 1996.

94 Agricultural property relief

After section 124B of the Inheritance Tax Act 1984 there shall be inserted the following section—

"**124C Land in habitat schemes**

(1) For the purposes of this Chapter, where any land is in a habitat scheme—

(a) the land shall be regarded as agricultural land;

(b) the management of the land in accordance with the requirements of the scheme shall be regarded as agriculture; and

(c) buildings used in connection with such management shall be regarded as farm buildings.

(2) For the purposes of this section land is in a habitat scheme at any time if—

(a) an application for aid under one of the enactments listed in subsection (3) below has been accepted in respect of the land; and

(b) the undertakings to which the acceptance relates have neither been terminated by the expiry of the period to which they relate nor been treated as terminated.

(3) Those enactments are—

(a) regulation 3(1) of the Habitat (Water Fringe) Regulations 1994;

(b) the Habitat (Former Set-Aside Land) Regulations 1994;

(c) the Habitat (Salt-Marsh) Regulations 1994;

(d) the Habitats (Scotland) Regulations 1994, if undertakings in respect of the land have been given under regulation 3(2)(a) of those Regulations;

(e) the Habitat Improvement Regulations (Northern Ireland) 1995, if an undertaking in respect of the land has been given under regulation 3(1)(a) of those Regulations.

(4) The Treasury may by order made by statutory instrument amend the list of enactments in subsection (3) above.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(6) This section has effect—

(a) in relation to any transfer of value made on or after 26th November 1996; and

(b) in relation to transfers of value made before that date, for the purposes of any charge to tax, or to extra tax, which arises by reason of an event occurring on or after 26th November 1996."

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Stamp duty

95 Mergers of authorised unit trusts

(1) Stamp duty shall not be chargeable on an instrument transferring any property which is subject to the trusts of an authorised unit trust ("the target trust") to the trustees of another authorised unit trust ("the acquiring trust") if the conditions set out in subsection (2) below are fulfilled.

(2) Those conditions are that—

(a) the transfer forms part of an arrangement under which the whole of the available property of the target trust is transferred to the trustees of the acquiring trust;

(b) under the arrangement all the units in the target trust are extinguished;

(c) the consideration under the arrangement consists of or includes the issue of units ("the consideration units") in the acquiring trust to the persons who held the extinguished units;

(d) the consideration units are issued to those persons in proportion to their holdings of the extinguished units; and

(e) the consideration under the arrangement does not include anything else, other than the assumption or discharge by the trustees of the acquiring trust of liabilities of the trustees of the target trust.

(3) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for this section or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(4) In this section—

"authorised unit trust" means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force;

"the whole of the available property of the target trust" means the whole of the property subject to the trusts of the target trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the target trust;

"unit" and "unit trust scheme" have the same meanings as in Part VII of the Finance Act 1946.

(5) Each of the parts of an umbrella scheme (and not the scheme as a whole) shall be regarded for the purposes of this section as an authorised unit trust; and in this section "umbrella scheme" has the same meaning as in section 468 of the Taxes Act 1988 and references to parts of an umbrella scheme shall be construed in accordance with that section.

(6) This section applies to any instrument which is executed—

(a) on or after the day on which this Act is passed; but

(b) before 1st July 1999.

96 Demutualisation of insurance companies

(1) This section applies where there is a relevant transfer, under a scheme, of the whole or any part of the business carried on by a mutual insurance company ("the mutual") to a company which has share capital ("the acquiring company").

(2) Stamp duty shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer if the requirements of subsections (3) and (4) below are satisfied in relation to the shares of a company ("the issuing company") which is either—

(a) the acquiring company; or

(b) a company of which the acquiring company is a wholly-owned subsidiary.

(3) Shares in the issuing company must be offered, under the scheme, to at least 90 per cent. of the persons who immediately before the transfer are members of the mutual.

(4) Under the scheme, all the shares in the issuing company which will be in issue immediately after the transfer has been made, other than shares which are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—

(a) members of the mutual;

(b) persons who are entitled to become members of the mutual; or

(c) employees, former employees or pensioners of the mutual or of a company which is a wholly-owned subsidiary of the mutual.

(5) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(6) For the purposes of this section, a company is a wholly-owned subsidiary of another person ("the parent") if it has no members except the parent and the parent's wholly-owned subsidiaries or persons acting on behalf of the parent or its wholly-owned subsidiaries.

(7) In this section "relevant transfer" means—

(a) a transfer to which Schedule 2C to the Insurance Companies Act 1982 (transfers of insurance business) applies; or

(b) a transfer to which that Schedule would apply but for section 15(1A) of that Act (provisions of Part II of that Act which do not apply to EC companies in certain circumstances).

(8) In this section—

"employee", in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;

"insurance company" has the meaning given in section 96 of the Insurance Companies Act 1982;

"mutual insurance company" means an insurance company carrying on business without having any share capital;

"pensioner", in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.

(9) The Treasury may by regulations amend subsection (3) above by substituting a lower percentage for the percentage there mentioned.

(10) The Treasury may by regulations provide that any or all of the references in subsections (3) and (4) above to members shall be construed as references to members of a class specified in the regulations; and different provision may be made for different cases.

(11) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(12) This section applies in relation to instruments executed on or after the day on which this Act is passed.

97 Relief for intermediaries

(1) Before section 81 of the Finance Act 1986 there shall be inserted the following sections—

"**80A Sales to intermediaries**

(1) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—

(a) the person is a member of an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded;

(b) the person is an intermediary and is recognised as an intermediary by the exchange in accordance with arrangements approved by the Commissioners; and

(c) the sale is effected on the exchange.

(2) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—

(a) the person is a member of an EEA exchange or a recognised foreign options exchange;

(b) options to buy or sell stock of that kind are regularly traded on that exchange and are listed by or quoted on that exchange;

(c) the person is an options intermediary and is recognised as an options intermediary by that exchange in accordance with arrangements approved by the Commissioners; and

(d) the sale is effected on an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded or subsection (3) below applies.

(3) This subsection applies if—

(a) the sale is effected on an EEA exchange, or a recognised foreign options exchange, pursuant to the exercise of a relevant option; and

(b) options to buy or sell stock of the kind concerned are regularly traded on that exchange and are listed by or quoted on that exchange.

(4) For the purposes of this section—

(a) an intermediary is a person who carries on a bona fide business of dealing in stock and does not carry on an excluded business; and

(b) an options intermediary is a person who carries on a bona fide business of dealing in quoted or listed options to buy or sell stock and does not carry on an excluded business.

(5) The excluded businesses are the following—

(a) any business which consists wholly or mainly in the making or managing of investments;

(b) any business which consists wholly or mainly in, or is carried on wholly or mainly for the purpose of, providing services to persons who are connected with the person carrying on the business;

(c) any business which consists in insurance business;

(d) any business which consists in managing or acting as trustee in relation to a pension scheme or which is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme;

(e) any business which consists in operating or acting as trustee in relation to a collective investment scheme or is carried on by the

operator or trustee of such a scheme in connection with or for the purposes of the scheme.

(6) A sale is effected on an exchange for the purposes of subsection (1) or (2) above if (and only if)—

(a) it is subject to the rules of the exchange; and

(b) it is reported to the exchange in accordance with the rules of the exchange.

(7) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.

80B Intermediaries: supplementary

(1) For the purposes of section 80A above the question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the Income and Corporation Taxes Act 1988.

(2) In section 80A above and this section—

"collective investment scheme" has the meaning given in section 75 of the Financial Services Act 1986;

"EEA exchange" means a market which appears on the list drawn up by an EEA State pursuant to Article 16 of European Communities Council Directive No. 93/22/EEC on investment services in the securities field;

"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993;

"insurance business" means long term business or general business as defined in section 1 of the Insurance Companies Act 1982;

"quoted or listed options" means options which are quoted on or listed by an EEA exchange or a recognised foreign options exchange;

"stock" includes any marketable security;

"trustee" and "the operator" shall, in relation to a collective investment scheme, be construed in accordance with section 75(8) of the Financial Services Act 1986.

(3) In section 80A above "recognised foreign exchange" means a market which—

(a) is not in an EEA State; and

(b) is specified in regulations made by the Treasury under this subsection.

(4) In section 80A above and this section "recognised foreign options exchange" means a market which—

(a) is not in an EEA State; and

(b) is specified in regulations made by the Treasury under this subsection.

(5) In section 80A above "the exercise of a relevant option" means—

(a) the exercise by the options intermediary concerned of an option to buy stock; or

(b) the exercise of an option binding the options intermediary concerned to buy stock.

(6) The Treasury may by regulations provide that section 80A above shall not have effect in relation to instruments executed in pursuance of kinds of agreement specified in the regulations.

(7) The Treasury may by regulations provide that if—

(a) an instrument falls within subsection (1) or (2) of section 80A above, and

(b) stamp duty would be chargeable on the instrument apart from that section,

stamp duty shall be chargeable on the instrument at a rate, specified in the regulations, which shall not exceed 10p for every £100 or part of £100 of the consideration for the sale.

(8) The Treasury may by regulations change the meaning of "intermediary" or "options intermediary" for the purposes of section 80A above by amending subsection (4) or (5) of that section (as it has effect for the time being).

(9) The power to make regulations under subsections (3) to (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(2) Section 81 of that Act (sales to market makers) shall be omitted.

(3) In section 88(1B)(b)(i) of that Act (which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer chargeable securities which were acquired by means of a transfer on which stamp duty was not chargeable by virtue of section 81) for "81" there shall be substituted "80A".

(4) Subsections (1) and (2) above apply to instruments executed on or after the commencement day.

(5) Subsection (3) above applies in relation to an agreement to transfer chargeable securities if the securities were acquired in a transaction which was given effect to by an instrument of transfer executed on or after the commencement day.

(6) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

98 Repurchases and stock lending

(1) After section 80B of the Finance Act 1986 there shall be inserted the following section—

"**80C Repurchases and stock lending**

(1) This section applies where a person (A) has entered into an arrangement with another person (B) under which—

(a) B is to transfer stock of a particular kind to A or his nominee, and

(b) stock of the same kind and amount is to be transferred by A or his nominee to B or his nominee,

and the conditions set out in subsection (3) below are fulfilled.

(2) Stamp duty shall not be chargeable on an instrument transferring stock to B or his nominee or A or his nominee in accordance with the arrangement.

(3) The conditions are—

(a) that the arrangement is effected on an EEA exchange or a recognised foreign exchange; and

(b) that stock of the kind concerned is regularly traded on that exchange.

(4) An arrangement does not fall within subsection (1) above if—

(a) the arrangement is not such as would be entered into by persons dealing with each other at arm's length; or

(b) under the arrangement any of the benefits or risks arising from fluctuations, before the transfer to B or his nominee takes place, in the market value of the stock accrues to, or falls on, A.

(5) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.

(6) An arrangement is effected on an exchange for the purposes of subsection (3) above if (and only if)—

(a) it is subject to the rules of the exchange; and

(b) it is reported to the exchange in accordance with the rules of the exchange.

(7) In this section—

"EEA exchange" has the meaning given in section 80B(2) above; and

"recognised foreign exchange" has the meaning given in section 80B(3) above.

(8) The Treasury may by regulations provide that if stamp duty would be chargeable on an instrument but for subsection (2) above, stamp duty shall be chargeable on the instrument at a rate, specified in the regulations, which shall not exceed 10p for every £100 or part of £100 of the consideration for the transfer.

(9) The Treasury may by regulations amend this section (as it has effect for the time being) in order—

(a) to change the conditions for exemption from duty under this section; or

(b) to provide that this section does not apply in relation to kinds of arrangement specified in the regulations.

(10) The power to make regulations under subsection (8) or (9) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(2) Section 82 of that Act (borrowing of stock by market makers) shall be omitted.

(3) This section applies to instruments executed on or after the commencement day.

(4) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

99 Depositary receipts and clearance services

(1) Subsection (4) of section 67 of the Finance Act 1986 (depositary receipts: reduced rate of stamp duty for qualified dealers other than market makers) shall be omitted.

(2) Accordingly—

(a) in subsection (3) of that section for "subsections (4) and" there shall be substituted "subsection"; and

(b) subsections (6) to (8) of section 69 of that Act (definition of "qualified dealer" and "market maker" for the purposes of section 67(4) and power to amend definition) shall be omitted.

(3) Subsection (4) of section 70 of that Act (clearance services: reduced rate of stamp duty for qualified dealers other than market makers) shall be omitted.

(4) Accordingly—

(a) in subsection (3) of that section for "subsections (4) and" there shall be substituted "subsection"; and

(b) section 72(4) of that Act (definition of "qualified dealer" and "market maker" for the purposes of section 70(4)) shall be omitted.

(5) This section applies to any instrument executed on or after the day which is the commencement day for the purposes of section 97 above, except an instrument which transfers relevant securities which were acquired by the transferor before that date.

Stamp duty reserve tax

100 Mergers of authorised unit trusts

(1) Section 87 of the Finance Act 1986 shall not apply as regards an agreement to transfer securities which constitute property which is subject to the trusts of an authorised unit trust ("the target trust") to the trustees of another authorised unit trust ("the acquiring trust") if the conditions set out in subsection (2) below are fulfilled.

(2) Those conditions are that—

(a) the agreement forms part of an arrangement under which the whole of the available property of the target trust is transferred to the trustees of the acquiring trust;

(b) under the arrangement all the units in the target trust are extinguished;

(c) the consideration under the arrangement consists of or includes the issue of units ("the consideration units") in the acquiring trust to the persons who held the extinguished units;

(d) the consideration units are issued to those persons in proportion to their holdings of the extinguished units; and

(e) the consideration under the arrangement does not include anything else, other than the assumption or discharge by the trustees of the acquiring trust of liabilities of the trustees of the target trust.

(3) Where—

(a) stamp duty is not chargeable on an instrument by virtue of section 95(1) above, or

(b) section 87 of the Finance Act 1986 does not apply as regards an agreement by virtue of subsection (1) above,

section 87 of the Finance Act 1986 shall not apply as regards an agreement, or a deemed agreement, to transfer a unit to the managers of the target trust which is made in order that the unit may be extinguished under the arrangement mentioned in section 95(2)(a) or, as the case may be, subsection (2)(a) above.

(4) In this section—

"authorised unit trust" means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force;

"the whole of the available property of the target trust" means the whole of the property subject to the trusts of the target trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the target trust;

"unit" and "unit trust scheme" have the same meanings as in Part VII of the Finance Act 1946.

(5) Each of the parts of an umbrella scheme (and not the scheme as a whole) shall be regarded for the purposes of this section as an authorised unit trust; and in this section "umbrella scheme" has the same meaning as in section 468 of the Taxes Act 1988 and references to parts of an umbrella scheme shall be construed in accordance with that section.

(6) This section applies—

(a) to an agreement which is not conditional, if the agreement is made on or after the day on which this Act is passed but before 1st July 1999; and

(b) to a conditional agreement, if the condition is satisfied on or after the day on which this Act is passed but before 1st July 1999.

101 Direction to hold trust property on other trusts

(1) Where an agreement to transfer securities constituting property subject to the trusts of an authorised unit trust ("the absorbed trust") is made by means of a direction by the holders of units in the absorbed trust ("the sellers") to the trustees of another trust ("the continuing trust") to hold the whole of the available property of the absorbed trust on the trusts of the continuing trust, section 87 of the Finance Act 1986 shall not apply as regards the agreement if the conditions set out in subsection (2) below are fulfilled.

(2) Those conditions are that—

(a) the trustees of the absorbed trust are the same persons as the trustees of the continuing trust;

(b) the agreement forms part of an arrangement under which all the units in the absorbed trust are extinguished;

(c) the consideration for the direction by the sellers consists of or includes the issue of units ("the consideration units") in the continuing trust to the sellers;

(d) the consideration units are issued to the sellers in proportion to their holdings of the extinguished units; and

(e) the consideration for the direction by the sellers does not include anything else, other than the assumption or discharge by the trustees of the continuing trust of liabilities of the trustees of the absorbed trust.

(3) Where section 87 of the Finance Act 1986 does not apply as regards an agreement by virtue of subsection (1) above, that section shall not apply as regards an agreement, or a deemed agreement, to transfer a unit to the managers of the absorbed trust which is made in order that the unit may be extinguished under the arrangement mentioned in subsection (2)(b) above.

(4) In this section—

"authorised unit trust" and "unit" have the same meanings as in section 100 above (and section 100(5) applies for the purposes of this section as it applies for the purposes of section 100);

"the whole of the available property of the absorbed trust" means the whole of the property subject to the trusts of the absorbed trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the absorbed trust.

(5) This section applies—

(a) to an agreement which is not conditional, if the agreement is made on or after the day on which this Act is passed but before 1st July 1999; and

(b) to a conditional agreement, if the condition is satisfied on or after the day on which this Act is passed but before 1st July 1999.

102 Relief for intermediaries

(1) After section 88 of the Finance Act 1986 there shall be inserted the following sections—

"**88A Section 87: exceptions for intermediaries**

(1) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or his nominee if—

(a) B is a member of an EEA exchange, or a recognised foreign exchange, on which securities of that kind are regularly traded;

(b) B is an intermediary and is recognised as an intermediary by the exchange in accordance with arrangements approved by the Board; and

(c) the agreement is effected on the exchange.

(2) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or his nominee if—

(a) B is a member of an EEA exchange or a recognised foreign options exchange;

(b) options to buy or sell securities of that kind are regularly traded on that exchange and are listed by or quoted on that exchange;

(c) B is an options intermediary and is recognised as an options intermediary by that exchange in accordance with arrangements approved by the Board; and

(d) the agreement is effected on an EEA exchange, or a recognised foreign exchange, on which securities of that kind are regularly traded or subsection (3) below applies.

(3) This subsection applies if—

(a) the agreement is effected on an EEA exchange, or a recognised foreign options exchange, pursuant to the exercise of a relevant option; and

(b) options to buy or sell securities of the kind concerned are regularly traded on that exchange and are listed by or quoted on that exchange.

(4) For the purposes of this section—

(a) an intermediary is a person who carries on a bona fide business of dealing in chargeable securities and does not carry on an excluded business; and

(b) an options intermediary is a person who carries on a bona fide business of dealing in quoted or listed options to buy or sell chargeable securities and does not carry on an excluded business.

(5) The excluded businesses are the following—

(a) any business which consists wholly or mainly in the making or managing of investments;

(b) any business which consists wholly or mainly in, or is carried on wholly or mainly for the purpose of, providing services to persons who are connected with the person carrying on the business;

(c) any business which consists in insurance business;

(d) any business which consists in managing or acting as trustee in relation to a pension scheme or which is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme;

(e) any business which consists in operating or acting as trustee in relation to a collective investment scheme or is carried on by the operator or trustee of such a scheme in connection with or for the purposes of the scheme.

(6) An agreement is effected on an exchange for the purposes of subsection (1) or (2) above if (and only if)—

(a) it is subject to the rules of the exchange; and

(b) it is reported to the exchange in accordance with the rules of the exchange.

88B Intermediaries: supplementary

(1) For the purposes of section 88A above the question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the Income and Corporation Taxes Act 1988.

(2) In section 88A above and this section—

"collective investment scheme" has the meaning given in section 75 of the Financial Services Act 1986;

"EEA exchange" means a market which appears on the list drawn up by an EEA State pursuant to Article 16 of European Communities

Council Directive No. 93/22/EEC on investment services in the securities field;

"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993;

"insurance business" means long term business or general business as defined in section 1 of the Insurance Companies Act 1982;

"quoted or listed options" means options which are quoted on or listed by an EEA exchange or a recognised foreign options exchange;

"recognised foreign exchange" and "recognised foreign options exchange" have the meanings given, respectively, by subsections (3) and (4) of section 80B above;

"trustee" and "the operator" shall, in relation to a collective investment scheme, be construed in accordance with section 75(8) of the Financial Services Act 1986.

(3) In section 88A above "the exercise of a relevant option" means—

(a) the exercise by B of an option to buy securities; or

(b) the exercise of an option binding B to buy securities.

(4) The Treasury may by regulations provide that section 88A above shall not have effect in relation to kinds of agreement specified in the regulations.

(5) The Treasury may by regulations provide that if—

(a) an agreement falls within subsection (1) or (2) of section 88A above, and

(b) section 87 above would, apart from section 88A, apply to the agreement,

section 87 shall apply to the agreement but with the substitution of a rate of tax not exceeding 0.1 per cent. for the rate specified in subsection (6) of that section.

(6) The Treasury may by regulations change the meaning of "intermediary" or "options intermediary" for the purposes of section 88A above by amending subsection (4) or (5) of that section (as it has effect for the time being).

(7) The power to make regulations under subsections (4) to (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(2) Section 89 of that Act (exceptions for market makers etc.) shall be omitted.

(3) In section 88(1B)(b)(ii) of that Act (which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer property consisting of chargeable securities which were acquired in pursuance of an agreement on which tax was not chargeable by virtue of section 89) for "89" there shall be substituted "88A".

(4) Subsections (1) and (2) above apply to an agreement to transfer securities—

(a) in the case of an agreement which is not conditional, if the agreement is made on or after the commencement day; and

(b) in the case of a conditional agreement, if the condition is satisfied on or after the commencement day.

(5) Subsection (3) above applies in relation to property consisting of chargeable securities if the securities were acquired in pursuance of an agreement to which subsections (1) and (2) above apply (by virtue of subsection (4) above).

(6) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

103 Repurchases and stock lending

(1) After section 89A of the Finance Act 1986 there shall be inserted the following section—

"**89AA Section 87: exception for repurchases and stock lending**

(1) This section applies where a person (P) has entered into an arrangement with another person (Q) under which—

(a) Q is to transfer chargeable securities of a particular kind to P or his nominee, and

(b) chargeable securities of the same kind and amount are to be transferred by P or his nominee to Q or his nominee,

and the conditions set out in subsection (3) below are fulfilled.

(2) Section 87 above shall not apply as regards an agreement to transfer chargeable securities to P or his nominee or Q or his nominee in accordance with the arrangement.

(3) The conditions are—

(a) that the agreement is effected on an EEA exchange or a recognised foreign exchange;

(b) that securities of the kind concerned are regularly traded on that exchange; and

(c) that chargeable securities are transferred to P or his nominee and Q or his nominee in pursuance of the arrangement.

(4) An arrangement does not fall within subsection (1) above if—

(a) the arrangement is not such as would be entered into by persons dealing with each other at arm's length; or

(b) under the arrangement any of the benefits or risks arising from fluctuations, before the transfer to Q or his nominee takes place, in the market value of the chargeable securities accrues to, or falls on, P.

(5) An agreement is effected on an exchange for the purposes of subsection (3) above if (and only if)—

(a) it is subject to the rules of the exchange; and

(b) it is reported to the exchange in accordance with the rules of the exchange.

(6) In this section—

"EEA exchange" has the meaning given in section 88B(2) above;

"recognised foreign exchange" has the meaning given in section 80B(3) above.

(7) The Treasury may by regulations provide that if section 87 would apply as regards an agreement but for subsection (2) above, section 87 shall apply as regards the agreement but with the substitution of a rate of tax not exceeding 0.1 per cent. for the rate specified in subsection (6) of that section.

(8) The Treasury may by regulations amend this section (as it has effect for the time being) in order—

(a) to change the conditions for exemption from tax under this section; or

(b) to provide that this section does not apply in relation to kinds of arrangement specified in the regulations.

(9) The power to make regulations under subsection (7) or (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(2) Section 89B of that Act (exceptions for stock lending and collateral security arrangements) shall be omitted.

(3) In consequence of subsections (1) and (2) above, for section 88(1B)(b)(iia) of that Act (which is inserted by section 106(5)(c) below and which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer property consisting of chargeable securities which were acquired in pursuance of an agreement on which tax was not chargeable by virtue of section 89B(1)(a)) there shall be substituted—

"(iia) in pursuance of an agreement to transfer securities which was made for the purpose of performing the obligation to transfer chargeable securities described in section 89AA(1)(a) below and as regards which section 87 above did not apply by virtue of section 89AA(2) below; or".

(4) After section 88(1B) of that Act there shall be inserted the following subsections—

"(1C) Where—

(a) there is an arrangement falling within subsection (1) of section 80C above (stamp duty relief for transfers in accordance with certain arrangements for B to transfer stock to A or his nominee and for A or his nominee to transfer stock of the same kind and amount back to B or his nominee), and

(b) under the arrangement stock is transferred to A or his nominee by an instrument on which stamp duty is not chargeable by virtue only of section 80C(2) above, but

(c) it becomes apparent that stock of the same kind or amount will not be transferred to B or his nominee by A or his nominee in accordance with the arrangement,

the instrument shall be disregarded in construing section 92(1A) and (1B) below.

(1D) Where—

(a) an instrument transferring stock in accordance with an arrangement is stamped under section 80C(5) above, but

(b) the instrument should not have been so stamped because the arrangement fell within section 80C(4)(a) or (b) above, and

(c) apart from section 80C above stamp duty would have been chargeable on the instrument,

the instrument shall be deemed to be duly stamped under section 80C(5) above, but shall be disregarded in construing section 92(1A) and (1B) below."

(5) Subsections (1) and (2) above apply to an agreement to transfer securities—

(a) in the case of an agreement which is not conditional, if the agreement is made on or after the commencement day; and

(b) in the case of a conditional agreement, if the condition is satisfied on or after the commencement day.

(6) Subsection (3) above applies in relation to property consisting of chargeable securities if the securities were acquired in pursuance of an agreement to which subsections (1) and (2) above apply (by virtue of subsection (5) above).

(7) Subsection (4) above applies to instruments executed on or after the commencement day.

(8) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

104 Depositary receipts and clearance services

(1) Subsection (5) of section 93 of the Finance Act 1986 (depositary receipts: reduced rate of tax for qualified dealers other than market makers) shall be omitted.

(2) Accordingly—

(a) in subsection (4) of that section for "(5) to" there shall be substituted "(6) and";

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

(c) subsections (5) to (7) of section 94 of that Act (definition of "qualified dealer" and "market maker" for the purposes of section 93(5) and power to substitute different definition) shall be omitted.

(3) Subsection (3) of section 96 of the Finance Act 1986 (clearance services: reduced rate of tax for qualified dealers other than market makers) shall be omitted.

(4) Accordingly—

(a) in subsection (2) of that section, for "(3) to" there shall be substituted "(4) and";

(b) in subsection (5)(a) of that section for "subsections (2) to" there shall be substituted "subsections (2) and";

(c) subsection (11) of that section (definition of "qualified dealer" and "market maker" for the purposes of that section) shall be omitted.

(5) This section applies where securities are transferred on or after the day which is the commencement day for the purposes of section 102 above, unless the securities were acquired by the transferor before that day.

105 Inland bearer instruments

(1) Paragraph (b) of section 90(3) of the Finance Act 1986 (which provides that section 87 shall not apply as regards an agreement to transfer securities constituted by or

transferable by means of an inland bearer instrument which does not fall within exemption 3 in the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891) shall cease to have effect.

(2) After section 90(3) of that Act there shall be inserted—

"(3A) Section 87 above shall not apply as regards an agreement to transfer chargeable securities constituted by or transferable by means of an inland bearer instrument within the meaning of the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 unless subsection (3B), (3C) or (3E) below applies to the instrument.

(3B) This subsection applies to any instrument which falls within exemption 3 in the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue).

(3C) This subsection applies to an instrument if—

(a) the instrument was issued by a body corporate incorporated in the United Kingdom;

(b) stamp duty under the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 was not chargeable on the issue of the instrument by virtue only of—

(i) section 30 of the Finance Act 1967 (exemption for bearer instruments relating to stock in foreign currencies); or

(ii) section 7 of the Finance Act (Northern Ireland) 1967 (which makes similar provision for Northern Ireland); and

(c) the instrument is not exempt.

(3D) An instrument is exempt for the purposes of subsection (3C) above if—

(a) the chargeable securities in question are, or a depositary receipt for them is, listed on a recognised stock exchange; and

(b) the agreement to transfer those securities is not made in contemplation of, or as part of an arrangement for, a takeover of the body corporate which issued the instrument.

(3E) This subsection applies to an instrument if—

(a) the instrument was issued by a body corporate incorporated in the United Kingdom;

(b) stamp duty under the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 was not chargeable on the issue of the instrument—

(i) by virtue only of subsection (2) of section 79 above (exemption for bearer instruments relating to loan capital); or

(ii) by virtue only of that subsection and one or other of the provisions mentioned in subsection (3C)(b)(i) and (ii) above;

(c) by virtue of section 79(5) (convertible loan capital) or 79(6) (loan capital carrying special rights) above, stamp duty would be chargeable on an instrument transferring the loan capital to which the instrument relates; and

(d) the instrument is not exempt.

(3F) An instrument is exempt for the purposes of subsection (3E) above if—

(a) the chargeable securities in question are, or a depositary receipt for them is, listed on a recognised stock exchange;

(b) the agreement to transfer those securities is not made in contemplation of, or as part of an arrangement for, a takeover of the body corporate which issued the instrument; and

(c) those securities do not carry any right of the kind described in section 79(5) above (right of conversion into, or acquisition of, shares or other securities) by the exercise of which securities which are not listed on a recognised stock exchange may be obtained."

(3) At the end of that section there shall be added—

"(8) For the purposes of subsections (3D) and (3F) above—

(a) references to a depositary receipt for chargeable securities shall be construed in accordance with section 94(1) below;

(b) "recognised stock exchange" has same meaning as it has in the Tax Acts by virtue of section 841 of the Income and Corporation Taxes Act 1988;

(c) there is a takeover of a body corporate if a person, on his own or together with connected persons, loses or acquires control of it.

(9) For the purposes of subsection (8) above—

(a) any question whether a person is connected with another shall be determined in accordance with section 286 of the Taxation of Chargeable Gains Act 1992;

(b) "control" shall be construed in accordance with section 416 of the Income and Corporation Taxes Act 1988."

(4) This section applies to an agreement if the inland bearer instrument in question was issued on or after 26th November 1996 and—

(a) in the case of an agreement which is not conditional, the agreement is made on or after 26th November 1996; or

(b) in the case of a conditional agreement, the condition is satisfied on or after 26th November 1996.

106 Repayment or cancellation of tax

(1) Section 87 of the Finance Act 1986 (the principal charge) shall be amended in accordance with subsections (2) and (3) below.

(2) For subsection (7A) (deemed separate agreements where there would be no charge to tax etc had there been such agreements) there shall be substituted—

"(7A) Where—

(a) there would be no charge to tax under this section, or

(b) there would, under section 92 below, be a repayment or cancellation of tax,

in relation to some of the chargeable securities to which the agreement between A and B relates if separate agreements had been made between them for the transfer of those securities and for the transfer of the remainder, this section and sections 88(5) and 92 below shall have effect as if such separate agreements had been made."

(3) Subsection (7B) (which, in consequence of the repeals made by section 188(1) of the Finance Act 1996, is of no further utility in relation to the charge to tax but whose effect is reproduced by subsection (8) below for the purposes of repayment or cancellation of tax) shall cease to have effect.

(4) Section 88 of the Finance Act 1986 (special cases) shall be amended in accordance with subsections (5) to (7) below.

(5) In subsection (1B) (certain instruments on which stamp duty is not chargeable to be disregarded in construing the conditions in section 92(1A) and (1B) for repayment or cancellation of tax)—

(a) in paragraph (a) (the property transferred by the instrument consists of chargeable securities) after "consists of" there shall be inserted "or includes";

(b) in paragraph (b) (which relates to the acquisition of the chargeable securities so transferred) for "the chargeable securities" there shall be substituted "any of those chargeable securities"; and

(c) the word "or" at the end of sub-paragraph (ii) of that paragraph shall be omitted and after that sub-paragraph there shall be inserted—

"(iia) in pursuance of an agreement to transfer securities which was made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) of subsection (1) of section 89B below and as regards which section 87 above did not apply by virtue of that subsection; or".

(6) For subsections (4) and (5) (identification of the securities in question and reduction of the charge in certain cases) there shall be substituted—

"(4) If chargeable securities cannot (apart from this subsection) be identified for the purposes of subsection (1B) above, securities shall be taken as follows, that is to say, securities of the same kind acquired later in the period of two years there mentioned (and not taken for the purposes of that subsection in relation to an earlier instrument) shall be taken before securities acquired earlier in that period.

(5) If, in the case of an agreement (or of two or more agreements between the same parties) to transfer chargeable securities—

(a) the conditions in section 92(1A) and (1B) below are not satisfied by virtue only of the application of subsection (1B) above in relation to the instrument (or any one or more of the two or more instruments) in question, but

(b) not all of the chargeable securities falling to be regarded for the purposes of that subsection as transferred by the instrument (or by the two or more instruments between them) were acquired as mentioned in paragraphs (a) and (b) of that subsection,

stamp duty reserve tax shall be repaid or cancelled under section 92 below in accordance with subsection (5A) below.

(5A) Any repayment or cancellation of tax falling to be made by virtue of subsection (5) above shall be determined as if (without prejudice to section 87(7A) above) there had, instead of the agreement (or the two or more agreements) in question been—

(a) a separate agreement (or two or more separate agreements) relating to such of the securities as were acquired as mentioned in paragraphs (a) and (b) of subsection (1B) above, and

(b) a single separate agreement relating to such of the securities as do not fall within those paragraphs,

and as if the instrument in question (or the two or more instruments in question between them) had related only to such of the securities as do not fall within those paragraphs."

(7) For the sidenote, there shall be substituted "Special cases."

(8) In section 92 of the Finance Act 1986 (repayment or cancellation of tax), after subsection (6) there shall be inserted—

"(7) This section shall have effect in relation to a person to whom the chargeable securities are transferred by way of security for a loan to B as it has effect in relation to a nominee of B."

(9) The amendments made by subsections (2), (3) and (8) above have effect in relation to an agreement to transfer securities if—

(a) the agreement is conditional and the condition is satisfied on or after 4th January 1997; or

(b) the agreement is not conditional and is made on or after that date.

(10) The amendments made by subsections (5) and (6) above have effect where the instrument on which stamp duty is not chargeable by virtue of section 42 of the Finance Act 1930 or section 11 of the Finance Act (Northern Ireland) 1954 is executed on or after 4th January 1997 in pursuance of an agreement to transfer securities made on or after that date.

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

107 Petroleum revenue tax: non-field expenditure

(1) Section 113 of the Finance Act 1984 (restrictions on relief by reference to a qualifying date) shall be amended as follows.

(2) In subsection (4) (meaning of "qualifying date"), after "means" there shall be inserted "(subject to subsection (6) below)".

(3) In subsection (6) (old participator's qualifying date to be taken into account, in the case of a transfer, in determining as respects certain expenditure the date that is to be regarded as the new participator's qualifying date), for the words from "is an applicable date" onwards there shall be substituted ", rather than the date given by subsection (4) above, shall be taken to be the qualifying date in relation to the new participator."

(4) This section has effect in relation to any expenditure in respect of which a claim is made on or after 23rd July 1996.

108 Payment of dividends on government stock

(1) For section 2 of the National Debt (Stockholders Relief) Act 1892 (date for striking balance for a dividend on government stock) there shall be substituted the following section—

"**2 Effect of, and time for, striking balance**

(1) Any person who, at the time of the balance being struck for a dividend on stock, is inscribed as a stockholder shall, as between himself and any transferee of the stock, be entitled to the then current half-year's or quarter's dividend.

(2) Subject to subsections (3) and (4) below, the Bank may—

(a) strike the balance for a dividend on stock before the day on which the dividend is payable, and

(b) strike the balances for dividends on stock at times such that the interval between—

(i) the time at which the balance for a dividend is struck, and

(ii) the day on which the dividend is payable,

is different in different cases.

(3) The balance for a dividend on any stock shall not be struck at different times for different holdings of that stock unless—

(a) the case is one where the use of different times for different holdings of the same stock is authorised by order made by the Treasury; and

(b) such requirements (if any) as may be imposed by an order so made are complied with in relation to the striking of that balance.

(4) The time at which the balance for a dividend on any stock is struck shall not fall before—

(a) the beginning of the tenth business day before the day on which the dividend is payable; or

(b) such later time (if any) as may be determined, in accordance with an order made by the Treasury, to be the earliest time at which that balance may be struck.

(5) In this section "business day" means any day other than—

(a) a Saturday or Sunday;

(b) Good Friday or Christmas Day;

(c) a day which, in any part of the United Kingdom, is a bank holiday under the Banking and Financial Dealings Act 1971;

(d) a day specified in an order under section 2(1) of that Act (days on which financial dealings are suspended) and declared by that order to be a non-business day for the purposes of this section; or

(e) a day appointed by Royal proclamation as a public fast or thanksgiving day.

(6) An order made by the Treasury for the purposes of subsection (3) or (4) above—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) may make different provision for different cases and contain such exceptions and exclusions, and such incidental, supplemental, consequential and transitional provision, as the Treasury may think fit."

(2) This section has effect in relation to dividends other than those for which the balance is struck on or before the day on which this Act is passed.

109 Nil levy on dwelling-house disposals

Section 136 of the Leasehold Reform, Housing and Urban Development Act 1993 (levy on local authorities in respect of dwelling-house disposals) shall have effect, and be deemed always to have had effect, with the following subsection inserted after subsection (4)—

"(4A) The power of the Secretary of State to determine a formula for the purposes of item D in subsection (3) shall include power to determine that, in such cases as he may determine, item D is to be taken to be equal to item CR."

110 Obtaining information from social security authorities

(1) This section applies to—

(a) any information held by the Secretary of State or the Department of Health and Social Services for Northern Ireland for the purposes of any of his or its functions relating to social security; and

(b) any information held by a person in connection with the provision by him to the Secretary of State or that Department of any services which that person is providing for purposes connected with any of those functions.

(2) Subject to the following provisions of this section, the person holding any information to which this section applies shall be entitled to supply it to—

(a) the Commissioners of Customs and Excise or any person by whom services are being provided to those Commissioners for purposes connected with any of their functions; or

(b) the Commissioners of Inland Revenue or any person by whom services are being provided to those Commissioners for purposes connected with any of their functions.

(3) Information shall not be supplied to any person under this section except for one or more of the following uses—

(a) use in the prevention, detection, investigation or prosecution of criminal offences which it is a function of the Commissioners of Customs and Excise, or of the Commissioners of Inland Revenue, to prevent, detect, investigate or prosecute;

(b) use in the prevention, detection or investigation of conduct in respect of which penalties which are not criminal penalties are provided for by or under any enactment;

(c) use in connection with the assessment or determination of penalties which are not criminal penalties;

(d) use in checking the accuracy of information relating to, or provided for purposes connected with, any matter under the care and management of

the Commissioners of Customs and Excise or the Commissioners of Inland Revenue;

(e) use (where appropriate) for amending or supplementing any such information; and

(f) use in connection with any legal or other proceedings relating to anything mentioned in paragraphs (a) to (e) above.

(4) An enactment authorising the disclosure of information by a person mentioned in subsection (2)(a) or (b) above shall not authorise the disclosure by such a person of information supplied to him under this section except to the extent that the disclosure is also authorised by a general or specific permission granted by the Secretary of State or by the Department of Health and Social Services for Northern Ireland.

(5) In this section references to functions relating to social security include references to—

(a) functions in relation to social security contributions, social security benefits (whether contributory or not) or national insurance numbers; and

(b) functions under the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995.

(6) In this section "conduct" includes acts, omissions and statements.

(7) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

111 Report on VAT on energy saving materials

Within twelve months of this Act receiving Royal Assent the Treasury shall report to Parliament on the consequences to the Exchequer of reducing VAT on energy saving materials.

Supplemental

112 Interpretation

In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988.

113 Repeals

(1) The enactments mentioned in Schedule 18 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

114 Short title

This Act may be cited as the Finance Act 1997.