Finance Act 1997

CHAPTER 16

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CHAPTER 16

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1997 CHAPTER 16

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

[19th March 1997]

Most Gracious Sovereign,

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

PART I

EXCISE DUTIES

Alcoholic liquor duties

Rates of duty on spirits and wines of equivalent strength. 1979 c. 4.

1.—(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.

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

2.—(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—

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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.

Duty on sparkling cider.
1979 c. 4.

3.—(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—

"Meaning of 'sparkling' etc. in section 62.

62A.—(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— 1979 c. 4.

(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.—(1) After the section 62A inserted into the Alcoholic Liquor Duties Act 1979 by section 3 above there shall be inserted the following section— Cider labelled as strong cider.

"Cider labelled as strong cider.

62B.—(1) For the purposes of this Act, any liquor which would apart from this section be standard cider and

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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.

Cider labelled as made-wine.
1979 c. 4.

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

"Cider labelled as made-wine.

55B.—(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

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(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

Rates of hydrocarbon oil duties and of rebates.

1979 c. 5.

6.—(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.

Ultra low sulphur diesel.

7.—(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.";

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(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" there shall be substituted "'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

Rates of tobacco products duty. 1979 c. 7.

8.—(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

Rates of air passenger duty. 1994 c. 9.

9.—(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

Gaming duty to replace gaming licence duty. 1981 c. 63.

10.—(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); 1968 c. 65. S.I. 1985/1204 (N.I. 11).

(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). 1976 c. 32.

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

(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.

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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.

1994 c. 9.

(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.

Liability to pay gaming duty.

12.—(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—

1994 c. 9.

(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;

1979 c. 2.

(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.

Supplemental provisions relating to gaming duty.

13.—(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.

Subordinate legislation relating to gaming duty.

14.—(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.

Interpretation of gaming duty provisions.

15.—(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. 1979 c. 2.

(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; 1968 c. 65. S.I. 1985/1204 (N.I. 11).

"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

Increase in general rate. 1994 c. 22.

16.—(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.

Exemption for vehicles for disabled persons.

17. 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."

Provisions applying to exempt vehicles.

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

Issue of licences before payment of duty.

1994 c. 22.

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

"Issue of licences before payment of duty.

19B.—(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)".

PART I

Removal and disposal of vehicles.
1994 c. 22.

20.—(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

Rate of tax.
1994 c. 9.

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

"Rate of tax.

51.—(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;".

PART II

Premiums liable to tax at the higher rate.

1994 c. 9.

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

"Premiums liable to tax at the higher rate.

51A.—(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.

Charge to tax where different rates apply.

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

"Charge to tax where different rates of tax apply.

69.—(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.

PART II

(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."

1994 c. 9.

(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)".

Commencement of sections 21 to 23.

24.—(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). 1994 c. 9.

Taxable intermediaries and their fees

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

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

"Certain fees to be treated as premiums under higher rate contracts.

52A.—(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—

PART II

(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.

Registration of taxable intermediaries.

1994 c. 9.

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

"Registration of taxable intermediaries.

53AA.—(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.

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(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."

Supplementary provisions.
1994 c. 9.

27.—(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

Amounts charged by other intermediaries.

1994 c. 9.

28.—(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.

PART II

Prevention of pre-emption.

1994 c. 9.

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

"Announced increase in rate of tax: certain premiums treated as received on date of increase.

67A.—(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. 1975 c. 26.

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

67B.—(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—

PART II

(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.

Announced increase in rate of tax: exceptions and apportionments.

67C.—(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."

1994 c. 9.

(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.

Tax point for payroll deductions. 1994 c. 9.

30.—(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

Aggregation of businesses. 1994 c. 23.

31.—(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)—

PART III

(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.

Voluntary registration. 1994 c. 23.

32. 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

Sale of goods donated to charity.

33.—(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.

Charitable institutions providing care etc.

34.—(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

References to grants. 1994 c. 23.

35.—(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.

1983 c. 55.

(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.

1994 c. 23.

Buildings intended to be used as dwellings.

36.—(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.

Supplies to non-taxable persons etc.
1994 c. 23.

37.—(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.

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(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

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(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

Exempt insurance supplies.
1994 c. 23.

38.—(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

1982 c. 50.

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

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(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

Bad debt relief. 1994 c. 23.

39.—(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. 1983 c. 55.

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Groups of companies

Groups containing bodies of different descriptions.

1994 c. 23.

40.—(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.

Group supplies using an overseas member.

41.—(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.

1994 c. 23.

(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.

Services subject to the reverse charge.

42. 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."

Payments on account: appeals.

43. 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."

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PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

Value added tax

Liability of Commissioners to interest.
1994 c. 23.

44.—(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;

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(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.

1994 c. 23.

Assessment for overpayments of interest.

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

"Assessment for interest overpayments.

78A.—(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—

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(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.

1994 c. 23.

(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".

Repayments of overpayments: unjust enrichment.

46.—(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—

"Arrangements for reimbursing customers.

80A.—(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.

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(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.

Assessments of amounts due under section 80A arrangements.

80B.—(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.

Repayments and assessments: time limits. 1994 c.23.

47.—(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.

1994 c. 23.

(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—

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"(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.

1994 c. 23.

(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). 1989 c. 26.

Set-off of credits and debits. 1994 c. 23.

48.—(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.

Transitional provision for set-offs etc.

49.—(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

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(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—

1994 c. 23.

"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

1968 c. 2.

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

Overpayments, interest, assessments, etc.

50.—(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.

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Enforcement of payment

Enforcement by distress.

51.—(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.

Enforcement by diligence.

52.—(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—

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(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—

1987 c. 18.

(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.

Amendments consequential on sections 51 and 52.

53.—(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—

1979 c. 2.

"(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."

1994 c. 9.

(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". 1994 c. 9.

(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— 1994 c. 23.

"(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)". 1996 c. 8.

(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.—(1) Income tax shall be charged for the year 1997-98, and for that year— Charge and rates of income tax for 1997-98.

(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.

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(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

1995 c. 4.

(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."

Modification of indexed allowances.

55.—(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.

Blind person's allowance.

56.—(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.

Limit on relief for interest.

57. 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

Charge and rate of corporation tax for 1997.

58. Corporation tax shall be charged for the financial year 1997 at the rate of 33 per cent.

Small companies.

59. 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

Wayleaves for electricity cables, telephone lines, etc.

60.—(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

Phasing out of relief for profit-related pay.

61.—(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

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(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.

Travelling expenses etc.

62.—(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—

"Interpretation of section 198.

198A.—(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;".

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(5) This section has effect for the year 1998-99 and subsequent years of assessment.

Work-related training.

63.—(1) After section 200A of the Taxes Act 1988 there shall be inserted the following sections—

"Work-related training provided by employers.

200B.—(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.

Expenditure excluded from section 200B.

200C.—(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).

1991 c. 31.

(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.

Other work-related training.

200D.—(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.

Postponed company donations to charity.

64.—(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

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(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.

National Insurance contributions.

65.—(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.

1996 c. 8.

(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.

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Expenditure on production wells etc.

66.—(1) After section 91B of the Taxes Act 1988 there shall be inserted the following section—

"Mineral exploration and access.

91C. 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

1990 c. 1.

(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.

Annuity business of insurance companies.

67.—(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."

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(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—

"Meaning of 'steep-reduction annuity' etc.

437A.—(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

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(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—

'Treatment of annuities. 434AA. An".

1991 c. 31. (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.

Consortium claims for group relief.

68. 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.

Special treatment for certain distributions.

69. 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.

Distributions of exempt funds.

70.—(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.

Set-off against franked investment income.

71. 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

1996 c. 8.

1993 c. 34.

provisions relating to deficits on loan relationships, foreign exchange losses and losses on certain financial instruments);".

FIDs paid to unauthorised unit trusts.

72.—(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.

Tax advantages to include tax credits.

73.—(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.

Enterprise investment scheme.

74. 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.

Venture capital trusts.

75.—(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.

Stock lending and manufactured payments.

76. 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.

Bond washing and repos.

77.—(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

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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.

National Savings Bank interest.

78.—(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).

Payments under certain life insurance policies.

79.—(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 1982 c. 50.

(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.

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(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.

Futures and options: transactions with guaranteed returns.

80.—(1) After section 127 of the Taxes Act 1988 there shall be inserted the following section—

"Futures and options: transactions with guaranteed returns.

127A. 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

Transfer of assets abroad.

81.—(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

Finance leases and loans.

82. 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.

Loan relationships: transitions.

1996 c. 8.

83.—(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.

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Capital allowances

Writing-down allowances on long-life assets.

84. 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.

Schedule A cases etc.

85. 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.

Capital allowances on fixtures.
1990 c. 1.

86. 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

Re-investment relief.
1992 c. 12.

87. Schedule 17 to this Act (which amends Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.

Conversion of securities: QCBs and debentures.

88.—(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. 1992 c. 12.

89.—(1) After section 138 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section— Earn-out rights.

"Use of earn-out rights for exchange of securities.

138A.—(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

1992 c. 12.

(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— 1992 c. 12.

(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

Restriction of relief for underlying tax.

90.—(1) After section 801 of the Taxes Act 1988 there shall be inserted the following section—

"Restriction of relief for underlying tax.

801A.—(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.

Disposals of loan relationships with or without interest.

91.—(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— 1996 c. 8.

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(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

Time from which entitlement runs.
1994 c. 9.

92.—(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". 1992 c. 12.

(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.—(1) For the Table in Schedule 1 to the Inheritance Tax Act 1984 there shall be substituted— Rate bands. 1984 c. 51.

TABLE OF RATES OF TAX

Portion of value		*Rate of tax*
Lower limit (£)	Upper limit (£)	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.

PART VI

Agricultural property relief.

1984 c. 51.

94. After section 124B of the Inheritance Tax Act 1984 there shall be inserted the following section—

"Land in habitat schemes.

124C.—(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—

S.I. 1994/1291.

(a) regulation 3(1) of the Habitat (Water Fringe) Regulations 1994;

S.I. 1994/1292.

(b) the Habitat (Former Set-Aside Land) Regulations 1994;

S.I. 1994/1293.

(c) the Habitat (Salt-Marsh) Regulations 1994;

S.I. 1994/2710 (S. 138).

(d) the Habitats (Scotland) Regulations 1994, if undertakings in respect of the land have been given under regulation 3(2)(a) of those Regulations;

S.R. (N.I.) 1995 No. 134.

(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

Mergers of authorised unit trusts.

95.—(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. 1891 c. 39.

(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; 1986 c. 60.

"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. 1946 c. 64.

(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.

PART VII

Demutualisation of insurance companies.

96.—(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.

1891 c. 39.

(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—

1982 c. 50.

(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.

Relief for intermediaries. 1986 c. 41.

97.—(1) Before section 81 of the Finance Act 1986 there shall be inserted the following sections—

"Sales to intermediaries.

80A.—(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.

1891 c. 39.

Intermediaries: supplementary.

80B.—(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.

1988 c. 1.

(2) In section 80A above and this section—

"collective investment scheme" has the meaning given in section 75 of the Financial Services Act 1986; 1986 c. 60.

"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; 1982 c. 50.

"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.

Repurchases and stock lending. 1986 c. 41.

98.—(1) After section 80B of the Finance Act 1986 there shall be inserted the following section—

"Repurchases and stock lending.

80C.—(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. 1891 c. 39.

(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.

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(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.

Depositary receipts and clearance services. 1986 c. 41.

99.—(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

Mergers of authorised unit trusts.

100.—(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, 1986 c. 41.

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; 1986 c. 60.

"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. 1946 c. 64.

(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.

Direction to hold trust property on other trusts.

101.—(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

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(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.

1986 c. 41.

(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.

Relief for intermediaries.

102.—(1) After section 88 of the Finance Act 1986 there shall be inserted the following sections—

"Section 87: exceptions for intermediaries.

88A.—(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.

Intermediaries: supplementary.

88B.—(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

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1988 c. 1.

section 839 of the Income and Corporation Taxes Act 1988.

(2) In section 88A above and this section—

1986 c. 60.

"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;

1982 c. 50.

"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;

1986 c. 60.

"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.

Repurchases and stock lending. 1986 c. 41.

103.—(1) After section 89A of the Finance Act 1986 there shall be inserted the following section—

"Section 87: exception for repurchases and stock lending.

89AA.—(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.

PART VII

Depositary receipts and clearance services.

1986 c. 41.

104.—(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.

Inland bearer instruments.

1891 c. 39.

105.—(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— 1891 c. 39.

(i) section 30 of the Finance Act 1967 (exemption for bearer instruments relating to stock in foreign currencies); or 1967 c. 54.

(ii) section 7 of the Finance Act (Northern Ireland) 1967 (which makes similar provision for Northern Ireland); and 1967 c. 20 (N.I.).

(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—

PART VII

"(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;

1988 c. 1.

(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;

1992 c. 12.

(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.

Repayment or cancellation of tax.

106.—(1) Section 87 of the Finance Act 1986 (the principal charge) shall be amended in accordance with subsections (2) and (3) below.

1986 c. 41.

(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.

1996 c. 8.

(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

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(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."

1986 c. 41.

(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.

1930 c. 28.
1954 c. 23 (N.I.).

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

Petroleum revenue tax: non-field expenditure.

107.—(1) Section 113 of the Finance Act 1984 (restrictions on relief by reference to a qualifying date) shall be amended as follows.

1984 c. 43.

(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.

Payment of dividends on government stock.

108.—(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—

1892 c. 39.

"Effect of, and time for, striking balance.

2.—(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; 1971 c. 80.

(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.

Nil levy on dwelling-house disposals. 1993 c. 28.

109. 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."

Obtaining information from social security authorities.

110.—(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. 1995 c. 18. S.I 1995/2705 (N.I. 15).

(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. 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. Report on VAT on energy saving materials.

Supplemental

112. In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988. Interpretation. 1988 c. 1.

113.—(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. Repeals.

(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. This Act may be cited as the Finance Act 1997. Short title.

SCHEDULES

Section 13.

SCHEDULE 1

GAMING DUTY: ADMINISTRATION, ENFORCEMENT ETC

PART I

THE GAMING DUTY REGISTER

The Register

1. The Commissioners shall establish and maintain a register of persons involved in the provision of dutiable gaming.

Interpretation

2.—(1) In this Part of this Schedule—

"the register" means the gaming duty register;

"registered person" means a person registered on the register; and

"registrable person" has the meaning given by paragraph 3 below.

(2) For the purposes of this Part of this Schedule premises in the United Kingdom are "unlicensed premises" unless they are premises in Great Britain—

1968 c. 65.

(a) in respect of which a licence under the Gaming Act 1968 is for the time being in force, or

(b) in respect of which a club or miners' welfare institute is for the time being registered under Part II of that Act.

(3) References in this Part of this Schedule to being a member of a group and to being the representative member of a group shall be construed in accordance with paragraph 8 below.

Registration

3.—(1) The Commissioners shall, on receipt of a valid application made by—

(a) a registrable person, or

(b) a person who expects dutiable gaming to take place and to become a registrable person if it does,

add that person to the register.

(2) The following provisions of this paragraph have effect for the interpretation of sub-paragraph (1) above.

(3) A valid application is one which is made in such form and manner, and is accompanied by such information, as the Commissioners may require.

(4) Subject to sub-paragraph (5) below—

(a) the holder of a licence under the Gaming Act 1968 is a registrable person if and for so long as dutiable gaming takes place on the premises in respect of which the licence is for the time being in force;

(b) a provider of unlicensed premises is a registrable person if and for so long as dutiable gaming takes place on those premises;

(c) a person is a registrable person if and for so long as he is concerned in the organisation or management of dutiable gaming that takes place on unlicensed premises.

(5) A body corporate cannot be a registrable person if it—

(a) is a member of a group, but

(b) is not the representative member of that group.

(6) A body corporate which—

(a) is the representative member of a group, and

(b) is not a registrable person in its own right,

is a registrable person if another body corporate which is a member of that group would be a registrable person but for sub-paragraph (5) above.

Cancellation of registration

4.—(1) This paragraph has effect for determining when a registered person is to be removed by the Commissioners from the register.

(2) Where the Commissioners receive a valid notice from a registered person stating that he has ceased to be a registrable person, he shall be removed from the register.

(3) Where the Commissioners receive a valid notice from a registered person stating that he will, from a time specified in the notice, cease to be a registrable person, he shall be removed from the register with effect from that time.

(4) Where—

(a) a registered person has been added to the register on an application made under paragraph 3(1)(b) above, and

(b) the Commissioners receive a valid notice from him stating—

(i) that the dutiable gaming which he expected to take place has not taken place, and

(ii) that he no longer expects it to take place,

he shall be removed from the register.

(5) Where it appears to the Commissioners that a registered person has ceased to be a registrable person, he shall be removed from the register.

(6) A registered person shall be removed from the register if—

(a) he has been added to the register on an application made under paragraph 3(1)(b) above, and

(b) it appears to the Commissioners that the dutiable gaming which he expected to take place has not taken place and can no longer be expected to take place.

(7) For the purposes of this paragraph, a valid notice is one which is given in such form and manner, and accompanied by such information, as the Commissioners may require.

Penalties in connection with registration

5.—(1) There is a contravention of this sub-paragraph by every person who is a responsible person in relation to any premises if—

(a) dutiable gaming takes place on those premises on or after 1st October 1997; and

(b) at the time when the gaming takes place, no person by whom those premises are notifiable is registered on the register.

(2) For the purposes of this paragraph, a person is a responsible person in relation to any premises if—

(a) he is a registrable person; and

(b) those premises are notifiable by him.

(3) Where a person contravenes sub-paragraph (1) above, that contravention shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties. 1994 c. 9.

(4) References in this paragraph to premises being notifiable are references to them being notifiable for the purposes of paragraph 6 below.

SCH. 1

Notification of premises

6.—(1) This paragraph has effect for determining the premises to be specified in a registered person's entry on the register.

(2) A person who makes an application under paragraph 3(1) above shall, on making that application, notify the Commissioners of all the premises which—

(a) are notifiable by him, or

(b) in a case where his application is made under paragraph 3(1)(b), will become notifiable by him if the expected gaming takes place;

and the Commissioners shall, on registering him on the register, cause those premises to be specified in his entry on the register.

(3) Where any premises not currently notified by a registered person become notifiable by him—

(a) he shall notify the Commissioners of those premises, and

(b) the Commissioners shall cause those premises to be specified in his entry on the register.

(4) Subject to sub-paragraph (5) below, where any premises currently notified by a registered person cease to be notifiable by him—

(a) he shall notify the Commissioners of that fact, and

(b) they shall cause those premises to be no longer specified in his entry on the register.

(5) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (4) above in a case where—

(a) he gives notice to the Commissioners under paragraph 4(2) above; or

(b) the premises ceasing to be notifiable by him so cease in accordance with a notification previously given by him to the Commissioners under sub-paragraph (6) below.

(6) Where—

(a) any premises are currently notified by a registered person, and

(b) he notifies the Commissioners of the date on which those premises will cease to be notifiable by him,

the Commissioners shall ensure that those premises cease, with effect from that date, to be specified in his entry on the register.

(7) Subject to sub-paragraph (8) below, where—

(a) any premises are currently notified by a registered person,

(b) that person has been added to the register on an application made under paragraph 3(1)(b) above,

(c) any of the dutiable gaming which he expected to take place has not taken place,

(d) he no longer expects that gaming to take place, and

(e) in consequence of events turning out as mentioned in paragraphs (c) and (d) above, those premises have not and will not become notifiable by him,

he shall notify the Commissioners accordingly and they shall cause those premises to be no longer specified in his entry on the register.

(8) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (7) above in a case where he gives notice to the Commissioners under paragraph 4(4) above.

(9) For the purposes of this paragraph premises are currently notified by any person at any time if at that time they are specified in his entry on the register.

(10) For the purposes of this paragraph, in the case of a person who is not a body corporate, or who is a body corporate that is not a member of any group—

(a) premises in respect of which a licence under the Gaming Act 1968 is for the time being in force are notifiable by him if and for so long as— 1968 c. 65.

(i) he is the holder of the licence, and

(ii) dutiable gaming takes place on those premises;

(b) unlicensed premises of which he is a provider are notifiable by him if and for so long as dutiable gaming takes place on those premises; and

(c) any unlicensed premises of which he is not a provider are notifiable by him if and for so long as—

(i) dutiable gaming takes place on those premises, and

(ii) he is concerned in the organisation or management of that gaming.

(11) For the purposes of this paragraph, in the case of a body corporate which is the representative member of a group—

(a) premises in respect of which a licence under the Gaming Act 1968 is for the time being in force are notifiable by the representative member if and for so long as—

(i) it, or another body corporate which is a member of that group, is the holder of the licence, and

(ii) dutiable gaming takes place on those premises;

(b) unlicensed premises of which the representative member or any such other body corporate is a provider are notifiable by the representative member if and for so long as dutiable gaming takes place on those premises; and

(c) unlicensed premises which are not notifiable by the representative member by virtue of paragraph (b) above are notifiable by it if and for so long as—

(i) dutiable gaming takes place on those premises, and

(ii) it or any such other body corporate is concerned in the organisation or management of that gaming.

Penalties in connection with notification

7.—(1) Where, in contravention of paragraph 6(2) above, a person fails to notify the Commissioners of any premises, that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). 1994 c. 9.

(2) Where—

(a) by virtue of paragraph 6(3), (4) or (7) above, a person at any time becomes subject to a requirement to notify the Commissioners of any premises or fact, and

(b) he fails to comply with that requirement before the end of the period of seven days beginning with the day on which that time falls,

that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties for every day after the end of that period on which the failure to notify continues.

Groups

8.—(1) Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Schedule if each is resident or has an established place of business in the United Kingdom and—

(a) one of them controls each of the others;

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(b) one person (whether a body corporate or an individual) controls all of them; or

(c) two or more individuals carrying on a business in partnership control all of them.

(2) Subject to sub-paragraph (3) below, where an application for the purpose is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from such date as may be specified in the application—

(a) they shall be so treated for the purposes of this Part of this Schedule; and

(b) such one of them as may be specified in the application shall be the representative member for those purposes.

(3) The Commissioners may refuse an application under sub-paragraph (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue from gaming duty.

(4) Where any bodies corporate are treated as members of a group for the purposes of this Part of this Schedule and an application for the purpose is made to the Commissioners, then, from such time as may be specified in the application—

(a) a further body eligible to be so treated shall be included among the bodies so treated; or

(b) a body corporate shall be excluded from the bodies so treated; or

(c) another member of the group shall be substituted as the representative member; or

(d) the bodies corporate shall no longer be treated as members of a group.

(5) If it appears to the Commissioners necessary to do so for the protection of the revenue from gaming duty, they may—

(a) refuse any application made for the purpose mentioned in paragraph (a) or (c) of sub-paragraph (4) above; or

(b) refuse any application made for the purpose mentioned in paragraph (b) or (d) of that sub-paragraph in a case that does not appear to them to fall within sub-paragraph (6)(a) and (b) below.

(6) Where—

(a) a body corporate is treated as a member of a group for the purposes of this Part of this Schedule by virtue of being controlled by any person, and

(b) it appears to the Commissioners that it has ceased to be so controlled,

they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(7) Where—

(a) a notice under sub-paragraph (6) above is given to a body corporate which is the representative member of a group,

(b) there are two or more other bodies corporate who will continue to be treated as members of the group after the time when that notice takes effect, and

(c) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group in pursuance of an application under sub-paragraph (4)(c) above,

the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (b) above as they think fit, substitute that body corporate as the representative member as from that time.

(8) Where a notice under sub-paragraph (6) above is given to one member of a group of which there is only one other member, then (subject to any further

application under this paragraph) the other member shall also cease, from the time specified in the notice, to be treated for the purposes of this Part of this Schedule as a member of the group.

(9) An application under this paragraph with respect to any bodies corporate—

(a) must be made by one of those bodies or by the person controlling them; and

(b) must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.

(10) For the purposes of this paragraph a body corporate shall be taken to control another body corporate if—

(a) it is empowered by statute to control that body's activities; or

(b) it is that body's holding company within the meaning of section 736 of the Companies Act 1985; 1985 c. 6.

and an individual or individuals shall be taken to control a body corporate if (were he or they a company) he or they would be that body's holding company within the meaning of that Act.

(11) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any refusal by the Commissioners of an application under sub-paragraph (2) or (4) above as if that refusal were a decision of a description specified in Schedule 5 to that Act. 1994 c. 9.

PART II

OTHER PROVISIONS

Accounting periods

9.—(1) Where, in the case of any premises, the Commissioners and every relevant person so agree, the provisions of sections 10 to 15 of this Act and this Schedule shall have effect in relation to those premises as if accounting periods for the purposes of those provisions were periods of six months beginning on such dates other than 1st October and 1st April as may be specified in the agreement.

(2) For the purposes of sub-paragraph (1) above, a person is a relevant person in relation to any premises if—

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

(b) the entry relating to him on the register specifies those premises.

(3) The Commissioners shall not enter into an agreement under this paragraph for a change in the date on which an accounting period begins in relation to any premises unless they are satisfied that appropriate transitional provision for the protection of the revenue is contained in the agreement.

(4) The provision which, for the purposes of sub-paragraph (3) above, may be contained in any agreement under this paragraph shall include any such provision as may be contained in regulations under section 11(5) of this Act.

(5) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any refusal of the Commissioners to enter into an agreement under this paragraph, or to enter into such an agreement on particular terms, as if that refusal were a decision of a description specified in Schedule 5 to that Act.

Directions as to the making of returns

10.—(1) The Commissioners may give directions as to the making of returns in connection with gaming duty by—

(a) persons registered on the gaming duty register;

(b) persons liable to pay any gaming duty.

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(2) Directions under this paragraph may, in particular, make provision as to—

(a) when any returns are to be made;

(b) the persons by whom any returns are to be made;

(c) the form in which any returns are to be made;

(d) the information to be given in any returns;

(e) the declarations to be contained in returns and the manner in which returns are to be authenticated;

(f) returns being treated as not made until received by the Commissioners;

(g) the places to which returns are to be made.

(3) Where a person fails to comply with any provision of a direction given under this paragraph, that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties.

1994 c. 9.

Regulations

11.—(1) The Commissioners may make regulations providing for any matter for which provision appears to them to be necessary or expedient for the administration or enforcement of gaming duty, or for the protection of the revenue from that duty.

(2) Regulations under this paragraph may, in particular, include provision as to the giving and operation of directions under section 11(6) of this Act.

(3) Where any person contravenes or fails to comply with any of the provisions of any regulations under this paragraph, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).

Offences

12.—(1) Any person who obstructs any officer in the exercise of his functions in relation to gaming duty shall be guilty of an offence and liable, on summary conviction, to a penalty of level 5 on the standard scale.

(2) Any person who—

(a) in connection with gaming duty, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

(b) in that connection, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or

(c) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by him or any other person) of any gaming duty or of any obligation to make a payment on account of gaming duty,

shall be guilty of an offence.

(3) A person guilty of an offence under sub-paragraph (2) above shall be liable—

(a) on summary conviction, to a penalty of—

(i) the statutory maximum, or

(ii) if greater, three times the duty or other amount which is unpaid or the payment of which is sought to be avoided,

or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding—

(i) two years in the case of an offence by virtue of sub-paragraph (2)(a) above, and

(ii) seven years in any other case,

or to both.

(4) Section 27 of the Betting and Gaming Duties Act 1981 (offences by bodies corporate) shall have effect for the purposes of any offence under this paragraph as it has effect for the purposes of the offences mentioned in that section. 1981 c. 63.

(5) Where a person has committed an offence under sub-paragraph (2) above, all designated items related to the relevant gaming shall be liable to forfeiture if—

(a) at the time the offence was committed that person was not registered on the gaming duty register; and

(b) the relevant gaming did not take place on premises which, at the time the offence was committed, were specified in any person's entry on that register.

(6) In sub-paragraph (5) above, "the relevant gaming" means—

(a) in relation to an offence under sub-paragraph (2)(a) or (b) above, any gaming to which the false statement or (as the case may be) the false document related; and

(b) in relation to an offence under sub-paragraph (2)(c) above, any gaming on the premises the gaming duty on which was, or was sought to be, fraudulently evaded.

(7) For the purposes of sub-paragraph (5) above, the designated items related to any gaming are—

(a) any furniture, machines and other articles and equipment which—

(i) are on the premises where the gaming takes place; and

(ii) have been or are being, or are capable of being, used for or in connection with gaming;

and

(b) any cash and gaming chips in the custody or under the control of any person who—

(i) is a provider of the premises on which the gaming takes place, or

(ii) is in any way concerned with the organisation or management of the gaming.

(8) For the purposes of sub-paragraph (7)(b) above the cash and gaming chips taken to be under the control of a person who is the provider of any premises or is concerned with the organisation or management of gaming on any premises shall include all cash and gaming chips in play or left on a gaming table on those premises.

Distress and poinding

13.—(1) Sections 28 and 29 of the Betting and Gaming Duties Act 1981 (recovery of duty) shall have effect as follows so as to apply in relation to gaming duty as they applied in relation to the duty on gaming licences—

(a) in subsection (1) of each section, for "or 14 above or of Schedule 2 to this Act" there shall be substituted "above or sections 10 to 15 of, and Schedule 1 to, the Finance Act 1997"; and

(b) in subsections (2) and (3) of each section, for the words "the duty on a gaming licence" there shall be substituted—

(i) in the first place where they occur in subsection (2), the words "the gaming duty"; and

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(ii) in the other places where they occur, the words "gaming duty".

(2) Sub-paragraph (1) above shall cease to have effect on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this sub-paragraph for different purposes.

Disclosure of information

14.—(1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise shall prevent—

(a) the Commissioners or an authorised officer of the Commissioners from disclosing to the Gaming Board for Great Britain or to an authorised officer of that Board, or

(b) that Board or an authorised officer of that Board from disclosing to the Commissioners or an authorised officer of the Commissioners,

information for the purpose of assisting the Commissioners in the carrying out of their functions with respect to gaming duty or, as the case may be, that Board in the carrying out of that Board's functions under the Gaming Act 1968.

1968 c. 65.

(2) Information obtained by virtue of a disclosure authorised by this paragraph shall not be disclosed except—

(a) to the Commissioners or the Gaming Board for Great Britain or to an authorised officer of the Commissioners or that Board; or

(b) for the purposes of any proceedings connected with a matter in relation to which the Commissioners or that Board carry out the functions mentioned in sub-paragraph (1) above.

Evidence by certificate

1981 c. 63.

15. Section 29A of the Betting and Gaming Duties Act 1981 (evidence by certificate) shall apply for the purposes of sections 10 to 15 of this Act and this Schedule as it applies for the purposes of that Act.

Protection of officers

16. Section 31 of the Betting and Gaming Duties Act 1981 (protection of officers) shall apply for the purposes of gaming duty as it applies for the purposes of general betting duty.

Section 13.

SCHEDULE 2

GAMING DUTY: CONSEQUENTIAL AND INCIDENTAL AMENDMENTS

PART I

AMENDMENTS OF THE CUSTOMS AND EXCISE MANAGEMENT ACT 1979

Introductory

1979 c. 2.

1. The Customs and Excise Management Act 1979 shall be amended in accordance with the provisions of this Part of this Schedule.

Meaning of "revenue trade provisions" and "revenue trader"

2.—(1) This paragraph amends section 1(1) (interpretation).

(2) In the definition of "the revenue trade provisions of the customs and excise Acts", after paragraph (d) there shall be inserted the following paragraph—

"(e) the provisions of sections 10 to 15 of, and Schedule 1 to, the Finance Act 1997;".

(3) In paragraph (a) of the definition of "revenue trader", after sub-paragraph (ia) there shall be inserted the following sub-paragraphs—

"(ib) being (within the meaning of sections 10 to 15 of the Finance Act 1997) the provider of any premises for gaming;

(ic) the organisation, management or promotion of any gaming (within the meaning of the Gaming Act 1968 or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985); or".

1968 c. 65.
S.I. 1985/1204 (N.I. 11).

(4) In sub-paragraph (ii) of that paragraph, for "or (ia)" there shall be substituted ", (ia), (ib) or (ic)".

Amendments of Part IXA

3. In section 118B (furnishing of information etc. by revenue traders)—

(a) in subsection (1)(a), after sub-paragraph (ii) there shall be inserted "or

(iii) any transaction or activity effected or taking place in the course or furtherance of a business,";

(b) in subsection (1)(b), at the end there shall be inserted "or to the transaction or activity"; and

(c) in subsection (3), after "any business" there shall be inserted ", or to any transaction or activity effected or taking place in the course or furtherance of any business,".

4.—(1) This paragraph amends section 118C (powers of entry and search).

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

"(2A) Where an officer has reasonable cause to believe that any premises are premises where gaming to which section 10 of the Finance Act 1997 (gaming duty) applies is taking place, has taken place or is about to take place, he may at any reasonable time enter and inspect those premises and inspect any relevant materials found on them.

(2B) In subsection (2A) above 'relevant materials' means—

(a) any accounts, records or other documents found on the premises in the custody or control of any person who is engaging, or whom the officer reasonably suspects of engaging—

(i) in any such gaming, or

(ii) in any activity by reason of which he is or may become liable to gaming duty,

and

(b) any equipment which is being, or which the officer reasonably suspects of having been or of being intended to be, used on the premises for or in connection with any such gaming."

(3) In subsection (3) (justice's warrant for entry), after paragraph (b) there shall be inserted "or

(c) that there is reasonable ground for suspecting—

(i) that gaming to which section 10 of the Finance Act 1997 applies is taking place, has taken place or is about to take place on any premises, or

(ii) that evidence of the commission of a gaming duty offence is to be found there,".

(4) In subsection (4)(b) (powers on entry under a warrant), after "of a serious nature" there shall be inserted "or in respect of a gaming duty offence".

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(5) In subsection (5) (meaning of "fraud offence"), at the end there shall be inserted "and 'a gaming duty offence' means an offence under paragraph 12(2) of Schedule 1 to the Finance Act 1997 (offences in connection with gaming duty)".

PART II

OTHER AMENDMENTS

Licences under the Gaming Act 1968

1968 c. 65.

5.—(1) Schedule 2 to the Gaming Act 1968 (grant etc. of licences) shall be amended in accordance with the provisions of this paragraph.

(2) In paragraph 20(1) (grounds for refusing to grant or renew a licence), after paragraph (f) there shall be inserted the following paragraph—

"(g) that any gaming duty charged on the premises remains unpaid."

(3) In paragraph 48(1) (cancellation of licence on conviction for second or subsequent offence), after "the enactments consolidated by that Act)" there shall be inserted "or of an offence under paragraph 12 of Schedule 1 to the Finance Act 1997".

(4) In paragraph 60(c) (transfer of licence may be refused if duty unpaid), after "bingo duty" there shall be inserted "or gaming duty".

Preferential debts on insolvency

1986 c. 45.
1985 c. 66.
S.I. 1989/2405 (N.I. 19).

6. In paragraph 5(a) of Schedule 6 to the Insolvency Act 1986, paragraph 2(3)(a) of Schedule 3 to the Bankruptcy (Scotland) Act 1985 and paragraph 5(a) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (preferential debts), for "or bingo duty" there shall, in each case, be substituted ", bingo duty or gaming duty".

Assessments to duty

1994 c. 9.
1981 c. 63.

7. In section 12(2)(c) of the Finance Act 1994 (duty may be assessed upon the occurrence of certain defaults in connection with betting duties and bingo duty), after "under Schedule 1 or 3 to the Betting and Gaming Duties Act 1981" there shall be inserted "or Schedule 1 to the Finance Act 1997".

Section 18.

SCHEDULE 3

VEHICLE EXCISE DUTY: EXEMPT VEHICLES

Interpretation

1994 c. 22.

1. In this Schedule "the 1994 Act" means the Vehicle Excise and Registration Act 1994.

Registration of vehicle on issue of nil licence

2. In section 21 of the 1994 Act (registration of vehicles), for subsection (1) there shall be substituted the following subsection—

"(1) Subject to subsection (3), on the issue by the Secretary of State for a vehicle which is not registered under this section of either—

(a) a vehicle licence, or

(b) a nil licence,

the Secretary of State shall register the vehicle in such manner as he thinks fit without any further application by the person to whom the licence is issued."

Return of nil licence

3. In section 22 of the 1994 Act (registration regulations), after subsection (3) there shall be inserted the following subsection—

"(4) Regulations made by the Secretary of State may make provision for the return of any nil licence to the Secretary of State in such circumstances as may be prescribed by the regulations."

Offence of not exhibiting nil licence

4.—(1) In section 33 of the 1994 Act (not exhibiting licence), after subsection (1) there shall be inserted the following subsection—

"(1A) A person is guilty of an offence if—

(a) he uses, or keeps, on a public road an exempt vehicle,

(b) that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and

(c) there is not fixed to and exhibited on the vehicle in the manner prescribed by regulations made by the Secretary of State a nil licence for that vehicle which is for the time being in force."

(2) In subsection (2) of that section, after "(1)" there shall be inserted "or (1A)".

(3) For subsection (3) of that section there shall be substituted the following subsection—

"(3) Subsections (1) and (1A)—

(a) have effect subject to the provisions of regulations made by the Secretary of State, and

(b) are without prejudice to sections 29 and 43A."

(4) In subsection (4) of that section, for "in respect of which excise duty is chargeable" there shall be substituted "which is kept or used on a public road".

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

"(5) The reference to a licence in subsection (4) includes a reference to a nil licence."

Offence of failing to have nil licence for exempt vehicle

5. Immediately before section 44 of the 1994 Act there shall be inserted the following section—

"Failure to have nil licence for exempt vehicle.

43A.—(1) A person is guilty of an offence if—

(a) he uses, or keeps, on a public road an exempt vehicle,

(b) that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and

(c) a nil licence is not for the time being in force in respect of the vehicle.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) Subsection (1) has effect subject to the provisions of regulations made by the Secretary of State.

(4) The Secretary of State may, if he thinks fit, compound any proceedings for an offence under this section."

SCH. 3

Offence of forging or fraudulently using etc. nil licence

6. In subsection (2) of section 44 of the 1994 Act (forgery and fraud), for paragraph (c) there shall be substituted the following paragraph—

"(c) a nil licence,".

Supplemental provisions

7.—(1) In section 46 of the 1994 Act (duty to give information)—

(a) in subsection (1), for "or 37" there shall be substituted ", 37 or 43A";

(b) in subsections (2) and (3), after "section 29" there shall be inserted "or 43A".

(2) In subsection (1) of section 51 of that Act (admissions), for "or 34" there shall be substituted ", 34 or 43A".

(3) In subsection (1) of section 62 of that Act (other definitions), after the definition of "motor trader" there shall be inserted the following definition—

"'nil licence' means a document which is in the form of a vehicle licence and is issued by the Secretary of State in pursuance of regulations under this Act in respect of a vehicle which is an exempt vehicle,".

(4) In paragraph 20 of Schedule 2 to that Act (exempt vehicles), sub-paragraph (4) shall cease to have effect.

Further amendments

1988 c. 53.

8.—(1) In Schedule 3 to the Road Traffic Offenders Act 1988 (fixed penalty offences), in column 2 of the entry relating to section 33 of the 1994 Act, for "licence" there shall be substituted "vehicle licence, trade licence or nil licence".

S.I. 1981/154 (N.I. 1).

(2) In Article 198 of the Road Traffic (Northern Ireland) Order 1981 (offences punishable without prosecution), in paragraph (1)(f) for "licence" there shall be substituted "vehicle licence, trade licence or nil licence".

Commencement

9. This Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

Section 22.

SCHEDULE 4

INSURANCE PREMIUM TAX: THE HIGHER RATE

Schedule to be inserted into the Finance Act 1994

Section 51A.

"SCHEDULE 6A

PREMIUMS LIABLE TO TAX AT THE HIGHER RATE

PART I

INTERPRETATION

1.—(1) In this Schedule—

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

"supply" includes all forms of supply; and "supplier" shall be construed accordingly.

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

PART II

DESCRIPTIONS OF PREMIUM

Insurance relating to motor cars or motor cycles

2.—(1) A premium under a taxable insurance contract relating to a motor car or motor cycle falls within this paragraph if—

(a) the contract is arranged through a person falling within sub-paragraph (2) below, or

(b) the insurer under the contract is a person falling within that sub-paragraph,

unless the insurance is provided to the insured free of charge.

(2) A person falls within this sub-paragraph if—

(a) he is a supplier of motor cars or motor cycles;

(b) he is connected with a supplier of motor cars or motor cycles; or

(c) he pays—

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

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

to a supplier of motor cars or motor cycles or to a person who is connected with a supplier of motor cars or motor cycles.

(3) Where a taxable insurance contract relating to a motor car or motor cycle is arranged through a person who is connected with a supplier of motor cars or motor cycles, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom that person is connected.

(4) Where the insurer under a taxable insurance contract relating to a motor car or motor cycle is connected with a supplier of motor cars or motor cycles, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom the insurer is connected.

(5) For the purposes of this paragraph, the cases where insurance is provided to the insured free of charge are those cases where no charge (whether by way of premium or otherwise) is made—

(a) in respect of the taxable insurance contract, or

(b) at or about the time when the taxable insurance contract is made and in connection with that contract, in respect of any insurance-related service,

by any person falling within sub-paragraph (2) above to any person who is or becomes the insured (or one of the insured) under the contract or to any person who acts, otherwise than in the course of a business, for or on behalf of such a person.

(6) In this paragraph—

"motor car" and "motor cycle" have the meaning given—

(a) by section 185(1) of the Road Traffic Act 1988; or 1988 c. 52.

(b) in Northern Ireland, by Article 3(1) of the Road Traffic (Northern Ireland) Order 1995; S.I. 1995/2994 (N.I. 18).

SCH. 4

"supplier" does not include an insurer who supplies a car or motor cycle as a means of discharging liabilities arising by reason of a claim under an insurance contract.

Insurance relating to domestic appliances etc.

3.—(1) A premium under a taxable insurance contract relating to relevant goods falls within this paragraph if—

(a) the contract is arranged through a person falling within sub-paragraph (2) below, or

(b) the insurer under the contract is a person falling within that sub-paragraph,

unless the insurance is provided to the insured free of charge.

(2) A person falls within this sub-paragraph if—

(a) he is a supplier of relevant goods;

(b) he is connected with a supplier of relevant goods; or

(c) he pays—

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

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

to a supplier of relevant goods or to a person who is connected with a supplier of relevant goods.

(3) Where a taxable insurance contract relating to relevant goods is arranged through a person who is connected with a supplier of relevant goods, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom that person is connected.

(4) Where the insurer under a taxable insurance contract relating to relevant goods is connected with a supplier of relevant goods, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom the insurer is connected.

(5) For the purposes of this paragraph, the cases where insurance is provided to the insured free of charge are those cases where no charge (whether by way of premium or otherwise) is made—

(a) in respect of the taxable insurance contract, or

(b) at or about the time when the taxable insurance contract is made and in connection with that contract, in respect of any insurance-related service,

by any person falling within sub-paragraph (2) above to any person who is or becomes the insured (or one of the insured) under the contract or to any person who acts, otherwise than in the course of a business, for or on behalf of such a person.

(6) In this paragraph—

"relevant goods" means any electrical or mechanical appliance of a kind—

(a) which is ordinarily used in or about the home; or

(b) which is ordinarily owned by private individuals and used by them for the purposes of leisure, amusement or entertainment;

"supplier" does not include an insurer who supplies relevant goods as a means of discharging liabilities arising by reason of a claim under an insurance contract.

(7) In sub-paragraph (6) above—

"appliance" includes any device, equipment or apparatus;

"the home" includes any private garden and any private garage or private workshop appurtenant to a dwelling.

Travel insurance

4.—(1) A premium under a taxable insurance contract relating to travel risks falls within this paragraph if—

(a) the contract is arranged through a person falling within sub-paragraph (2) below, or

(b) the insurer under the contract is a person falling within that sub-paragraph,

unless the insurance is provided to the insured free of charge.

(2) A person falls within this sub-paragraph if—

(a) he is a tour operator or travel agent;

(b) he is connected with a tour operator or travel agent; or

(c) he pays—

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

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

to a tour operator or travel agent or to a person who is connected with a tour operator or travel agent.

(3) Where a taxable insurance contract relating to travel risks is arranged through a person who is connected with a tour operator or travel agent, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to services supplied by a tour operator or travel agent with whom that person is connected.

(4) Where the insurer under a taxable insurance contract relating to travel risks is connected with a tour operator or travel agent, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to services supplied by a tour operator or travel agent with whom the insurer is connected.

(5) For the purposes of sub-paragraphs (3) and (4) above, a travel agent shall be treated as supplying any services whose provision he secures or arranges.

(6) For the purposes of this paragraph, the cases where insurance is provided to the insured free of charge are those cases where no charge (whether by way of premium or otherwise) is made—

(a) in respect of the taxable insurance contract, or

(b) at or about the time when the taxable insurance contract is made and in connection with that contract, in respect of any insurance-related service,

by any person falling within sub-paragraph (2) above to any person who is or becomes the insured (or one of the insured) under the contract or to any person who acts, otherwise than in the course of a business, for or on behalf of such a person.

(7) In this paragraph—

"tour operator" includes any person who carries on a business which consists of or includes the provision, or the securing of the provision, of—

(a) services for the transport of travellers; or

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(b) accommodation for travellers;

"travel agent" includes any person who carries on a business which consists of or includes the making of arrangements, whether directly or indirectly, with a tour operator for the transport or accommodation of travellers;

"travel risks" means—

(a) risks associated with, or related to, travel or intended travel; or

(b) risks to which a person travelling may be exposed at any place at which he may be in the course of his travel."

Section 50.

SCHEDULE 5

INDIRECT TAXES: OVERPAYMENTS ETC

PART I

UNJUST ENRICHMENT

Application of Part I

1.—(1) This Part of this Schedule has effect for the purposes of the following provisions (which make it a defence to a claim for repayment that the repayment would unjustly enrich the claimant), namely—

1979 c. 2. (a) section 137A(3) of the Customs and Excise Management Act 1979 (excise duties);

1994 c. 9. (b) paragraph 8(3) of Schedule 7 to the Finance Act 1994 (insurance premium tax); and

1996 c. 8. (c) paragraph 14(3) of Schedule 5 to the Finance Act 1996 (landfill tax).

(2) Those provisions are referred to in this Part of this Schedule as unjust enrichment provisions.

(3) In this Part of this Schedule—

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

"relevant repayment provision" means—

(a) section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid excise duty);

(b) paragraph 8 of Schedule 7 to the Finance Act 1994 (recovery of overpaid insurance premium tax); or

(c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax);

"relevant tax" means any duty of excise, insurance premium tax or landfill tax; and

1978 c. 30. "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

Disregard of business losses

2.—(1) This paragraph applies where—

(a) there is an amount paid by way of relevant tax which (apart from an unjust enrichment provision) would fall to be repaid under a relevant repayment provision 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.

(2) Where, in a case to which this paragraph 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 provisions relating to a relevant tax, 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.

(3) In sub-paragraph (2) 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.

(4) The reference in sub-paragraph (2) above to provisions relating to a relevant tax is a reference to any provisions of—

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

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

(5) This paragraph 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.

Reimbursement arrangements

3.—(1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of any or all of the unjust enrichment provisions 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 paragraph "reimbursement arrangements" means any arrangements for the purposes of a claim under a relevant repayment provision 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 sub-paragraph (1) above, the provision that may be required by regulations under this paragraph 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 paragraph 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 sub-paragraph (3)(b) or (c) above;

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

(5) Regulations under this paragraph 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 paragraph 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 paragraph 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.

(8) Regulations under this paragraph shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Contravention of requirement to repay Commissioners

4.—(1) Where any obligation is imposed by regulations made by virtue of paragraph 3(4) above, a contravention or failure to comply with that obligation shall, to the extent that it relates to amounts repaid under section 137A of the
1979 c. 2. Customs and Excise Management Act 1979, attract a penalty under section 9 of the Finance Act 1994 (penalties in connection with excise duties).

1994 c. 9. (2) For the purposes of Schedule 7 to the Finance Act 1994 (insurance premium tax), a contravention or failure to comply with an obligation imposed by regulations made by virtue of paragraph 3(4) above shall be deemed, to the extent that it relates to amounts repaid under paragraph 8 of that Schedule (recovery of overpaid insurance premium tax), to be a failure to comply with a requirement falling within paragraph 17(1)(c) of that Schedule (breach of regulations).

1996 c. 8. (3) Paragraph 23 of Schedule 5 to the Finance Act 1996 (power to provide for penalty) shall have effect as if an obligation imposed by regulations made by virtue of paragraph 3(4) above were, to the extent that it relates to amounts repaid under paragraph 14 of that Schedule (recovery of overpaid landfill tax), a requirement imposed by regulations under Part III of that Act; and the provisions of that Schedule in relation to penalties under Part V of that Schedule shall have effect accordingly.

PART II

TIME LIMITS

Repayments

5.—(1) For subsection (4) of section 137A of the Customs and Excise Management Act 1979 (time limit on recovery of overpaid excise duty) there shall be substituted the following subsection— 1979 c. 2.

"(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) For sub-paragraphs (4) and (5) of paragraph 8 of Schedule 7 to the Finance Act 1994 (time limit on recovery of overpaid insurance premium tax) there shall be substituted the following sub-paragraph— 1994 c. 9.

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

(3) For sub-paragraph (4) of paragraph 14 of Schedule 5 to the Finance Act 1996 (time limit on recovery of overpaid landfill tax) there shall be substituted the following sub-paragraph— 1996 c. 8.

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

Assessments

6.—(1) In each of the enactments specified in sub-paragraph (2) below (which provide for the time limits applying to the making of assessments), for the words "six years", wherever they occur, there shall be substituted the words "three years".

(2) Those enactments are—

(a) section 12(4)(a) and (5) of the Finance Act 1994 (excise duties);

(b) paragraph 26(1) and (4) of Schedule 7 to that Act (insurance premium tax); and

(c) paragraph 33(1) and (4) of Schedule 5 to the Finance Act 1996 (landfill tax).

PART III

INTEREST

Interest on overpaid air passenger duty

7.—(1) Paragraph 9 of Schedule 6 to the Finance Act 1994 (interest payable by the Commissioners in connection with air passenger duty) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above the reference to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied."

(3) For sub-paragraph (6) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

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

(4) For sub-paragraph (7) there shall be substituted the following sub-paragraph—

"(7) Any reference in this paragraph to the authorisation by the Commissioners of the payment of any amount includes a reference to the discharge by way of set-off of the Commissioners' liability to pay that amount."

8.—(1) In sub-paragraph (2) of that paragraph (applicable period), the words after paragraph (b) shall be omitted; and the following sub-paragraphs shall be substituted for sub-paragraphs (3) and (4)—

"(2A) In determining the applicable period for the purposes of this paragraph 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.

(2B) The reference in sub-paragraph (2A) 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 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 repayment, and to interest on the amount of that 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.

(3) In determining for the purposes of sub-paragraph (2B) 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."

(2) Sub-paragraph (1) 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.

Interest on overpaid insurance premium tax

9.—(1) Paragraph 22 of Schedule 7 to the Finance Act 1994 (interest payable by the Commissioners in connection with insurance premium tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides. 1994 c. 9.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above—

(a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference 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 (c) do not include any amount payable under this paragraph."

(3) For sub-paragraph (9) of that paragraph (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

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

(4) For sub-paragraph (10) there shall be substituted the following sub-paragraph—

"(10) References in this paragraph to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off of the Commissioners' liability to pay that amount."

10.—(1) For sub-paragraphs (5) to (7) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

"(5) In determining the applicable period for the purposes of this paragraph 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.

(5A) The reference in sub-paragraph (5) 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

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(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.

(6) In determining for the purposes of sub-paragraph (5A) 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 provided for by regulations, 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."

(2) Sub-paragraph (1) 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.

Interest on overpaid landfill tax

1996 c. 8.

11.—(1) Paragraph 29 of Schedule 5 to the Finance Act 1996 (interest payable by the Commissioners in connection with landfill tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above—

(a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference 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 (c) do not include any amount payable under this paragraph."

(3) For sub-paragraph (8) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

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

(4) For sub-paragraph (9) there shall be substituted the following sub-paragraph—

"(9) References in this paragraph—

(a) to receiving payment of any amount from the Commissioners, or

(b) to the authorisation by the Commissioners of the payment of any amount,

include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners' liability to pay that amount."

12.—(1) For sub-paragraphs (4) to (6) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

"(4) In determining the applicable period for the purposes of this paragraph 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.

(4A) The reference in sub-paragraph (4) 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.

(5) In determining for the purposes of sub-paragraph (4A) 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 provided for by regulations, 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."

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(2) Sub-paragraph (1) 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.

PART IV

SET-OFF INVOLVING LANDFILL TAX

1996 c. 8.

13.—(1) In paragraph 42 of Schedule 5 to the Finance Act 1996 (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

"(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of landfill tax to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above."

(2) In paragraph 43 of that Schedule (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

"(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of any of the taxes under their care and management to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above."

PART V

RECOVERY OF EXCESS PAYMENTS BY THE COMMISSIONERS

Assessment for excessive repayment

14.—(1) Where—

(a) any amount has been paid at any time to any person by way of a repayment under a relevant repayment provision, and

(b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person,

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

(2) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 3(4)(a) above, the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.

(3) In this paragraph "relevant repayment provision" means—

1979 c. 2.

(a) section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid excise duty);

1994 c. 9.

(b) paragraph 8 of Schedule 7 to the Finance Act 1994 (recovery of overpaid insurance premium tax); or

(c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax).

Assessment for overpayments of interest

15.—(1) Where—

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

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

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) In this paragraph "relevant interest provision" means—

(a) paragraph 9 of Schedule 6 to the Finance Act 1994 (interest payable by the Commissioners on overpayments of air passenger duty); 1994 c. 9.

(b) paragraph 22 of Schedule 7 to that Act (interest payable by the Commissioners on overpayments etc. of insurance premium tax); or

(c) paragraph 29 of Schedule 5 to the Finance Act 1996 (interest payable by the Commissioners on overpayments etc. of landfill tax). 1996 c. 8.

Assessments under paragraphs 14 and 15

16.—(1) An assessment under paragraph 14 or 15 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.

(2) Where an amount has been assessed and notified to any person under paragraph 14 or 15 above, it shall be recoverable (subject to any provision having effect in accordance with paragraph 19 below) as if it were relevant tax due from him.

(3) Sub-paragraph (2) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

Interest on amounts assessed

17.—(1) Where an assessment is made under paragraph 14 or 15 above, the whole of the amount assessed shall carry interest at the rate applicable under section 197 of the Finance Act 1996 from the date on which the assessment is notified until payment.

(2) Where any person is liable to interest under sub-paragraph (1) above the Commissioners may assess the amount due by way of interest and notify it to him.

(3) Without prejudice to the power to make assessments under this paragraph for later periods, the interest to which an assessment under this paragraph may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment under this paragraph is made.

(4) Interest under this paragraph shall be paid without any deduction of income tax.

(5) A notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the amount of interest is calculated; and, if the interest continues to accrue after that date, a further assessment or assessments may be made under this paragraph in respect of amounts which so accrue.

(6) If, within such period as may be notified by the Commissioners to the person liable for interest under sub-paragraph (1) above, the amount referred to in that sub-paragraph is paid, it shall be treated for the purposes of that sub-paragraph as paid on the date specified as mentioned in sub-paragraph (5) above.

(7) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were relevant tax due from him.

(8) Sub-paragraph (7) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

Supplementary assessments

18. If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 14, 15 or 17 above exceeds the amount which was so assessed, then—

(a) under the same paragraph as that assessment was made, and

(b) on or before the last day on which that assessment could have been made,

the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

Review of decisions and appeals

1994 c. 9.

19.—(1) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision which—

(a) is contained in an assessment under paragraph 14, 15 or 17 above,

(b) is a decision about whether any amount is due to the Commissioners or about how much is due, and

1979 c. 2.

(c) is made in a case in which the relevant repayment provision is section 137A of the Customs and Excise Management Act 1979 or the relevant interest provision is paragraph 9 of Schedule 6 to the Finance Act 1994,

as if that decision were such a decision as is mentioned in section 14(1)(b) of that Act of 1994.

(2) Sections 59 and 60 of that Act of 1994 (review and appeal in the case of insurance premium tax) shall have effect in relation to any decision which—

(a) is contained in an assessment under paragraph 14, 15 or 17 above,

(b) is a decision about whether any amount is due to the Commissioners or about how much is due, and

(c) is made in a case in which the relevant repayment provision is paragraph 8 of Schedule 7 to that Act or the relevant interest provision is paragraph 22 of that Schedule,

as if that decision were a decision to which section 59 of that Act applies.

1996 c. 8.

(3) Sections 54 to 56 of the Finance Act 1996 (review and appeal in the case of landfill tax) shall have effect in relation to any decision which—

(a) is contained in an assessment under paragraph 14, 15 or 17 above,

(b) is a decision about whether any amount is due to the Commissioners or about how much is due, and

(c) is made in a case in which the relevant repayment provision is paragraph 14 of Schedule 5 to that Act or the relevant interest provision is paragraph 29 of that Schedule,

as if that decision were a decision to which section 54 of that Act applies.

Interpretation of Part V

20.—(1) In this Part of this Schedule "the Commissioners" means the Commissioners of Customs and Excise.

(2) In this Part of this Schedule "relevant tax", in relation to any assessment, means—

(a) a duty of excise if the assessment relates to—

(i) a repayment of an amount paid by way of such a duty,

(ii) an overpayment of interest under paragraph 9 of Schedule 6 to the Finance Act 1994, or 1994 c. 9.

(iii) interest on an amount specified in an assessment in relation to which the relevant tax is a duty of excise;

(b) insurance premium tax if the assessment relates to—

(i) a repayment of an amount paid by way of such tax,

(ii) an overpayment of interest under paragraph 22 of Schedule 7 to the Finance Act 1994, or

(iii) interest on an amount specified in an assessment in relation to which the relevant tax is insurance premium tax;

and

(c) landfill tax if the assessment relates to—

(i) a repayment of an amount paid by way of such tax,

(ii) an overpayment of interest under paragraph 29 of Schedule 5 to the Finance Act 1996, or 1996 c. 8.

(iii) interest on an amount specified in an assessment in relation to which the relevant tax is landfill tax.

(3) For the purposes of this Part of this Schedule 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.

Consequential amendment

21. In section 197(2) of the Finance Act 1996 (enactments for which interest rates are set under section 197), after paragraph (d) there shall be inserted "and

(e) paragraph 17 of Schedule 5 to the Finance Act 1997 (interest on amounts repayable in respect of overpayments by the Commissioners in connection with excise duties, insurance premium tax and landfill tax)."

SCHEDULE 6

Section 50.

ASSESSMENTS FOR EXCISE DUTY PURPOSES

Assessment of amounts payable to the Commissioners

1.—(1) After section 12 of the Finance Act 1994 there shall be inserted the following sections—

"Other assessments relating to excise duty matters.

12A.—(1) This subsection applies where any relevant excise duty relief other than an excepted relief—

(a) has been given but ought not to have been given, or

(b) would not have been given had the facts been known or been as they later turn out to be.

(2) Where subsection (1) above applies, the Commissioners may assess the amount of the relief given as being excise duty due from the liable person and notify him or his representative accordingly.

(3) Where an amount has been assessed as due from any person under—

(a) subsection (2) above,

(b) section 94 or 96 of the Management Act, or

1979 c. 5.

(c) section 10, 13, 14, 23 or 24 of the Hydrocarbon Oil Duties Act 1979,

and notice has been given accordingly, that amount shall, subject to any appeal under section 16 below, be deemed to be an amount of excise duty due from that person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(4) No assessment under any of the provisions referred to in subsection (3) above, or under section 61 or 167 of the Management Act, shall be made at any time after whichever is the earlier of the following times, that is to say—

(a) subject to subsection (6) below, the end of the period of three years beginning with the relevant time; and

(b) the end of the period of one year beginning with the day on which evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge.

(5) Subsection (4) above shall be without prejudice, where further evidence comes to the knowledge of the Commissioners at any time after the making the assessment concerned, to the making of a further assessment within the period applicable by virtue of that subsection in relation to that further assessment.

(6) Subsection (4) above shall have effect as if the reference in paragraph (a) to three years were a reference to twenty years in any case where the assessment has been postponed or otherwise affected by, or the power to make the assessment arises out of, conduct falling within subsection (5)(a) or (b) of section 12 above (construed in accordance with subsection (7) of that section).

Section 12A: supplementary provisions.

12B.—(1) For the purposes of section 12A above and this section, relevant excise duty relief has been given if (and only if)—

(a) an amount of excise duty which a person is liable to pay has been remitted or payment of an amount of excise duty which a person is liable to pay has been waived;

(b) an amount of excise duty has been repaid to a person;

(c) an amount by way of drawback of excise duty has been paid to a person;

(d) an allowance of excise duty in any amount has been made to a person;

(e) an amount by way of rebate has been allowed to a person;

(f) the liability of a person to repay an amount paid by way of drawback of excise duty has been waived;

(g) an amount has been paid to a person under section 20(3) of the Hydrocarbon Oil Duties Act 1979 (payments in respect of contaminated or accidentally mixed oil); or

(h) an amount of relief has been allowed to a person by virtue of section 20AA of that Act (power to allow reliefs), or in accordance with paragraph 10 of

Schedule 3 to that Act (power to make regulations for the purpose of relieving from excise duty oil intended for exportation or shipment as stores);

and the amount of the relief is the amount mentioned in relation to the relief in this subsection.

(2) For the purposes of section 12A above the relevant time is—

(a) in the case of an assessment under section 61 of the Management Act, the time when the ship or aircraft in question returned to a place within the United Kingdom;

(b) in the case of an assessment under section 94 of that Act, the time at which the goods in question were warehoused;

(c) in the case of an assessment under that section as it has effect by virtue of section 95 of that Act, the time when the goods in question were lawfully taken from the warehouse;

(d) in the case of an assessment under section 96 of that Act, the time when the goods in question were moved by pipe-line or notified as goods to be moved by pipe-line;

(e) in the case of an assessment under section 167 of that Act—

(i) if the assessment relates to unpaid duty, the time when the duty became payable or, if later, the time when the document in question was delivered or the statement in question was made; and

(ii) if the assessment relates to an overpayment, the time when the overpayment was made;

(f) in the case of an assessment under section 10, 13, 14 or 23 of the Hydrocarbon Oil Duties Act 1979, the time of the action which gave rise to the power to assess; 1979 c. 5.

(g) in the case of an assessment under section 24(4A) or (4B) of that Act, the time when the rebate was allowed or the oil was delivered without payment of duty (as the case may be);

(h) in the case of an assessment under section 12A(2) above, the time when the relevant excise duty relief in question was given.

(3) In section 12A above "the liable person" means—

(a) in the case of excise duty which has been remitted or repaid under section 130 of the Management Act on the basis that goods were lost or destroyed while in a warehouse, the proprietor of the goods or the occupier of the warehouse;

(b) in the case of a rebate which has been allowed on any oil under section 11 of the Hydrocarbon Oil Duties Act 1979, the person to whom the rebate was allowed or the occupier of any warehouse from which the oil was delivered for home use;

(c) in the case of a rebate allowed on any petrol under section 13A of that Act, the person to whom the rebate was allowed or the occupier of any warehouse from which the petrol was delivered for home use;

(d) in any other case, the person mentioned in subsection (1) above to whom the relief in question was given.

(4) In section 12A above—

"excepted relief" means any relief which is given by the making of a repayment on a claim made under section 137A of the Management Act;

"representative", in relation to any person from whom the Commissioners assess an amount as being excise duty due, means his personal representative, trustee in bankruptcy or interim or permanent trustee, any receiver or liquidator appointed in relation to him or any of his property or any other person acting in a representative capacity in relation to him."

(2) After section 14(1)(b) of that Act there shall be inserted the following paragraph—

"(ba) any decision by the Commissioners to assess any person to excise duty under section 12A(2) above, section 61, 94, 96 or 167 of the Management Act or section 10, 13, 14, 23 or 24 of the Hydrocarbon Oil Duties Act 1979, or as to the amount of duty to which a person is to be assessed under any of those provisions;".

1979 c. 5.

(3) In sections 12(8) and 13(7) of that Act (definition of "representative" for the purposes of sections 12 and 13), for "or trustee in bankruptcy," there shall be substituted ", trustee in bankruptcy or interim or permanent trustee,".

Assessments in cases of a deficiency in stores

1979 c. 2.

2.—(1) After subsection (7) of section 61 of the Customs and Excise Management Act 1979 (duty payable where deficiency or excess deficiency discovered in goods on return of ship or aircraft to United Kingdom) there shall be inserted the following subsection—

"(7A) No amount of excise duty shall be payable under subsection (7) above unless the Commissioners have assessed that amount as being excise duty due from the master of the ship or the commander of the aircraft and notified him or his representative accordingly."

(2) In subsection (8) of that section (duty payable under subsection (7) recoverable as a civil debt) after "duty" there shall be inserted ", other than excise duty,".

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

"(8A) An amount of excise duty assessed as being due under subsection (7A) above shall, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced and subject to any appeal under section 16 of the Finance Act 1994, be recoverable summarily as a civil debt."

1994 c. 9.

(4) In section 1(1) of that Act (interpretation), after the definition of "registered excise dealers and shippers regulations" there shall be inserted—

""representative", in relation to any person from whom the Commissioners assess an amount as being excise duty due, means his personal representative, trustee in bankruptcy or interim or permanent trustee, any receiver or liquidator appointed in relation to him or any of his property or any other person acting in a representative capacity in relation to him;".

Assessments in cases of a deficiency in warehoused goods

3.—(1) Section 94 of the Customs and Excise Management Act 1979 shall be amended in accordance with sub-paragraphs (2) to (6) below. 1979 c. 2.

(2) In subsection (3) (power to require payment of duty or repayment of drawback or allowance where warehoused goods are deficient), for the words from "require" to the end there shall be substituted the following paragraphs—

"(a) require the occupier of the warehouse or the proprietor of the goods to pay immediately any duty, other than excise duty, chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of such duty paid in respect of the relevant goods;

(b) assess, as being excise duty due from the occupier of the warehouse or the proprietor of the goods, the excise duty chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of excise duty paid in respect of the relevant goods."

(3) After subsection (3) there shall be inserted the following subsection—

"(3A) Where the Commissioners make an assessment under subsection (3)(b) above they shall notify the person assessed or his representative accordingly."

(4) In subsection (4) for "(3)" there shall be substituted "(3)(a)".

(5) After subsection (4) there shall be inserted the following subsections—

"(4A) If—

(a) the occupier of the warehouse or the proprietor of the goods refuses to pay any amount of excise duty to which he has been assessed under subsection (3)(b) above, and

(b) the conditions set out in subsection (4B) below are fulfilled,

he shall be liable on summary conviction to a penalty of double that amount.

(4B) The conditions are that—

(a) the period of forty-five days referred to in section 14(3) of the Finance Act 1994 (period during which review may be required) has expired; 1994 c. 9.

(b) on any review under Chapter II of Part I of that Act the Commissioners' decision ("the original decision") in relation to the assessment has been confirmed (or treated as confirmed by virtue of section 15(2) of that Act), or confirmed subject only to a reduction in the amount of duty due under the assessment; and

(c) the final result of any further appeal is that the original decision has been confirmed, subject only to any reduction in the amount of duty due under the assessment; and "final result" means the result of the last of any such appeals, against which no appeal may be made (whether because of expiry of time or for any other reason).

(4C) Where the amount of excise duty due under subsection (3)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (4A) above shall be a penalty of double the reduced amount."

(6) After subsection (5) there shall be inserted the following subsection—

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"(5A) In this section "the relevant goods" means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit."

(7) In section 95 of that Act (application of section 94 to certain goods in the course of removal from warehouse), in subsection (2)(b) (section 94 to apply with the omission of references in subsections (3) and (4) to the occupier of the warehouse) for "and (4)" there shall be substituted ", (4) and (4A)".

Assessments in cases of a deficiency in goods moved by pipe-line

1979 c. 2.

4.—(1) Section 96 of the Customs and Excise Management Act 1979 shall be amended in accordance with sub-paragraphs (2) to (6) below.

(2) In subsection (2) (power to require payment of unpaid or repaid duty, or repayment of drawback, where goods moved by pipe-line are deficient) for the words from "require" to the end there shall be substituted the following paragraphs—

"(a) require the owner of the pipe-line or the proprietor of the goods to pay immediately any duty, other than excise duty, unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of such duty paid on the relevant goods;

(b) assess, as being excise duty due from the owner of the pipe-line or the proprietor of the goods, the excise duty unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of excise duty paid on the relevant goods."

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

"(2A) Where the Commissioners make an assessment under subsection (2)(b) above they shall notify the person assessed or his representative accordingly."

(4) In subsection (3) for "(2)" there shall be substituted "(2)(a)".

(5) After subsection (3) there shall be inserted the following subsections—

"(3A) If—

(a) any person refuses to pay any amount of excise duty to which he has been assessed under subsection (2)(b) above, and

(b) the conditions set out in paragraphs (a) to (c) of section 94(4B) above (exhaustion of opportunities for review and appeal) are fulfilled,

he shall be liable on summary conviction to a penalty of double that amount.

(3B) Where the amount of excise duty due under subsection (2)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (3A) above shall be a penalty of double the reduced amount."

(6) After subsection (5) there shall be inserted the following subsection—

"(5A) In this section "the relevant goods" means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit."

Assessments in cases of untrue declarations etc.

5. After section 167(4) of the Customs and Excise Management Act 1979 (recovery as a debt due to the Crown or as a civil debt of amounts of duty not paid, and of overpayments in respect of drawback etc. made, by reason of untrue declaration etc.) there shall be inserted the following subsection—

"(5) An amount of excise duty, or the amount of an overpayment in respect of any drawback, allowance, rebate or repayment of any excise duty, shall not be recoverable as mentioned in subsection (4) above unless

the Commissioners have assessed the amount of the duty or of the overpayment as being excise duty due from the person mentioned in subsection (1) or (3) above and notified him or his representative accordingly."

Assessments relating to hydrocarbon oil duty

6.—(1) In section 10(3) of the Hydrocarbon Oil Duties Act 1979 (power to recover excise duty where restrictions on use of duty-free oil infringed), for the words from "recover" to the end there shall be substituted "assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention as being excise duty due from him, and notify him or his representative accordingly." 1979 c. 5.

(2) In section 13(1) of that Act (power to recover rebate where heavy oil is misused), for the words from "recover" to the end there shall be substituted "assess an amount equal to the rebate on like oil at the rate in force at the time of the contravention as being excise duty due from him, and notify him or his representative accordingly."

(3) In section 14(4) of that Act (power to recover rebate where light oil delivered for use as furnace fuel is misused), for the words from "recover" to the end there shall be substituted "assess the amount of rebate allowed on the oil as being excise duty due from him, and notify him or his representative accordingly."

(4) After subsection (1A) of section 23 of that Act (prohibition on use of road fuel gas on which duty has not been paid) there shall be inserted the following subsection—

"(1B) Where any person—

(a) uses as fuel in, or

(b) takes as fuel into,

a road vehicle any road fuel gas on which the excise duty chargeable under section 8 above has not been paid, the Commissioners may assess the amount of that duty as being excise duty due from that person and notify him or his representative accordingly."

(5) In subsection (2) of that section, for "subsection (1)(b)" there shall be substituted "subsections (1)(b) and (1B)(b)".

(6) After subsection (4) of section 24 of that Act (control of use of duty-free and rebated oil) there shall be inserted the following subsections—

"(4A) Where—

(a) a rebate of duty is allowed on any oil, and

(b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the rebate,

the Commissioners may assess an amount equal to the rebate as being excise duty due from that person, and notify him or his representative accordingly.

(4B) Where—

(a) any oil is delivered without payment of duty, and

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(b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the oil to be delivered without payment of duty,

the Commissioners may assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention or failure to comply as being excise duty due from that person, and notify him or his representative accordingly."

(7) In the Table set out in section 27(3) of that Act (interpretation), under the heading "Management Act" there shall be inserted at the appropriate place ""representative"".

Commencement

7. This Schedule 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 paragraph for different purposes.

Section 69.

SCHEDULE 7

SPECIAL TREATMENT FOR CERTAIN DISTRIBUTIONS

Distributions to which Schedule applies

1.—(1) Subject to paragraphs 4 to 7 below, this Schedule applies to any qualifying distribution which—

(a) falls within either or both of sub-paragraphs (2) and (3) below; and

(b) is a distribution made on or after 8th October 1996 by a company resident in the United Kingdom.

(2) A qualifying distribution of a company falls within this sub-paragraph if it is a payment made by that company—

(a) on the redemption, repayment or purchase of its own shares, or

(b) on the purchase of rights to acquire its own shares.

(3) A qualifying distribution of a company falls within this sub-paragraph if—

(a) arrangements are or have been made by virtue of which any one or more of the specified matters is or was made referable (in some way and to any extent) to, or to the carrying out of, a transaction in securities; and

(b) that transaction is a transaction completed on or after 8th October 1996, or some or all of those arrangements are arrangements made on or after that date.

(4) For the purposes of this Schedule the specified matters, in relation to a qualifying distribution, are—

(a) whether the distribution is made,

(b) the time when it is made,

(c) its form, and

(d) its amount.

(5) In this Schedule—

"arrangements" means arrangements of any kind, whether in writing or not;

"qualifying distribution" has the same meaning as in the Taxes Act 1988;

"shares" has the same meaning as in sections 219 to 228 of that Act (purchase of own shares);

"transaction in securities" has the same meaning as in Chapter I of Part XVII of that Act (cancellation of tax advantages from certain transactions in securities).

Distributions treated as FIDs

2.—(1) The Tax Acts shall have effect, and be deemed in relation to any time on or after 8th October 1996 to have had effect, as if a qualifying distribution to which this Schedule applies were a foreign income dividend within the meaning of Chapter VA of Part VI of the Taxes Act 1988 and, accordingly, as if the making of the distribution were the payment of a foreign income dividend.

(2) In section 246A of the Taxes Act 1988 (elections for dividends to be treated as foreign income dividends), after subsection (2) there shall be inserted the following subsection—

"(2A) An election under this section cannot be made as regards a distribution which already falls to be treated as a foreign income dividend by virtue of paragraph 2(1) of Schedule 7 to the Finance Act 1997."

(3) Sub-paragraph (1) above has effect subject to—

(a) section 95(1A)(b) of the Taxes Act 1988 (receipt of qualifying distribution by dealer not to be treated as FID for certain purposes); and

(b) section 247(5B) to (5D) of that Act (distributions that are subject to group income elections).

(4) Sub-paragraph (2) above has effect in relation to the making of elections on or after 8th October 1996.

Distributions treated as section 686 income of trustees

3.—(1) This paragraph applies where—

(a) a qualifying distribution to which this Schedule applies by virtue of its falling within paragraph 1(2) above is or has been made to trustees; and

(b) those trustees are not or, as the case may be, were not the trustees of a unit trust scheme within the meaning of section 469 of the Taxes Act 1988.

(2) The relevant part of that distribution (and, accordingly, the corresponding part of the foreign income dividend that paragraph 2(1) above deems the distribution to be) shall be treated for the purposes of the Tax Acts as if it were income to which section 686 of the Taxes Act 1988 (application of rate applicable to trusts to income of certain discretionary trusts) applies.

(3) In sub-paragraph (2) above the reference to the relevant part of the distribution is a reference to so much (if any) of that distribution as—

(a) is not income falling within paragraph (a) of section 686(2) of the Taxes Act 1988 (income which is to be accumulated or which is payable at any person's discretion);

(b) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;

(c) is not income arising under a trust established for charitable purposes; and

(d) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c) of the Taxes Act 1988 (property held for pension purposes).

(4) Subsection (6) of section 686 of the Taxes Act 1988 (meaning of "trustees" etc.) shall apply for the purposes of this paragraph as it applies for the purposes of that section.

(5) This paragraph has effect for the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect for the year 1996-97 in relation to distributions made on or after 5th December 1996.

Stock options

4.—(1) A qualifying distribution does not fall within paragraph 1(3) above by reason only that it is made in consequence of the exercise of such an option as is mentioned in section 249(1)(a) of the Taxes Act 1988 (option to receive either a cash dividend or additional share capital).

(2) Section 251(1)(c) of the Taxes Act 1988 (interpretation of references to the exercise of an option to receive either a cash dividend or additional share capital) shall apply for the purposes of this paragraph as it applies for the purposes of sections 249 and 250 of that Act.

Dividends on fixed rate preference shares

5.—(1) A qualifying distribution consisting in a dividend on a fixed-rate preference share does not fall within paragraph 1(3) above by reason only that any of the specified matters is made referable to the terms on which the share was issued.

(2) In this paragraph "fixed-rate preference share" means—

(a) any fixed rate preference share within the meaning of section 95 of the Taxes Act 1988; or

(b) any share which would be such a share if the dividends mentioned in section 95(5)(c)(i) of that Act included dividends fixed by reference to a standard published rate of interest.

Pre-sale distributions

6.—(1) A qualifying distribution which is an excepted pre-sale distribution does not fall within paragraph 1(3) above if the only transactions in securities to which any of the specified matters are referable are relevant transactions.

(2) For the purposes of this paragraph, a qualifying distribution of a company is an excepted pre-sale distribution if, in the period beginning with the making of the distribution and ending with the fourteenth day after the day on which the distribution is made, there is a major change in the ownership of that company.

(3) For the purposes of sub-paragraph (2) above, there is a major change in the ownership of a company in any period if, in that period—

(a) a single person acquires a holding of 75 per cent. or more of the ordinary share capital of the company; or

(b) each of two or more persons acquires a holding of ordinary share capital of the company, and the holdings together amount to 75 per cent. or more of the ordinary share capital of the company.

(4) For the purposes of this paragraph a relevant transaction, in relation to any excepted pre-sale distribution, is any transaction in securities by which the holding or, as the case may be, any of the holdings mentioned in sub-paragraph (3) above is acquired.

(5) In applying sub-paragraph (3) above—

(a) the circumstances at any two points in time falling within the period in question may be compared, and a holder at the later time may be regarded as having acquired in that period whatever he did not hold at the earlier time, irrespective of what he has acquired or disposed of in between;

(b) to allow for any issue of shares or other reorganisation of capital, any such comparison may be made in terms of percentage holdings of the total ordinary share capital at the respective times, so that a person whose percentage holding is greater at the later time may be regarded as having acquired in the period a percentage holding equal to the increase;

(c) any acquisition of shares under the will or on the intestacy of a deceased person, and any gift of shares which is unsolicited and made without regard to the provisions of paragraphs 2 and 3 above, shall be left out of account.

(6) For the purposes of this paragraph, where—

(a) persons, whether company members or not, possess extraordinary rights or powers under the articles of association of a company or under any other document regulating the company, and

(b) because of that fact, ownership of the ordinary share capital may not be an appropriate test of whether there has been a major change in the ownership of the company,

then, in considering whether there has been a major change in the ownership of the company, holdings of all kinds of share capital, including preference shares, or of any particular kind of share capital, or voting power or any other special kind of power, shall be taken into account, and holdings of ordinary share capital shall be disregarded, to such extent as may be appropriate.

(7) For the purposes of this paragraph, references to ownership shall be construed as references to beneficial ownership, and references to acquisition shall be construed accordingly.

Manufactured payments

7.—(1) A manufactured dividend shall not be taken to be a qualifying distribution to which this Schedule applies except in pursuance of sub-paragraph (2) below.

(2) Where a payment is made which is representative of a qualifying distribution to which this Schedule applies, that payment shall be deemed to be such a distribution for all the purposes of the Tax Acts, except those for which Schedule 23A to the Taxes Act 1988 (manufactured payments) makes provision in relation to the payment which is different from the provision applying to distributions to which this Schedule applies.

(3) For the purposes of Schedule 23A to the Taxes Act 1988 a payment which is representative of a payment falling within paragraph 1(2) above shall be treated as if it were representative of a dividend on the shares redeemed, repaid or purchased or, as the case may be, on the shares to which the right relates.

(4) In this paragraph "manufactured dividend" has the same meaning as in Schedule 23A to the Taxes Act 1988.

Amendment of section 95 of the Taxes Act 1988

8.—(1) In section 95 of the Taxes Act 1988 (taxation of distributions received by dealers on purchase by a company of its own shares), for subsections (1) to (3) there shall be substituted the following subsections—

"(1) Each of the following, that is to say—

(a) any qualifying distribution to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies which is received by a dealer, and

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(b) any payment by a dealer which is representative of a qualifying distribution to which that Schedule applies,

shall be taken into account in computing the profits of the dealer which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.

(1A) Accordingly, where a dealer receives a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies—

(a) tax shall not be charged under Schedule F in respect of that distribution;

(b) that distribution shall not be treated for the purposes of sections 246D and 246F as a foreign income dividend received by the dealer;

(c) sections 208 and 234(1) shall not apply to that distribution; and

(d) paragraph 2A(2) of Schedule 23A shall not apply to the payment by the dealer of an amount which is representative of that distribution and is paid by him on or after the date appointed under paragraph 16(1) of Schedule 10 to the Finance Act 1997.

(1B) Where the result of any transaction is that a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies is receivable by a dealer, that distribution shall not, in relation to that transaction, be treated as interest for the purposes of determining whether section 732 applies by virtue of section 731.

(2) For the purposes of this section a person is a dealer in relation to any qualifying distribution if—

(a) were there a sale by that person of the shares in respect of which the distribution is made, and

(b) the circumstances of that sale were such that the price would not fall to be treated as a qualifying distribution,

the price would be taken into account in computing the profits of that person which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D."

(2) In that Act—

(a) in section 20(1), in paragraph 1 of Schedule F, for "95(1)(a)" there shall be substituted "95(1A)(a)"; and

(b) in section 234(1) (information relating to distributions), for "95(1)(c)" there shall be substituted "95(1A)(c)".

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

Information to be provided about deemed FID

9.—(1) In section 246G(1)(d) of that Act (information to be provided about a foreign income dividend), after "carries no entitlement to a tax credit" there shall be inserted "and, in the case of a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies, that it is a foreign income dividend by virtue of paragraph 2(1) of that Schedule".

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

Group income

10.—(1) In subsection (5A) of section 247 of that Act (under which the group income provisions do not apply to FIDs), at the beginning there shall be inserted the words "Subject to subsections (5B) to (5D) below,"; and after that subsection there shall be inserted the following subsections—

"(5B) Where—

(a) a company falling within subsection (5C) below and resident in the United Kingdom receives a dividend, and

(b) that dividend would, apart from subsection (5D) below, be a distribution to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies,

the dividend shall be taken to be one in relation to which an election under subsection (1) above may have effect in accordance with this section.

(5C) The receiving company falls within this subsection if—

(a) it directly or indirectly owns all the ordinary share capital of the paying company, or

(b) all the ordinary share capital of the paying company is owned directly or indirectly by a company resident in the United Kingdom which also owns, directly or indirectly, all the ordinary share capital of the receiving company;

and section 838 shall apply for construing the references in this subsection to directly or indirectly owning ordinary share capital of a company.

(5D) If an election under subsection (1) above has effect in relation to such a distribution as is mentioned in subsection (5B) above, that distribution shall be deemed to be a distribution to which Schedule 7 to the Finance Act 1997 does not apply."

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

Distribution accounts

11.—(1) In section 468I of that Act (distribution accounts of authorised unit trusts), after subsection (5) there shall be inserted the following subsection—

"(5A) The following amounts shown as available for distribution in the distribution accounts must be shown in those accounts as available for distribution as foreign income dividends—

(a) amounts deriving from qualifying distributions to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies; and

(b) so much of any amounts not falling within paragraph (a) above as, if shown as available for distribution as dividends, would fall to be treated as distributions to which that Schedule applies."

(2) This paragraph applies to distribution accounts for any distribution period ending on or after 26th November 1996.

Amendments consequential on paragraph 3 above

12.—(1) In section 686 of that Act (application of rate applicable to trusts to income of certain discretionary trusts), paragraph (d) of subsection (2) shall be omitted; and after that subsection there shall be inserted the following subsection—

"(2AA) The rate at which income tax is chargeable on so much of any income arising to trustees in any year of assessment as—

(a) is income to which this section applies, and

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(b) is treated in accordance with section 689B as applied in defraying the expenses of the trustees in that year which are properly chargeable to income (or would be so chargeable but for any express provisions of the trust),

shall be the rate at which it would be chargeable on that income apart from this section, instead of the rate applicable to trusts."

(2) In subsection (2A) of that section, for "subsection (2)(d)" there shall be substituted "subsection (2AA)".

(3) In section 233(1A)(a) of that Act (taxation of non-resident recipients of distributions), for sub-paragraph (ii) there shall be substituted—

"(ii) income to which section 686 applies,".

(4) This paragraph has effect for the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect for the year 1996-97.

Section 74.

SCHEDULE 8

ENTERPRISE INVESTMENT SCHEME: QUALIFYING COMPANIES

Introductory

1. Chapter III of Part VII of the Taxes Act 1988 (the enterprise investment scheme)—

(a) in its application in relation to shares issued after 26th November 1996, and

(b) in its application after 26th November 1996 in relation to shares which—

(i) were issued on or after 1st January 1994 but before 27th November 1996, and

(ii) immediately before 27th November 1996 were held by an individual and at that time were shares to which, within the meaning of that Chapter, any relief was attributable,

shall have effect with the following amendments.

Requirements to be satisfied by the company for whose business activity money is raised

2.—(1) In subsection (1) of section 289 (conditions for eligibility for relief), immediately before the word "and" at the end of paragraph (b) there shall be inserted the following paragraph—

"(ba) the requirements of subsection (1A) below are satisfied in relation to the company,".

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

"(1A) The requirements of this subsection are satisfied in relation to a qualifying company if throughout the relevant period the active company—

(a) is such a company as is mentioned in section 293(2)(a), or

(b) would be such a company if its purposes were disregarded to the extent that they consist in the carrying on of activities such as are mentioned in section 293(3D)(a) and (b) and (3E)(a), or

(c) is a subsidiary of the qualifying company and falls within subsection (1B) below.

(1B) A subsidiary of the qualifying company falls within this subsection if—

(a) apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, it exists wholly for the purpose of carrying on activities such as are mentioned in section 293(3D)(b); or

(b) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(1C) In subsection (1A) above 'the active company' means the qualifying company or, where the qualifying business activity mentioned in subsection (1) above consists in a subsidiary of that company carrying on or preparing to carry on a qualifying trade, research and development or oil exploration, that subsidiary.

(1D) Subsection (6) of section 293 shall apply in relation to the requirements of subsection (1A) above as it applies in relation to subsection (2) of that section."

Limit on relief for trading groups which let or operate ships

3.—(1) In subsection (6) of section 290A (maximum sum eligible for relief in cases of trades involving the letting or operating of ships), for paragraphs (b) and (c) there shall be substituted "or

(aa) in the case of a company falling within subsection (2)(aa) of that section—

(i) it satisfies the requirements of subsection (6A) below, and

(ii) each of its subsidiaries is a shipping company,".

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

"(6A) A company satisfies the requirements of this subsection if, apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, the company exists wholly—

(a) for the purpose of carrying on activities such as are mentioned in section 293(3D)(a) and (b); or

(b) for the purpose of carrying on one or more qualifying trades which or each of which is a trade to which subsection (7) below applies; or

(c) for any combination of the purposes mentioned in paragraphs (a) and (b) above.

(6B) For the purposes of subsection (6) above a subsidiary of a company falling within section 293(2)(aa) is a shipping company if—

(a) that subsidiary satisfies the requirements of subsection (6A) above, or

(b) it would satisfy those requirements if the reference in subsection (6A)(a) above to section 293(3D)(a) and (b) included a reference to section 293(3E)(a), or

(c) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments."

Meaning of "qualifying company"

4.—(1) In subsection (2) of section 293 (meaning of "qualifying company"), for paragraph (b) there shall be substituted the following paragraph—

"(aa) the parent company of a trading group."

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

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"(3A) For the purposes of this section a company is the parent company of a trading group if—

(a) it has one or more subsidiaries;

(b) each of its subsidiaries is a qualifying subsidiary of the company; and

(c) the requirements of subsection (3B) below are fulfilled by what would be the business of the company and its subsidiaries if all the activities, taken together, of the company and its subsidiaries were regarded as one business.

(3B) A business fulfils the requirements of this subsection if neither the business nor a substantial part of it consists in, or in either of, the following, that is to say—

(a) activities falling within section 297(2)(a) to (g) but not within subsection (3C) below; and

(b) activities carried on otherwise than in the course of a trade.

(3C) The activities falling within this subsection are—

(a) the receiving of royalties or licence fees in circumstances where the requirements mentioned in paragraphs (a) and (b) of section 297(4) or (5) are satisfied in relation to the company receiving them;

(b) the letting of ships, other than oil rigs or pleasure craft, on charter in circumstances where the requirements mentioned in paragraphs (a) to (d) of section 297(6) are satisfied in relation to the company so letting them.

(3D) Activities of a company or of any of its subsidiaries shall be disregarded for the purposes of subsections (3A) to (3C) above to the extent that they consist in—

(a) the holding of shares in or securities of, or the making of loans to, one or more of the company's subsidiaries; or

(b) the holding and managing of property used by the company or any of its subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its subsidiaries will be derived; or

(ii) one or more qualifying trades so carried on.

(3E) Activities of a subsidiary of a company shall also be disregarded for the purposes of subsections (3A) to (3C) above to the extent that they consist in—

(a) the making of loans to the company; or

(b) in the case of a mainly trading subsidiary, activities carried on otherwise than in pursuance of its main purpose.

(3F) For the purposes of subsection (3E) above—

(a) 'mainly trading subsidiary' means a subsidiary which, apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, exists wholly for the purpose of carrying on one or more qualifying trades; and

(b) that purpose shall be taken to be its main purpose."

Consequential amendments of section 297

5. In section 297(3)(c)(i), and in the words after paragraph (d) in section 297(6) (which refer to the activities falling within section 297(2)), for "(2)" there shall be substituted "(2)(a) to (g)".

Consequential repeals of provisions about subsidiaries

6. In section 308 (subsidiaries)—

(a) paragraph (b) of subsection (1), and the word "and" immediately preceding that paragraph, and

(b) paragraphs (a) and (b) of subsection (5),

shall be omitted.

SCHEDULE 9

Section 75.

VENTURE CAPITAL TRUSTS: QUALIFYING HOLDINGS

Introductory

1. Schedule 28B to the Taxes Act 1988 (venture capital trusts: meaning of "qualifying holdings") shall be amended as follows.

Requirements as to business of company whose shares etc. are qualifying holdings

2.—(1) In paragraph 3 (requirements as to company's business), for paragraphs (b) and (c) of sub-paragraph (2) (company must be of one of the given descriptions) there shall be substituted "or

(aa) the parent company of a trading group."

(2) After sub-paragraph (5) of that paragraph there shall be inserted the following sub-paragraphs—

"(6) For the purposes of this paragraph a company is the parent company of a trading group if—

(a) it has one or more subsidiaries;

(b) each of its subsidiaries is a qualifying subsidiary of the company; and

(c) the requirements of sub-paragraph (7) below are fulfilled by what would be the business of the company and its qualifying subsidiaries if all the activities, taken together, of the company and its qualifying subsidiaries were regarded as one business.

(7) A business fulfils the requirements of this sub-paragraph if neither the business nor a substantial part of it consists in, or in either of, the following, that is to say—

(a) activities falling within paragraph 4(2)(a) to (f) below but not within sub-paragraph (8) below; and

(b) activities carried on otherwise than in the course of a trade.

(8) The activities falling within this sub-paragraph are—

(a) the receiving of royalties or licence fees in circumstances where the requirements mentioned in paragraphs (a) and (b) of paragraph 4(5) or (6) below are satisfied in relation to the company receiving them;

(b) the letting of ships, other than oil rigs or pleasure craft, on charter in circumstances where the requirements mentioned in paragraphs (a) to (d) of paragraph 4(7) below are satisfied in relation to the company so letting them.

(9) Activities of a company or of any of its qualifying subsidiaries shall be disregarded for the purposes of sub-paragraphs (6) to (8) above to the extent that they consist in—

(a) the holding of shares in or securities of, or the making of loans to, one or more of the company's qualifying subsidiaries; or

(b) the holding and managing of property used by the company or any of its qualifying subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its qualifying subsidiaries will be derived; or

(ii) one or more qualifying trades so carried on.

(10) Activities of a qualifying subsidiary of a company shall also be disregarded for the purposes of sub-paragraphs (6) to (8) above to the extent that they consist in—

(a) the making of loans to the company; or

(b) in the case of a mainly trading subsidiary, activities carried on in pursuance of its insignificant purposes (within the meaning given by sub-paragraph (11) below).

(11) In sub-paragraph (10) above 'mainly trading subsidiary' means a qualifying subsidiary which, apart from purposes ('its insignificant purposes') which are capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, exists wholly for the purpose of carrying on one or more qualifying trades."

Consequential amendment of paragraph 4(7)

3. In paragraph 4(7), in the words after paragraph (d) (which contain a reference to activities of a kind falling within paragraph 4(2)) for "(2)" there shall be substituted "(2)(a) to (f)".

Application of investment

4. In paragraph 6 (requirements as to the money raised by the investment in question), after sub-paragraph (2) there shall be inserted the following sub-paragraphs—

"(2A) Where the relevant company is a company falling within paragraph 3(2)(aa) above, the requirements of this paragraph are not satisfied unless—

(a) the trader company is a company in relation to which the requirements of paragraph 3(2)(a) above are satisfied, or

(b) the trader company is a company in relation to which those requirements would be satisfied if its purposes were disregarded to the extent that they consist in the carrying on of activities such as are mentioned in paragraph 3(9)(a) and (b) and (10)(a) above, or

(c) the trader company is a qualifying subsidiary of the relevant company and falls within sub-paragraph (2B) below.

(2B) A qualifying subsidiary of the relevant company falls within this sub-paragraph if—

(a) apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, it exists wholly for the purpose of carrying on activities such as are mentioned in paragraph 3(9)(b) above; or

(b) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(2C) In sub-paragraph (2A) above 'the trader company' means the company (whether the relevant company or a qualifying subsidiary of the relevant company) carrying on, or preparing to carry on, the trade by reference to which the requirements of paragraph 3(3) above are satisfied."

Qualifying subsidiaries

5.—(1) In sub-paragraph (1) of paragraph 10 (meaning of "qualifying subsidiary"), for "each of sub-paragraphs (2) and" there shall be substituted "sub-paragraph".

(2) Sub-paragraph (2) of that paragraph (requirements as to purposes for which subsidiaries exist) shall be omitted.

(3) In each of sub-paragraphs (4) and (5) of that paragraph (which contain references to companies falling within sub-paragraphs (2) and (3)), for "sub-paragraphs (2) and" there shall be substituted "sub-paragraph".

(4) In sub-paragraph (4)(a) of that paragraph, for "those sub-paragraphs" there shall be substituted "that sub-paragraph".

Commencement

6. This Schedule has effect for the purposes of determining whether shares or securities are, as at any time after 26th November 1996, to be regarded as comprised in a company's qualifying holdings.

SCHEDULE 10

Section 76.

STOCK LENDING ARRANGEMENTS AND MANUFACTURED PAYMENTS

PART I

STOCK LENDING

Approved stock lending arrangements: traders

1.—(1) Section 129 of the Taxes Act 1988 (treatment of approved stock lending arrangements when computing the profits of a trade) shall cease to have effect.

(2) Section 129A of, and Schedule 5A to, that Act (interest on cash collateral for approved stock lending arrangements) shall also cease to have effect.

Stock lending fees

2.—(1) In subsection (3) of section 129B of the Taxes Act 1988 (stock lending fees under approved stock lending arrangements), for "an approved" there shall be substituted "any".

(2) For subsection (4) of that section (meaning of approved stock lending arrangement) there shall be substituted the following subsection—

"(4) In this section 'stock lending arrangement' has the same meaning as in section 263B of the 1992 Act."

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Stock lending agreements under which manufactured payments are not made

3. After section 736A of the Taxes Act 1988 (manufactured dividends and interest) there shall be inserted the following section—

"Deemed manufactured payments in the case of stock lending arrangements.

736B.—(1) This section applies where—

(a) any interest on securities transferred by the lender under a stock lending arrangement is paid, as a consequence of the arrangement, to a person other than the lender; and

(b) no provision is made for securing that the lender receives payments representative of that interest.

(2) Where this section applies, Schedule 23A and the provisions for the time being contained in any regulations under that Schedule shall apply as if—

(a) the borrower were required under the stock lending arrangement to pay the lender an amount representative of the interest mentioned in subsection (1)(a) above;

(b) a payment were made by the borrower in discharge of that requirement; and

(c) that payment were made on the same date as the payment of the interest of which it is representative.

(3) In this section—

'interest' includes dividends; and

'stock lending arrangement' and 'securities' have the same meanings as in section 263B of the 1992 Act."

Manufactured payments in stock lending cases etc.

4. In Schedule 23A to the Taxes Act 1988 (manufactured payments)—

(a) paragraph 6 (unapproved manufactured payments) shall cease to have effect; and

(b) in paragraph 7(3)—

(i) in paragraph (a), the words "except where paragraph 6 above applies, and" shall be omitted;

(ii) paragraph (b) shall be omitted; and

(iii) for the words "3, 4 or 6" there shall be substituted "3 or 4".

Stock lending arrangements: capital gains

1992 c. 12.

5.—(1) After section 263A of the Taxation of Chargeable Gains Act 1992 (agreements for sale and repurchase of securities) there shall be inserted the following sections—

"Stock lending arrangements.

263B.—(1) In this section 'stock lending arrangement' means so much of any arrangements between two persons ('the borrower' and 'the lender') as are arrangements under which—

(a) the lender transfers securities to the borrower otherwise than by way of sale; and

(b) a requirement is imposed on the borrower to transfer those securities back to the lender otherwise than by way of sale.

(2) Subject to the following provisions of this section and section 263C(2), the disposals and acquisitions made in pursuance of any stock lending arrangement shall be disregarded for the purposes of capital gains tax.

(3) Where—

(a) the borrower under any stock lending arrangement disposes of any securities transferred to him under the arrangement,

(b) that disposal is made otherwise than in the discharge of the requirement for the transfer of securities back to the lender, and

(c) that requirement, so far as it relates to the securities disposed of, has been or will be discharged by the transfer of securities other than those transferred to the borrower,

any question relating to the acquisition of the securities disposed of shall be determined (without prejudice to the provisions of Chapter I of Part IV) as if the securities disposed of were the securities with which that requirement (so far as relating to the securities disposed of) has been or will be discharged.

(4) Where, in the case of any stock lending arrangement, it becomes apparent, at any time after the making of the transfer by the lender, that the requirement for the borrower to make a transfer back to the lender will not be complied with—

(a) the lender shall be deemed for the purposes of this Act to have made a disposal at that time of the securities transferred to the borrower;

(b) the borrower shall be deemed to have acquired them at that time; and

(c) subsection (3) above shall have effect in relation to any disposal before that time by the borrower of securities transferred to him by the lender as if the securities deemed to have been acquired by the borrower in accordance with paragraph (b) above were to be used for discharging a requirement to transfer securities back to the lender.

(5) References in this section, in relation to a person to whom securities are transferred, to the transfer of those securities back to another person shall be construed as if the cases where those securities are taken to be transferred back to that other person included any case where securities of the same description as those securities are transferred to that other person either—

(a) in accordance with a requirement to transfer securities of the same description; or

(b) in exercise of a power to substitute securities of the same description for the securities that are required to be transferred back.

(6) For the purposes of this section securities shall not be taken to be of the same description as other securities unless they are in the same quantities, give the same rights against the same persons and are of the same type and nominal value as the other securities.

(7) In this section—

'interest' includes dividends; and

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'securities' means United Kingdom equities, United Kingdom securities or overseas securities (within the meaning, in each case, of Schedule 23A to the Taxes Act).

Stock lending involving redemption.

263C.—(1) In section 263B references to the transfer back to a person of securities transferred by him shall be taken to include references to the payment to him, in pursuance of an obligation arising on any person's becoming entitled to receive an amount in respect of the redemption of those securities, of an amount equal to the amount of the entitlement.

(2) Where, in pursuance of any such obligation, the lender under any stock lending arrangement is paid any amount in respect of the redemption of any securities to which the arrangement relates—

(a) that lender shall be deemed for the purposes of this Act to have disposed, for that amount, of the securities in respect of whose redemption it is paid ('the relevant lent securities');

(b) the borrower shall not, in respect of the redemption, be taken for the purposes of this Act to have made any disposal of the relevant lent securities; and

(c) section 263B(3) shall have effect in relation to disposals of any of the relevant lent securities made by the borrower before the redemption as if—

(i) the amount paid to the lender were an amount paid for the acquisition of securities, and

(ii) the securities acquired were to be used by the borrower for discharging a requirement under the arrangement to transfer the relevant lent securities back to the lender.

(3) Expressions used in this section and section 263B have the same meanings in this section as in that section."

(2) Section 271(9) of that Act (treatment of approved stock lending arrangements) shall cease to have effect.

(3) In section 727(2) of the Taxes Act 1988 (stock lending and the accrued income scheme), for "section 271(9) of the 1992 Act" there shall be substituted "section 263B(2) of the 1992 Act".

Premiums trust funds of Lloyd's members

1993 c. 34.
1994 c. 9.

6. The following provisions of Chapter III of Part II of the Finance Act 1993 and Chapter V of Part IV of the Finance Act 1994 (Lloyd's members) shall cease to have effect—

(a) section 174(4) and (5) and section 182(1)(ca)(i) of that Act of 1993 (stock lending arrangements applying to securities in the premiums trust funds of individual members); and

(b) section 222(4) and (5) and section 229(ca)(i) of that Act of 1994 (which makes corresponding provision for the premiums trust funds of corporate members).

Commencement

7.—(1) This Part of this Schedule (except paragraph 4 above) has effect in relation to, and to transfers under, any arrangement made on or after such day as the Treasury may by order made by statutory instrument appoint.

(2) Paragraph 4 above has effect in relation to any manufactured payment made on or after the day appointed under sub-paragraph (1) above.

PART II

MANUFACTURED PAYMENTS

Repeal of section 737 of the Taxes Act 1988

8. Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall cease to have effect.

Meaning of "foreign income dividend"

9. In paragraph 1(1) of Schedule 23A to that Act (interpretation of that Schedule), after the definition of "dividend manufacturing regulations" there shall be inserted the following definition—

> "'foreign income dividend' shall be construed in accordance with Chapter VA of Part VI;".

Manufactured dividends on UK equities

10.—(1) For paragraph 2 of Schedule 23A to that Act (manufactured dividends on UK equities) there shall be substituted the following paragraphs—

"Manufactured dividends on UK equities: general

2.—(1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (a 'dividend manufacturer') is required to pay to the other ('the recipient') an amount (a 'manufactured dividend') which is representative of a dividend on the equities.

(2) A manufactured dividend paid by a dividend manufacturer who is a company resident in the United Kingdom shall be treated for the purposes of the Tax Acts as if the amount paid were a dividend of the dividend manufacturer.

(3) Where a manufactured dividend to which sub-paragraph (2) above does not apply is paid by any person—

(a) an amount of tax representing the advance corporation tax that would have been payable in respect of the manufactured dividend if—

(i) the dividend manufacturer were a company resident in the United Kingdom, and

(ii) the manufactured dividend were a distribution by that company,

shall be accounted for to the extent, and in the manner, specified in dividend manufacturing regulations;

(b) the Tax Acts shall have effect in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend on the United Kingdom equities in question; and

(c) the Tax Acts shall have effect in relation to the dividend manufacturer subject to the provisions of paragraph 2A below.

(4) The persons who, under dividend manufacturing regulations, may be made liable to account for an amount of tax as mentioned in sub-paragraph (3)(a) above are—

(a) the dividend manufacturer, in the case of a manufactured dividend to which sub-paragraph (5) below applies; and

(b) the recipient, in the case of a manufactured dividend to which that sub-paragraph does not apply.

(5) This sub-paragraph applies to a manufactured dividend if—

(a) the dividend manufacturer is a person resident in the United Kingdom who is not a company; or

(b) the following two conditions are satisfied in the case of that manufactured dividend, that is to say—

(i) the dividend manufacturer is a company that is not so resident but carries on a trade in the United Kingdom through a branch or agency; and

(ii) the requirement to pay the manufactured dividend is attributable to the carrying on of a trade carried on through that branch or agency.

(6) Subject to paragraph 2B(2)(b) below, where—

(a) a dividend manufacturer pays a manufactured dividend, and

(b) that dividend manufacturer is, in respect of that dividend, required under dividend manufacturing regulations to account for an amount of tax such as is mentioned in sub-paragraph (3)(a) above,

the dividend manufacturer shall, on paying the manufactured dividend, provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (7) below.

(7) Those matters are—

(a) the amount of the manufactured dividend;

(b) the date of the payment of the manufactured dividend; and

(c) the amount of the tax credit to which, by virtue of sub-paragraph (3)(b) above, the recipient or a person claiming title through or under him either—

(i) is entitled in respect of the manufactured dividend, or

(ii) would be so entitled were all the conditions of a right to a tax credit satisfied, in the case of the recipient or that person, as respects the dividend which the recipient is deemed to receive.

(8) The duty imposed by sub-paragraph (6) above shall be enforceable at the suit or instance of the recipient.

Deductibility of manufactured payment in the case of the manufacturer

2A.—(1) Where, in the case of a manufactured dividend, the dividend manufacturer—

(a) is resident in the United Kingdom, but

(b) is not a company,

the amount of the manufactured dividend actually paid (so far as is it is not otherwise deductible), together with an amount equal to the notional ACT, shall be allowable for the purposes of income tax as a deduction against the total income of the dividend manufacturer.

(2) Where, in the case of a manufactured dividend, the dividend manufacturer is a company which is not resident in the United Kingdom, no amount at all shall be deductible, in the case of that company, in respect of the payment of that manufactured dividend.

(3) The reference in sub-paragraph (1) above to an amount equal to the notional ACT is a reference to the amount equal to the advance corporation tax that would be payable in respect of the manufactured dividend if—

(a) the dividend manufacturer were a company resident in the United Kingdom, and

(b) the manufactured dividend were a distribution by that company.

(4) The references in this paragraph to an amount being deductible are references to its being either—

(a) deductible in computing the amount of any of the dividend manufacturer's profits or gains for the purposes of income tax or corporation tax; or

(b) deductible for those purposes from the total income or, as the case may be, total profits of the dividend manufacturer.

Manufactured dividends representative of foreign income dividends

2B.—(1) Where a manufactured dividend to which paragraph 2(2) above applies is representative of a foreign income dividend, the Tax Acts shall have effect for all purposes as if—

(a) the deemed dividend of the dividend manufacturer were itself a foreign income dividend; and

(b) that foreign income dividend were one in respect of which the dividend manufacturer is not liable to make any payment of advance corporation tax.

(2) Where a manufactured dividend to which paragraph 2(3) above applies is representative of a foreign income dividend—

(a) the Tax Acts shall have effect, in relation to the recipient and any persons claiming title through or under him, as if the dividend on the United Kingdom equities which the recipient is treated as having received were a foreign income dividend;

(b) there shall be no requirement for any person to account for tax in respect of that manufactured dividend by virtue of paragraph 2(3)(a) above;

(c) any deduction made in respect of the manufactured dividend under paragraph 2A(1) above shall be made without including an amount equal to the notional ACT in the deduction; and

(d) the dividend manufacturer, on paying the manufactured dividend in any case falling within sub-paragraph (3) below, shall provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (4) below.

(3) A case falls within this sub-paragraph where, were it not for sub-paragraph (2)(a) and (b) above, the dividend manufacturer would be required to provide such a statement as is mentioned in paragraph 2(6) above.

(4) Those matters are—

(a) the amount of the manufactured dividend;

(b) the date on which it is paid;

(c) the fact that the dividend carries no entitlement to a tax credit; and

(d) in the case of a manufactured dividend which is representative of a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies, the fact that the distribution is a foreign income dividend by virtue of paragraph 2(1) of that Schedule.

(5) The Board may give directions as to the form that must be taken by a statement provided for the purposes of sub-paragraph (2)(d) above.

(6) The duty imposed by sub-paragraph (2)(d) above shall be enforceable at the suit or instance of the recipient."

(2) In section 246F(4) of that Act (calculation of ACT where company receives foreign income dividend), for "paragraph 2(6)" there shall be substituted "paragraph 2B(1)".

(3) In paragraph 9A of Schedule 13 to that Act (exception for manufactured foreign income dividends), for "paragraph 2(2) and (6)" there shall be substituted "paragraphs 2(2) and 2B(1)".

Manufactured interest on UK securities

11.—(1) For paragraphs 3 and 3A of Schedule 23A to that Act (manufactured interest on UK securities) there shall be substituted the following paragraphs—

"Manufactured interest on UK securities: general

3.—(1) This paragraph applies (subject to paragraph 3A below) in any case where, under a contract or other arrangements for the transfer of United Kingdom securities, one of the parties (an 'interest manufacturer') is required to pay to the other ('the recipient') an amount ('the manufactured interest') which is representative of a periodical payment of interest on the securities.

(2) For the relevant purposes of the Tax Acts, in their application in relation to the interest manufacturer—

(a) the manufactured interest shall be treated, except in determining whether it is deductible, as if it—

(i) were an annual payment to the recipient, but

(ii) were neither yearly interest nor an amount payable wholly out of profits or gains brought into charge for income tax;

(b) the gross amount of that deemed annual payment shall be taken—

(i) to be equal to the gross amount of the interest of which the manufactured interest is representative; and

(ii) to constitute income of the recipient falling within section 1A;

and

(c) an amount equal to so much of the gross amount of the manufactured interest as is not otherwise deductible shall be allowable as a deduction against the total income or, as the case may be, total profits of the interest manufacturer.

(3) For the relevant purposes of the Tax Acts, in their application in relation to the recipient and any persons claiming title through or under him—

(a) the manufactured interest shall be treated as if it were a periodical payment of interest on the securities in question; and

(b) the gross amount of that deemed periodical payment of interest shall be taken to be equal to the gross amount of the interest of which the manufactured interest is representative.

(4) Sub-paragraph (2) above shall not require any deduction of tax to be made by the interest manufacturer if—

(a) the interest manufacturer is not resident in the United Kingdom, and

(b) the manufactured interest is paid otherwise than in the course of a trade carried on by the interest manufacturer in the United Kingdom through a branch or agency.

(5) Where, in a case falling within sub-paragraph (4)(a) and (b) above, the recipient—

(a) is resident in the United Kingdom, or

(b) (without being so resident) receives the manufactured interest for the purposes of a trade carried on by him in the United Kingdom through a branch or agency,

the recipient shall be liable to account for income tax in respect of the manufactured interest.

(6) The amount of the income tax for which the recipient is liable to account under sub-paragraph (5) above is the amount equal to the income tax which the interest manufacturer, had he been resident in the United Kingdom, would have been required, in respect of the manufactured interest, to account for and pay by virtue of sub-paragraph (2) above.

(7) For the purposes of sub-paragraph (2) above, if the interest manufacturer is a company which—

(a) is not resident in the United Kingdom, but

(b) carries on a trade in the United Kingdom through a branch or agency,

Schedule 16 shall have effect in relation to the manufactured interest as it has effect in the case of a company which is resident in the United Kingdom but as if, in paragraph 7, the words 'section 11(3)' were substituted for the words 'section 7(2)'.

(8) Where sub-paragraph (2) above has effect in the case of any manufactured interest so as to require any amount to be deducted by way of tax from the gross amount of the manufactured interest, the interest manufacturer shall, on paying the manufactured interest, provide the recipient with a statement in writing setting out—

(a) the gross amount of the manufactured interest;

(b) the amount deducted by way of tax by the interest manufacturer;

(c) the amount actually paid by the interest manufacturer; and

(d) the date of the payment by the interest manufacturer.

(9) The duty imposed by sub-paragraph (8) above shall be enforceable at the suit or instance of the recipient.

(10) The references in this paragraph to an amount being deductible are references to its being either—

(a) deductible in computing the amount of any of the interest manufacturer's profits or gains for the purposes of income tax or corporation tax; or

(b) deductible for those purposes from the total income or, as the case may be, total profits of the interest manufacturer.

(11) For the purposes of this paragraph 'the relevant purposes of the Tax Acts' means all the purposes of those Acts except the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships). 1996 c. 8.

(12) Without prejudice to the generality of section 80(5) of the Finance Act 1996 (matters to be brought into account only under that Chapter), this

paragraph does not have effect for determining how any manufactured interest falls to be treated for any purpose in relation to a company in relation to which that interest falls to be treated in accordance with section 97 of that Act.

(13) For the purposes of this paragraph references to the gross amount of any interest or payment are references to the amount of the interest or payment before the making of any deduction of income tax that is required to be deducted from it on its being paid or made.

Manufactured interest on gilt-edged securities etc.

3A.—(1) Where any manufactured interest is representative of interest on securities to which this paragraph applies—

(a) paragraph 3(2) above shall not require any deduction of tax to be made on the payment of that manufactured interest; and

(b) without prejudice to any other liability of his to income tax in respect of the manufactured interest, the recipient shall not by virtue of paragraph 3(5) above be liable to account for any income tax in respect of that manufactured interest.

(2) This paragraph applies to—

(a) gilt-edged securities (within the meaning of section 51A); and

(b) securities not falling within paragraph (a) above on which the interest is payable without deduction of tax."

(2) In section 737C(8) of that Act, for paragraph (a) (amount of deemed manufactured interest) there shall be substituted the following paragraph—

"(a) the amount which by virtue of section 737A(5) is taken to be the gross amount of the deemed manufactured payment for the purposes of paragraph 3 of Schedule 23A shall be taken to be the gross amount of the deemed manufactured interest for the purposes of this section;"

and in paragraph (b) for "paragraph 3 of Schedule 23A" there shall be substituted "that paragraph".

Repeal of paragraph 5 of Schedule 23A

12. Paragraph 5 of Schedule 23A to that Act (dividends and interest passing through the market) shall cease to have effect.

Consequential amendments in Schedule 23A

13.—(1) In sub-paragraph (1) of paragraph 8 of Schedule 23A to that Act (power to modify provisions of Schedule), for "paragraphs 2 to 5 above" there shall be substituted "paragraphs 2 to 4 above".

(2) In sub-paragraph (2) of that paragraph (powers with respect to accounts and records, returns, accounting for tax etc.), for the words after paragraph (d) there shall be substituted—

"by persons by or to whom manufactured dividends, manufactured interest or manufactured overseas dividends are paid."

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

"(2A) Dividend manufacturing regulations with respect to any liability to account for tax may contain any of the following, that is to say—

(a) provision for computing the amounts to be accounted for;

(b) provision, in relation to the determination of the amount to be paid on any occasion, for setting other amounts against the amounts to be accounted for;

(c) provision as to the liabilities against which amounts accounted for are to be, or are not to be, set for the purposes of income tax or corporation tax;

(d) provision modifying, or applying (with or without modifications), any enactments contained in the Tax Acts."

Amendments of Taxes Management Act 1970

14.—(1) Section 21 of the Taxes Management Act 1970 (information about a market maker's business) shall be amended as follows. 1970 c. 9.

(2) For subsection (1) there shall be substituted the following subsection—

"(1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business consisting in or involving dealings in securities; and for the purposes of this section it shall be immaterial whether those dealings are or, as the case may be, were—

(a) on behalf of persons other than the person carrying on the business;

(b) by that person on his own behalf; or

(c) a mixture of the two."

(3) In subsection (2)—

(a) for the word "transactions", in the first place where it occurs, there shall be substituted "securities transactions"; and

(b) for "market maker" there shall be substituted "person".

(4) In subsection (3), for "transactions in the course of" there shall be substituted "securities transactions in the course of any business of a person other than the broker which is".

(5) For subsection (4) there shall be substituted the following subsections—

"(4) Where a person ('the recipient') who is not a broker has directly or indirectly received from another person any payment which—

(a) is made by that other person in the course of a business within subsection (1) above, and

(b) is a payment treated by that other person as made in respect of interest on securities,

the Board may by notice in writing require the recipient to state, within a time specified in the notice, whether the amount received is in whole or in part received on behalf of, or for payment on to, a third person and (if it is) to furnish the name and address of that third person.

(4A) Where a person ('the payer') has directly or indirectly paid to another person any sum which—

(a) constitutes a receipt by that other person in the course of a business within subsection (1) above, and

(b) is a receipt treated by that other person as accruing in respect of interest on securities,

the Board may by notice in writing require the payer to state, within a time specified in the notice, whether the amount paid is in whole or in part received from, or paid on account of, a third person and (if it is) to furnish the name and address of that third person."

(6) In subsection (5)—

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(a) for "whether brokers or market makers or not" there shall be substituted "at all"; and

(b) for "transactions" there shall be substituted "securities transactions".

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

"(5A) Where it appears to the Board that a person may have incurred a liability to pay or account for tax under Schedule 23A to the principal Act (manufactured payments), the Board may by notice served on that person require him, within such period (not being less than 28 days) as may be specified in the notice, to provide the Board with information which—

(a) is available to that person; and

(b) is or may be relevant to whether that person has incurred such a liability, or to the extent of such a liability."

(8) For subsection (7) there shall be substituted the following subsection—

"(7) In this section—

'broker' means any person who is a member of a recognised investment exchange, within the meaning of the Financial Services Act 1986;

1986 c. 60.

'interest' includes dividends;

'securities' includes shares and stock; and

'securities transaction' means—

(a) any transaction in securities;

(b) any transaction under which a payment which is representative of any interest on a security has been, is to be or may be made; or

(c) the making or receipt of such a payment."

Repeal of powers to modify information provisions

15. Paragraphs 7 and 9 of Schedule 18 to the Finance Act 1986 (which contain powers to modify section 21 of the Taxes Management Act 1970) shall cease to have effect.

1986 c. 41.
1970 c. 9.

Commencement

16.—(1) Subject to the following provisions of this paragraph, this Part of this Schedule has effect in relation to any payment of a manufactured dividend or manufactured interest which is a payment made on or after such day as the Treasury may by order made by statutory instrument appoint.

(2) Paragraph 14 above has effect (instead of in accordance with sub-paragraph (1) above but subject to sub-paragraph (3) below) for the purpose of conferring powers for obtaining information about—

(a) transactions entered into on or after such day as the Treasury may by order made by statutory instrument appoint; and

(b) payments made on or after that day (whether under such transactions or under transactions entered into before that day).

(3) Nothing in this Part of this Schedule shall affect the exercise, at any time on or after the day appointed under sub-paragraph (2) above, of the powers conferred apart from this Schedule by—

(a) section 21 of the Taxes Management Act 1970, or by any regulations modifying that section, or

(b) section 737(8) of the Taxes Act 1988,

for obtaining information about transactions entered into, or payments made, before that day.

SCHEDULE 11

Section 80.

FUTURES AND OPTIONS: TAXATION OF GUARANTEED RETURNS

Schedule to be inserted as Schedule 5AA to the Taxes Act 1988

"SCHEDULE 5AA

GUARANTEED RETURNS ON TRANSACTIONS IN FUTURES AND OPTIONS

Charge to tax etc.

1.—(1) Subject to sub-paragraph (2) below, profits and gains arising from a transaction to which this Schedule applies (including those which, apart from this sub-paragraph, would be taken to be of a capital nature) shall be treated, when realised—

(a) as income of the person by whom they are realised; and

(b) as chargeable to tax under Case VI of Schedule D for the chargeable period in which they are realised.

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

(a) so much of any profits or gains arising to a person from a transaction as are charged to tax in his case under Case I or V of Schedule D;

(b) any profits or gains arising to a company which is a qualifying company from a transaction which, as regards that company, is or is deemed to be a qualifying contract; or

(c) any profits or gains arising to an authorised unit trust (within the meaning of section 468).

(3) In sub-paragraph (2) above—

'qualifying company' means a qualifying company for the purposes of Chapter II of Part IV of the Finance Act 1994 (interest rate, currency and debt contracts); and 1994 c. 9.

'qualifying contract' means a qualifying contract for those purposes.

(4) For the purposes of this Schedule the profits and gains arising from a transaction to which this Schedule applies are to be taken to be realised at the time when the disposal comprised in the transaction takes place.

(5) For the purposes of sections 392 and 396 any loss in a transaction to which this Schedule applies is to be taken to be sustained at the time when, in accordance with sub-paragraph (4) above, any profits or gains arising from that transaction would have been realised.

(6) Subject to sub-paragraph (7) below, the following, namely—

(a) profits and gains to which sub-paragraph (1) above applies, and

(b) losses in transactions the profits and gains from which (if there were any) would be profits and gains to which that sub-paragraph applies,

shall not be brought into account for the purposes of income tax, corporation tax or capital gains tax except by virtue of this Schedule and, in the case of losses, section 392 or 396.

(7) Nothing in sub-paragraph (6) above shall prevent any amount from being brought into account in accordance with section 83 of the Finance Act 1989 (receipts to be brought into account in any Case I computation made in respect of life insurance). 1989 c. 26.

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Transactions to which Schedule applies

2.—(1) This Schedule applies to a transaction if—

(a) it is a disposal of futures or options;

(b) it is one of two or more related transactions designed to produce a guaranteed return; and

(c) the guaranteed return comprises the return from that disposal or from a number of disposals of futures or options, of which that disposal is one, taken together.

(2) For the purposes of this Schedule two or more related transactions are transactions designed to produce a guaranteed return if, taking the transactions together, it would be reasonable to assume, from either or both of—

(a) the likely effect of the transactions, and

(b) the circumstances in which the transactions are entered into, or in which any of them is entered into,

that their main purpose, or one of their main purposes, is or was the production of a guaranteed return from one or more disposals of futures or options.

Production of guaranteed return

3.—(1) For the purposes of this Schedule a guaranteed return is produced from one or more disposals of futures or options wherever (taking all the disposals together where there is more than one) risks from fluctuations in the underlying subject matter are so eliminated or reduced as to produce a return from the disposal or disposals—

(a) the amount of which is not, to any significant extent, attributable (otherwise than incidentally) to any such fluctuations; and

(b) which equates, in substance, to the return on an investment of money at interest.

(2) For the purposes of sub-paragraph (1) above the cases where risks from fluctuations in the underlying subject matter are eliminated or reduced shall be deemed to include any case where the main reason, or one of the main reasons, for the choice of that subject matter is—

(a) that there appears to be no risk that it will fluctuate; or

(b) that the risk that it will fluctuate appears to be insignificant.

(3) In this paragraph the references, in relation to a disposal of futures or options, to the underlying subject matter are references to or to the value of the commodities, currencies, shares, stock or securities, interest rates, indices or other matters to which, or to the value of which, those futures or options are referable.

Disposals of futures or options

4.—(1) For the purposes of this Schedule a disposal is a disposal of futures or options if it consists in—

(a) the disposal of one or more futures;

(b) the disposal of one or more options; or

(c) the disposal of one or more futures together with one or more options.

(2) Subject to sub-paragraph (4) below, any question for the purposes of this Schedule as to whether there is a disposal falling within sub-paragraph (1)(a) to (c) above, or as to when such a disposal is made, shall be determined, on the assumptions specified in sub-paragraph (3) below, in accordance with—

(a) section 143(5) and (6), 144 and 144A of the 1992 Act (closing out and settlement of futures contracts and rules in relation to options); and

(b) the other provisions having effect for determining for the purposes of that Act whether or when an asset is disposed of;

and references in this Schedule to entering into a transaction are references, in relation to a transaction consisting in a disposal, to the making of the disposal.

(3) Those assumptions are—

(a) that all futures are assets for the purposes of the 1992 Act;

(b) that the words "in the course of dealing in commodity or financial futures" are omitted in each place where they occur in section 143(5) and (6) of that Act; and

(c) that any reference in that Act to a financial option within the meaning given by section 144(8) of that Act is a reference to any option that is not a traded option.

(4) Subject to sub-paragraph (5) below, where—

(a) one of a number of related transactions designed to produce a guaranteed return is the grant of an option,

(b) at least one of the other transactions is a transaction entered into after the grant of the option, and

(c) the transaction or transactions entered into after the grant of the option is or include a disposal which is not itself the grant of an option,

the disposal consisting in the grant of the option shall be deemed for the purposes of this Schedule to be a disposal made on the first occasion after the grant of the option when one of the other transactions which is a disposal but is not itself the grant of an option is entered into.

(5) Nothing in sub-paragraph (4) above affects so much of sub-paragraph (2) above as (by applying section 144(2) or 144A(2) of the 1992 Act (cases where options are exercised))—

(a) requires the grant of an option and the transaction entered into by the grantor in fulfilment of his obligations under that option to be treated for the purposes of this Schedule as a single transaction; or

(b) determines the time at which such a single transaction is to be treated for the purposes of this Schedule as entered into.

(6) In this paragraph—

'future' means outstanding rights and obligations under a commodity or financial futures contract;

'option' means a traded option or an option which is not a traded option but is an option relating to—

(a) currency, shares, stock, securities or an interest rate; or

(b) rights under a commodity or financial futures contract;

'traded option' has the meaning given for the purposes of subsection (4) of section 144 of the 1992 Act by subsection (8) of that section.

The return from one or more disposals

5.—(1) In this Schedule references to the return from one or more disposals are references to the return on investment represented either—

(a) by the total net profits and gains arising from the disposal or disposals; or

(b) by all but an insignificant part of those net profits and gains.

(2) For the purposes of the references in sub-paragraph (1) above to the total net profits and gains from any two or more disposals, it shall be assumed that profits and gains realised, and losses sustained, by persons who are associated with each other are all realised or sustained by the same person.

(3) For the purposes of sub-paragraph (2) above persons are associated with each other in relation to any two or more disposals made in pursuance of the same scheme or arrangements if—

(a) each of those persons shares or is to share, to an extent determined for the purposes of or in accordance with the scheme or arrangements, in the net return represented by the aggregate of all the profits, gains and losses realised or sustained on those disposals;

(b) those persons are associated companies at the time when the last of those disposals is made; or

(c) those persons have been associated companies at an earlier time falling after the first occasion on which a transaction was entered into in pursuance of the scheme or arrangements.

(4) In this paragraph—

'associated company' shall be construed in accordance with section 416; and

'scheme or arrangements' shall be construed in accordance with paragraph 6(4) below.

Related transactions

6.—(1) For the purposes of this Schedule two or more transactions are related if all of them are entered into in pursuance of the same scheme or arrangements.

(2) Nothing in this Schedule shall be construed as preventing transactions with different parties, or transactions with parties different from the parties to the scheme or arrangements in pursuance of which they are entered into, from being related transactions.

(3) For the purposes of this paragraph the cases in which any two or more transactions are to be taken to be entered into in pursuance of the same scheme or arrangements shall include any case in which it would be reasonable to assume, from either or both of—

(a) the likely effect of the transactions, and

(b) the circumstances in which the transactions are entered into, or in which any of them is entered into,

that neither of them or, as the case may be, none of them would have been entered into independently of the other or others.

(4) In this paragraph 'scheme or arrangements' includes schemes, arrangements and understandings of any kind, whether or not legally enforceable.

Special rule for trusts

7.—(1) Where any profits or gains are treated, in accordance with paragraph 1 above, as income arising to trustees for any year of assessment, the relevant part of that income shall be treated for the purposes of the Tax Acts as if it were income to which section 686 applies (income taxable at the rate applicable to trusts).

(2) In sub-paragraph (1) above the reference to the relevant part of any income is a reference to so much (if any) of that income as—

(a) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;

(b) is not income arising under a trust established for charitable purposes; and

(c) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c) (property held for pension purposes).

(3) Subsection (6) of section 686 (meaning of 'trustees' etc.) shall apply for the purposes of this paragraph as it applies for the purposes of that section.

Transfer of assets abroad

8. For the purpose of determining whether an individual ordinarily resident in the United Kingdom has a liability for income tax in respect of any profit or gain which—

(a) is realised by a person resident or domiciled outside the United Kingdom, and

(b) arises from a transaction to which this Schedule applies,

sections 739 and 740 (transfer of assets abroad) shall have effect as if that profit or gain, when realised, constituted income becoming payable to the person resident or domiciled outside the United Kingdom.

Apportionment in the case of insurance companies

9. Section 432A (apportionment of insurance companies' income) shall have effect in the case of income and losses chargeable or relievable by virtue of this Schedule as if (where that would not otherwise be the case)—

(a) any such income were for the purposes of that section a gain accruing on the disposal of an asset; and

(b) any such loss were for the purposes of that section a loss accruing on the disposal of an asset."

SCHEDULE 12

Section 82.

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART I

LEASING ARRANGEMENTS WHERE ANY OF THE RETURN ON INVESTMENT IS IN CAPITAL FORM

Purpose of this Part of this Schedule

1.—(1) This Part of this Schedule is concerned with arrangements—

(a) which involve the lease of an asset;

(b) which are or have been entered into by companies or other persons;

(c) which are of such a kind as, in the case of companies incorporated in any part of the United Kingdom, falls for the purposes of accounts of such companies to be treated in accordance with normal accountancy practice as finance leases or loans; and

(d) whose effect is that some or all of the return on investment in respect of the finance lease or loan—

(i) is or may be in the form of a sum which is not rent; and

(ii) would not, apart from this Schedule, be wholly brought into account for tax purposes as rent from the lease.

(2) The principal purpose of this Part of this Schedule is, in the case of any such arrangements,—

(a) to charge any person entitled to the lessor's interest under the lease of the asset to tax from time to time on amounts of income determined by reference to those which fall for accounting purposes to be treated in accordance with normal accountancy practice as the income return, on and after 26th November 1996, on investment in respect of the finance lease or loan (taking into account the substance of the matter as a

whole, including in particular the state of affairs as between connected persons, or within a group of companies, as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts);

(b) where the sum mentioned in sub-paragraph (1)(d) above falls due, to recover by reference to that sum the whole or any part of any reliefs, allowances or deductions which are or have been allowed or made in respect of capital expenditure incurred in respect of the leased asset.

Application of this Part of this Schedule

2.—(1) This Part of this Schedule applies in any case where (whether before or after the passing of this Act)—

(a) a lease of an asset is or has been granted; and

(b) in the case of the lease, the conditions in paragraph 3 below are or have been satisfied at some time in a period of account of the current lessor.

(2) Where the conditions in paragraph 3 below have been satisfied at some time in a period of account of the person who was at that time the lessor, they shall be taken to continue to be satisfied for the purposes of this Part of this Schedule unless and until—

(a) the asset ceases to be leased under the lease; or

(b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons described in sub-paragraph (3) below.

(3) Those persons are—

(a) the assignor;

(b) any person who was the lessor at some time before the assignment; or

(c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.

(4) Nothing in sub-paragraph (2) above prevents this Part of this Schedule from again applying in the case of the lease if the conditions for its application are satisfied after the assignment.

The conditions

3.—(1) The condition in this sub-paragraph is that at the relevant time the leasing arrangements are such as fall for accounting purposes to be treated in accordance with normal accountancy practice as a finance lease or a loan and—

(a) the lessor, or a person connected with him, falls for accounting purposes to be treated in accordance with normal accountancy practice as the finance lessor in relation to the finance lease or loan, or

(b) the finance lease or loan falls for accounting purposes to be treated, in accordance with normal accountancy practice, as subsisting for the purposes of consolidated group accounts of a group of companies of which the lessor is a member.

(2) The condition in this sub-paragraph is that, under the leasing arrangements, there is or may be payable to the lessor, or to a person connected with him, a sum (a "major lump sum") which is not rent but is a sum such as falls for accounting purposes to be treated in accordance with normal accountancy practice—

(a) as to part, as repayment of some or all of the investment in respect of a finance lease or loan; and

(b) as to part, as a return on investment in respect of a finance lease or loan.

(3) The condition in this sub-paragraph is that not all of that part of a major lump sum which falls within paragraph (b) of sub-paragraph (2) above would, apart from this Schedule, fall to be brought into account for tax purposes in chargeable periods of the lessor ending with the relevant chargeable period as the normal rent from the lease for periods of account of the lessor.

(4) The condition in this sub-paragraph is that, as respects the lessor at the relevant time,—

(a) the period of account of his in which the relevant time falls, or

(b) an earlier period of account of his during which he was the lessor,

is a period of account for which the accountancy rental earnings in respect of the lease exceed the normal rent for the period.

(5) The condition in this sub-paragraph is that at the relevant time—

(a) arrangements falling within sub-paragraph (1) of paragraph 4 below exist; or

(b) if the condition in paragraph (a) above is not satisfied, circumstances falling within sub-paragraph (2) of that paragraph exist.

(6) In determining the normal rent for a period of account for the purpose of determining whether the condition in sub-paragraph (4) above is satisfied, rent which for the purposes of corporation tax under Schedule A falls to be brought into account as a person becomes entitled to it shall be treated—

(a) as if it accrued evenly throughout the period to which, in accordance with the terms of the lease, each payment to which the person becomes entitled relates, and

(b) as if he had become entitled to the rent as it so accrues,

unless any such payment falls due more than 12 months after the time at which any of the rent to which that payment relates is so treated as accruing.

(7) In determining the normal rent for a period of account for the purpose of determining whether the condition in sub-paragraph (4) above is satisfied, rent which falls to be brought into account for tax purposes as it falls due shall be treated—

(a) as accruing evenly throughout the period to which, in accordance with the terms of the lease, each payment falling due relates, and

(b) as falling due as it so accrues,

unless any such payment falls due more than 12 months after the time at which any of the rent to which that payment relates is so treated as accruing.

(8) In this paragraph—

"the relevant chargeable period", in the case of any major lump sum, means—

(a) the chargeable period of the lessor which is related to his period of account in which that major lump sum is or may be payable in accordance with the leasing arrangements; or

(b) if there are two or more such chargeable periods, the latest of them;

"the relevant time" means the time as at which it falls to be determined for the purposes of sub-paragraph (1) or (2) of paragraph 2 above whether the conditions in this paragraph are or, as the case may be, were satisfied.

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The arrangements and circumstances in paragraph 3(5)

4.—(1) The arrangements mentioned in paragraph 3(5)(a) above are arrangements under which—

(a) the lessee or a person connected with him may acquire, whether directly or indirectly, the leased asset, or an asset representing the leased asset, from the lessor or a person connected with the lessor; and

(b) in connection with that acquisition, the lessor or a person connected with him may receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.

(2) The circumstances mentioned in paragraph 3(5)(b) above are circumstances which make it more likely—

(a) that the events described in sub-paragraph (3) below will occur, than

(b) that the event described in sub-paragraph (4) below will occur.

(3) The events mentioned in sub-paragraph (2)(a) above are—

(a) that the lessee or a person connected with him will acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor; and

(b) that, in connection with that acquisition, the lessor or a person connected with him will receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.

(4) The event mentioned in sub-paragraph (2)(b) above is that, before any such acquisition as is mentioned in sub-paragraph (3) above takes place, the leased asset or, as the case may be, the asset representing the leased asset, will have been acquired, in a sale on the open market, by a person who is not the lessor or the lessee and who is not connected with either of them.

(5) In this paragraph, "qualifying lump sum" means any sum which is not rent but at least part of which would, if the recipient were a company incorporated in the United Kingdom, fall for accounting purposes to be treated in accordance with normal accountancy practice as a return on investment in respect of a finance lease or loan.

Current lessor to be taxed by reference to accountancy rental earnings

5.—(1) Where, in the case of any period of account of the current lessor,—

(a) this Part of this Schedule applies in the case of the lease, and

(b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period,

he shall be treated for tax purposes as if in that period of account he had been entitled to, and there had arisen to him, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in paragraph (b) above).

(2) Where a person is treated under sub-paragraph (1) above as if he had in a period of account been entitled to, and there had arisen to him, any rent from a lease of an asset, the rent shall be treated for tax purposes—

(a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased; and

(b) as if that person had become entitled to it as it accrued.

Reduction of taxable rent by certain excesses

6.—(1) Subject to sub-paragraph (6)(b) below, if in the case of the lease—

(a) the normal rent for a period of account of the current lessor throughout which the leasing arrangements are such as fall for accounting purposes to be treated in accordance with normal accountancy practice as a finance lease or loan, exceeds

(b) the accountancy rental earnings for the period,

there is for the purposes of this paragraph a "normal rental excess" for that period of an amount equal to the excess.

(2) In this paragraph the "cumulative normal rental excess" in the case of the lease and a period of account of the current lessor means so much of the aggregate of the normal rental excesses for previous periods of account of his as (after taking account of any increases under paragraph 10 below) has not been—

(a) set off under this paragraph against the taxable rent for any such previous period; or

(b) reduced under paragraph 10 below.

(3) Subject to sub-paragraph (8)(b) below, if the taxable rent in the case of the lease for a period of account of the current lessor is, by virtue of paragraph 5 above, an amount equal to the accountancy rental earnings, there is for the purposes of this paragraph an "accountancy rental excess" for that period of an amount equal to the difference between—

(a) the accountancy rental earnings for the period of account; and

(b) the normal rent for the period.

(4) In this paragraph the "cumulative accountancy rental excess", in the case of the lease and a period of account of the current lessor, means so much of the aggregate of the accountancy rental excesses for previous periods of account of his as (after taking account of any increases under paragraph 9 below) has not been—

(a) set off under this paragraph against the taxable rent for any such previous period;

(b) reduced under paragraph 9 below; or

(c) set off under paragraph 12 below against the consideration for a disposal.

(5) If a period of account of the current lessor is one—

(a) for which the normal rent exceeds the accountancy rental earnings, and

(b) for which there is any cumulative accountancy rental excess,

sub-paragraph (6) below shall apply.

(6) Where this sub-paragraph applies—

(a) the taxable rent for the period of account shall be reduced (but not below the accountancy rental earnings) by setting against it the cumulative accountancy rental excess; and

(b) the normal rental excess for the period shall be the amount (if any) by which—

(i) the normal rent, reduced by an amount equal to the reduction under paragraph (a) above, exceeds

(ii) the accountancy rental earnings,

and if there is no such excess, there is no normal rental excess for the period.

(7) If a period of account of the current lessor is one—

(a) for which the taxable rent in the case of the lease is, by virtue of paragraph 5 above, an amount equal to the accountancy rental earnings, and

(b) there is any cumulative normal rental excess,

sub-paragraph (8) below shall apply.

(8) Where this sub-paragraph applies—

(a) the taxable rent for the period of account shall be reduced (but not below the normal rent) by setting against it the cumulative normal rental excess, and

(b) the accountancy rental excess for the period shall be the amount (if any) by which—

(i) the accountancy rental earnings, reduced by an amount equal to the reduction under paragraph (a) above, exceeds

(ii) the normal rent,

and if there is no such excess, there is no accountancy rental excess for the period.

(9) In this paragraph "the taxable rent", in the case of a period of account of the current lessor, means the amount which would, apart from this paragraph and paragraph 8(6) below, be treated for tax purposes as rent from the lease—

(a) which arises to him, and

(b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,

in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.

Assignments on which neither a gain nor a loss accrues

7.—(1) This paragraph applies in any case where—

(a) the current lessor assigns the lessor's interest under the lease; and

(b) the assignment is a disposal on which, by virtue of any of the enactments specified in section 35(3)(d) of the Taxation of Chargeable Gains Act 1992, neither a gain nor a loss accrues.

1992 c. 12.

(2) Where this paragraph applies, this Schedule shall have effect as if—

(a) a period of account of the assignor ended, and

(b) a period of account of the assignee began,

with the assignment.

(3) Where this paragraph applies—

(a) any unused cumulative accountancy rental excess, or

(b) any unused cumulative normal rental excess,

of the assignor shall become the cumulative accountancy rental excess or the cumulative normal rental excess (as the case may be) for the period of account of the assignee which begins with the assignment.

(4) In sub-paragraph (3) above—

"unused cumulative accountancy rental excess", in relation to the assignor, means the aggregate of—

(a) any cumulative accountancy rental excess, and

(b) any accountancy rental excess,

for the period of account of his which ends with the assignment;

"unused cumulative normal rental excess", in relation to the assignor, means the aggregate of—

(a) any cumulative normal rental excess, and

(b) any normal rental excess,

for the period of account of his which ends with the assignment.

Relief for bad debts etc: corporation tax under Schedule A

8.—(1) Section 41 of the Taxes Act 1988 (which gives a person relief from corporation tax under Schedule A for rent etc not paid, by treating him as if he had never been entitled to the rent) shall be disregarded in determining for the purposes of this Part of this Schedule the amount of—

(a) the accountancy rental earnings in respect of the lease, or

(b) the normal rent from the lease,

for any period of account.

(2) Where for any period of account—

(a) a person is treated under paragraph 5 above as if he had been entitled to receive an amount of rent, and

(b) the amount is in respect of rents on the profits or gains arising from which that person is chargeable to corporation tax under Schedule A,

section 41 of the Taxes Act 1988 shall not have effect in relation to amounts in respect of rents from the lease of the asset for that or any subsequent period of account of his, or of any person to whom the lessor's interest under the lease is assigned, until the lease terminates or is assigned in circumstances such that paragraph 7 above does not apply.

(3) Where, by virtue of sub-paragraph (2) above, section 41 of the Taxes Act 1988 does not apply, sub-paragraph (4) below shall apply instead.

(4) In computing the profits or gains on which a person is chargeable to corporation tax under Schedule A in a case falling within sub-paragraph (2) above, any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset shall be deductible in a period of account as an expense to the extent that they would be deductible in that period of account if—

(a) amounts in respect of rents from the lease of the asset fell to be taken into account as trading receipts in computing the profits or gains of a trade carried on by the person;

(b) the asset were leased in the course of that trade; and

(c) the charge to corporation tax under Schedule A were in respect of such annual profits or gains as are described in that Schedule arising from a trade.

(5) Any such expense as is mentioned in sub-paragraph (4) above shall be treated for the purposes of section 25 of the Taxes Act 1988 (deductions from rent for the purposes of corporation tax under Schedule A) as if that expense—

(a) were included among the permitted deductions, within the meaning of that section;

(b) were a payment made in respect of the premises comprised in the lease; and

(c) were a payment which became due, and was made, immediately before the end of the period of account mentioned in sub-paragraph (4) above.

(6) Where—

(a) a deduction has been made by virtue of sub-paragraph (4) above in respect of an amount, but

(b) subsequently an amount ("the relevant credit") is recovered or credited in respect of the amount in respect of which the deduction was made, and

(c) the relevant credit would, on the suppositions in paragraphs (a) to (c) of sub-paragraph (4) above, be brought into account for tax purposes as a trading receipt for a period of account of the current lessor,

the taxable rent for that period of account shall be increased by the amount of the relevant credit.

(7) In sub-paragraph (6) above, "the taxable rent", in the case of a period of account of the current lessor, means the amount which would, apart from that sub-paragraph, be treated for tax purposes as rent from the lease—

(a) which arises to him, and

(b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,

in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.

(8) After the time when the conditions in paragraph 3 above become satisfied as respects any particular lessor, no claim under section 41 of the Taxes Act 1988 shall be made in respect of any amount which that lessor was entitled to receive in respect of rents from the lease of the asset.

(9) Where—

(a) before the time at which the conditions in paragraph 3 above become satisfied as respects any particular lessor, a claim under section 41 of the Taxes Act 1988 in respect of an amount which he was entitled to receive in respect of any rents from the lease of the asset has been made, and

(b) the claim is to any extent allowed,

no amount shall be deductible under sub-paragraph (4) above in respect of that amount so far as so allowed.

Relief for bad debts etc: cumulative accountancy rental excess

9.—(1) If, in the case of the lease, for any period of account—

(a) the accountancy rental earnings exceed the normal rent,

(b) a bad debt deduction falls to be made in respect of rent from the lease,

(c) the amount of the bad debt deduction exceeds the amount of the accountancy rental earnings, and

(d) there is a cumulative accountancy rental excess,

the cumulative accountancy rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the accountancy rental earnings.

(2) If, in the case of the lease, for any period of account—

(a) the accountancy rental earnings do not exceed the normal rent,

(b) a bad debt deduction falls to be made in respect of rent from the lease, and

(c) there is a cumulative accountancy rental excess for that period of account,

sub-paragraph (3) below shall apply.

(3) Where this sub-paragraph applies, the amount of the cumulative accountancy rental excess which may be set against the taxable rent for the period of account shall not exceed the amount (if any) by which the normal rent exceeds the bad debt deduction (and, if the normal rent does not exceed the bad debt deduction, shall be nil).

(4) If, in a case where sub-paragraph (3) above applies, the bad debt deduction exceeds the normal rent for the period of account, the cumulative accountancy rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the normal rent.

(5) Where—

(a) the cumulative accountancy rental excess for any period of account of the current lessor has been reduced under sub-paragraph (1) or (4) above by reason of a bad debt deduction, but

(b) in a subsequent period of account of his, an amount ("the relevant credit") is recovered or credited in respect of the amount which constituted the bad debt deduction,

the cumulative accountancy rental excess (if any) for the period of account mentioned in paragraph (b) above shall, subject to sub-paragraph (6) below, be increased by the relevant credit.

(6) If, in a case falling within sub-paragraph (5) above,—

(a) the relevant credit, exceeds

(b) the aggregate of the reductions falling within paragraph (a) of that sub-paragraph,

the amount of the increase under that sub-paragraph shall not exceed that aggregate.

(7) In this paragraph—

"bad debt deduction", in relation to a period of account, means the aggregate of any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset which are deductible as expenses for that period, whether by virtue of paragraph 8(4) above or otherwise;

"taxable rent" has the same meaning as in paragraph 6 above.

Relief for bad debts etc: cumulative normal rental excess

10.—(1) If, in the case of the lease, for any period of account—

(a) the accountancy rental earnings do not exceed the normal rent,

(b) a bad debt deduction falls to be made in respect of rent from the lease,

(c) the amount of the bad debt deduction exceeds the amount of the normal rent, and

(d) there is a cumulative normal rental excess,

the cumulative normal rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the normal rent.

(2) If, in the case of the lease, for any period of account—

(a) the accountancy rental earnings exceed the normal rent,

(b) a bad debt deduction falls to be made in respect of rent from the lease, and

(c) there is a cumulative normal rental excess for that period of account,

sub-paragraph (3) below shall apply.

(3) Where this sub-paragraph applies, the amount of the cumulative normal rental excess which may be set against the taxable rent for the period of account shall not exceed the amount (if any) by which the accountancy rental earnings exceed the bad debt deduction (and, if the accountancy rental earnings do not exceed the bad debt deduction, shall be nil).

(4) If, in a case where sub-paragraph (3) above applies, the bad debt deduction exceeds the accountancy rental earnings for the period of account, the

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cumulative normal rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the accountancy rental earnings.

(5) Where—

(a) the cumulative normal rental excess for any period of account of the current lessor has been reduced under sub-paragraph (1) or (4) above by reason of a bad debt deduction, but

(b) in a subsequent period of account of his, an amount ("the relevant credit") is recovered or credited in respect of the amount which constituted the bad debt deduction,

the cumulative normal rental excess (if any) for the period of account mentioned in paragraph (b) above shall, subject to sub-paragraph (6) below, be increased by the relevant credit.

(6) If, in a case falling within sub-paragraph (5) above,—

(a) the relevant credit, exceeds

(b) the aggregate of the reductions falling within paragraph (a) of that sub-paragraph,

the amount of the increase under that sub-paragraph shall not exceed that aggregate.

(7) In this paragraph—

"bad debt deduction", in relation to a period of account, means the aggregate of any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset which are deductible as expenses for that period, whether by virtue of paragraph 8(4) above or otherwise;

"taxable rent" has the same meaning as in paragraph 6 above.

Capital allowances

11.—(1) This paragraph applies in any case where an occasion occurs on or after 26th November 1996 on which a major lump sum falls to be paid in the case of the lease of the asset.

(2) In this paragraph "the relevant occasion" means the occasion mentioned in sub-paragraph (1) above.

(3) If capital expenditure incurred by the current lessor in respect of the leased asset is or has been taken into account for the purposes of any allowance or charge under any of the following groups of provisions, that is to say—

(a) sections 520 and 521 of the Taxes Act 1988 (patent rights),

1990 c. 1.

(b) Part II of the Capital Allowances Act 1990 (machinery and plant), or

(c) Part IV of that Act (mineral extraction allowances),

the group of provisions in question ("the relevant provisions") shall have effect as if the relevant occasion were an event by reason of which a disposal value is to be brought into account of an amount equal (subject to any applicable limiting provision) to the amount or value of the major lump sum.

(4) In this paragraph "limiting provision" means a provision to the effect that the disposal value of the asset in question is not to exceed an amount ("the limit") described by reference to capital expenditure incurred in respect of the asset.

(5) Where—

(a) by virtue of sub-paragraph (3) above, a disposal value ("the relevant disposal value") falls or has fallen to be brought into account by a person in respect of the leased asset for the purposes of the relevant provisions, and

(b) a limiting provision has effect in the case of those provisions,

sub-paragraph (6) below shall apply.

(6) Where this sub-paragraph applies, the limiting provision shall have effect (if or to the extent that it would not otherwise do so)—

(a) in the case of the relevant disposal value, and

(b) in the case of any simultaneous or subsequent disposal value,

as if, instead of any particular disposal value, it were the aggregate amount of all the disposal values brought into account for the purposes of the relevant provisions by the current lessor in respect of the leased asset which is not to exceed the limit.

(7) In sub-paragraph (6) above "simultaneous or subsequent disposal value" means any disposal value which falls to be brought into account by the current lessor in respect of the leased asset by reason of any event occurring subsequent to, or at the same time as, the event by reason of which the relevant disposal value falls to be brought into account.

(8) If any allowance is or has been given in respect of capital expenditure incurred by the current lessor in respect of the leased asset under any provision of the Capital Allowances Acts other than those specified in sub-paragraph (3) above, an amount equal to the lesser of—

(a) the aggregate of the allowances so given (so far as not previously recovered or withdrawn),

(b) the amount or value of the major lump sum,

shall, in relation to the current lessor, be treated as if it were a balancing charge to be made on him for the chargeable period or its basis period in which falls the relevant occasion.

(9) If there is or has been allowed to the current lessor in respect of expenditure incurred in connection with the leased asset any deduction by virtue of—

(a) subsection (3) of section 68 of the Capital Allowances Act 1990 (films, tapes and discs), so far as relating to expenditure to which subsection (1) of that section applies, or 1990 c. 1.

(b) section 42 of the Finance (No.2) Act 1992 (production or acquisition expenditure on films), 1992 c. 48.

sub-paragraph (10) below shall apply.

(10) Where this sub-paragraph applies, the current lessor shall be treated as if receipts of a revenue nature of an amount equal to the amount (if any) by which—

(a) the amount or value of the major lump sum, exceeds

(b) the amount or value of so much of the major lump sum as is treated as receipts of a revenue nature under section 68(8) of the Capital Allowances Act 1990,

arose to him from the trade or business in question on the relevant occasion.

(11) If there is or has been allowed to the current lessor in respect of capital expenditure incurred in connection with the leased asset any deduction by virtue of—

(a) section 91 of the Taxes Act 1988 (cemeteries etc), or

(b) section 91A or 91B of that Act (restoration and preparation expenditure in relation to a waste disposal site),

sub-paragraph (12) below shall apply.

(12) Where this sub-paragraph applies, the current lessor shall be treated as if trading receipts of an amount equal to the lesser of—

(a) the amount or value of the major lump sum,

(b) the deductions previously allowed,

arose to him from the trade in question on the relevant occasion.

1990 c. 1.

(13) If, in a case where this paragraph applies, allowances are or have been made to a person ("the contributor") by virtue of section 154 of the Capital Allowances Act 1990 (allowances in respect of contributions to capital expenditure) in respect of his contribution of a capital sum to expenditure on the provision of the leased asset, the foregoing provisions of this paragraph shall have effect in relation to the contributor and allowances by virtue of that section in respect of the contribution as they have effect in relation to the current lessor and allowances in respect of capital expenditure incurred by him in respect of the leased asset.

(14) In sub-paragraph (8) above, "chargeable period or its basis period" shall be construed in accordance with the Capital Allowances Act 1990.

(15) In the application of sub-paragraph (8) above—

(a) in relation to a trade, profession or vocation set up and commenced on or after 6th April 1994, or

(b) as respects the year 1997-98 or any subsequent year of assessment in relation to a trade, profession or vocation set up and commenced before 6th April 1994,

that sub-paragraph shall have effect with the omission of the words "or its basis period" and sub-paragraph (14) above shall accordingly have effect with the same omission.

Chargeable gains

12.—(1) If, in the case of the lease,—

(a) the current lessor or a person connected with him disposes of—

(i) the lessor's interest under the lease, or

(ii) the leased asset, or

(iii) an asset representing the leased asset, and

(b) there is, for the period of account of the current lessor in which the disposal takes place, any cumulative accountancy rental excess,

1992 c. 12.

then, in determining for the purposes of the Taxation of Chargeable Gains Act 1992 the amount of any gain accruing to the person making the disposal, the consideration for the disposal shall be treated as reduced (but not below nil) by setting against it the cumulative accountancy rental excess.

(2) If the disposal mentioned in sub-paragraph (1) above is, for the purposes of the Taxation of Chargeable Gains Act 1992, a part-disposal of an asset—

(a) the cumulative accountancy rental excess mentioned in sub-paragraph (1) above shall be apportioned between—

(i) the property disposed of, and

(ii) the property which remains undisposed of,

in the proportions in which the sums which under paragraph (a) or (b) of section 38(1) of that Act are attributable to the asset fall to be apportioned under section 42 of that Act; and

(b) only that portion of the cumulative accountancy rental excess which is so apportioned to the property disposed of shall be set against the consideration for the part-disposal in accordance with sub-paragraph (1) above.

(3) Sub-paragraph (1) above is without prejudice to section 37 of the Taxation of Chargeable Gains Act 1992 (deduction for money or money's worth charged to income tax etc) except as provided in sub-paragraph (4) below.

(4) Section 37 of that Act shall not apply if or to the extent that any money or money's worth which, apart from this sub-paragraph, would be excluded by virtue of that section from the consideration for a disposal is represented by any cumulative accountancy rental excess which in accordance with sub-paragraph (1) above—

(a) falls to be set against the consideration for the disposal; or

(b) has fallen to be set against the consideration for a previous disposal made by the person making the disposal in question or a person connected with him.

(5) Where the current lessor or a person connected with him disposes of—

(a) the lessor's interest under the lease, or

(b) the leased asset, or

(c) an asset representing the leased asset,

this Schedule shall have effect as if a period of account of the current lessor ended, and another period of account of his began, immediately before the disposal.

(6) If two or more disposals falling within sub-paragraph (1) above are made at the same time—

(a) the cumulative accountancy rental excess mentioned in sub-paragraph (1) above shall, subject to sub-paragraph (2) above, be apportioned between them in such proportions as are just and reasonable; and

(b) sub-paragraph (5) above shall have effect in relation to those disposals as if they together constituted a single disposal.

(7) In this paragraph "dispose" and "disposal" shall be construed in accordance with the Taxation of Chargeable Gains Act 1992. 1992 c. 12.

Existing schemes where this Part does not at first apply

13.—(1) This paragraph applies in any case where—

(a) the lease of the asset forms part of an existing scheme, but

(b) the conditions in paragraph 3 above become satisfied after 26th November 1996.

(2) This Schedule shall have effect as if a period of account of the current lessor ended, and another period of account of his began—

(a) immediately before the time at which the conditions in paragraph 3 above become satisfied as mentioned in sub-paragraph (1)(b) above; and

(b) immediately after the time at which those conditions become so satisfied.

(3) If, on the assumption that this Part of this Schedule (other than this paragraph) had applied in the case of the lease at all times on or after 26th November 1996, there would be an amount of cumulative accountancy rental excess for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, then—

(a) that amount shall be the cumulative accountancy rental excess for that period of account; and

(b) the current lessor shall be treated for tax purposes as if, in the immediately preceding period of account, he had been entitled to, and there had arisen to him, rent from the lease of an amount equal to that cumulative accountancy rental excess.

(4) If, on the assumption that this Part of this Schedule (other than this paragraph) had applied in the case of the lease at all times on or after 26th November 1996, there would be an amount of cumulative normal rental excess

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for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, that amount shall be the cumulative normal rental excess for that period of account.

(5) The amount of rent mentioned in sub-paragraph (3)(b) above—

(a) is in addition to any other rent from the lease for the period of account there mentioned; and

(b) shall be left out of account for the purposes of paragraph 5 above.

(6) Where a person is treated under sub-paragraph (3)(b) above as if he had in a period of account been entitled to, and there had arisen to him, any rent, the rent shall be treated for tax purposes as if it had accrued, and he had become entitled to it, immediately before the end of that period of account.

(7) In determining for the purposes of this paragraph the amount which would, on the assumption in sub-paragraph (3) or (4) above, be the amount of—

(a) the cumulative accountancy rental excess, or

(b) the cumulative normal rental excess,

for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, any amount of relief given for a period of account on a claim under section 41 of the Taxes Act 1988 shall be treated as if it had instead been given under paragraph 8(4) above for that period of account.

New schemes where this Part begins to apply after Part II has applied

14. If—

(a) the conditions in paragraph 3 above become satisfied in the case of the lease of the asset, and

(b) immediately before those conditions became so satisfied, Part II of this Schedule applied in the case of the lease,

then, in determining the cumulative accountancy rental excess or the cumulative normal rental excess for any period of account ending after those conditions become satisfied, this Schedule shall have effect as if this Part of this Schedule had applied in relation to the lease at any time when Part II of this Schedule applied in relation to it.

PART II

OTHER FINANCE LEASES

Purpose of this Part of this Schedule

15.—(1) This Part of this Schedule is concerned with arrangements (other than arrangements with which Part I of this Schedule is concerned)—

(a) which involve the lease of an asset;

(b) which are or have been entered into by companies or other persons; and

(c) which are of such a kind as, in the case of companies incorporated in any part of the United Kingdom, falls for the purposes of accounts of such companies to be treated in accordance with normal accountancy practice as finance leases or loans.

(2) The principal purpose of this Part of this Schedule is, in the case of any such arrangements, to charge any person entitled to the lessor's interest under the lease of the asset to tax from time to time on amounts of income determined by reference to those which fall for accounting purposes to be treated in accordance with normal accountancy practice as the income return, on and after 26th November 1996, on investment in respect of the finance lease or loan (taking into account the substance of the matter as a whole, including in particular the state of affairs as between connected persons, or within a group of companies, as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts).

Application of this Part of this Schedule

16.—(1) This Part of this Schedule applies in any case where—

(a) a lease of an asset is or has been granted on or after 26th November 1996;

(b) the lease forms part of a new scheme;

(c) in the case of the lease, the condition in sub-paragraph (1) of paragraph 3 above is or has been satisfied at some time on or after 26th November 1996 in a period of account of the current lessor; and

(d) Part I of this Schedule does not apply in the case of the lease by reason of the conditions in sub-paragraphs (2) to (5) of that paragraph not all being, or having been, satisfied as mentioned in paragraph 2 above.

(2) Where the condition in paragraph 3(1) above has been satisfied at any time on or after 26th November 1996 in a period of account of the person who was at that time the lessor, it shall be taken to continue to be satisfied unless and until—

(a) the asset ceases to be leased under the lease; or

(b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons described in sub-paragraph (3) below.

(3) Those persons are—

(a) the assignor;

(b) any person who was the lessor at some time before the assignment; or

(c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.

(4) Nothing in sub-paragraph (2) above prevents this Part of this Schedule from again applying in the case of the lease if the conditions for its application are satisfied after the assignment.

Application of provisions of Part I for purposes of Part II

17. Paragraphs 5 to 10 and 12 above shall apply for the purposes of this Part of this Schedule as they apply for the purposes of Part I of this Schedule.

PART III

INSURANCE COMPANIES

Accounting purposes

18. In the application of this Schedule in relation to companies carrying on insurance business, "accounting purposes" does not include the purposes of accounts which Part II of the Insurance Companies Act 1982 (the Department of Trade and Industry rules) requires to be prepared. 1982 c. 50.

Companies carrying on life assurance business

19.—(1) This paragraph applies if the current lessor is a company carrying on life assurance business.

(2) Where the leased asset is an asset of the company's long term business fund, no amount shall be brought into account by virtue of this Schedule in any computation of profits of life assurance business, or any class of life assurance business, carried on by the company where the computation is made in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D.

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(3) In determining whether the condition in sub-paragraph (3) or (4) of paragraph 3 above is satisfied in the case of the company, an amount shall not be regarded—

(a) as falling to be brought into account for tax purposes as rent which arises to the company from the lease, or to which the company is entitled, in a period of account, or

(b) as representing a portion of that part of a major lump sum which falls within paragraph 3(2)(b) above,

by reason only that it falls to be taken into account for any purpose by virtue of section 83(2) of the Finance Act 1989 (investment income from, and increases in value of, assets of long term business fund treated as receipts of period).

1989 c. 26.

(4) Where—

(a) under paragraph 5 or 13 above the company is treated for tax purposes as if in a period of account it had been entitled to, and there had arisen to it, any rent from the lease, and

(b) the leased asset is an asset of the company's long term business fund or is linked to any category of insurance business, and

(c) any question arises for the purposes of the Corporation Tax Acts as to the extent to which that rent is referable to any category of the company's long term business,

section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) shall have effect in relation to the rent as it has effect in relation to the income arising from an asset.

PART IV

SUPPLEMENTARY PROVISIONS

Normal rent

20. ? For the purposes of this Schedule, the "normal rent" in respect of a lease for a period of account of the lessor is the amount which he would, apart from this Schedule, bring into account as rent from the lease—

(a) which arises to him, and

(b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,

in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.

Accountancy rental earnings

21.—(1) For the purposes of this Schedule, the "accountancy rental earnings" in respect of the lease for a period of account of the lessor is the greatest of the amounts specified in sub-paragraph (2) below.

(2) Those amounts are—

(a) the rental earnings for the relevant period in respect of the lease, in the case of the lessor;

(b) the rental earnings for the relevant period in respect of the lease, in the case of a person connected with the lessor;

(c) the rental earnings for the relevant period in respect of the lease, for the purposes of consolidated group accounts of a group of companies of which the lessor is a member.

(3) In sub-paragraph (2) above, "the relevant period" means the period of account of the lessor which is mentioned in sub-paragraph (1) above.

Rental earnings

22. In this Schedule "the rental earnings" for any period in respect of the lease of the asset is, in the case of any person or any consolidated group accounts, the amount which falls for accounting purposes to be treated in accordance with normal accountancy practice as the gross return for that period on investment in respect of a finance lease or loan in respect of the leasing arrangements.

Periods of account which straddle 26th November 1996

23. This Schedule shall apply in relation to a period of account which begins before 26th November 1996 and ends on or after that date as if—

(a) so much of the period as falls before 26th November 1996, and

(b) so much of the period as falls on or after that date,

were separate periods of account.

Time apportionment where periods do not coincide

24.—(1) This paragraph applies in any case where—

(a) a period of account of the lessor does not coincide with a period of account of a person connected with the lessor, or

(b) a period of account of the lessor does not coincide with a period for which consolidated group accounts of a group of companies of which the lessor is a member fall to be prepared.

(2) Where this paragraph applies, any amount which falls for the purposes of this Schedule to be found for the lessor's period of account but by reference to the connected person or, as the case may be, the consolidated group accounts shall be found by making such apportionments as may be necessary—

(a) between two or more periods of account of the connected person, or

(b) between two or more periods for which consolidated group accounts of the group fall to be prepared,

as the case may be.

(3) Any apportionment under sub-paragraph (2) above shall be made in proportion to the number of days in the respective periods which fall within the lessor's period of account.

Connected persons

25.—(1) If a person is connected with another at some time during the period which—

(a) begins at the earliest time at which any of the leasing arrangements were made, and

(b) ends when the current lessor finally ceases to have an interest in the asset or any arrangements relating to it,

he shall be treated for the purposes of this Schedule, in its application in consequence of those leasing arrangements, as being connected with that other throughout that period.

(2) Section 839 of the Taxes Act 1988 shall apply for the purposes of this Schedule.

Assets which represent the leased asset

26. For the purposes of this Schedule, the following assets shall be treated as representing the leased asset—

(a) any asset derived from, or created out of, the leased asset;

(b) any asset from or out of which the leased asset was derived or created;

(c) any asset derived from or created out of an asset from or out of which the leased asset was derived or created; or

(d) any asset which derives the whole or a substantial part of its value from the leased asset or from an asset which itself represents the leased asset.

Existing schemes and new schemes

27.—(1) For the purposes of this Schedule, a lease of an asset—

(a) forms part of an existing scheme if, and only if, the conditions in sub-paragraph (2) or (3) below are satisfied; and

(b) in any other case, forms part of a new scheme.

(2) The conditions in this sub-paragraph are that—

(a) a contract in writing for the lease of the asset has been made before 26th November 1996;

(b) either—

(i) the contract is unconditional; or

(ii) if the contract is conditional, the conditions have been satisfied before that date; and

(c) no terms remain to be agreed on or after that date.

(3) The conditions in this sub-paragraph are that—

(a) a contract in writing for the lease of the asset has been made before 26th November 1996;

(b) the condition in paragraph (b) or (c) of sub-paragraph (2) above is not satisfied in the case of the contract;

(c) either the contract is unconditional or, if it is conditional, the conditions are satisfied before the end of the finalisation period or within such further period as the Commissioners of Inland Revenue may allow in the particular case;

(d) no terms remain to be agreed after the end of the finalisation period or such further period as the Commissioners of Inland Revenue may allow in the particular case; and

(e) the contract in its final form is not materially different from the contract as it stood when it was made as mentioned in paragraph (a) above.

(4) In sub-paragraph (3) above, "the finalisation period" means the period which ends with the later of—

(a) 31st January 1997;

(b) the expiration of the period of six months next following the day on which the contract was made as mentioned in sub-paragraph (3)(a) above.

Accounting purposes and normal accountancy practice

28.—(1) In the application of any provisions of this Schedule which relate to accounting purposes or normal accountancy practice, it shall be assumed, if it is not the case, that the person who is at any time entitled to the lessor's interest under the lease of the asset, and any person connected with that person, is a company incorporated in a part of the United Kingdom.

(2) A person who is not in fact a body corporate shall not by virtue of sub-paragraph (1) above be treated as a member of a group of companies for any purpose of this Schedule.

(3) This Schedule shall have effect in relation to a person who, for accounting purposes, is not required to prepare accounts in accordance with normal accountancy practice as if he were required to do so.

(4) Nothing in sub-paragraph (3) above applies in relation to consolidated group accounts.

(5) This Schedule shall have effect in relation to a body corporate (wherever incorporated) which is a parent undertaking but which, for accounting purposes, is not required to prepare consolidated group accounts in accordance with normal accountancy practice as if the body corporate were required to do so.

(6) In sub-paragraph (5) above "parent undertaking" shall be construed in accordance with—

(a) section 258 of the Companies Act 1985, or — 1985 c. 6.

(b) in Northern Ireland, Article 266 of the Companies (Northern Ireland) Order 1986. — S.I. 1986/1032 (N.I. 6).

Assessments and adjustments

29. All such assessments and adjustments shall be made as are necessary to give effect to the provisions of this Schedule.

Interpretation

30.—(1) In this Schedule, unless the context otherwise requires—

"accountancy rental earnings" has the meaning given by paragraph 21(1) above;

"accountancy rental excess" shall be construed—

(a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and

(b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

"accounting purposes" means the purposes of—

(a) accounts of companies incorporated in any part of the United Kingdom, or

(b) consolidated group accounts for groups all the members of which are companies incorporated in any part of the United Kingdom;

"asset" means any form of property or rights;

"asset representing the leased asset" shall be construed in accordance with paragraph 26 above;

"assignment", in the application of this Schedule to Scotland, means assignation;

"consolidated group accounts" means group accounts which satisfy the requirements—

(a) of section 227 of the Companies Act 1985, or

(b) in Northern Ireland, of Article 235 of the Companies (Northern Ireland) Order 1986;

"cumulative accountancy rental excess" and "cumulative normal rental excess" shall be construed—

(a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and

(b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

"the current lessor", in the case of a lease of an asset, means the person who is for the time being entitled to the lessor's interest under the lease;

"existing scheme" shall be construed in accordance with paragraph 27(1)(a) above;

"finance lessor" means a person who for accounting purposes is treated in accordance with normal accountancy practice as the person with—

(i) the grantor's interest in relation to a finance lease; or

(ii) the lender's interest in relation to a loan;

"group of companies" means a group as defined—

1985 c. 6. (a) in section 262(1) of the Companies Act 1985, or

S.I. 1986/1032 (N.I. 6). (b) in Northern Ireland, in Article 270(1) of the Companies (Northern Ireland) Order 1986,

and "member", in relation to a group of companies, means a company comprised in the group;

"lease"—

(a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined; and

(b) in relation to any form of property or right other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset;

and "rent" shall be construed accordingly;

"the leasing arrangements", in the case of a lease of an asset, means—

(a) the lease of the asset,

(b) any arrangements relating to or connected with the lease of the asset, and

(c) any other arrangements of which the lease of the asset forms part,

and includes a reference to any of the leasing arrangements;

"the lessee", in the case of a lease of an asset, means (except in the expression "the lessee's interest under the lease") the person entitled to the lessee's interest under the lease;

"the lessor", in the case of a lease of an asset, means (except in the expression "the lessor's interest under the lease") the person entitled to the lessor's interest under the lease;

"major lump sum" shall be construed in accordance with paragraph 3(2) above;

"new scheme" shall be construed in accordance with paragraph 27(1)(b) above;

"normal rent" shall be construed in accordance with paragraph 20 above;

"normal rental excess" shall be construed—

(a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and

(b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

"period of account" means a period for which accounts are made up and, except for the purposes of paragraphs 2 to 4 and 23 above, means such a period which begins on or after 26th November 1996;

"related chargeable period" shall be construed in accordance with sub-paragraph (2) below;

"sum" includes any money or money's worth (and "pay" and cognate expressions shall be construed accordingly);

"the rental earnings", in relation to the lease of the asset and any period, has the meaning given by paragraph 22 above.

(2) For the purposes of this Schedule a chargeable period is related to a period of account (and a period of account is related to a chargeable period) if—

(a) the chargeable period is an accounting period which consists of or includes the whole or any part of the period of account; or

(b) the chargeable period is a year of assessment whose basis period for the purposes of Case I or Case II of Schedule D consists of or includes the whole or any part of the period of account.

SCHEDULE 13

Section 83.

LOAN RELATIONSHIPS: AMENDMENT OF TRANSITIONAL PROVISIONS

Introductory

1. Schedule 15 to the Finance Act 1996 (transitional provisions and savings for loan relationships) shall be amended as follows. 1996 c. 8.

Transitional rules for transitional accounting periods

2. In paragraph 3 (basic transitional rules for transitional accounting periods), after sub-paragraph (5) there shall be inserted the following sub-paragraph—

"(5A) Where—

(a) sub-paragraph (5) above applies for determining the closing value of a continuing loan relationship of a company for a transitional accounting period ending on or after 14th November 1996, and

(b) an opening valuation of that relationship falls to be made, as at the beginning of the immediately following accounting period, for the purpose of bringing amounts into account in that company's case on a mark to market basis of accounting,

the opening value given by that opening valuation shall be taken to be the same as the closing value given in accordance with that sub-paragraph."

Opening valuations as at 1st April 1996

3. After paragraph 3 there shall be inserted the following paragraph—

"Adjustment of opening value where new accounting basis adopted as from an accounting period beginning on 1st April 1996

3A.—(1) This paragraph applies in the case of a continuing loan relationship of a company where—

(a) the company's first relevant accounting period begins on 1st April 1996;

(b) in that period amounts are brought into account for the purposes of this Chapter in respect of the relationship on a mark to market basis of accounting;

(c) amounts falling to be brought into account in respect of the relationship for the purposes of corporation tax in the accounting period ending with 31st March 1996 were or (if there had been any) would have been so brought into account otherwise than on a mark to market basis of accounting; and

(d) an opening valuation of the relationship falls to be made, as at the beginning of the accounting period immediately following the first relevant accounting period, for the purpose of bringing amounts into account on a mark to market basis of accounting.

(2) Where this paragraph applies in the case of a continuing loan relationship of a company, the opening valuation mentioned in sub-paragraph (1)(d) above shall be made disregarding any amount of interest that has accrued in the company's first relevant accounting period or in any of its accounting periods preceding that period."

Adjustments in the case of pre-commencement trading relationships

4. In paragraph 5 (pre-commencement trading relationships), after sub-paragraph (4) there shall be inserted the following sub-paragraphs—

"(4A) In sub-paragraph (4) above the reference, in relation to a creditor relationship, to the amount deductible as representing the cost of a company's becoming a party to the relationship shall not, except where sub-paragraph (4B) or (4C) below applies, include a reference to so much of that amount as would represent the cost of acquiring any right to accrued interest under the loan relationship.

(4B) This sub-paragraph applies where—

(a) the company became a party to the relationship before the beginning of its first relevant accounting period,

(b) interest accruing under the relationship before the company became a party to it was paid to the company after it became a party to it but before the beginning of the company's first relevant accounting period, and

(c) the interest under the relationship which, in the case of that company, has been brought into account for the purposes of corporation tax has included interest accruing under the relationship before the company became a party to it but paid afterwards.

(4C) This sub-paragraph applies where—

(a) the company became a party to the loan relationship in a transitional accounting period, and

(b) in the case of that company, interest under the relationship which—

(i) accrued before the company became a party to the relationship, but

(ii) became due and payable afterwards,

is brought into account for the purposes of this Chapter in accordance with an authorised mark to market basis of accounting."

Chargeable assets held after commencement

5. In paragraph 8 (transitional provision for chargeable assets held after commencement), after sub-paragraph (5) there shall be inserted the following sub-paragraph—

"(5A) In any case where the relevant event has not occurred before 14th November 1996, the deemed chargeable gain or deemed allowable loss falling to be brought into account in accordance with sub-paragraph (3) above shall be computed without any account being taken of the provisions of section 119(6) and (7) of the 1992 Act (transfer of securities with or without accrued interest)."

Adjustments in the case of chargeable assets

6. In paragraph 11 (adjustments in the case of chargeable assets), for sub-paragraphs (2) to (4) there shall be substituted the following sub-paragraphs—

"(2) Those amounts are—

(a) the notional closing value of the relationship as at 31st March 1996; and

(b) the amount which would be taken on a computation made—

(i) in accordance with an authorised accruals basis of accounting, and

(ii) on the assumption that such a basis of accounting had always been used as respects that relationship,

to represent the accrued value of the loan relationship in question on 1st April 1996.

(3) Where there is a difference between the amounts mentioned in sub-paragraph (2) above, that difference shall be brought into account—

(a) where the amount mentioned in paragraph (a) of that sub-paragraph is the smaller, as a credit given for the purposes of this Chapter for the accounting period in which the company ceases to be a party to the relationship; and

(b) in any other case, as a debit so given."

Commencement of Schedule

7.—(1) Subject to sub-paragraph (2) below, this Schedule has effect for the purpose of determining the credits and debits to be brought into account in any accounting period ending on or after 14th November 1996.

(2) Paragraphs 4 and 6 above do not apply in the case of a loan relationship to which the company in question has ceased to be a party before 14th November 1996 unless—

(a) that company ceased to be a party to the relationship as a result of being directly or indirectly replaced as a party to that relationship by another company, and

(b) the transaction, or series of transactions, by virtue of which the replacement took place fell within any of paragraphs (a) to (d) of paragraph 12(1) of Schedule 9 to the Finance Act 1996 (continuity of treatment in the case of groups and certain transfers of insurance business). 1996 c. 8.

(3) A credit or debit a fraction of which falls to be brought into account under paragraph 6(4) of Schedule 15 to the Finance Act 1996 (election as to adjustments) in an accounting period ending on or after 14th November 1996 shall be determined, for the purposes mentioned in sub-paragraph (1) above, without applying sub-paragraph (2) above in relation to the relevant assumption.

SCHEDULE 14

Section 84.

CAPITAL ALLOWANCES ON LONG-LIFE ASSETS

Introductory

1. The Capital Allowances Act 1990 shall be amended as follows. 1990 c. 1.

SCH. 14

New Chapter on long-life assets

2. In Part II (machinery and plant), the following new Chapter shall be inserted after Chapter IV (short-life assets)—

"CHAPTER IVA

LONG-LIFE ASSETS

Expenditure to which Chapter applies

Application of Chapter.

38A.—(1) Subject to sections 38B to 38D and 38H, this Chapter applies to any capital expenditure incurred by a person on the provision of machinery or plant if that machinery or plant is a long-life asset.

(2) For the purposes of this Chapter machinery or plant is a long-life asset if—

(a) in the case of machinery or plant that is new, it is reasonable to expect that the machinery or plant will have a useful economic life of at least twenty-five years; or

(b) in any other case, it was reasonable, when the machinery or plant was new, to expect that it would have a useful economic life of at least twenty-five years.

(3) For the purposes of this section the useful economic life of machinery or plant is the period which—

(a) begins with the first occasion on which the machinery or plant is brought into use by any person for any purpose; and

(b) continues until the machinery or plant ceases to be machinery or plant that is or is likely to be used (whether or not by the person who first brought it into use and whether or not in a manner in which he used it) as a fixed asset of a business.

(4) Where, by virtue of any of the following provisions of this Chapter, this Chapter applies to part only of the expenditure incurred by any person on the provision of any long-life asset, this Act shall have effect in relation to that expenditure as if the part to which this Chapter applies and the part to which it does not were, in each case, expenditure on a separate item of machinery or plant.

(5) For the purposes of subsection (4) above all such apportionments shall be made as may be just and reasonable.

Expenditure excluded from the application of the Chapter.

38B.—(1) This Chapter does not apply to expenditure on the provision of machinery or plant which is a fixture in, or is provided for use in, any building used wholly or mainly—

(a) as a dwelling-house, retail shop, showroom, hotel or office; or

(b) for purposes ancillary to the purposes of a dwelling-house, retail shop, showroom, hotel or office.

(2) This Chapter does not apply to any expenditure on the provision of—

(a) a motor car; or

(b) a mechanically propelled road vehicle which would be a motor car but for section 36(1)(c).

(3) This Chapter does not apply to any expenditure incurred before 1st January 2011 on the provision of a ship of a sea-going kind if each of the following conditions is satisfied—

(a) that ship is not an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971; 1971 c. 61.

(b) that ship would not be such an installation if the activity for the carrying on of which it is or is to be established or maintained were carried on in or under controlled waters (within the meaning of that Act); and

(c) the primary use to which ships of the same kind as that ship are put by the persons to whom they belong (or, where their use is made available to others, by those others) is a use otherwise than for sport or recreation.

(4) This Chapter does not apply to any expenditure incurred before 1st January 2011 on the provision of a railway asset provided for use (whether by the person incurring the expenditure or by any other person) wholly and exclusively for the purposes of a railway business.

(5) In this section—

'fixture' has the same meaning as in Chapter VI of this Part;

'goods' has the same meaning as in Part I of the Railways Act 1993; 1993 c. 43.

'light maintenance depot' means—

(a) any light maintenance depot within the meaning of Part I of the Railways Act 1993, or

(b) any land or other property which, in relation to anything which is a railway only where 'railway' has the wider meaning given by section 81(2) of that Act, is the equivalent of such a depot;

'railway' has the wider meaning given by section 81(2) of the Railways Act 1993 (which defines railway so as to include tramways and other systems of guided transport);

'railway asset' means any of the following—

(a) any locomotive, tram or other vehicle designed or adapted for use on a railway;

(b) any carriage, wagon or other rolling stock designed or adapted for such use;

(c) anything which is or is to be comprised in any railway track, railway station or light maintenance depot; and

(d) any apparatus falling to be installed in association with anything within paragraph (c) above;

'railway business' means so much of any business as is carried on for the provision of a service to the public for the carriage of goods or passengers by means of a railway in the United Kingdom or the Channel Tunnel;

1993 c. 43.

'railway station' includes anything included in the definition of 'station' in section 83 of the Railways Act 1993 and anything that would be so included if, in that section, 'railway' had the wider meaning given by section 81(2) of that Act;

'railway track' includes anything included in the definition of 'track' in section 83 of the Railways Act 1993 and anything that would be so included if, in that section, 'railway' had the wider meaning given by section 81(2) of that Act;

'retail shop' includes any premises of a similar character where retail trade or business (including repair work) is carried on.

(6) For the purposes of subsection (4) above a railway asset falling within paragraph (a) or (b) of the definition in subsection (5) above shall not be treated as used otherwise than wholly and exclusively for the purposes of a railway business by reason only that it is used to carry goods or passengers from places in the United Kingdom to places outside the United Kingdom or vice versa.

Exclusion of Chapter where limit for individuals and partnerships not exceeded.

38C.—(1) Subject to section 38F(3), this Chapter does not apply to any expenditure incurred by an individual, or by a partnership of which all the members are individuals, unless that expenditure is—

(a) expenditure incurred in a chargeable period the relevant limit for which is exceeded in the case of that individual or partnership; or

(b) expenditure which is not subject to that limit.

(2) For the purposes of this section the relevant limit for a chargeable period is exceeded in the case of an individual or partnership if the total amount of capital expenditure which—

(a) is incurred in that period by that individual or partnership,

(b) is subject to the limit, and

(c) is or, disregarding this section, would be expenditure to which this Chapter applies,

exceeds the limit applying to that period.

(3) For the purposes of this section expenditure incurred by an individual is subject to the relevant limit for a chargeable period if—

(a) it was incurred by him for the purposes of a trade or profession carried on by him;

(b) that individual devotes substantially the whole of his time in that chargeable period to the carrying on of that trade or profession; and

(c) the expenditure is not excluded from the operation of the limit.

(4) For the purposes of this section expenditure incurred by a partnership is subject to the relevant limit for a chargeable period if—

(a) it was incurred by the partnership for the purposes of a trade or profession carried on by that partnership;

(b) at all times throughout that period at least half of the individuals who are for the time being members of the partnership are devoting substantially the whole of their time to the carrying on of that trade or profession; and

(c) the expenditure is not excluded from the operation of the limit.

(5) For the purposes of this section the expenditure which is excluded from the operation of the relevant limit for a chargeable period is any expenditure falling within any of the following paragraphs, that is to say—

(a) expenditure on the provision of a share in machinery or plant;

(b) expenditure which is treated as expenditure on the provision of machinery or plant by virtue of section 154 (contributions);

(c) expenditure incurred on the provision of machinery or plant for leasing (whether or not the leasing is in the course of a trade).

(6) The limit applying for the purposes of this section to a chargeable period of twelve months is £100,000.

(7) The limit applying for the purposes of this section to a chargeable period which is not twelve months is the amount given by a proportional reduction or, as the case may require, increase of £100,000.

(8) Where, in the case of any contract for the provision of machinery or plant, the capital expenditure which is or is to be incurred under that contract is or may fall to be treated for the purposes of this Act as incurred in different chargeable periods, all of the expenditure falling to be incurred under that contract on the provision of that machinery or plant shall be treated for the purposes of this section as incurred in the first chargeable period in which any of that expenditure is incurred.

(9) This section does not apply for the purposes of corporation tax.

Exclusion of Chapter where company's limit not exceeded.

38D.—(1) Subject to section 38F(3), this Chapter does not apply for the purposes of corporation tax to any expenditure by a company unless that expenditure is—

(a) expenditure incurred in a chargeable period the relevant limit for which is exceeded in relation to that company; or

(b) expenditure excluded from the operation of that limit.

(2) For the purposes of this section the relevant limit for a chargeable period is exceeded in relation to a company only if the total amount of capital expenditure which—

(a) is incurred by that company in that period,

(b) is not excluded from the operation of that limit, and

(c) is or, disregarding this section, would be expenditure to which this Chapter applies,

exceeds the limit applying to that period.

(3) Subject to subsection (5) below, the limit applying for the purposes of this section to a chargeable period of twelve months is £100,000.

(4) Subject to subsection (5) below, the limit applying for the purposes of this section to a chargeable period of less than twelve months is the amount given by a proportional reduction of £100,000.

(5) Where, in a chargeable period, a company has one or more associated companies, the limit applying to that period for the purposes of this section shall be the amount produced by—

(a) taking the amount given for that period by subsection (3) or, as the case may be, subsection (4) above; and

(b) dividing that amount by one plus the number of those companies.

(6) Subsections (4) and (5) of section 13 of the principal Act (which identify the companies that are to count as associated companies for the purposes of section 13(3) of that Act) shall apply for the purposes of subsection (5) above as they apply for the purposes of subsection (3) of that section.

(7) Subsections (5) and (8) of section 38C apply for the purposes of this section as they apply for the purposes of that section.

Rules applying to expenditure on long-life assets

Separate pools for expenditure on long-life assets.

38E.—(1) Where expenditure to which this Chapter applies has been incurred on the provision of machinery or plant wholly and exclusively for the purposes of a trade ('the actual trade'), the following provisions of this section shall have effect with respect to the allowances and charges to be made under section 24 in the case of the actual trade.

(2) It shall be assumed for the purposes of sections 24, 25 and 26—

(a) that the person carrying on the actual trade incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade carried on by him separately from the actual trade and from any other trade which he in fact carries on or is assumed for any purpose to carry on;

(b) that the purposes for which the machinery or plant is used (whether wholly or partly) are purposes of the separate trade if they are purposes of the actual trade, but not otherwise; and

(c) that the separate trade is permanently discontinued if the actual trade is or is treated as permanently discontinued, but not otherwise.

(3) Any allowance or charge under section 24 which, on those assumptions and having regard to subsection (4) below, would fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the actual trade.

(4) If an allowance under section 24 falling by virtue of this section to be made for any chargeable period ('the earlier period') in the case of the actual trade—

(a) is not claimed, or

(b) is reduced in amount in accordance with a requirement under subsection (3) of that section,

then, in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the separate trade, any allowance falling to be made in the case of the separate trade for the earlier period shall be treated as not claimed or, as the case may require, as proportionately reduced.

(5) Where there is more than one item of machinery or plant to which subsection (2) above applies in the case of any person, this section shall have effect as if the separate trade for which, in that person's case, each of those items is treated as used were the same separate trade.

(6) The reference in subsection (1) above to expenditure incurred on the provision of machinery or plant wholly and exclusively for the purposes of a trade does not include a reference to any amount falling by virtue of section 31, 61, 79 or 80 to be treated as incurred on the provision of machinery or plant wholly and exclusively for the purposes of the separate trade mentioned in that section.

Modifications applying to pools for long-life assets.

38F.—(1) Where sections 24, 25 and 26 apply, in any of the cases mentioned in subsection (2) below, to any expenditure to which this Chapter applies, they shall so apply as if the reference in section 24(2) to 25 per cent. were a reference to 6 per cent.

(2) Those cases are—

(a) any case where sections 24, 25 and 26 apply in accordance with section 31, 38E, 79 or 80; and

(b) any case where the machinery or plant in question is machinery or plant to which section 61 applies.

(3) Where—

(a) any person entitled to do so has made a Part II claim in respect of expenditure incurred on the provision of any plant or machinery,

(b) that expenditure was expenditure falling to be treated for the purposes of that claim as expenditure to which this Chapter applies,

(c) at any time after the making of that claim, that person or another person makes a Part II claim in respect of any capital expenditure incurred at any time (including a time before the incurring of the expenditure to which the earlier claim relates) on the provision of the same machinery or plant,

(d) the expenditure to which the later claim relates would not (but for this subsection) be treated for the purposes of the later claim as expenditure to which this Chapter applies, and

(e) the expenditure to which the later claim relates does not fall within paragraph (d) above by virtue of being expenditure which is prevented by section 38B from being expenditure to which this Chapter applies,

this Part shall have effect in relation to the later claim as if the expenditure to which it relates were expenditure to which this Chapter applies.

(4) References in this section to the making of a Part II claim in respect of any expenditure are references to any of the following—

(a) the making of a return in which that expenditure is taken into account in determining a person's qualifying expenditure for the purposes of section 24;

(b) the giving of notice of any such amendment of a return as provides for the expenditure to be so taken into account;

(c) the making, in any other manner, of a claim for the expenditure to be so taken into account.

1970 c. 9.

(5) In subsection (4) above 'return' means any return required to be made under the Taxes Management Act 1970 for income tax or corporation tax purposes.

(6) In the case of expenditure falling within subsection (1) of section 42, this section has effect subject to subsections (3) to (7) of that section.

Disposal value of long-life assets.

38G.—(1) If, in a case where sections 24, 25 and 26 have had effect in accordance with section 38F(1) in relation to any expenditure incurred by a person ('the charged person')—

(a) an event occurs by reason of which a disposal value of that machinery or plant is to be brought into account by the charged person in accordance with section 24,

(b) the amount of the disposal value to be so brought into account would (but for this section) be less than the notional written-down value of the machinery or plant, and

(c) the event is comprised in, or occurs in pursuance of, any scheme or arrangement which has avoidance as its main object, or as one of its main objects,

this Part shall have effect in relation to the charged person as if the amount of the disposal value to be brought into account were equal to the notional written-down value of the machinery or plant.

(2) In this section 'the notional written-down value', in relation to any machinery or plant, means the amount which, if—

(a) it were the disposal value falling to be brought into account as mentioned in subsection (1) above, and

(b) the assumptions set out in subsection (3) below were made,

would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value is to be brought into account.

(3) The assumptions mentioned in subsection (2) above are—

(a) subject to paragraph (b) below, that expenditure on the provision of the machinery or plant were the only expenditure ever taken into account in determining the charged person's qualifying expenditure for the purposes of section 24;

(b) that that expenditure were not, in the charged person's case, prevented by section 38C or 38D from being expenditure to which this Chapter applies; and

(c) that the full amount of every allowance to which the charged person was entitled in respect of that expenditure had been made to him.

(4) The reference in subsection (1) above to avoidance is a reference to—

(a) the obtaining under this Part for the charged person of an allowance or deduction or of a greater allowance or deduction, or

(b) the avoidance or reduction of a charge under this Part on the charged person.

Transitional provisions

Transitional provisions.

38H.—(1) This Chapter does not apply—

(a) to any expenditure incurred before 26th November 1996; or

(b) to any expenditure incurred before 1st January 2001 in pursuance of a contract entered into before 26th November 1996.

(2) This Chapter does not apply to expenditure incurred by any person ('the purchaser') on the acquisition of any long-life asset from another person ('the seller') in a case where—

(a) the seller has made a Part II claim in respect of expenditure incurred on the provision of that asset ('the seller's expenditure'),

(b) that claim is one which the seller was entitled to make,

(c) the seller's expenditure was not expenditure falling for the purposes of that claim to be treated as expenditure to which this Chapter applies, and

(d) the seller's expenditure would have fallen to be so treated if one or more of the assumptions specified in subsection (3) below were made.

(3) Those assumptions are—

(a) that expenditure falling within paragraph (a) or (b) of subsection (1) above is not prevented by that paragraph from being expenditure to which this Chapter applies;

(b) that the seller's expenditure was not prevented by subsection (2) above from being expenditure to which this Chapter applies; and

(c) that this Chapter or, as the case may require, provision corresponding to it applied for chargeable periods ending before 26th November 1996.

(4) The reference in subsection (1) above to expenditure incurred in pursuance of a contract entered into before 26th November 1996 does not, in the case of a contract varied at any time on or after that date, include a reference to so much of the expenditure incurred under that contract as exceeds the amount of the expenditure that would have been incurred if that contract had not been so varied.

(5) Subsections (4) and (5) of section 38F have effect for the purposes of this section as they have effect for the purposes of that section."

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Consequential amendments

3. In section 37(1), after paragraph (b) (election to treat assets as short-life assets), there shall be inserted the following paragraph—

"(ba) the expenditure is not expenditure to which Chapter IVA of this Part applies; and".

4. For subsection (6) of section 41 (cases where the provision for separate pools for leased assets and inexpensive cars do not apply) there shall be substituted the following subsection—

"(6) This section does not apply—

(a) to machinery or plant in relation to which sections 24, 25 and 26 apply in accordance with section 34, 79 or 80; or

(b) to machinery or plant the expenditure on which is expenditure to which Chapter IVA of this Part applies."

5. In section 42(2) (rate of writing down assets leased outside the United Kingdom), after "above" there shall be inserted "which is not expenditure to which Chapter IVA of this Part applies".

6. In section 43(3) (apportionments in leasing cases), after "26," there shall be inserted "38E,".

7. In section 46(7)(c) (leasing of ships to non-residents), for "section 41" there shall be inserted "whichever of sections 38E and 41 is applicable".

8. In section 50(3) (interpretation of Chapter V), in the definition of "normal writing down allowance", for "section 42(2)" there shall be substituted "sections 38F(1) and 42(2)".

9. In section 77(8) (provisions that do not apply where an election is made in the case of a connected person succeeding to a trade), after "Sections" there shall be inserted "38G,".

Commencement

10. This Schedule applies in relation to chargeable periods ending on or after 26th November 1996.

Section 85.

SCHEDULE 15

CAPITAL ALLOWANCES: SCHEDULE A CASES ETC

Repeal of existing rules

1. Section 32 of the Taxes Act 1988 (capital allowances in Schedule A cases) shall cease to have effect, both for the purposes of income tax and for the purposes of corporation tax.

Removal of restriction on set-off of losses

2.—(1) In section 379A(2) of the Taxes Act 1988 (cases in which Schedule A losses may be set against other income of the same year or the following year)—

(a) in paragraph (a) (losses attributable to relevant capital allowances), the word "relevant" shall be omitted; and

(b) the words after paragraph (b) (which define the relevant capital allowances) shall cease to have effect.

(2) In section 503 of that Act (letting of furnished holiday accommodation treated as trade), after subsection (1) there shall be inserted the following subsection—

"(1A) In its application by virtue of subsection (1) above, section 384 shall have effect with the omission of subsections (6) to (8) and of the words after paragraph (b) in subsection (10) (restrictions on right to set off losses attributable to capital allowances)."

New general provision

3. In Chapter I of Part II of the Capital Allowances Act 1990 (general provisions about capital allowances in respect of machinery and plant), the following section shall be inserted after section 28— 1990 c. 1.

"Schedule A cases.

28A.—(1) Subject to subsection (3) below and section 29, where any person carries on a Schedule A business—

(a) that person's Schedule A business shall be treated as a trade for the purposes of this Part and of the other provisions of the Tax Acts so far as relating to allowances or charges under this Part; and

(b) that trade shall be treated for those purposes as one trade carried on separately from any other trade carried on by that person.

(2) For the purposes of the Corporation Tax Acts the reference in subsection (1) above to a Schedule A business is a reference, in relation to a company, to all the activities carried on by that company which—

(a) would be treated as comprised in a Schedule A business if they were carried on by an individual, rather than by a company; and

(b) are not activities the profits and gains from which are treated for the purposes of the Corporation Tax Acts as chargeable to tax under Case VI of Schedule D.

(3) Expenditure incurred in providing machinery or plant for use in a dwelling-house shall not, by virtue of this section, be treated as incurred in providing that machinery or plant for the purposes of a trade.

(4) Where machinery or plant is provided partly for use in a dwelling-house and partly for other purposes, such apportionment of the expenditure incurred in providing that machinery or plant shall be made for the purposes of subsection (3) above as is just and reasonable."

4. In section 29 of that Act of 1990 (furnished holiday accommodation), for subsection (1), both as it applies for the purposes of income tax and as it applies for the purposes of corporation tax, there shall be substituted the following subsections—

"(1) Subject to subsection (1A) below, this Part and the other provisions of the Tax Acts so far as relating to allowances or charges under this Part shall have effect as if so much of the Schedule A business of any person as consists in the commercial letting of furnished holiday accommodation in the United Kingdom were a single trade carried on separately from both—

(a) the trade in which, in accordance with section 28A, the rest (if any) of that business is comprised; and

(b) any other trade carried on by that person.

(1A) Subsection (1) above does not apply for the purposes of the Corporation Tax Acts; but for those purposes this Part and the other provisions of those Acts so far as relating to allowances and charges under this Part shall have effect as if—

(a) the commercial letting of furnished holiday accommodation in the United Kingdom in respect of which profits or gains are chargeable under Case VI of Schedule D were a trade; and

(b) all such lettings made by the same person were a single trade carried on separately from any other trade which is, or under section 28A is treated as, carried on by that person."

Manner of making allowances and charges

5.—(1) In subsection (3) of section 67 of that Act of 1990 (manner of giving allowance on thermal insulation), the words from "shall be made" to "corporation tax," shall be omitted.

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

"(3A) Subsections (2) and (3) above have effect for the purposes of corporation tax only."

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

"(4A) Where the letting of any industrial building or structure by any person is deemed by virtue of section 28A to be in the course of a trade, subsection (1) above shall have effect as if that person occupied that building or structure for the purposes of that trade throughout the period for which it is let by him."

6.—(1) In section 73 of that Act of 1990 (manner of making allowances and charges under Part II), in subsection (1), for "subsection (2)" there shall be substituted "subsections (1A) and (2)".

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

"(1A) Any allowance or charge made to or on any company by virtue of section 28A shall be made for the purposes of corporation tax by way of discharge or repayment of tax and, for that purpose—

(a) any such allowance shall be available primarily against income chargeable to tax under Schedule A; and

(b) the amount on which any such charge is to be made shall be treated as income so chargeable."

Meaning of capital expenditure

7. In section 159 of that Act of 1990, after subsection (1) (capital expenditure and capital sums not to include trading expenses and receipts) there shall be inserted the following subsection—

"(1A) References in subsection (1) above to a trade include references to a Schedule A business or to any such activities as are mentioned in section 28A(2)."

Consequential amendment of section 434E of the Taxes Act 1988

8. In section 434E(2) of the Taxes Act 1988 (letting of investment assets of life assurance companies to be treated as letting otherwise than in the course of a trade), at the end there shall be inserted "except where it is a letting of machinery or plant that is deemed to be a letting in the course of a trade by virtue of section 28A of that Act (Schedule A businesses etc.)."

Commencement

9.—(1) Subject to sub-paragraph (2) below, this Schedule has effect—

(a) for the purposes of income tax, in relation to the year 1997-98 and subsequent years of assessment; and

(b) for the purposes of corporation tax, in relation to accounting periods ending on or after 1st April 1997.

(2) Paragraph 7 above has effect for any year of assessment or accounting period ending on or after 26th November 1996, but only in relation to expenditure incurred on or after that date and sums paid or received on or after that date.

SCHEDULE 16

Section 86.

CAPITAL ALLOWANCES ON FIXTURES

PART I

AMENDMENTS OF THE CAPITAL ALLOWANCES ACT 1990

Introductory

1. The Capital Allowances Act 1990 shall be amended in accordance with the following provisions of this Part of this Schedule. 1990 c. 1.

Interpretation of Chapter VI of Part II

2.—(1) In subsection (2) of section 51 (definitions), after the definition of "relevant land" there shall be inserted the following definition—

> "'return' means (subject to section 59C(10)) any return required to be made under the Taxes Management Act 1970 for income tax or corporation tax purposes." 1970 c. 9.

(2) In subsection (5) of that section—

(a) in paragraph (b), for "that expenditure is" there shall be substituted "that person is entitled to have that expenditure"; and

(b) in sub-paragraph (iii), for "he is required" there shall be substituted "he would be required (disregarding section 24(7))".

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

> "(5A) In this Chapter references to making a claim for an allowance in respect of any expenditure include references—
>
> (a) to making a return in which the expenditure is taken into account, as expenditure on the provision of a fixture, in determining a person's qualifying expenditure for the purposes of section 24, and
>
> (b) to giving notice of any such amendment of a return as provides for that expenditure to be so taken into account."

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

"(6A) Where a person who has made a return becomes aware that anything contained in that return has, after being made, become incorrect by reason of—

(a) the making an election under section 59B, or

(b) the operation, in his case, of section 56A(1), section 56B(1) or section 59C(3),

he shall, within three months of first becoming so aware, give notice to an officer of the Board of the amendments that are necessitated in his return in the light of the matter of which he has become aware."

(5) In subsection (8), paragraph (b) (expenditure under commitments made before 12th July 1984 not subject to the provisions of the Chapter) shall cease to have effect.

(6) Subject to sub-paragraphs (7) and (8) below, this paragraph has effect for chargeable periods ending on or after 24th July 1996.

(7) Where, but for this sub-paragraph, the latest time for the giving of a notice under subsection (6A) of section 51 would be before the end of the period of three months beginning with the day on which this Act is passed, that subsection shall have effect as if the latest time for the giving of that notice were the end of that period of three months.

(8) Section 59(10) shall not apply by virtue of sub-paragraph (5) above in any case where it would not have applied apart from that sub-paragraph and the fixture is treated as having ceased to belong to the former owner before 24th July 1996.

Allowances in respect of expenditure by equipment lessors

3.—(1) In subsection (1) of section 53 (cases where allowance may be made in respect of expenditure of an equipment lessor), at the beginning there shall be inserted "Subject to subsections (1A) to (1C) below,".

(2) In paragraph (b) of that subsection (agreement must be entered into for the purposes of a trade carried on by the equipment lessee etc.), after the word "trade", in the first place where it occurs, there shall be inserted "which is or is to be".

(3) After paragraph (b) of that subsection there shall be inserted the following paragraphs—

"(ba) that agreement is not an agreement for the lease of the machinery or plant for use in a dwelling-house, and

(bb) the equipment lessee is within the charge to tax in the United Kingdom on the profits of, as the case may be—

(i) the trade for the purposes of which he has entered into that agreement, or

(ii) the leasing of the machinery or plant by him to another,

and".

(4) In paragraph (d) of that subsection, for the words from "the fixture" to the end of the paragraph there shall be substituted "the equipment lessee would, by virtue of section 52, have been entitled to an allowance in respect of the expenditure, as expenditure incurred on the provision of that fixture, and".

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

"(1A) Where the condition specified in paragraph (b) of subsection (1) above is satisfied in any case by reference to an agreement entered into for the purposes of a trade which the equipment lessee has not begun to carry on at the time of the agreement, that subsection shall have effect in that case

as if the reference in the words after paragraph (e) to the time at which the expenditure is incurred were a reference to whichever is the later of that time and the time when the equipment lessee begins to carry on that trade.

(1B) Where the conditions set out in subsection (1C) below are satisfied in any case, subsection (1) above shall have effect in that case as if the following were omitted, that is to say—

(a) in paragraph (b), the words from 'for the purposes of' to 'course of a trade'; and

(b) paragraphs (bb) and (d).

(1C) Those conditions are as follows—

(a) that the machinery or plant becomes a fixture by virtue of being fixed to land that is neither a building nor part of a building;

(b) that the equipment lessee has an interest in that land at the time when he takes possession of the machinery or plant under the agreement for the lease of it;

(c) that, under the terms of that agreement, the equipment lessor is entitled to sever the machinery or plant, at the end of the period for which it is leased, from the land to which it is fixed at that time;

(d) that, under the terms of that agreement, the machinery or plant will belong to the equipment lessor on its severance from that land in accordance with that agreement;

(e) that the nature of the machinery or plant and the way in which it is fixed to land are such that its use on one set of premises does not, to any material extent, prevent it from being used, once severed, for the same purposes on a different set of premises; and

(f) that the agreement for the lease of the machinery or plant is such as falls, for the purposes of the accounts of equipment lessors who are companies incorporated in a part of the United Kingdom, to be treated, in accordance with normal accountancy practice, as an operating lease."

(6) Sub-paragraphs (1), (2) and (5) above have effect for chargeable periods ending on or after the day on which this Act is passed in relation to any case in which the agreement for the lease of the machinery or plant is entered into on or after that day.

(7) Sub-paragraphs (3) and (4) above have effect for chargeable periods ending on or after 24th July 1996 in relation to any case in which the expenditure incurred by the equipment lessor is expenditure incurred on or after that date.

Fixtures in respect of which more than one person gets an allowance

4.—(1) After section 56 there shall be inserted the following sections—

"Restriction on duplicate allowances under sections 54 and 56.

56A.—(1) Where the relevant conditions are satisfied in relation to any case in which the provisions of section 54(1) or section 56 would (but for this section) be treated as applying, those provisions shall not apply in that case, and shall be treated as never having applied in that case.

(2) The relevant conditions are as follows—

(a) that an interest in any land in which the whole or any part of the relevant land is comprised is held by any person immediately after the relevant time;

(b) that that interest is not the one which—

(i) in a case falling within section 54(1)(a), is acquired by the purchaser; or

(ii) in a case falling within section 56(a), is acquired by the lessee in consequence of the grant of the lease;

(c) that the person with that interest is a person falling to be treated for the purposes of this Part as a person to whom the fixture belonged immediately before the relevant time in consequence of the incurring by him of expenditure on the provision of the fixture;

(d) that that person does not fall to be so treated by virtue of section 154;

(e) that that person is entitled to an allowance in respect of that expenditure and makes or has made a claim for that allowance; and

(f) that the relevant time is on or after 24th July 1996.

(3) In this section 'the relevant time' means, as the case may be—

(a) the time when the purchaser acquires his interest in the relevant land; or

(b) the time of the grant of the lease.

Fixtures on which a former owner had an allowance.

56B.—(1) Where—

(a) any machinery or plant falls to be treated for the purposes of this Part as a fixture belonging to any person ('the new claimant') in consequence of his incurring capital expenditure on the provision of that machinery or plant, and

(b) the requirements of subsection (2) below are satisfied in the case of that machinery or plant,

so much (if any) of that expenditure as exceeds the maximum allowable amount shall be disregarded for the purposes of this Part or, as the case may be, shall be taken to be expenditure that should never have been taken into account for those purposes.

(2) The requirements of this subsection are satisfied in the case of any machinery or plant where—

(a) it falls or has fallen, otherwise than by virtue of section 154, to be treated as having belonged at a relevant earlier time to any person ('the prior claimant') in consequence of his incurring expenditure ('the other expenditure') which is not the expenditure mentioned in subsection (1)(a) above;

(b) the prior claimant, as a consequence of having made a claim for an allowance in respect of the other expenditure, is or has been required to bring a disposal value of the machinery or plant into account; and

(c) the event by reason of which that disposal value has been or is to be brought into account is an event occurring on or after 24th July 1996.

(3) For the purposes of this section the new claimant and the prior claimant may be the same person.

(4) Subject to subsection (5) below, the maximum allowable amount for the purposes of this section is the sum of—

(a) the disposal value of the machinery or plant which the prior claimant has been or is required to bring into account; and

(b) so much (if any) of the expenditure mentioned in subsection (1)(a) above as is deemed by virtue of section 66 (installation costs) to be expenditure on the provision of the machinery or plant.

(5) Subsection (4) above shall have effect where the requirements of subsection (2) above are satisfied by reference to more than one such event as is mentioned in subsection (2)(c) above as if they were satisfied by reference only to the most recent of those events.

(6) In this section 'a relevant earlier time' means a time which—

(a) is before the time which is taken for the purposes of this Part to be the earliest time when the machinery or plant belonged to the new claimant in consequence of his incurring the expenditure mentioned in subsection (1)(a) above; and

(b) does not fall to be disregarded under subsection (7) below.

(7) For the purposes of subsection (6) above a time must be disregarded if—

(a) in consequence of any sale of the machinery or plant, it has ceased, at any time after that time and before the time mentioned in paragraph (a) of that subsection, to belong to any person;

(b) that person and the purchaser were not connected with each other, within the terms of section 839 of the principal Act, at the time of sale; and

(c) the sale was not a sale of the machinery or plant as a fixture.

Fixtures on which an allowance has been given under Part I.

56C.—(1) Where—

(a) a person has at any time made a claim for an allowance to which he is entitled under Part I in respect of expenditure incurred on the construction of a building or structure,

(b) that expenditure was or included expenditure on the provision of machinery or plant,

(c) that person has made a transfer of the relevant interest in the building or structure ('the relevant transfer'),

(d) the person to whom the relevant transfer is made, or any person to whom for the purposes of this Part the machinery or plant is subsequently treated as belonging, makes a claim for an allowance under this Part, and

(e) that claim is for an allowance in respect of capital expenditure incurred, at a time on or after 24th July 1996 when it is a fixture in the building or structure, on the provision of the machinery or plant,

the amount taken for the purposes of the claim mentioned in paragraph (d) above to have been incurred on the provision of the fixture shall not exceed the relevant amount.

(2) In subsection (1) above 'the relevant amount' means the amount equal, on the relevant assumption, to the portion of the consideration for the relevant transfer which would have been attributable to the fixture.

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(3) The relevant assumption for the purposes of subsection (2) above is that the relevant transfer was a sale of the relevant interest in the building or structure for the amount which immediately after that transfer represented the residue of the expenditure incurred on the construction of the building or structure.

(4) Expressions used both in this section and in Part I have the same meanings in this section as in that Part.

Fixtures on which an allowance has been given under Part VII.

56D.—(1) Where—

(a) a person has at any time made a claim for an allowance to which he is entitled under Part VII in respect of any allowable scientific research expenditure of a capital nature ('the Part VII expenditure'),

(b) the Part VII expenditure was or included expenditure on the provision of machinery or plant,

(c) an asset representing the whole or any part of the Part VII expenditure ('the Part VII asset') has ceased, on any occasion, to belong to that person,

(d) the person who acquired the Part VII asset on that occasion, or any person to whom for the purposes of this Part the machinery or plant is subsequently treated as belonging, makes a claim for an allowance under this Part, and

(e) that claim is for an allowance in respect of capital expenditure incurred, at a time on or after 24th July 1996 when it is a fixture, on the provision of the machinery or plant,

the amount taken for the purposes of the claim mentioned in paragraph (d) above to have been incurred on the provision of the fixture shall not exceed the relevant amount.

(2) In subsection (1) above 'the relevant amount' means the amount equal, on the relevant assumption, to the portion of the consideration for the disposal of the Part VII asset which would have been attributable to the fixture.

(3) The relevant assumption for the purposes of subsection (2) above is that the occasion mentioned in subsection (1)(c) above was a disposal of the Part VII asset for the amount equal to whichever is the smaller of—

(a) the disposal value of the asset on that occasion; and

(b) so much of the Part VII expenditure as related to the provision of the Part VII asset.

(4) Expressions used both in subsection (1) above and in Part VII have the same meanings in that subsection as in that Part."

(2) In section 54(1)—

(a) paragraph (c) (cases where another person has had an entitlement), and the word "and" immediately preceding it, shall cease to have effect; and

(b) in the words after that paragraph, for "section 57" there shall be substituted "the following provisions of this Chapter".

(3) In section 56—

(a) paragraph (c) (cases where another person has had an entitlement) shall cease to have effect;

(b) in paragraph (d), for "that time" there shall be substituted "the time of the grant of the lease"; and

(c) in the words after paragraph (d), for "section 57" there shall be substituted "the following provisions of this Chapter".

(4) This paragraph has effect, subject to sub-paragraphs (5) and (6) below, for chargeable periods ending on or after 24th July 1996.

(5) Sub-paragraph (2)(a) above does not apply where the purchaser acquired the relevant interest before 24th July 1996.

(6) Sub-paragraph (3)(a) above does not apply where the lease was granted before 24th July 1996.

Disposal value in avoidance cases

5.—(1) In subsection (1) of section 59 (disposal value of fixtures determined in accordance with subsections (2) to (6)), after "determined" there shall be inserted "(subject to sections 59A and 59B)".

(2) In Chapter VI of Part II, after that section there shall be inserted the following section—

"Disposal values in avoidance cases.

59A.—(1) If, in a case where machinery or plant has been treated by virtue of this Chapter as belonging to any person ('the charged person') in consequence of his incurring any expenditure—

(a) an event occurs by reason of which a disposal value of that machinery or plant is to be brought into account by the charged person in accordance with section 24,

(b) the amount of the disposal value to be so brought into account would (but for this section) be less than the notional written-down value of the machinery or plant, and

(c) the event is comprised in, or occurs in pursuance of, any scheme or arrangement which has avoidance as its main object, or as one of its main objects,

this Part shall have effect in relation to the charged person as if the amount of the disposal value to be brought into account were equal to the notional written-down value of the machinery or plant.

(2) In this section 'the notional written-down value', in relation to any machinery or plant, means the amount which, if—

(a) it were the disposal value falling to be brought into account as mentioned in subsection (1) above, and

(b) the assumptions set out in subsection (3) below were made,

would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value is to be brought into account.

(3) Those assumptions are—

(a) that expenditure on the provision of the machinery or plant were the only expenditure ever taken into account in determining the charged person's qualifying expenditure for the purposes of section 24; and

(b) that the full amount of every allowance to which that person was entitled in respect of that expenditure had been made to him.

(4) The reference in subsection (1) above to avoidance is a reference to—

(a) the obtaining under this Part for the charged person of an allowance or deduction or of a greater allowance or deduction, or

(b) the avoidance or reduction of a charge under this Part on the charged person."

(3) This paragraph has effect for chargeable periods ending on or after 24th July 1996 wherever the time of the occurrence of the event by virtue of which the disposal value falls to be brought into account is a time on or after that date.

Apportionment of expenditure by election

6.—(1) In Chapter VI of Part II, after the section 59A inserted by paragraph 5 above there shall be inserted the following sections—

"Election to use alternative apportionment.

59B.—(1) This section applies where, in a case in which a disposal value of a fixture is required to be brought into account by the former owner, the price referred to in subsection (1) of section 59 falls to be determined in accordance with subsection (2) or (3) of that section.

(2) Subject to sections 56C, 56D and 59A and to the following provisions of this section, the purchaser and the former owner may jointly, by an election under this section, fix the amount which, for all the purposes of this Part, is to be taken—

(a) in a case to which subsection (2) of section 59 applies, to be the portion of the sale price referred to in that subsection; or

(b) in a case to which subsection (3) of that section applies, to be the portion of the capital sum referred to in section 55(1)(c) that falls to be treated as expenditure by the purchaser on the provision of the fixture.

(3) The amount fixed by an election under this section shall not exceed either of the following amounts, that is to say—

(a) the amount of the capital expenditure which was taken for the purposes of this Part to have been incurred by the former owner on the provision of the fixture or of the machinery or plant which became the fixture; and

(b) the actual amount of the sale price or capital sum referred to in section 59(2) or, as the case may be, section 55(1)(c).

(4) Where the portion of any amount which is to be taken as attributable to the provision of a fixture is fixed by an election under this section—

(a) the remainder (if any) of that amount shall be taken for the purposes of this Act to be expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount;

(b) if there is no remainder, the expenditure so attributable shall be taken for those purposes to be nil.

(5) An apportionment by virtue of an election under this section shall have effect in place of any apportionment that would otherwise be made under section 150.

(6) In this section—

'the former owner' shall be construed in accordance with subsection (1) of section 59; and

'the purchaser' means the purchaser or lessee referred to in subsection (2) or, as the case may be, subsection (3) of that section.

Elections under section 59B: supplemental.

59C.—(1) A section 59B election must be made by notice given to an officer of the Board.

(2) A notice containing a section 59B election (in addition to specifying the amount fixed by the election) must contain the following information—

(a) the name of each of the persons making the election;

(b) information sufficient to identify the machinery or plant;

(c) information sufficient to identify the relevant land;

(d) particulars of the interest acquired by the purchaser or, as the case may be, of the lease granted to him; and

(e) the tax district references of each of the persons making the election.

(3) The amount specified as the amount fixed by a section 59B election must be quantified at the time when the election is made; but if, as a result of circumstances arising after the making of the election, the maximum amount which could be fixed by the election is reduced to an amount which is less than the amount specified in the election, that election shall be deemed for the purposes of this Act to have specified the amount to which the maximum is reduced.

(4) A section 59B election shall not be made more than two years after the time when the purchaser acquires the interest in question or, as the case may be, is granted the lease in question.

(5) Where a person who has joined in making a section 59B election subsequently makes a return for his relevant period, a copy of the notice containing the election must accompany the return.

(6) A section 59B election shall be irrevocable once made.

(7) Nothing in section 42 of, or Schedule 1A to, the Taxes Management Act 1970 (claims in returns and claims not included in returns) shall apply to a section 59B election. 1970 c. 9.

(8) Where any question relating to a section 59B election falls to be determined by any body of Commissioners for the purposes of any proceedings before them—

(a) each of the persons who has joined in making the election shall be entitled to appear and be heard by the Commissioners, or to make representations to them in writing;

(b) the Commissioners shall determine that question separately from any other questions in those proceedings; and

(c) their determination on that question shall have effect as if made in an appeal to which each of those persons was a party.

(9) In this section—

'relevant period', in relation to any person who has joined in making a section 59B election, means the period for which a return is made by that person which is the first such period in which the election has an effect in his case for the purposes of income tax or corporation tax; and

'a section 59B election' means an election under section 59B;

and subsection (6) of section 59B applies for the purposes of this section as it applies for the purposes of that section.

(10) In the case of an election for the purposes of a trade, profession or business carried on by persons in partnership, the references in this section to a return shall be construed, in relation to those persons, as references to a return under section 12AA of the Taxes Management Act 1970 (partnership returns)."

1970 c. 9.

(2) This paragraph has effect for chargeable periods ending on or after the day on which this Act is passed wherever the time when the fixture in question is or would be treated as ceasing to belong to the former owner is a time on or after that day.

Prohibition of double allowances

7.—(1) In section 147 (exclusion of double allowances), after subsection (2) there shall be inserted the following subsections—

"(2A) Subject to subsection (2B) below, where—

(a) a person entitled to do so has at any time made a claim for an allowance under any of the preceding Parts of this Act, other than Part II, and

(b) that claim is for an allowance in respect of capital expenditure relating, in whole or in part, to the construction, acquisition or provision of an asset,

no capital expenditure (whenever incurred) relating to the provision of that asset shall, by virtue of Chapter VI of Part II, be brought into account at any time after that time by any person at all.

(2B) Subsection (2A) above shall not prevent capital expenditure from being brought into account by virtue of Chapter VI of Part II where—

(a) the only claim made under a provision of this Act not contained in Part II is a claim under Part I or Part VII; and

(b) section 56C or 56D would apply by reference to that claim in relation to any claim for that expenditure to be so brought into account.

(2C) Where capital expenditure relating to the provision of any asset has at any time been brought into account by virtue of Chapter VI of Part II by any person entitled to do so, no capital expenditure (whenever incurred) relating to the construction, acquisition or provision of that asset shall, at any time after that time, be the subject of a claim made, by any person at all, for an allowance under any of the preceding Parts of this Act other than Part II.

(2D) For the purposes of subsections (2A) to (2C) above a person shall be taken to bring an amount of capital expenditure into account by virtue of Chapter VI of Part II if—

(a) he makes a claim for an allowance in respect of that expenditure, as expenditure on the provision of a fixture within the meaning of that Chapter,

(b) he makes a return in which that expenditure is taken into account, as expenditure on the provision of such a fixture, in determining his qualifying expenditure for the purpose of an allowance or charge under section 24, or

(c) he gives notice of any such amendment of a return as provides for that expenditure to be taken into account as mentioned in paragraph (b) above."

(2) In subsection (3) of that section after the definition of "capital expenditure" there shall be inserted "and

'return' means any return required to be made under the Taxes Management Act 1970 for income tax or corporation tax purposes,". 1970 c. 9.

(3) This paragraph has effect for chargeable periods ending on or after 24th July 1996 but shall not be taken to prevent any allowance from being made, or any amount from being taken into account, in respect of expenditure incurred before that date.

Construction of amendments

8. Notwithstanding anything in subsection (1) of section 163 of the Capital Allowances Act 1990 (continuity of the law), subsection (2) of that section (under which references in that Act to provisions of that Act include references to repealed enactments) applies for construing that Act as amended by this Schedule as it applies for construing the provisions of that Act as originally enacted. 1990 c. 1.

PART II

CONSEQUENTIAL AMENDMENT OF THE TAXES MANAGEMENT ACT 1970

9. In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), in the entry relating to sections 23(2), 33F(4), 48 and 49(2) of the Capital Allowances Act 1990, for "and 49(2)" there shall be substituted ", 49(2) and 51(6A)".

SCHEDULE 17

Section 87.

CHARGEABLE GAINS: RE-INVESTMENT RELIEF

Introductory

1. The Taxation of Chargeable Gains Act 1992 shall be amended in accordance with the provisions of this Schedule. 1992 c. 12.

Qualifying investments

2.—(1) In subsection (8) of section 164A (cases where eligible shares are not a qualifying investment), after "in a qualifying company shall" there shall be inserted ", subject to subsection (8A) below,".

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

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"(8A) Where the eligible shares acquired by any person in a qualifying company are shares which he acquires by their being issued to him, his acquisition of the shares shall not be regarded as the acquisition of a qualifying investment unless the qualifying company, or a qualifying subsidiary of that company, is intending to employ the money raised by the issue of the shares wholly for the purposes of a qualifying trade carried on by it.

(8B) For the purposes of subsection (8A) above—

(a) the purposes of a trade include the purpose of preparing for the carrying on of the trade; and

(b) 'qualifying subsidiary' has the same meaning as in section 164G."

Loss of relief

3.—(1) In subsection (1) of section 164F (failure of conditions of relief), after "or this section" there shall be inserted "or section 164FA".

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

"Loss of relief in cases where shares acquired on being issued.

164FA.—(1) Subsection (5) below applies in any case falling within any of subsections (2) to (4) below which is a case where—

(a) a person has acquired any eligible shares in a qualifying company ('the acquired holding') for a consideration which is treated as reduced, under section 164A or 164F or this section, by any amount ('the held-over gain'); and

(b) that person acquired those shares by their being issued to him.

(2) A case falls within this subsection if—

(a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade then being carried on; and

(b) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.

(3) A case falls within this subsection if—

(a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade not then being carried on;

(b) that trade begins to be carried on before the end of the period of 2 years from that time; and

(c) that money (apart from any part of it wholly employed for permissible purposes within the initial utilisation period) has not been wholly employed for the purposes of that trade by the end of the period of 1 year from the time when that trade begins to be carried on ('the first trading year').

(4) A case falls within this subsection if—

(a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade not then being carried on;

(b) that trade does not begin to be carried on before the end of the period of 2 years from that time; and

(c) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.

(5) In a case in which this subsection applies, but subject to the following provisions of this section, a chargeable gain equal to the appropriate portion of the held-over gain shall be treated as accruing to the person mentioned in subsection (1) above immediately before the utilisation time; and in this subsection 'the utilisation time' means—

(a) in relation to a case falling within subsection (2) above, the end of the initial utilisation period;

(b) in relation to a case falling within subsection (3) above, the end of the first trading year; and

(c) in relation to a case falling within subsection (4) above, the end of the period of 2 years mentioned in that subsection.

(6) If, in a case in which subsection (5) above applies, part (but only part) of the money raised by the issue of the shares comprised in the acquired holding has been permissibly employed, this Chapter shall have effect in relation to that holding—

(a) as if it were two separate holdings consisting of—

(i) a holding from which that part of the money was raised; and

(ii) a holding from which the remainder was raised;

and

(b) as if its value were to be apportioned accordingly between those two holdings;

but nothing in this subsection shall require any money whose use is disregarded by virtue of subsection (8)(e) below to be treated as raised by a different holding.

(7) For the purposes of subsection (6) above a part of the money raised by the issue of the shares comprised in the acquired holding shall be taken to have been permissibly employed if—

(a) in a case falling within subsection (2) or (4) above, that part has been wholly employed for permissible purposes within the initial utilisation period; or

(b) in a case falling within subsection (3) above that part has been wholly employed—

(i) for permissible purposes within the initial utilisation period, or

(ii) for the purposes of the trade mentioned in that subsection before the end of the first trading year.

(8) For the purposes of this section—

(a) the appropriate portion of the held-over gain is so much, if any, of that gain as has not already been charged on any disposal or under section 164F or this section;

(b) 'the initial utilisation period' means the period of 1 year from the time when the acquired holding was acquired;

(c) 'permissible purposes', in relation to a company, means the purposes of any qualifying trade carried on by it or by any of its qualifying subsidiaries;

(d) 'qualifying subsidiary' has the same meaning as in section 164G;

(e) money shall not be treated as employed otherwise than wholly for particular purposes if the only amount employed for other purposes is an amount which is not a significant amount; and

(f) the purposes of a qualifying trade shall be taken to include the purpose of preparing for the carrying on of the trade.

(9) Subsections (4) to (5) and (10A) to (11) of section 164F shall apply for the purposes of this section as they apply for the purposes of that section, but—

(a) subsection (5) of that section shall so apply—

(i) with the omission of paragraphs (e) to (g), and

(ii) as if the reference in paragraph (d) to any charge under subsection (2) of that section were a reference to any charge under subsection (5) of this section;

and

(b) subsection (10A) of that section shall so apply as if the reference to subsection (2) of that section were a reference to subsection (5) of this section."

Meaning of "qualifying company"

4.—(1) For paragraphs (b) and (c) of subsection (2) of section 164G (company must be of one of the given descriptions) there shall be substituted "or

(aa) an unquoted company which is the parent company of a trading group."

(2) For subsections (4) and (5) of that section (meaning of "qualifying subsidiary") there shall be substituted the following subsections—

"(4) In this section 'qualifying subsidiary', in relation to a company ('the holding company'), means any company which is a member of a group of companies of which the holding company is the principal company.

(4A) For the purposes of this section a company is the parent company of a trading group if—

(a) it is the principal company of a group of companies; and

(b) the requirements of subsection (4B) below are fulfilled by what would be the business of the company and its qualifying subsidiaries if all the activities, taken together, of the company and its qualifying subsidiaries were regarded as one business.

(4B) A business fulfils the requirements of this subsection if—

(a) it is carried on wholly or mainly in the United Kingdom; and

(b) neither the business nor a substantial part of it consists in, or in either of, the following, that is to say—

(i) activities falling within section 164I(2) but not within subsection (4C) below; and

(ii) activities carried on otherwise than in the course of a trade.

(4C) The activities falling within this subsection are—

(a) the receiving of royalties or licence fees in circumstances where the requirements mentioned in paragraphs (a) and (b) of section 164I(5) or (6) are satisfied in relation to the company receiving them;

(b) the letting of ships, other than oil rigs or pleasure craft, on charter in circumstances where the requirements mentioned in paragraphs (a) to (d) of section 164I(7) are satisfied in relation to the company so letting them.

(4D) Activities of a company or of any of its qualifying subsidiaries shall be disregarded for the purposes of subsections (4A) to (4C) above to the extent that they consist in—

(a) the holding of shares in or securities of, or the making of loans to, one or more of the company's qualifying subsidiaries; or

(b) the holding and managing of property used by the company or any of its qualifying subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its qualifying subsidiaries will be derived; or

(ii) one or more qualifying trades so carried on.

(4E) Activities of a qualifying subsidiary of a company shall also be disregarded for the purposes of subsections (4A) to (4C) above to the extent that they consist in—

(a) the making of loans to the company; or

(b) in the case of a mainly trading subsidiary, activities carried on in pursuance of its insignificant purposes (within the meaning given by subsection (4F) below).

(4F) In subsection (4E) above 'mainly trading subsidiary' means a qualifying subsidiary which, apart from purposes ('its insignificant purposes') capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, exists wholly for the purpose of carrying on one or more qualifying trades."

Meaning of "qualifying trade"

5.—(1) In paragraph (a) of subsection (1) of section 164I (meaning of "qualifying trade"), after "complies with the requirements of this section" there shall be inserted "and is carried on wholly or mainly in the United Kingdom".

(2) In paragraph (b) of that subsection—

(a) after the words "the carrying on" (where they first occur) there shall be inserted ", wholly or mainly in the United Kingdom,"; and

(b) after "complying with those requirements" there shall be inserted ", and to be carried on wholly or mainly in the United Kingdom,".

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Interpretation of Chapter IA of Part V

6.—(1) For subsection (2) of section 164N (application of section 170 for the interpretation of sections 164G and 164I) there shall be substituted the following subsection—

"(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it would apply for the interpretation of sections 171 to 181 if section 170(2)(a) together with the words '(although resident in the United Kingdom)' in section 170(9)(b) were omitted."

(2) In section 164N (interpretation of Chapter IA), after subsection (4) there shall be inserted the following subsection—

"(5) For the purposes of this Chapter, any allotment of shares before their issue shall be disregarded in determining whether and when a person acquires shares by their issue to him."

Commencement

7.—(1) This Schedule—

(a) applies in relation to shares acquired after 26th November 1996; and

(b) subject to sub-paragraph (3) below, applies after 26th November 1996 in relation to shares that fall within sub-paragraph (2) below.

(2) Shares fall within this sub-paragraph if—

(a) they were acquired by a person at any time on or before 26th November 1996;

(b) they were held by him throughout the period beginning with that time and ending with 26th November 1996; and

(c) at all times in that period they were, for the purposes of Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992, eligible shares in a qualifying company.

1992 c. 12.

(3) The application of the preceding provisions of this Schedule in relation to any shares falling within sub-paragraph (2) above shall not prevent those shares from being (or having been) shares in a qualifying company at any relevant time when those shares would have been shares in such a company if this Schedule had not been enacted.

(4) For the purposes of sub-paragraph (3) above a time is a relevant time in relation to any shares falling within sub-paragraph (2) above if it is a time after 26th November 1996 and within the period of 3 years after the acquisition of the shares.

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SCHEDULE 18

REPEALS

PART I

HYDROCARBON OIL DUTY

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 11(2), the definition of "gas oil" and the word "and" immediately preceding that definition.

Chapter	Short title	Extent of repeal
1979 c. 5. *Cont.*	The Hydrocarbon Oil Duties Act 1979.—*Cont.*	In section 27(1), the word "and" immediately following the definition of "road fuel gas".

The power in subsection (10) of section 7 of this Act applies in relation to these repeals as it applies in relation to the provisions of that section.

PART II

GAMING DUTY

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1)— (a) the word "and" at the end of paragraph (c) of the definition of "the revenue trade provisions of the customs and excise Acts"; and (b) the word "or" at the end of paragraph (a)(ia) of the definition of "revenue trader".
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 13 to 16. In section 27, the words "15 or" and "paragraph 7 of Schedule 2,". In section 31, the words "gaming licences or". In section 32— (a) in subsection (2), the words "Subject to subsection (3) below,"; and (b) subsection (3). In section 35(3), paragraphs (a) and (c) and the words after paragraph (d). Schedule 2.
1984 c. 60.	The Police and Criminal Evidence Act 1984.	In Schedule 6, paragraph 39(a).
1985 c. 66.	The Bankruptcy (Scotland) Act 1985.	In paragraph 2(3) of Schedule 3, paragraph (c) and the word "or" immediately preceding it.

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Chapter	Short title	Extent of repeal
1986 c. 45.	The Insolvency Act 1986.	In paragraph 5 of Schedule 6, paragraph (c) and the word "or" immediately preceding it.
1988 c. 39.	The Finance Act 1988.	In section 12(4), the words "and paragraph 7 of Schedule 2" and the word "each".
S.I. 1989/2405 (N.I. 19).	The Insolvency (Northern Ireland) Order 1989.	In paragraph 5 of Schedule 4, paragraph (c) and the word "or" immediately preceding it.
1991 c. 31.	The Finance Act 1991.	Section 6.
1994 c. 9.	The Finance Act 1994.	In section 12(7)(b), the words ", paragraph 7(3) of Schedule 2". In Schedule 4, paragraph 63.

1. The repeals in the Bankruptcy (Scotland) Act 1985, the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 shall not apply in relation to any amount due in respect of duty chargeable for a period beginning before 1st October 1997.

2. The other repeals have effect in relation to any gaming on or after 1st October 1997.

PART III

VEHICLE EXCISE AND REGISTRATION: EXEMPT VEHICLES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 2, paragraph 20(4).

The power in paragraph 9 of Schedule 3 to this Act applies in relation to this repeal as it applies in relation to the provisions of that Schedule.

PART IV

VALUE ADDED TAX

(1) AGGREGATION OF BUSINESSES

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 1, in paragraph 2— (a) in sub-paragraph (2)(b), the words from "which should properly" to "described in the direction";

Chapter	Short title	Extent of repeal
1994 c. 23. *Cont.*	The Value Added Tax Act 1994.—*Cont.*	(b) paragraph (d) of sub-paragraph (2) and the word "and" immediately preceding it; and (c) in sub-paragraph (4), the word "properly".

These repeals have effect in relation to the making of directions on or after the day on which this Act is passed.

(2) THE OPTION TO TAX BUILDINGS AND LAND

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 10, paragraphs 2(3A) and 3(8A).

These repeals have effect in accordance with section 37(1) of this Act.

(3) BAD DEBT RELIEF

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 36(4), paragraph (b) and the word "and" immediately preceding it. In Schedule 13, paragraph 9(1).

These repeals have effect in accordance with section 39 of this Act.

PART V

INDIRECT TAXES

(1) INTEREST REPAYMENTS

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 6, in paragraph 9(2), the words after paragraph (b).
1996 c. 8.	The Finance Act 1996.	In section 197(2), the word "and" at the end of paragraph (c).

The repeal in the Finance Act 1994 has effect in accordance with paragraph 8 of Schedule 5 to this Act.

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(2) DISTRESS AND DILIGENCE

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 117— (a) subsections (5) to (7A); (b) in subsection (9), paragraphs (c) to (f); and (c) subsection (10).
1981 c. 35.	The Finance Act 1981.	In Schedule 8, paragraph 8.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 28 and 29.
1986 c. 41.	The Finance Act 1986.	In Schedule 4, paragraphs 8 and 9.
1987 c. 18.	The Debtors (Scotland) Act 1987.	In Schedule 6, paragraph 23.
1992 c. 48.	The Finance (No. 2) Act 1992.	In paragraph 5(a) of Schedule 2, the words "and (5)".
1994 c. 9.	The Finance Act 1994.	In section 18— (a) in subsection (2), in paragraph (a), the words ", not being an amount in relation to which subsection (4) below applies," and the word "and"; (b) paragraph (b) of that subsection; and (c) subsection (4). In Schedule 7, paragraph 7(7) to (12).
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 11, paragraph 5(4) to (10).
1995 c. 4.	The Finance Act 1995.	In Schedule 5, paragraph 9.
1996 c. 8.	The Finance Act 1996.	In Schedule 5, paragraph 13.

These repeals 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 for different purposes.

PART VI

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) ADDITIONAL RATE OF INCOME TAX

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 832(1), the definition of "additional rate".
1988 c. 39.	The Finance Act 1988.	Section 24(4).

These repeals have effect in relation to the year 1997-98 and subsequent years of assessment.

(2) WAYLEAVES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 42(7)(a) (as it has effect by virtue of section 196 of the Finance Act 1994), the words "120(2),".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 1A(2)(a)(ii), the words "or 120". In section 3, paragraph (c) and the word "or" immediately preceding it. Section 74(1)(q). In section 120— (a) in subsection (1), the words from "and, subject to" onwards; (b) subsections (2) to (4); and (c) in subsection (5), paragraph (c) and the word "and" immediately preceding it. In section 348(2), paragraph (b) and the word "or" immediately preceding it. In section 349(1), paragraph (c) and the word "or" immediately preceding it. Section 387(3)(c). In section 821(3), paragraph (c) and the word "and" immediately preceding it.

These repeals have effect in relation to payments made on or after 6th April 1997.

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(3) PROFIT-RELATED PAY

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the Table— (a) in the first column, the entry relating to section 181(1) of the Taxes Act 1988; and (b) in the second column, the entry relating to section 180(1) of that Act.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 169 to 184. Schedule 8.
1988 c. 39.	The Finance Act 1988.	In Schedule 13, paragraph 4.
1989 c. 26.	The Finance Act 1989.	Section 42(4). Section 61. Schedule 4. In Schedule 12, paragraph 18.
1989 c. 40.	The Companies Act 1989.	In Schedule 10, paragraph 38(2).
S.I. 1990/593 (N.I. 5).	The Companies (Northern Ireland) Order 1990.	In Schedule 10, paragraph 30(1).
1991 c. 31.	The Finance Act 1991.	Section 37.
1994 c. 9.	The Finance Act 1994.	Sections 98 and 99.
1995 c. 4.	The Finance Act 1995.	Section 136. Section 137(1) and (6).

1. These repeals have effect (subject to Notes 2 and 3 below) in accordance with section 61(2) and (3) of this Act.

2. These repeals do not affect the operation of any of the repealed provisions, or prevent the exercise of any power under those provisions, in relation to profit periods beginning before 1st January 2000 or for purposes connected with, or with the doing or not doing of anything in or in relation to, any such periods.

3. The repeal of Schedule 8 to the Taxes Act 1988 does not affect the application of any of the provisions of paragraph 7 of that Schedule by any of—

(a) section 360A(5) and (7) of that Act;

(b) paragraph 40(2) and (4) of Schedule 9 to that Act; and

(c) paragraph 16(4) and (6) of Schedule 5 to the Finance Act 1989.

(4) WORK-RELATED TRAINING

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 200A(3)(b), the word "either" before sub-paragraph (i).

This repeal has effect in accordance with section 63(3) of this Act.

(5) NATIONAL INSURANCE CONTRIBUTIONS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 617(3), the words "and (5)".

This repeal has effect in accordance with section 65 of this Act.

(6) ANNUITY BUSINESS OF INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76(2A)(b), sub-paragraph (iv) and the word "and" immediately preceding it. Section 434B(2). In section 490(2), the words from "but if" onwards.
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraph 16(3) and (4).
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraph 21(1).
1996 c. 8.	The Finance Act 1996.	Section 165(3).

These repeals have effect in relation to accounting periods beginning after 5th March 1997.

(7) DISTRIBUTIONS TREATED AS FOREIGN INCOME DIVIDENDS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 118G(5)(a), the words "or applied in defraying expenses of the trustees". In section 231(1), the words "95(1)(b),". In section 481(4A), the words "or applied in defraying expenses of the trustees".

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Chapter	Short title	Extent of repeal
1988 c. 1. *Cont.*	The Income and Corporation Taxes Act 1988.—*Cont.*	In section 686(2), paragraph (d) and the word "and" immediately preceding it.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 5(2)— (a) paragraph (c); and (b) in paragraph (d), the words "or applied as mentioned in paragraph (c) above".

1. Subject to Note 2 below, these repeals have effect in accordance with paragraph 12(4) of Schedule 7 to this Act.

2. The repeal in section 231(1) of the Taxes Act 1988 has effect in accordance with paragraph 8(3) of that Schedule.

(8) ENTERPRISE INVESTMENT SCHEME

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 308— (a) paragraph (b) of subsection (1), and the word "and" immediately preceding that paragraph; and (b) paragraphs (a) and (b) of subsection (5).

These repeals have effect in accordance with paragraph 1 of Schedule 8 to this Act.

(9) VENTURE CAPITAL TRUSTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 28B, paragraph 10(2).

This repeal has effect in accordance with paragraph 6 of Schedule 9 to this Act.

(10) STOCK LENDING AND MANUFACTURED PAYMENTS

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the first column of the Table, the entry relating to section 737(8) of the Taxes Act 1988.

Chapter	Short title	Extent of repeal
1986 c. 41.	The Finance Act 1986.	In Schedule 18, paragraphs 7 and 9.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 129 and 129A. In section 387(3), paragraph (f) and the word "or" immediately preceding it. In section 715(6) the words "section 737 or". Section 727(1). Section 737. In section 737A(5), the words "section 737 and". In section 737C— (a) in subsection (2)(b), the words "section 737 and paragraph 2 of Schedule 23A apply, or"; (b) subsections (5) and (6); (c) in subsection (7)(b), the words "(whether or not section 737 also applies in relation to that payment)"; (d) in subsection (9), the words "subsections (6) and (8) above apply, or where"; and (e) subsection (11B). Section 738(3) and (4). Schedule 5A. In Schedule 23A— (a) in paragraph 1(1), the definitions of "approved stock lending arrangement", "market maker", "recognised clearing house", "recognised investment exchange", "unapproved manufactured payment" and "unapproved stock lending arrangement"; (b) paragraph 1(2); (c) paragraph 5; (d) paragraph 6; (e) in paragraph 7(1), the words "Except where paragraph 5(2) or (4) above applies,"; (f) paragraph 7(2); and

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Chapter	Short title	Extent of repeal
1988 c. 1. *Cont.*	The Income and Corporation Taxes Act 1988.—*Cont.*	(g) in paragraph 7(3), in paragraph (a), the words "except where paragraph 6 above applies, and", and paragraph (b).
1991 c. 31.	The Finance Act 1991.	Section 57. In Schedule 13, paragraphs 2 to 4.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 271(9). In Schedule 10, paragraph 14(8), (39) and (61).
1993 c. 34.	The Finance Act 1993.	Section 174(4) and (5). Section 182(1)(ca)(i). In Schedule 6, paragraphs 19 and 25(3) and (4).
1994 c. 9.	The Finance Act 1994.	Section 123(2) to (5) and (7). Section 222(4) and (5). Section 229(ca)(i). In Schedule 16, paragraphs 18 and 19.
1995 c. 4.	The Finance Act 1995.	Section 82. Sections 84 and 85. Schedule 19.
1996 c. 8.	The Finance Act 1996.	In section 97— (a) in subsection (4), the words "section 737 of, or"; and (b) subsection (5). In section 159— (a) subsections (2) and (3); and (b) in subsection (7), paragraph (b) and the word "and" immediately preceding it. In Schedule 6, paragraphs 18 and 19. In Schedule 14, paragraphs 38 and 52(2), (3), (5) and (6).

1. These repeals (except those to which Notes 2 to 6 below apply) have effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under paragraph 7(1) of Schedule 10 to this Act.

2. The repeal of paragraph 6 of Schedule 23A to the Taxes Act 1988 and—

(a) the repeals in paragraph 1(1) of that Schedule of the definitions of "unapproved manufactured payment" and "unapproved stock lending arrangement", and

(b) the repeal of paragraph (b) of paragraph 1(2) of that Schedule, and

(c) the repeals in paragraph 7(3) of that Schedule,

have effect in relation to manufactured payments made on or after such day as may be appointed by order under paragraph 7(1) of Schedule 10 to this Act.

3. Subject to Note 6 below, the repeals of the following provisions, that is to say—

(a) sections 387(3)(f), 737, 737C(5), (6) and (11B) and 738(3) and (4) of the Taxes Act 1988,

(b) paragraphs 5 and 7(2) of Schedule 23A to that Act, and

(c) section 97(5) of the Finance Act 1996,

together with the repeals listed in Note 4 below, have effect in relation to payments made on or after such day as may be appointed by order under paragraph 16(1) of Schedule 10 to this Act.

4. The repeals mentioned in Note 3 above are—

(a) any repeal of an enactment amending a provision specified in Note 3 above;

(b) the repeal of the references to section 737 of the Taxes Act 1988 in sections 737A(5) and 737C(2)(b) and (7)(b) of that Act and in section 97(4) of the Finance Act 1996;

(c) the repeal of the reference to section 737C(6) of the Taxes Act 1988 in section 737C(9) of that Act;

(d) the repeal of the enactments amending paragraph 2 of Schedule 23A to that Act; and

(e) the repeal in paragraph 7(1) of that Schedule.

5. The repeals of the provisions which amend, or authorise the amendment of, section 21 of the Taxes Management Act 1970 have effect in accordance with paragraph 16(2) and (3) of Schedule 10 to this Act.

6. The repeal of section 737(8) of the Taxes Act 1988 has effect subject to paragraph 16(3) of Schedule 10 to this Act; and the repeal of the entry relating to section 737(8) in the Table in section 98 of the Taxes Management Act 1970 has effect accordingly.

(11) CAPITAL ALLOWANCES: SCHEDULE A CASES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 32. In section 379A(2)— (a) in paragraph (a), the word "relevant"; and (b) the words after paragraph (b).
1990 c. 1.	The Capital Allowances Act 1990.	In section 67(3), the words from "shall be made" to "corporation tax,". Section 73(4).

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Chapter	Short title	Extent of repeal
1990 c. 1. *Cont.*	The Capital Allowances Act 1990.—*Cont.*	In section 141— (a) in subsection (2), the words "Subject to subsection (3) below,"; and (b) subsections (3), (4) and (6). In Schedule 1, paragraph 8(2).
1995 c. 4.	The Finance Act 1995.	In Schedule 6, paragraphs 8, 31 and 33.
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 34.

These repeals have effect in accordance with paragraph 9(1) of Schedule 15 to this Act.

(12) CAPITAL ALLOWANCES: FIXTURES

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	In section 51(8), paragraph (b). In section 54(1), paragraph (c) and the word "and" immediately preceding it. In section 55(4), paragraph (b) and the word "or" immediately preceding it. In section 56, paragraph (c). Section 59(10).
1991 c. 31.	The Finance Act 1991.	In Schedule 14, paragraph 10.

1. These repeals have effect, subject to the following notes and paragraph 2(8) of Schedule 16 to this Act, for chargeable periods ending on or after 24th July 1996.

2. The repeal in section 54(1) of the Capital Allowances Act 1990 does not apply where the purchaser acquired the relevant interest before that date.

3. The repeals in sections 55(4) and 56 of that Act do not apply where the lease was granted before that date.

4. The repeal of section 59(10) of that Act does not apply where the fixture ceased to belong to the former owner before that date.

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Chapter	Short title	Extent of repeal
1986 c. 41.	The Finance Act 1986.	Section 67(4). Section 69(6) to (8). Section 70(4). Section 72(4). Sections 80A to 80C. Sections 81 and 82. Section 87(7B). In section 88(1B)(b), the word "or" at the end of sub-paragraph (ii). Sections 88A and 88B. Section 89. Section 89AA. Section 89B. Section 90(3)(b). Section 93(5). Section 94(5) to (7). Section 96(3) and (11).
1987 c. 16.	The Finance Act 1987.	Section 53. In Schedule 7, paragraph 4.
1988 c. 39.	The Finance Act 1988.	In Schedule 13, paragraph 23.
1996 c. 8.	The Finance Act 1996.	Section 191. Section 194(2)(b) and (4)(b).
1997 c. 16.	The Finance Act 1997.	Sections 97 to 106.

1. The repeals of sections 80A to 80C of the Finance Act 1986 and sections 97 to 99 of this Act have effect in accordance with section 108 of the Finance Act 1990.

2. The repeals in sections 67, 69, 70 and 72 of the Finance Act 1986 have effect in accordance with section 99 of this Act.

3. The repeal of section 81 of the Finance Act 1986 has effect in accordance with section 97 of this Act.

4. The repeals of section 82 of the Finance Act 1986 and section 53 of the Finance Act 1987 have effect in accordance with section 98 of this Act.

5. The repeals in sections 87 and 88 of the Finance Act 1986 have effect in accordance with section 106 of this Act.

6. The repeals of sections 88A, 88B and 89AA of the Finance Act 1986 and sections 100 to 106 of this Act have effect in accordance with section 110 of the Finance Act 1990.

7. The repeal of section 89 of the Finance Act 1986 and the repeal in Schedule 7 to the Finance Act 1987 have effect in accordance with section 102 of this Act.

8. The repeals of section 89B of the Finance Act 1986 and section 191 of the Finance Act 1996 have effect in accordance with section 103 of this Act.

9. The repeal of section 90(3)(b) of the Finance Act 1986 has effect in accordance with section 105 of this Act.

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10. The repeals in sections 93, 94 and 96 of the Finance Act 1986, in Schedule 13 to the Finance Act 1988 and in section 194 of the Finance Act 1996 have effect in accordance with section 104 of this Act.

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