

SCHEDULES

SCHEDULE 5

Section 35.

LIMITATION OF ENTITLEMENT TO RELIEF UNDER SECTION 35

PART I

QUALIFYING DISTRIBUTIONS OTHER THAN BONUS ISSUES

- 1 This Part of this Schedule applies where a person (“the claimant”)—
- (a) would, apart from paragraph 2 below, be entitled to a payment under section 35(1) of this Act in respect of a distribution, and
 - (b) his holding (together with any associated holding) of any one class of the shares, securities or rights by virtue of which he is entitled to the distribution amounts to not less than 10 per cent of that class.
- 2 Where this Part of this Schedule applies, if any part of the distribution is not a part—
- (a) to which profits arising after the date of acquisition are attributable in accordance with section 236 of the Taxes Act 1988, or
 - (b) in relation to which the date of acquisition is earlier than 6th April 1965,
- then no payment under section 35(1) of this Act shall be made to the claimant in respect of the distribution.
- 3 This Part of this Schedule applies to any qualifying distribution except any amount which is treated as such in accordance with section 209(3) or sections 210 and 211 of the Taxes Act 1988.
- 4 Notwithstanding the repeal of sections 235 and 236 of the Taxes Act 1988 by this Act, section 236 of the Taxes Act 1988 as it applies in relation to distributions made before 6th April 1999 shall continue to apply for the purposes of this Part of this Schedule as it applies for the purposes of section 235 of the Taxes Act 1988 in relation to such distributions.
- 5 For the purposes of this Part of this Schedule and section 236 of the Taxes Act 1988 as it applies by virtue of paragraph 4 above, the date of acquisition, in relation to any part of a distribution or profits attributable to it, is the date on which the shares, securities or rights by virtue of which a person is entitled to that part were acquired by him.

PART II

BONUS ISSUES

- 6 A person (“the claimant”) who receives an amount treated as a distribution by virtue of section 209(3), 210 or 211(1) of the Taxes Act 1988 (“a bonus issue”) shall not be entitled to a payment under section 35(1) of this Act in respect of that distribution, except to the extent that paragraph 7 below otherwise provides.

Status: This is the original version (as it was originally enacted).

- 7 Paragraph 6 above shall not affect a person's entitlement to a payment under section 35 of this Act in respect of that part (if any) of a bonus issue made in respect of any shares or securities which, if it had been declared as a dividend, would represent a normal return to the claimant—
- (a) on the consideration provided by him for the relevant shares or securities, that is to say, those in respect of which the bonus issue was made; and
 - (b) if the relevant shares or securities are derived from shares or securities previously acquired by the claimant, on the shares or securities which were previously acquired.
- 8 For the purposes of paragraph 7 above—
- (a) if the consideration provided by the claimant for any of the relevant shares or securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant shares or securities, the claimant shall be taken to have provided for those shares or securities consideration equal to their market value at the time he acquired them; and
 - (b) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount since the claimant first acquired any of the relevant shares or securities and to any dividends and other distributions made in respect of them during that time.