

SCHEDULES

SCHEDULE 26

TRANSFERS: TAX

PART VII

OTHER PROVISIONS CONCERNING TRANSFERS

Chargeable gains: value shifting

- 36 Nothing in this Part of this Act and nothing done under it is to be regarded as a scheme or arrangement for the purposes of section 30 of the 1992 Act (tax-free benefits).

Chargeable gains: consequential amendment

- 37 In section 35(3)(d) of the 1992 Act (list of provisions for transfers treated as made without gain or loss), after sub-paragraph (xiii) (inserted by paragraph 2(3) of Schedule 7 to this Act) insert—
“(xiv) paragraphs 3 and 9 of Schedule 26 to the Transport Act 2000;”.

Group relief

- 38 The existence of the powers of the Secretary of State or the Authority under this Part of this Act is not to be regarded (and nothing else in that Part is to be regarded) as—
(a) constituting arrangements falling within section 410(1) or (2) of the 1988 Act (arrangements for transfer of company to another group or consortium),
or
(b) constituting option arrangements for the purposes of paragraph 5B of Schedule 18 to the 1988 Act.

Modifications of transfer schemes

- 39 (1) Sub-paragraph (2) applies if—
(a) the effect of a scheme under paragraph 1 of Schedule 15, paragraph 31 of Schedule 17, paragraph 1 of Schedule 19 or paragraph 1 of Schedule 25 is modified by an order made by the Secretary of State, or
(b) the effect of a scheme under paragraph 1 of Schedule 21 under which the property, rights or liabilities are transferred to the Secretary of State or a franchise company is modified by an agreement made under paragraph 15 of that Schedule.
- (2) The Corporation Tax Acts (including this Schedule) are to have effect as if—

Status: This is the original version (as it was originally enacted).

- (a) the scheme had been made as modified, and
 - (b) anything done by or in relation to the preceding holder had (so far as relating to the property, rights or liabilities affected by the modification) been done by or in relation to the subsequent holder.
- (3) For the purposes of sub-paragraph (2) the preceding holder is the person who without the modification—
- (a) became (under the scheme concerned) entitled or subject to the property, rights or liabilities affected by the modification, or
 - (b) remained (despite the scheme concerned) entitled or subject to the property, rights or liabilities affected by the modification,
- as the case may be.
- (4) For the purposes of sub-paragraph (2) the subsequent holder is the person who (in consequence of the modification) becomes, or resumes being, entitled or subject to the property, rights or liabilities affected by the modification.

Stamp duty and stamp duty reserve tax

- 40 (1) Stamp duty is not to be chargeable on—
- (a) a scheme under paragraph 1 of Schedule 15, paragraph 31 of Schedule 17 or paragraph 1 of Schedule 19, 21 or 25, or
 - (b) an instrument or agreement which is certified to the Commissioners of Inland Revenue by the Secretary of State as made in pursuance of such a scheme.
- (2) No such scheme, and no instrument or agreement which is certified as mentioned in sub-paragraph (1)(b), is to be taken to be duly stamped unless—
- (a) 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 that duty or that it is duly stamped, or
 - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.
- (3) Section 12 of the Finance Act 1895 is not to operate to require—
- (a) the delivery to the Inland Revenue of a copy of this Act, or
 - (b) the payment of stamp duty under that section on any copy of this Act,
- and is not to apply in relation to an instrument on which, by virtue of sub-paragraph (1), stamp duty is not chargeable.
- (4) An agreement to transfer chargeable securities, as defined in section 99 of the Finance Act 1986, to a person specified in sub-paragraph (2)(a) to (c) of paragraph 1 of Schedule 21 is not to give rise to a charge to stamp duty reserve tax if the agreement is made for the purposes of, or for purposes connected with, a scheme under that paragraph.