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## SCHEDULES

### SCHEDULE 3

#### TRANSITIONALS AND SAVINGS

#### PART 4

#### PLANT AND MACHINERY ALLOWANCES

#### *Fixtures*

*Meaning of “interest in land” for purposes of Chapter 14 of Part 2 (fixtures)*

- 29 (1) Sub-paragraph (2) applies if paragraph 51 of Schedule 12 to the Abolition of Feudal Tenure etc. (Scotland) Act 2000 has not come into force before the commencement of section 175.
- (2) Section 175(1) has effect until the appointed day as if for paragraph (b) there were substituted—
- “(b) in Scotland, the estate or interest of the proprietor of the dominium utile (or, in the case of property other than feudal property, of the owner) and any agreement to acquire such an estate or interest.”
- (3) In sub-paragraph (2) “the appointed day” means such day as may be appointed by the Scottish Ministers under section 71 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 for the coming into force of the Act.

**Subordinate Legislation Made**

**P1** Sch. 3 para. 29: 28.11.2004 appointed under [2000 asp 5, s. 71](#) by [S.S.I. 2003/456, art. 2](#)

*Equipment lessors*

- 30 Section 177(1)(a)(i) does not apply if the agreement for the lease of the plant or machinery was entered into before 19th March 1997.

*Equipment lessee has qualifying activity etc.*

- 31 Section 178 applies—
- (a) if the agreement for the lease of the plant or machinery was entered into before 19th March 1997, with the omission of the words “which is or is to be” in paragraph (a) and the addition of the word “and” at the end of that paragraph; and
- (b) if that expenditure was incurred before 24th July 1996, with the omission of paragraph (c) and the substitution for paragraph (b) of—

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“(b) if the equipment lessee had incurred the capital expenditure incurred by the equipment lessor on the provision of the plant or machinery, he would, by virtue of section 176, be treated as the owner of the fixture as a result of incurring the expenditure”.

*Equipment lessor has right to sever fixture that is not part of building*

- 32 Section 179(1) does not apply if the agreement for the lease of the plant or machinery was entered into before 19th March 1997 and applies with—
- (a) the addition at the end of paragraph (e) of the word “ and ”, and
  - (b) the omission of paragraph (g) and the word “and” immediately before it, if the expenditure of the equipment lessor was incurred before 24th July 1996.

*Equipment lease is part of affordable warmth programme*

- 33 Section 180 does not apply if the expenditure of the equipment lessor was incurred before 28th July 2000.

*Purchaser of land giving consideration for fixture*

- 34 Section 181 applies with—
- (a) the omission of the word “and” at the end of paragraph (b) of subsection (1); and
  - (b) the insertion after that paragraph of—
    - “(bb) at the time of the purchasers’ acquisition of the interest, either no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture or, if any person has become so entitled, that person has been or is required to bring the disposal value of the fixture into account under Chapter 5, and”,
 if the purchaser acquired the interest in the relevant land before 24th July 1996.

*Purchaser of land discharging obligations of equipment lessee*

- 35 Section 182 applies with—
- (a) the omission of the word “and” at the end of paragraph (c) of subsection (1); and
  - (b) the insertion after that paragraph of—
    - “(cc) at the time of the purchasers’ acquisition of the interest, either no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture or, if any person has become so entitled, that person has been or is required to bring the disposal value of the fixture into account under Chapter 5, and”,
 if the purchaser acquired the interest in the relevant land before 24th July 1996.

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*Incoming lessee where lessor entitled to allowances*

36 Section 183 applies with the insertion after subsection (2) of—

“(3) No election may be made under this section if it appears that the sole or main benefit that may be expected to accrue to the lessor from the grant of the lease and the making of an election is the obtaining of an allowance or deduction or a greater allowance or deduction or the avoidance or reduction of a charge under this Part.”,

if the person who had the interest in the relevant land granted the lease before 24th July 1996.

*Incoming lessee where lessor not entitled to allowances*

37 Section 184 applies with—

- (a) the omission of the word “and” at the end of paragraph (c) of subsection (1); and
- (b) the insertion after that paragraph of—

“(cc) at the time of the grant of the lease, no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture, and”,

if the person who had the interest in the relevant land granted the lease before 24th July 1996.

*Fixture on which a plant and machinery allowance has been claimed*

38 Section 185 does not apply if the disposal event which required the disposal value to be brought into account as mentioned in subsection (1)(d) occurred before 24th July 1996.

*Fixture on which industrial buildings allowance has been made*

39 Section 186 does not apply if the time mentioned in subsection (1)(c)(ii) is before 24th July 1996.

*Fixture on which research and development allowance has been made*

40 Section 187 does not apply if the time mentioned in subsection (1)(d)(ii) is before 24th July 1996.

*Disposal value in relation to fixtures: general*

41 In relation to a fixture which a person is treated as ceasing to own before 24th July 1996, section 196 applies with the substitution for subsection (6) of—

“(6) If—

- (a) a person (“the former owner”) is treated by virtue of section 188, 190 or 191 as ceasing to own a fixture,
  - (b) another person incurs expenditure on the provision of the fixture,
- and

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- (c) the former owner brings a disposal value into account under Chapter 5,  
there is to be disregarded for the purposes of this Part so much (if any) of that expenditure as exceeds that disposal value.
- (7) In relation to expenditure incurred before 27th July 1989, subsection (6) has effect with the substitution for the words following “the fixture” in paragraph (b) of the words “there is to be disregarded for the purposes of this Part so much (if any) of that expenditure as exceeds the disposal value which the former owner is required to bring into account under Chapter 5”.

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