Finance Act 2001

2001 CHAPTER 9

PART 1

EXCISE DUTIES

Hydrocarbon oil duties

1 Rates of duty on hydrocarbon oil

(1) In section 6(1A) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (rates of duty on hydrocarbon oil)—

(a) in paragraph (a) (ultra-low sulphur petrol), for "£0.4782" substitute "£0.4582"; and

(b) in paragraph (c) (ultra-low sulphur diesel), for "£0.4882" substitute "£0.4582".

(2) That subsection shall have effect until midnight on 14th June 2001 as if for paragraph (b) (other light oil) there were substituted—

"(ba) £0.5268 in the case of unleaded petrol other than ultra low sulphur petrol;

(bb) £0.5468 in the case of light oil not within paragraph (a) or (ba) above;".

After that, paragraph (b) shall have effect as it did before.

(3) In section 8(3) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (rate of duty on road fuel gas) for "£0.1500" substitute "£0.0900".

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

2 Rebate on unleaded petrol

(1) For section 13A of the Hydrocarbon Oil Duties Act 1979 (under which different rates of rebate are specified for higher octane and other unleaded petrol) substitute—

"**13A Rebate on unleaded petrol**

(1) On unleaded petrol, other than ultra low sulphur petrol, charged with the excise duty on hydrocarbon oil and delivered for home use there shall be allowed at the time of delivery a rebate of duty at the rate of £0.0586 a litre.

(2) Rebate is not allowed under this section in a case where a rebate is allowed under section 14 below.".

(2) In paragraph 1(1) of Schedule 2A to that Act (converting unleaded petrol into leaded petrol)—

(a) for paragraphs (a) and (b) substitute—

"(ab) adding lead to unleaded petrol in respect of which a rebate has been allowed under section 13A;"; and

(b) in paragraph (c)—

(i) for "paragraph (a)" substitute "paragraph (aa)", and

(ii) for "paragraph (b)" substitute "paragraph (ab)".

(3) For paragraph 2A of that Schedule (mixing different kinds of unleaded petrol) substitute—

"2A (1) A mixture which is unleaded petrol is produced in contravention of this paragraph if the mixture is produced by mixing—

(a) petrol on which duty has been paid at the rate specified in section 6(1A)(a), and

(b) petrol in respect of which a rebate has been allowed under section 13A,

and the mixture produced is unleaded petrol that is not ultra low sulphur petrol.

(2) This paragraph is subject to any direction given under paragraph 3.".

(4) In paragraph 8 of that Schedule (rate of duty on mixtures of light oil), for sub-paragraph (3A) substitute—

"(3A) In the case of a mixture produced in contravention of paragraph 2A above, the rate is that produced by deducting from the rate in force under section 6(1A)(b) at the time the mixture is produced the rebate which at that time is in force under section 13A.".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

3 Fuel-testing pilot projects

(1) In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 20AA insert—

"**20AB Power to allow reliefs for fuel testing etc**

(1) The Commissioners may by regulations make provision allowing reliefs as regards excise duty charged in respect of experimental fuel where—

(a) the fuel is, or is to be, used for the purposes of a fuel-testing project that is approved by the Commissioners,

(b) the project is approved for the purposes of the development of the fuel (see subsection (8)(a) below), and

(c) the use takes place, or is to take place, during the period that, for the purposes of the project, is the relief period for the fuel (see subsection (8)(b) below).

(2) In this section "experimental fuel" means a substance of a description specified in regulations made by the Commissioners.

(3) For each experimental fuel, the Commissioners shall by regulations make provision specifying—

(a) the beginning and end of the period that is the experimental period for that fuel; and

(b) the form that (subject to any directions under subsection (9)(a) below) is to be taken by relief under this section as regards excise duty chargeable on that fuel.

(4) A form of relief specified under subsection (3)(b) above must be an authorised form; and for the purposes of this section "an authorised form" is—

(a) a repayment, or

(b) a rebate (or extra rebate).

(5) Relief under this section shall be allowed—

(a) to the extent specified in, or determined in accordance with, regulations under subsection (1) above, and

(b) subject to—

(i) such conditions as the Commissioners may impose, and

(ii) any directions under subsection (9)(b) below.

(6) The conditions that may be imposed under subsection (5)(b)(i) above include, in particular, conditions in connection with—

(a) the collection, keeping, compilation or analysis, or

(b) the supply to the Commissioners or other persons,

of data, or information, relating to the production, use or performance of an experimental fuel.

(7) Subsections (8) and (9) below apply where the Commissioners have approved a fuel-testing project.

(8) The Commissioners shall give directions specifying—

(a) each experimental fuel for the purposes of whose development the project is approved;

(b) for each fuel specified under paragraph (a) above, the beginning and end of the period that, for the purposes of the project, is (in accordance with subsection (10) below) the relief period for the fuel; and

(c) any conditions imposed under subsection (5)(b)(i) above that apply to the allowance under this section of relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.

(9) The Commissioners may give directions—

(a) providing for relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project to take an authorised form different to the form specified under subsection (3)(b) above;

(b) as to administration in connection with allowing reliefs under this section as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.

(10) For the purposes of subsection (8)(b) above—

(a) the beginning of the relief period for a fuel may not be earlier than the beginning of the experimental period for that fuel; and

(b) the end of the relief period for a fuel may not be later than the end of the experimental period for that fuel.

(11) In this section—

"excise duty" means—

(a) excise duty chargeable by virtue of this Act, or

(b) any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8);

"fuel-testing project" means a pilot project connected with the technological development of environment-friendly fuels.

(12) Regulations under this section may make different provision for different cases.".

(2) In section 24(1) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (regulations for the purposes of provisions providing for rebates etc.), after "section 19A" insert ", section 20AB".

(3) In section 27(1) of the Hydrocarbon Oil Duties Act 1979 (interpretation), in the definition of "rebate", for "or 14" substitute ", 14 or 20AB".

(4) In section 12B(1)(h) of the Finance Act 1994 (c. 9) (excise duty reliefs that may be recovered under section 12A when wrongly given), after "allowed to a person by virtue of section 20AA" insert "or 20AB".

Tobacco products duty

4 Rates of tobacco products duty

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

TABLE

1. Cigarettes	An amount equal to 22 per cent. of the retail price plus 92.25 per thousand cigarettes.
2. Cigars	134.69 per kilogram.
3. Hand-rolling tobacco	96.81 per kilogram.
4. Other smoking tobacco and chewing tobacco	59.21 per kilogram.

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

Alcoholic liquor duties

5 Dilution etc. of cider

In section 62(5) of the Alcoholic Liquor Duties Act 1979 (c. 4) (regulations providing for the management of the duty on cider), after paragraph (d) insert—

"(e) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, cider.".

Betting and gaming duties

6 General betting duty

(1) Schedule 1 to this Act (which makes provision about general betting duty) has effect.

(2) This section shall come into force in accordance with such provision as the Commissioners of Customs and Excise may make by order made by statutory instrument.

7 Rates of gaming duty

(1) For the table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

TABLE

Part of gross gaming yield	*Rate*
The first £484,500	2.5 per cent.
The next £1,076,000	12.5 per cent.
The next £1,076,000	20 per cent.
The next £1,883,500	30 per cent.
The remainder	40 per cent.

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2001.

Vehicle excise duty

8 Threshold for reduced general rate

(1) In paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rate of duty applicable where no other rate specified), in sub-paragraphs (2) and (2A) for "1,200 cubic centimetres" (the reduced rate threshold) substitute "1,549 cubic centimetres".

This amendment applies to licences issued on or after 1st July 2001.

(2) Refunds shall be made by the Secretary of State, in accordance with the following provisions of this section, in respect of licences—

(a) issued in the period beginning with 1st November 2000 and ending with 30th June 2001, and

(b) not surrendered before the end of that period,

where the amount of vehicle excise duty chargeable on the licence would have been less if the amendment in subsection (1) had applied.

(3) The amount of the refund is—

(a) £55 for a 12 month licence, and

(b) £27.50 for a 6 month licence.

(4) The person entitled to the refund is—

(a) in the case of a licence in force on 30th June 2001, the keeper of the vehicle on that date;

(b) in the case of a licence that has ceased to be in force before that date, the keeper of the vehicle when the licence expired.

(5) For the purposes of subsection (4) the keeper of the vehicle shall be taken to be—

(a) the person registered as keeper of the vehicle on the date in question, or

(b) if the Secretary of State has received notification of a change of ownership of the vehicle as a result of which another person is on that date entitled to be registered as the new keeper of the vehicle, that person.

(6) A refund shall only be made if an application is made for it in such form, and containing such particulars and supported by such documents, as the Secretary of State may require.

(7) The Secretary of State shall give notice in writing to any person appearing to him to be entitled to a refund—

(a) informing him that he appears to be entitled to a refund,

(b) enclosing an application form, and

(c) specifying the particulars and supporting documents to be provided.

(8) An application for, or the making of, a refund under this section in respect of a licence does not affect the validity of the licence.

(9) For the purposes of section 19 of the Vehicle Excise and Registration Act 1994 (c. 22) (surrender of licences) as it applies to the surrender on or after 1st July 2001 of a licence in respect of which a refund under this section has been made, or applied for, the annual rate of duty chargeable on the licence shall be taken to be that which would have been chargeable if the amendment in subsection (1) above had applied.

(10) Section 45 of that Act (offence of false or misleading declaration) applies to a declaration in connection with an application for a refund under this section as it applies to a declaration in connection with an application for a vehicle licence.

(11) In the application of this section to Northern Ireland, references to registration as the keeper of a vehicle shall be read as references to registration as the owner of the vehicle.

(12) This section shall come into force on 1st July 2001.

9 Rates of duty for goods vehicles

(1) Schedule 2 to this Act (which makes provision for new rates of vehicle excise duty for goods vehicles etc.) has effect.

(2) The provisions of that Schedule apply in relation to licences issued on or after 1st December 2001.

10 Rates of duty for vehicles used for exceptional loads

(1) Part 6 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of vehicle excise duty: vehicles used for exceptional loads) is amended as follows.

(2) In paragraph 6(2A)(a) (vehicles not satisfying reduced pollution requirements), for "£5,170" substitute "£2,585".

(3) In paragraph 6(2A)(b) (vehicles satisfying reduced pollution requirements), for "£4,170" substitute "£2,085".

(4) The provisions of this section apply in relation to licences issued on or after 1st December 2001.

11 Rates of duty for recovery vehicles

(1) In Part 5 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of vehicle excise duty: recovery vehicles), paragraph 5(1) is amended as follows.

(2) For paragraphs (a) and (b) substitute—

"(a) if it has a revenue weight exceeding 3,500 kilograms and not exceeding 25,000 kilograms, the same as the basic goods vehicle rate;".

(3) In paragraph (c) (vehicle with revenue weight exceeding 25,000 kilograms charged at 500 per cent of basic goods vehicle rate), for "500" substitute "250".

(4) The provisions of this section apply in relation to licences issued on or after 1st December 2001.

12 Mobile pumping vehicles

(1) Part 4 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty: special vehicles) is amended as follows.

(2) In paragraph 4(2), after paragraph (d) insert—

"(dd) mobile pumping vehicle,".

(3) In paragraph 4, after sub-paragraph (5) insert—

"(5A) In sub-paragraph (2)(dd) "mobile pumping vehicle" means a vehicle—

(a) which is constructed or adapted for use and used for the conveyance of a pump and a jib satisfying the requirements specified in sub-paragraph (5B),

(b) which is used on public roads only—

(i) when the vehicle is stationary and the pump is being used to pump material from a point in the immediate vicinity to another such point, or

(ii) for the purpose of proceeding to and from a place where the pump is to be or has been used, and

(c) which, when so proceeding, does not carry—

(i) the material that is to be or has been pumped, or

(ii) any other load except such as is necessary for the propulsion or equipment of the vehicle or for the operation of the pump.

(5B) The requirements are that each of the pump and the jib is—

(a) built in as part of the vehicle, and

(b) designed so that material pumped by the pump is delivered to a desired height or depth through piping that—

(i) is attached to the pump and the jib, and

(ii) is raised or lowered to that height or depth by operation of the jib.".

(4) In paragraph 1A (old vehicles) of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles)—

(a) in sub-paragraph (2)(b)(ii) (mobile cranes etc. not exempt vehicles under paragraph 1A), after "mobile crane," insert "mobile pumping vehicle,", and

(b) in sub-paragraph (5) (definitions), after ""mobile crane"" insert ", "mobile pumping vehicle"".

(5) The amendments made by subsections (2) to (4) apply to licences issued after the day on which this Act is passed.

(6) Where—

(a) a licence was issued on or before that day for a mobile pumping vehicle (within the meaning given by the paragraph 4(5A) inserted by subsection (3)) on the basis that the vehicle was a mobile crane (within the meaning given by paragraph 4(5) of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22)), and

(b) vehicle excise duty was paid accordingly,

the vehicle shall be deemed to have been a mobile crane at any time on or before that day when the licence was in force (but this does not affect proceedings in any court that were concluded on or before that day).

13 Exemption of agricultural etc. vehicles

(1) In Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles), after paragraph 20A insert—

"Tractors

20B (1) A vehicle is an exempt vehicle if it is—

(a) an agricultural tractor, or

(b) an off-road tractor.

(2) In sub-paragraph (1) "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3).

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

(a) cutting verges bordering public roads;

(b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

(4) In sub-paragraph (1) "off-road tractor" means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2)) and which is—

(a) designed and constructed primarily for use otherwise than on roads, and

(b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.

Light agricultural vehicles

20C (1) A vehicle is an exempt vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) "light agricultural vehicle" means a vehicle which—

(a) has a revenue weight not exceeding 1,000 kilograms,

(b) is designed and constructed so as to seat only the driver,

(c) is designed and constructed primarily for use otherwise than on roads, and

(d) is used solely for purposes relating to agriculture, horticulture or forestry.

Agricultural engines

20D An agricultural engine is an exempt vehicle.

Mowing machines

20E A mowing machine is an exempt vehicle.

Steam powered vehicles

20F A steam powered vehicle is an exempt vehicle.

Electrically propelled vehicles

20G An electrically propelled vehicle is an exempt vehicle.

Snow ploughs

20H A vehicle is an exempt vehicle when it is—

(a) being used,

(b) going to or from the place where it is to be or has been used, or

(c) being kept for use,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

Gritters

20J A vehicle is an exempt vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).".

(2) In Part 2 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of duty: motorcycles), paragraph 2 is amended as follows—

(a) in sub-paragraph (1)(a) (rate of duty for electrically propelled motorcycles etc.), omit "or the motorcycle is an electrically propelled vehicle", and

(b) in sub-paragraph (3), in the definition of "motorcycle", after "motortricycle" insert "but does not include an electrically propelled vehicle".

(3) Part 4A of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty: special concessionary vehicles) shall cease to have effect.

(4) The amendments made by subsections (1) to (3) and (13) apply to licences issued on or after 1st April 2001.

(5) Subsection (6) applies where a licence—

(a) is issued before 1st April 2001 for a relevant vehicle, and

(b) is in force on 1st April 2001 or comes into force after 1st April 2001.

(6) The licence shall, during the period—

(a) beginning with the later of 1st April 2001 and the day when it comes into force, and

(b) ending with the expiry of the period for which it is issued,

be deemed to be a nil licence for the purposes of the Vehicle Excise and Registration Act 1994 (c. 22).

(7) A refund shall be made by the Secretary of State, in accordance with the following provisions of this section, in respect of a licence for a relevant vehicle that—

(a) is issued before 1st March 2001, in force on 1st March 2001 and not surrendered before 1st April 2001,

(b) is issued before 1st March 2001, comes into force after 1st March 2001 and is not surrendered before 1st April 2001, or

(c) is issued in March 2001 and not surrendered before 1st April 2001.

(8) The amount of the refund is one-twelfth of the annual rate of duty chargeable on the licence for—

(a) in the case of a licence issued before 1st March 2001, each whole month after February 2001 that forms part of the period for which the licence was issued, and

(b) in the case of a licence issued on or after 1st March 2001, each whole month of the period for which the licence is issued.

(9) The person entitled to the refund is the person registered as the keeper of the relevant vehicle on 30th April 2001.

(10) The provisions of sections 10(2) and 19 of the Vehicle Excise and Registration Act 1994 (surrender of licences) do not apply to a licence in respect of which a person is entitled to a refund under this section.

(11) In the application of this section to Northern Ireland, references to registration as the keeper of a vehicle shall be read as references to registration as the owner of the vehicle.

(12) In subsections (5) to (9) "relevant vehicle" means a vehicle of any of the descriptions mentioned in the paragraphs 20B to 20J inserted by subsection (1).

(13) For section 16(1) of the Finance Act 1996 (c. 8) substitute—

"(1) Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) is amended as follows.".

(14) This section shall be deemed to have come into force on 1st April 2001.

14 Surrender of vehicle licences

(1) Section 19 of the Vehicle Excise and Registration Act 1994 (surrender of licences) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1B) applies where the holder of a licence—

(a) has notified the Secretary of State that he wishes to surrender the licence under section 10(2),

(b) has agreed to comply with such conditions as may be specified in relation to him by the Secretary of State, and

(c) if the conditions so specified in relation to him include a condition such as is mentioned in subsection (1C)(a), has complied with that condition.

(1B) If the holder has not surrendered the licence before the time when paragraphs (a) to (c) of subsection (1A) are first all satisfied, then at that time—

(a) the holder becomes entitled to rebate under subsection (1) as if he had surrendered the licence at that time,

(b) the licence ceases to be in force, and

(c) the provisions of section 10(2) and subsection (1) cease to apply to the licence.

(1C) The conditions which may be specified under subsection (1A)(b) include—

(a) a condition that particulars for the time being prescribed under section 22(1D)(a) are furnished by being transmitted to the Secretary of State by such electronic means as he may specify; and

(b) a condition that the licence be returned to the Secretary of State within such period as may be specified by the Secretary of State.".

(3) Subsection (3) (no rebate under subsection (1) where regulations not complied with) shall cease to have effect.

General

15 Payments by Commissioners in case of error or delay

Schedule 3 to this Act (which allows or requires the Commissioners of Customs and Excise to make payments in cases of error or delay in relation to excise duty) has effect.

PART 2

AGGREGATES LEVY

Charging provisions

16 Charge to aggregates levy

(1) A levy, to be known as aggregates levy, shall be charged in accordance with this Part on aggregate subjected to commercial exploitation.

(2) The charge to the levy shall arise whenever a quantity of taxable aggregate is subjected, on or after the commencement date, to commercial exploitation in the United Kingdom.

(3) The person charged with the levy arising on any occasion on a quantity of aggregate subjected to commercial exploitation shall be the person responsible for its being so subjected on that occasion.

(4) The levy shall be charged at the rate of £1.60 per tonne of aggregate subjected to commercial exploitation; and the amount of levy charged on a part of a tonne of aggregate shall be the proportionately reduced amount.

(5) The levy shall be under the care and management of the Commissioners of Customs and Excise (in this Part referred to as "the Commissioners").

(6) In this Part "the commencement date" means such date as the Treasury may by order made by statutory instrument appoint for the purposes of this section.

17 Meanings of "aggregate" and "taxable aggregate"

(1) In this Part "aggregate" means (subject to section 18 below) any rock, gravel or sand, together with whatever substances are for the time being incorporated in the rock, gravel or sand or naturally occur mixed with it.

(2) For the purposes of this Part any quantity of aggregate is, in relation to any occasion on which it is subjected to commercial exploitation, a quantity of taxable aggregate except to the extent that—

(a) it is exempt under this section;

(b) it has previously been used for construction purposes (whether before or after the commencement date);

(c) it is, or derives from, any aggregate that has already been subjected to a charge to aggregates levy;

(d) it is aggregate that was removed from its originating site before the commencement date.

(3) For the purposes of this Part aggregate is exempt under this section if—

(a) it is rock that has not been subjected to an industrial crushing process;

(b) it consists wholly of aggregate won by being removed from the ground on the site of any building or proposed building in the course of excavations lawfully carried out—

(i) in connection with the modification or erection of the building; and

(ii) exclusively for the purpose of laying foundations or of laying any pipe or cable;

(c) it consists wholly of aggregate won—

(i) by being removed from the bed of any river, canal or watercourse (whether natural or artificial) or of any channel in or approach to any port or harbour (whether natural or artificial); and

(ii) in the course of the carrying out of any dredging undertaken exclusively for the purpose of creating, restoring, improving or maintaining that river, canal, watercourse, channel or approach;

(d) it consists wholly of aggregate won by being removed from the ground along the line or proposed line of any highway or proposed highway and in the course of excavations carried out—

(i) for the purpose of improving or maintaining the highway or of constructing the proposed highway; and

(ii) otherwise than wholly or mainly for the purpose of extracting that aggregate; or

(e) it consists wholly of the spoil, waste or other by-products resulting from the extraction or other separation from any quantity of aggregate of any china clay or ball clay.

(4) For the purposes of this Part a quantity of any aggregate shall be taken to be a quantity of aggregate that is exempt under this section if it consists wholly or mainly of any one or more of the following, or is part of anything so consisting, namely—

(a) coal, lignite, slate or shale;

(b) the spoil from any process by which coal has been separated from other rock after being extracted or won with that other rock;

(c) the spoil or waste from, or other by-products of—

(i) any industrial combustion process, or

(ii) the smelting or refining of metal;

(d) the drill-cuttings resulting from any operations carried out in accordance with a licence granted under the Petroleum Act 1998 (c. 17) otherwise than in relation to petroleum situated in the strata in Great Britain;

(e) anything resulting from works carried out in exercise of powers which are required to be exercised in accordance with, or are conferred by, provision made by or under the New Roads and Street Works Act 1991 (c. 22), the Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15)) or the Street Works (Northern Ireland) Order 1995 (S.I. 1995/3210 (N.I. 19));

(f) clay, soil or vegetable or other organic matter.

(5) For the purposes of this section aggregate subjected to exploitation in the United Kingdom is aggregate that has already been subjected to a charge to aggregates levy if, and only if—

(a) there has been a previous occasion on which a charge to aggregates levy on that aggregate has arisen; and

(b) at least some of the aggregates levy previously charged on that aggregate is either—

(i) levy in respect of which there is or was no entitlement to a tax credit; or

(ii) levy in respect of which any entitlement to a tax credit is or was an entitlement to a tax credit of an amount less than the amount of the levy charged on it.

(6) For the purposes of subsection (5)(b) above, any credit the entitlement to which arises in a case which—

(a) falls within section 30(1)(c) below, and

(b) is prescribed for the purposes of this subsection,

shall be disregarded.

(7) In this section—

"coal" has the same meaning as in the Coal Industry Act 1994 (c. 21); and

"highway" includes any road within the meaning of the Roads (Scotland) Act 1984 (c. 54) or the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).

18 Exempt processes

(1) In this Part references to aggregate—

(a) include references to the spoil, waste, off-cuts and other by-products resulting from the application of any exempt process to any aggregate; but

(b) do not include references to anything else resulting from the application of any such process to any aggregate.

(2) In this Part "exempt process" means—

(a) the cutting of any rock to produce dimension stone;

(b) any process by which a relevant substance is extracted or otherwise separated (whether as part of the process of winning it from any land or otherwise) from any aggregate;

(c) any process for the production of lime or cement from limestone or from limestone and some other substance.

(3) In this section "relevant substance" means any of the following—

(a) anhydrite;
(b) ball clay;
(c) barytes;
(d) calcite;
(e) china clay;
(f) feldspar;
(g) fireclay;
(h) flint;
(i) fluorspar;
(j) fuller's earth;
(k) gems and semi-precious stones;
(l) gypsum;
(m) any metal or the ore of any metal;
(n) muscovite;
(o) perlite;
(p) potash;
(q) pumice;
(r) rock phosphates;
(s) sodium chloride;
(t) talc;
(u) vermiculite.

(4) The Treasury may by order made by statutory instrument—

(a) modify the list of substances in subsection (3) above by adding any substance to that list or by removing any substance from it; and
(b) make any such transitional provision in connection with the modification of that list under this subsection as they may think fit.

(5) The Treasury shall not make an order under subsection (4) above by virtue of which any substance ceases to be a relevant substance unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons.

(6) A statutory instrument containing an order under subsection (4) above that has not had to be approved in draft for the purposes of subsection (5) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

19 Commercial exploitation

(1) For the purposes of this Part a quantity of aggregate is subjected to exploitation if, and only if—

(a) it is removed from a site falling within subsection (2) below;
(b) it becomes subject to an agreement to supply it to any person;
(c) it is used for construction purposes; or
(d) it is mixed, otherwise than in permitted circumstances, with any material or substance other than water.

(2) The sites which, in relation to any quantity of aggregate, fall within this subsection are—

(a) the originating site of the aggregate;

(b) any site which is not the originating site of the aggregate but is registered under the name of a person who is the operator of that originating site, or is one of its operators;

(c) any site not falling within paragraph (a) or (b) above to which the quantity of aggregate had been removed for the purpose of having an exempt process applied to it on that site but at which no such process has been applied to it.

(3) For the purposes of this Part the exploitation to which a quantity of aggregate is subjected shall be taken to be commercial exploitation if, and only if—

(a) it is subjected to exploitation in the course or furtherance of a business carried on by the person, or one of the persons, responsible for subjecting it to exploitation;

(b) the exploitation to which it is subjected does not consist in its removal from one registered site to another in a case where both sites are registered under the name of the same person;

(c) the exploitation to which it is subjected does not consist in or require its removal to a registered site for the purpose of having an exempt process applied to it on that site;

(d) the exploitation to which it is subjected does not consist in or require its removal to any premises for the purpose of having china clay or ball clay extracted or otherwise separated from it on that site; and

(e) the exploitation to which it is subjected is not such that, as a result and without its being subjected to any process involving its being mixed with any other substance or material (apart from water), it again becomes part of the land at the site from which it was won.

(4) Where, at the time when any aggregate is won from any site, the same person is in occupation of both—

(a) that site, and

(b) adjacent land which is occupied, together with that site—

(i) for the purposes of the carrying on of any agricultural business, or

(ii) for the purposes of the carrying on of any forestry business or otherwise for the purposes of forestry,

subsection (3)(e) above shall have effect as if the reference to the land at the site from which the aggregate was won included the adjacent land, so long as it and that site continue to be occupied by that person for such purposes.

(5) For the purposes of this Part where a quantity of aggregate is subjected to exploitation, the exploitation shall be taken to be in the United Kingdom if, and only if, the aggregate is in the United Kingdom or United Kingdom waters when it is subjected to exploitation.

(6) For the purposes of this section a quantity of aggregate becomes subject to an agreement to supply it to any person—

(a) except to the extent that it is not separately identifiable at the time when the agreement is entered into, at that time; and

(b) to that extent, at the time when it is appropriated to the agreement;

but references in this Part to the supply of a quantity of aggregate do not include references to any supply which is effected, or is to be effected, by the transfer or creation of any interest or right in or over land.

(7) For the purposes of this section a quantity of aggregate is mixed with a material or substance in permitted circumstances if—

(a) the material or substance with which it is mixed consists wholly of a quantity of taxable aggregate that has not previously been subjected to commercial exploitation in the United Kingdom; and

(b) the mixing takes place on a site which, in a case where it falls within subsection (2) above in relation to any part of the aggregate included in the mixture, so falls in relation to every part of it.

20 Originating sites

(1) In this Part references, in relation to any aggregate, to its originating site are references (subject to subsection (2) below)—

(a) in the case of aggregate which has been won from the seabed of any area of sea in the United Kingdom or United Kingdom waters and is not rock, to the site where it is first landed after being so won;

(b) in the case of aggregate which results from the application of an exempt process to any aggregate and is not rock, to the site where that process was so applied;

(c) in the case of rock, to the site at which it is first subjected to an industrial crushing process; and

(d) in any other case, to the site from which the aggregate was won or, as the case may be, from which it was most recently won.

(2) Where any aggregate which is on its originating site on the commencement date has been mixed before that date with aggregate the originating site of which would (but for this subsection) be different, the site where the mixture is situated on that date shall be deemed for the purposes of this Part to be the originating site of all the aggregate comprised in the mixture.

21 Operators of sites

(1) For the purposes of this Part the persons operating a site are each of the following—

(a) the person who occupies the site; and

(b) if a person other than the occupier exercises any right to exercise control over aggregate on that site, that other person;

and "operator", in relation to a site, shall be construed accordingly.

(2) In subsection (1) above the reference to exercising control over aggregate on a site is a reference to doing any of the following, that is to say—

(a) winning aggregate from land at that site;

(b) carrying out an industrial crushing process at that site in relation to any rock;

(c) carrying out any exempt process at that site;

(d) storing aggregate at that site.

22 Responsibility for exploitation of aggregate

(1) Subject to subsection (2) below, the persons who shall be taken for the purposes of this Part to be responsible for subjecting a quantity of aggregate to exploitation are each of the following—

(a) in a case of the exploitation of a quantity of aggregate by its removal from its originating site or from a connected site, the operator of that site;

(b) in a case of the exploitation of a quantity of aggregate by its removal from a site falling within section 19(2)(c) above, the operator of the site and (if different) the owner of the aggregate at the time when the removal takes place;

(c) in a case of the exploitation of a quantity of aggregate—

(i) by its being subjected, at a time when it is not on its originating site or a connected site, to any agreement, or

(ii) by its being used at such a time for construction purposes,

the person agreeing to supply it or using it for construction purposes;

(d) in a case of the exploitation of a quantity of aggregate—

(i) by its being subjected, at a time when it is on its originating site or a connected site, to any agreement, or

(ii) by its being used at such a time for construction purposes,

the person mentioned in paragraph (c) above and (if different) the operator of that site;

(e) in a case of the exploitation of a quantity of aggregate by its being mixed at premises that are not comprised in its originating site or a connected site with any material or substance, the owner of the aggregate at the time when the mixing takes place and the occupier of the premises where it takes place;

(f) in a case of the exploitation of a quantity of aggregate by its being mixed at its originating site or a connected site with any material or substance, the owner of the aggregate at the time when the mixing takes place and (if different) the operator of the site.

(2) A person who is responsible for subjecting a quantity of aggregate to exploitation shall not be taken for the purposes of this Part to be responsible for subjecting it to commercial exploitation unless that takes place in the course or furtherance of a business carried on by him.

(3) Where by virtue of this section more than one person is charged with aggregates levy, their liabilities under this Part as persons charged with the levy shall be joint and several.

(4) In this section "connected site", in relation to any quantity of aggregate, means any site that falls in relation to that quantity of aggregate within section 19(2)(b).

23 Weight of aggregate

(1) The Commissioners may make regulations for determining the weight of any aggregate for the purposes of aggregates levy.

(2) The regulations may—

(a) prescribe rules for determining the weight;

(b) authorise rules for determining the weight to be specified by the Commissioners in a prescribed manner;

(c) authorise rules for determining the weight to be agreed between the person charged with the levy and a person acting under the authority of the Commissioners.

(3) The regulations may, in particular, provide for the rules prescribed or authorised under the regulations to include rules about—

(a) the method by which the weight is to be determined;
(b) the time by reference to which the weight is to be determined;
(c) the discounting of constituents (such as water).

(4) The regulations may include provision that rules specified by virtue of subsection (2)(b) above—
(a) are to have effect only in such cases as may be described in the rules; and
(b) are not to have effect in particular cases unless the Commissioners are satisfied that such conditions as may be set out in the rules are met in those cases.

(5) Conditions for which provision is made by virtue of subsection (4)(b) above may be framed by reference to such factors as the Commissioners think fit (such as the consent, in a particular case, of a person acting under the authority of the Commissioners).

(6) The regulations may include provision that—
(a) where rules are agreed as mentioned in subsection (2)(c) above, and
(b) the Commissioners believe that they should no longer be applied (whether because they do not give an accurate indication of the weight or are not being fully observed or for some other reason),

the Commissioners may direct that the agreed rules shall no longer have effect.

Administration and enforcement

24 The register

(1) It shall be the duty of the Commissioners to establish and maintain a register of persons who are required to be registered for the purposes of aggregates levy.

(2) A person is required to be registered for the purposes of aggregates levy if he—
(a) carries out taxable activities, and
(b) is not exempted from registration by regulations under subsection (4) below.

(3) For the purposes of subsection (2) above a person carries out a taxable activity if a quantity of aggregate is subjected to commercial exploitation in the United Kingdom in circumstances in which he is responsible for its being so subjected.

(4) The Commissioners may by regulations provide for persons carrying out taxable activities to be, to such extent and subject to such conditions or restrictions as may be prescribed, either—
(a) exempt from the requirement of registration; or
(b) exempt from such obligations or liabilities imposed by or under this Part on persons required to be registered for the purposes of aggregates levy as may be prescribed.

(5) The Commissioners shall keep such information in the register as they consider it appropriate so to keep for the purposes of the care and management of aggregates levy.

(6) In particular, where it appears to the Commissioners that any person is operating or using any premises, or intends to operate or use any premises—
(a) for winning any aggregate,
(b) for carrying out an industrial crushing process in relation to any rock,
(c) for applying an exempt process to any aggregate,

(d) for storing any aggregate, or

(e) for the first landing in the United Kingdom of aggregate won from the seabed of any area of sea in the United Kingdom or United Kingdom waters,

they may, if they think fit, register those premises, in any entry relating to that person and under his name, as a registered site.

(7) Where any premises are registered in accordance with subsection (6) above as a registered site, the particulars included in the register shall set out as the boundaries of the site such boundaries as appear to the Commissioners best to secure that avoidance of levy is not facilitated by the registration of any part of any premises that is not used or operated as mentioned in subsection (6) above.

(8) Where any entry in the register at any time specifies that any premises registered under a person's name as a registered site are to be taken to be the originating site of—

(a) any aggregate comprising rock subjected to an industrial crushing process there,

(b) any aggregate resulting from the carrying out of any exempt process there, or

(c) any aggregate won or landed there,

any question for the purposes of this Part as to the boundaries at that time of the originating site of any such aggregate shall be conclusively determined in accordance with that entry.

(9) Schedule 4 to this Act (provisions with respect to registration for the purposes of aggregates levy) shall have effect.

(10) The preceding provisions of this section and the provisions of Schedule 4 to this Act shall come into force on such date as the Treasury may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

25 Returns and payment of levy

(1) The Commissioners may by regulations make provision—

(a) for persons charged with aggregates levy to be liable to account for it by reference to such periods ("accounting periods") as may be determined by or under the regulations;

(b) for persons who are or are required to be registered for the purposes of aggregates levy to be subject to such obligations to make returns for those purposes for such periods, at such times and in such form as may be so determined; and

(c) for persons who are required to account for aggregates levy for any period to become liable to pay the amounts due from them at such times and in such manner as may be so determined.

(2) Without prejudice to the generality of the powers conferred by subsection (1) above, regulations under this section may contain provision—

(a) for aggregates levy falling in accordance with the regulations to be accounted for by reference to one accounting period to be treated in prescribed circumstances, and for prescribed purposes, as levy due for a different period;

(b) for the correction of errors made when accounting for aggregates levy by reference to any period;

(c) for the entries to be made in any accounts in connection with the correction of any such errors and for the financial adjustments to be made in that connection;

(d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates;

(e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d) above;

(f) for the amount of levy which, in accordance with the regulations, is treated as due for a later period than that by reference to which it should have been accounted for to be treated as increased by an amount representing interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8) for such period as may be determined in accordance with the regulations.

(3) Subject to the following provisions of this section, if any person ("the taxpayer") fails—

(a) to comply with so much of any regulations under this section as requires him, at or before a particular time, to make a return for any accounting period, or

(b) to comply with so much of any regulations under this section as requires him, at or before a particular time, to pay an amount of aggregates levy due from him,

he shall be liable to a penalty of £250.

(4) Liability to a penalty under subsection (3) above shall not arise if the taxpayer satisfies the Commissioners or, on appeal, an appeal tribunal—

(a) that there is a reasonable excuse for the failure to make the return or to pay the levy in accordance with regulations; and

(b) that there is not an occasion after the last day on which the return or payment was required by the regulations to be made when there was a failure without reasonable excuse to make it.

(5) Where, by reason of any failure falling within paragraph (a) or (b) of subsection (3) above—

(a) a person is convicted of an offence (whether under this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion),

that person shall not, by reason of that failure, be liable also to a penalty under that subsection (3).

(6) In subsection (1)(b) above the reference to a person who is required to be registered for the purposes of aggregates levy includes a reference to a person who would be so required but for any exemption conferred by regulations under section 24(4) above.

26 Security for levy

(1) Where it appears to the Commissioners necessary to do so for the protection of the revenue they may require any person who is or is required to be registered to give security, or further security, for the payment of any aggregates levy which is or may become due from him.

(2) The power of the Commissioners to require any security, or further security, under this section shall be a power to require security, or further security, of such amount and in such manner as they may determine.

(3) A person who is responsible for any aggregate being subjected to commercial exploitation in the United Kingdom is guilty of an offence if, at the time it is so subjected—

(a) he has been required to give security under this section; and

(b) he has not complied with that requirement.

(4) A person guilty of an offence under this section shall be liable, on summary conviction, to a penalty of level 5 on the standard scale.

(5) Sections 145 to 155 of the Customs and Excise Management Act 1979 (c. 2) (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to an offence under this section as they apply in relation to offences and penalties under the customs and excise Acts.

(6) In subsection (1) above the reference to a person who is required to be registered for the purposes of aggregates levy includes a reference to a person who would be so required but for any exemption conferred by regulations under section 24(4) above.

27 Recovery and interest

Schedule 5 to this Act (which makes provision for the recovery of amounts of aggregates levy due from any person and for the interest payable on such amounts) shall have effect.

28 Evasion, misdeclaration and neglect

Schedule 6 to this Act (which makes provision for and in connection with the imposition of criminal and civil penalties for the evasion of aggregates levy and for related misconduct) shall have effect.

29 Information and evidence

Schedule 7 to this Act (which provides for the supply of information to the Commissioners, for the powers under which the Commissioners may collect information for enforcement purposes and about evidence) shall have effect.

Credits and repayments

30 Credit for aggregates levy

(1) The Commissioners may, in accordance with the following provisions of this section, by regulations make provision in relation to cases where, after a charge to aggregates levy has arisen on any quantity of aggregate—

(a) any of that aggregate is exported from the United Kingdom in the form of aggregate;

(b) an exempt process is applied to any of that aggregate;

(c) any of that aggregate is used in a prescribed industrial or agricultural process;

(d) any of that aggregate is disposed of (by dumping or otherwise) in such manner not constituting its use for construction purposes as may be prescribed; or

(e) the whole or any part of a debt due to a person responsible for subjecting the aggregate to commercial exploitation is written off in his accounts as a bad debt.

(2) The provision that may be made in relation to any such case as is mentioned in subsection (1) above is provision—

(a) for such person as may be specified in the regulations to be entitled to a tax credit in respect of any aggregates levy charged on the aggregate in question;

(b) for a tax credit to which any person is entitled under the regulations to be brought into account when he is accounting for aggregates levy due from him for such accounting period or periods as may be determined in accordance with the regulations; and

(c) for a person entitled to a tax credit to be entitled, in any prescribed case where he cannot bring the tax credit into account so as to set it against a liability to aggregates levy, to a repayment of levy of an amount so determined.

(3) Regulations under this section may contain any or all of the following provisions—

(a) provision making any entitlement to a tax credit conditional on the making of a claim by such person, within such period and in such manner as may be prescribed;

(b) provision making entitlement to bring a tax credit into account, or to receive a repayment in respect of such a credit, conditional on compliance with such requirements as may be determined in accordance with the regulations;

(c) provision requiring a claim for a tax credit to be evidenced and quantified by reference to such records and other documents as may be so determined;

(d) provision requiring a person claiming any entitlement to a tax credit to keep, for such period and in such form and manner as may be so determined, those records and documents and a record of such information relating to the claim as may be so determined;

(e) provision for the withdrawal of a tax credit where any requirement of the regulations is not complied with;

(f) provision for interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any tax credit;

(g) provision for anything falling to be determined in accordance with the regulations to be determined by reference to a general or specific direction given in accordance with the regulations by the Commissioners.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may also contain—

(a) provision for ascertaining whether, when and to what extent an amount is to be taken for the purposes of any regulations under this section to have been written off in any accounts as a bad debt;

(b) provision requiring a person who for the purposes of any such regulations is taken to have written off any amount as a bad debt to keep, for such period and in such form and manner as may be prescribed, information relating to anything subsequently paid in respect of the amount written off;

(c) provision for the withdrawal of the whole or an appropriate part of any tax credit relating to an amount taken to have been written off as a bad debt where

the whole or any part (or further part) of the amount written off is subsequently paid;

(d) provision for ascertaining whether, and to what extent, anything received by any person is to be taken as a payment of, or of a part of, an amount taken, for the purposes of any regulations under this section, to have been written off;

(e) provision for determining the value for the purposes of provision made by virtue of paragraph (d) above of things received otherwise than in the form of money.

(5) Regulations made under this section shall have effect subject to the provisions of section 32 below.

31 Repayments of overpaid levy

(1) Where a person has paid an amount to the Commissioners by way of aggregates levy which was not levy due to them, they shall be liable to repay the amount to him.

(2) The Commissioners shall not be liable to repay an amount under this section except on the making of a claim for that purpose.

(3) A claim under this section must be made in such form and manner, and must be supported by such documentary evidence, as may be required by regulations made by the Commissioners.

(4) The preceding provisions of this section are subject to the provisions of section 32 below.

(5) Except as provided by this section, the Commissioners shall not, by virtue of the fact that it was not levy due to them, be liable to repay any amount paid to them by way of aggregates levy.

32 Supplemental provisions about repayments etc

(1) The Commissioners shall not be liable, on any claim for a repayment of aggregates levy, to repay any amount paid to them more than three years before the making of the claim.

(2) In the case of any claim for a repayment of an amount of aggregates levy other than a claim to a repayment to which a person is entitled by virtue of tax credit regulations, it shall be a defence to that claim that the repayment of that amount would unjustly enrich the claimant.

(3) Subsection (4) below applies for the purposes of subsection (2) above where—

(a) there is an amount paid by way of aggregates levy which (apart from subsection (2) above) would fall to be the subject of a repayment of aggregates levy 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.

(4) 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 provisions relating to aggregates levy, that loss or damage shall

be disregarded, except to the extent of the quantified amount, in the making of any determination as to—

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

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

(5) In subsection (4) 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.

(6) The reference in subsection (4) above to provisions relating to aggregates levy is a reference to any provisions of—

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

(b) any notice published by the Commissioners under or for the purposes of any enactment or subordinate legislation relating to aggregates levy.

(7) Schedule 8 to this Act (which contains further provision about payments and repayments by the Commissioners and about the setting off of amounts due to or from the Commissioners under this Part and the setting of other amounts against such amounts) shall have effect.

Non-resident taxpayers

33 Appointment of tax representatives

(1) The Commissioners may by regulations make provision for securing that every non-resident taxpayer has a person resident in the United Kingdom to act as his tax representative for the purposes of aggregates levy.

(2) Regulations under this section may, in particular, contain any or all of the following—

(a) provision requiring notification to be given to the Commissioners where a person becomes a non-resident taxpayer;

(b) provision requiring the appointment of tax representatives by non-resident taxpayers;

(c) provision for the appointment of a person as a tax representative to take effect only where the person appointed is approved by the Commissioners;

(d) provision authorising the Commissioners to give a direction requiring the replacement of a tax representative;

(e) provision authorising the Commissioners to give a direction requiring a person specified in the direction to be treated as the appointed tax representative of a non-resident taxpayer so specified;

(f) provision about the circumstances in which a person ceases to be a tax representative and about the withdrawal by the Commissioners of their approval of a tax representative;

(g) provision enabling a tax representative to act on behalf of the person for whom he is the tax representative through an agent of the representative;

(h) provision for the purposes of any provision made by virtue of paragraphs (a) to (g) above regulating the procedure to be followed in any case and imposing

requirements as to the information and other particulars to be provided to the Commissioners;

(i) provision as to the time at which things done under or for the purposes of the regulations are to take effect.

(3) Subject to subsection (4) below, a person who—

(a) becomes subject, in accordance with any regulations under this section, to an obligation to request the Commissioners' approval for any person's appointment as his tax representative, but

(b) fails (with or without making the appointment) to make the request as required by the regulations,

shall be liable to a penalty of £10,000.

(4) A failure such as is mentioned in subsection (3) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.

34 Effect of appointment of tax representatives

(1) The tax representative of a non-resident taxpayer shall be entitled to act on the non-resident taxpayer's behalf for the purposes of any provision made by or under this Part.

(2) The tax representative of a non-resident taxpayer shall be under a duty, except to such extent as the Commissioners by regulations otherwise provide, to secure the non-resident taxpayer's compliance with, and discharge of, the obligations and liabilities to which the non-resident taxpayer is subject by virtue of any provision made by or under this Part (including obligations and liabilities arising or incurred before he became the non-resident taxpayer's tax representative).

(3) A person who is or has been the tax representative of a non-resident taxpayer shall be personally liable—

(a) in respect of any failure while he is or was the non-resident taxpayer's tax representative to secure compliance with, or the discharge of, any obligation or liability to which subsection (2) above applies, and

(b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf,

as if the obligations and liabilities to which subsection (2) above applies were imposed jointly and severally on the tax representative and the non-resident taxpayer.

(4) A tax representative shall not be liable by virtue of this section to be registered for the purposes of aggregates levy; but the Commissioners may by regulations—

(a) require the registration of the names of tax representatives against the names of the non-resident taxpayers of whom they are the representatives;

(b) make provision for the deletion of the names of persons who cease to be tax representatives.

(5) A tax representative shall not by virtue of this section be guilty of any offence except in so far as—

(a) he has consented to, or connived in, the commission of the offence by the non-resident taxpayer;

(b) the commission of the offence by the non-resident taxpayer is attributable to any neglect on the part of the tax representative; or

(c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of this section, is imposed both on the tax representative and on the non-resident taxpayer.

Other special cases

35 Groups of companies etc

(1) Schedule 9 to this Act (which provides for two or more bodies corporate to be treated as members of the same group for the purposes of this Part) shall have effect.

(2) Any aggregates levy with which a body corporate is charged in respect of aggregate subjected to commercial exploitation at a time when the body is a member of a group shall be treated for the purposes of this Part as if it were the representative member for that group (instead of that body) which is charged with the levy.

(3) All the bodies corporate who are members of a group when any aggregates levy becomes due from the representative member, together with any bodies corporate who become members of the group while any such levy remains unpaid, shall be jointly and severally liable for any aggregates levy due from the representative member.

(4) Subject to subsections (2) and (3) above, the Commissioners may by regulations make such provision as they consider appropriate about—

(a) the person by whom any obligation or liability imposed by or under this Part is to be performed or discharged, and

(b) the manner in which it is to be performed or discharged,

in a case where the person who (apart from the regulations) would be subject to the obligation or liability is one of a number of bodies corporate registered in the name of the representative member for a group.

(5) References in this section to aggregates levy being or becoming due from the representative member include references to any amounts being or becoming recoverable as if they were aggregates levy due from that member.

(6) For the purposes of this Part—

(a) a body corporate is a member of a group at any time in relation to which it falls to be treated as such a member in accordance with Schedule 9 to this Act; and

(b) the body corporate which is to be taken to be the representative member for a group at any time is the member of the group which in relation to that time is the representative member under that Schedule in the case of that group.

36 Partnerships and other unincorporated bodies

(1) The Commissioners may by regulations make provision for determining by what persons anything required to be done under this Part is to be done where, apart from those regulations, that requirement would fall on—

(a) persons carrying on business in partnership; or

(b) persons carrying on business together as an unincorporated body;

but any regulations under this subsection must be construed subject to the following provisions of this section.

(2) In determining for the purposes of this Part who at any time is the person chargeable with any aggregates levy where the persons responsible for subjecting any aggregate to commercial exploitation are persons carrying on any business—

(a) in partnership, or

(b) as an unincorporated body,

the firm or body shall be treated, for the purposes of that determination (and notwithstanding any changes from time to time in the members of the firm or body), as the same person and as separate from its members.

(3) Without prejudice to section 36 of the Partnership Act 1890 (c. 39) (rights of persons dealing with firm against apparent members of firm), where—

(a) persons have been carrying on in partnership any business in the course or furtherance of which any aggregate has been subjected to commercial exploitation, and

(b) a person ceases to be a member of the firm,

that person shall be regarded for the purposes of this Part (including subsection (7) below) as continuing to be a partner until the date on which the change in the partnership is notified to the Commissioners.

(4) Where a person ceases to be a member of a firm during an accounting period (or is treated as so ceasing by virtue of subsection (3) above) any notice, whether of assessment or otherwise, which—

(a) is served on the firm under or for the purposes of any provision made by or under this Part, and

(b) relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the firm,

shall be treated as served also on him.

(5) Without prejudice to section 16 of the Partnership Act 1890 (c. 39) (notice to acting partner to be notice to the firm), any notice, whether of assessment or otherwise, which—

(a) is addressed to a firm by the name in which it is registered, and

(b) is served in accordance with this Part,

shall be treated for the purposes of this Part as served on the firm and, accordingly, where subsection (4) above applies, as served also on the former partner.

(6) Subject to subsection (7) below, nothing in this section shall affect the extent to which, under section 9 of the Partnership Act 1890 (liability of partners for debts of the firm), a partner is liable for aggregates levy owed by the firm.

(7) Where a person is a partner in a firm during part only of an accounting period, his personal liability for aggregates levy incurred by the firm in respect of aggregate subjected to commercial exploitation in that period shall include, but shall not exceed, such proportion of the firm's liability as may be just and reasonable in the circumstances.

37 Insolvency etc

(1) The Commissioners may by regulations make provision in accordance with the following provisions of this section for the application of this Part in cases in which an insolvency procedure is applied to a person or to a deceased person's estate.

(2) The provision that may be contained in regulations under this section may include any or all of the following—

(a) provision requiring any such person as may be prescribed to give notification to the Commissioners, in the prescribed manner, of the prescribed particulars of any relevant matter;

(b) provision requiring a person to be treated, to the prescribed extent, as if, for the purposes of this Part or such of its provisions as may be prescribed, he were the same person as the subject of the procedure; and

(c) provision for securing continuity in the application of any of the provisions of this Part where, by virtue of any regulations under this section, any person is treated as if he were the same person as the subject of the procedure.

(3) In subsection (2) above "relevant matter", in relation to a case in which an insolvency procedure is applied to any person or estate, means—

(a) the application of that procedure to that person or estate;

(b) the appointment of any person for the purposes of the application of that procedure;

(c) any other matter relating to—

(i) the application of that procedure to the subject of the procedure or to his estate;

(ii) the holding of an appointment made for the purposes of that procedure; or

(iii) the exercise or discharge of any powers or duties conferred or imposed on any person by virtue of such an appointment.

(4) Regulations made by virtue of subsection (2)(b) above may include provision for a person to cease, on the occurrence of such an event as may be prescribed, to be treated as if he were the same person as the subject of the procedure.

(5) Regulations under this section prescribing the manner in which any notification is to be given to the Commissioners may require it to be given in such manner and to contain such particulars as may be specified in a general notice published by the Commissioners in accordance with the regulations.

(6) Regulations under this section may provide that the extent to which, and the purposes for which, a person is to be treated under the regulations as if he were the same person as the subject of the procedure may be determined by reference to a notice given in accordance with the regulations to the person so treated.

(7) For the purposes of this section, an insolvency procedure is applied to a person if—

(a) a bankruptcy order, winding-up order or administration order is made in relation to that person or a partnership of which he is a member;

(b) an award of sequestration is made in relation to that person's estate or the estate of a partnership of which he is a member;

(c) that person is put into administrative receivership;

(d) that person passes a resolution for voluntary winding up;

(e) any voluntary arrangement approved in accordance with—

(i) Part 1 or 8 of the Insolvency Act 1986 (c. 45), or

(ii) Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) ,

comes into force in relation to that person or a partnership of which that person is a member;

(f) a deed of arrangement registered in accordance with—

(i) the Deeds of Arrangement Act 1914 (c. 47), or

(ii) Chapter I of Part VIII of that Order,

takes effect in relation to that person;

(g) a person is appointed as the receiver or manager of some or all of that person's property, or of income arising from some or all of his property;

(h) a person is appointed as the interim receiver of some or all of that person's property under section 286 of the Insolvency Act 1986 or Article 259 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/ 2405 (N.I. 19)));

(i) a person is appointed as the provisional liquidator in relation to that person under section 135 of that Act or Article 115 of that Order;

(j) an interim order is made under Part 8 of that Act, or Chapter II of Part VIII of that Order, in relation to that person; or

(k) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)).

(8) For the purposes of this section, an insolvency procedure is applied to a deceased person's estate if—

(a) after that person's death—

(i) a bankruptcy order, or

(ii) an order with corresponding effect but a different name,

is made in relation to that person's estate under any of the provisions of the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) as they are applied to the administration of the insolvent estates of deceased persons; or

(b) an award of sequestration is made on that person's estate after his death.

(9) In subsection (7) above—

(a) the reference to any administration order is a reference to an administration order under section 8 of the Insolvency Act 1986 or Article 21 of the Insolvency (Northern Ireland) Order 1989;

(b) the reference to a person being put into administrative receivership is a reference to the appointment in relation to him of an administrative receiver, within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989; and

(c) references to a member of a partnership include references to any person who is liable as a partner under section 14 of the Partnership Act 1890 (c. 39) (persons liable by "holding out").

(10) In this section "the subject of the procedure", in relation to the application of any insolvency procedure, means the person to whom, or to whose estate, the procedure is applied.

38 Death and incapacity

(1) The Commissioners may, in accordance with subsection (2) below, by regulations make provision for the purposes of aggregates levy in relation to cases where a person carries on a business of an individual who has died or become incapacitated.

(2) The provisions that may be contained in regulations under this section are—

(a) provision requiring the person who is carrying on the business to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;

(b) provision allowing that person to be treated for a limited time as if he and the person who has died or become incapacitated were the same person; and

(c) such other provision as the Commissioners think fit for securing continuity in the application of this Part where a person is so treated.

39 Transfer of a business as a going concern

(1) The Commissioners may by regulations make provision for securing continuity in the application of this Part in cases where any business carried on by a person is transferred to another person as a going concern.

(2) Regulations under this section may, in particular, include any or all of the following—

(a) provision requiring the transferor to inform the Commissioners of the transfer;

(b) provision for liabilities and duties under this Part of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;

(c) provision for any right of either of them to a tax credit or repayment of aggregates levy to be satisfied by allowing the credit or making the repayment to the other;

(d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under paragraph 2 of Schedule 7 to this Act, are required to be preserved for any period after the transfer.

(3) Regulations under this section may provide that no such provision as is mentioned in paragraph (b) or (c) of subsection (2) above shall have effect in relation to any transferor and transferee unless an application for the purpose has been made by them under the regulations.

Review and appeal

40 Review of Commissioners' decisions

(1) This section applies to any decision of the Commissioners with respect to any of the following matters—

(a) whether or not a person is charged in any case with an amount of aggregates levy;

(b) the amount of aggregates levy charged in any case and the time when the charge is to be taken as having arisen;

(c) the registration of any person or premises for the purposes of aggregates levy or the cancellation of any registration;

(d) the person liable to pay the aggregates levy charged in any case, the amount of a person's liability to aggregates levy and the time by which he is required to pay an amount of that levy;

(e) the imposition of a requirement on any person to give security, or further security, under section 26 above and the amount and manner of providing any security required under that section;

(f) whether or not liability to a penalty or to interest on any amount arises in any person's case under any provision made by or under this Part, and the amount of any such liability;

(g) any matter the decision as to which is reviewable under this section in accordance with paragraph 8(6) or (7) of Schedule 6 to this Act;

(h) the extent of any person's entitlement to any tax credit or to a repayment in respect of a tax credit and the extent of any liability of the Commissioners under this Part to pay interest on any amount;

(i) whether or not any person is required to have a tax representative by virtue of any regulations under section 33 above;

(j) the giving, withdrawal or variation, for the purposes of any such regulations, of any approval or direction with respect to the person who is to act as another's tax representative;

(k) whether a body corporate is to be treated, or is to cease to be treated, as a member of a group, the times at which a body corporate is to be so treated and the body corporate which is, in relation to any time, to be the representative member for a group;

(l) any matter not falling within the preceding paragraphs the decision with respect to which is contained in any assessment under this Part.

(2) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.

(3) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of forty-five days beginning with the day on which written notification of the decision, or of an assessment containing or giving effect to the decision, was first given to the person requiring the review.

(4) For the purposes of subsection (3) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—

(a) requests such a notification;

(b) has not previously been given written notification of that decision; and

(c) if given such a notification, will be entitled to require a review of the decision under this section.

(5) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—

(a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters; and

(b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

(6) Where the Commissioners are required by a notice under this section to review any decision, it shall be their duty to do so.

(7) On a review under this section the Commissioners may (subject to subsection (9) below) withdraw, vary or confirm the decision reviewed.

(8) Where—

(a) it is the duty under this section of the Commissioners to review any decision, and

(b) they do not, within the period of forty-five days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,

they shall be deemed to have confirmed the decision.

(9) Where the Commissioners decide, on a review under this section, that a liability to a penalty or to an amount of interest arises, they shall not be entitled to modify the amount payable in respect of that liability except—

(a) in exercise of a power conferred by section 46(1) below (penalties) or paragraph 10(3) of Schedule 5 to this Act, paragraph 6(6) of Schedule 8 to this Act or paragraph 5(5) of Schedule 10 to this Act (penalty interest); or

(b) for the purpose of making the amount payable conform to the amount of the liability imposed by this Part.

(10) This section has effect subject to paragraph 8(5) of Schedule 6 to this Act.

41 Appeals against reviewed decisions

(1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—

(a) any decision by the Commissioners on a review under section 40 above (including a deemed confirmation under subsection (8) of that section);

(b) any decision by the Commissioners on any such review of a decision referred to in section 40(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 40(3) above.

(2) Where an appeal under this section relates to a decision (whether or not contained in an assessment) that an amount of aggregates levy is due from any person, that appeal shall not be entertained unless—

(a) the amount which the Commissioners have determined to be due has been paid or deposited with them; or

(b) on being satisfied that the appellant would otherwise suffer hardship—

(i) the Commissioners agree, or

(ii) the tribunal decide,

that it should be entertained notwithstanding that that amount has not been so paid or deposited.

(3) On an appeal under this section relating to a penalty under paragraph 7 of Schedule 6 to this Act (evasion), the burden of proof as to the matters specified in paragraphs (a) to (c) of sub-paragraph (1) of that paragraph shall lie upon the Commissioners.

42 Determinations on appeal

(1) Where, on an appeal under section 41 above—

(a) it is found that an assessment of the appellant made, confirmed or treated as confirmed by the Commissioners on a review under section 40 above ("the original assessment") is an assessment for an amount that is less than it ought to have been, and

(b) the tribunal give a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Part to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.

(2) On an appeal under section 41 above, the powers of the appeal tribunal in relation to any decision of the Commissioners shall include a power, where the tribunal allow an appeal on the ground that the Commissioners could not reasonably have arrived at the decision, either—

(a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct; or

(b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a further review of the original decision.

(3) Where, on an appeal under section 41 above, the appeal tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal shall not give any direction for the modification of the amount payable in respect of that liability except—

(a) in exercise of a power conferred on the tribunal by section 46(1) below (penalties) or paragraph 10(3) or (6) of Schedule 5 to this Act, paragraph 6(6) or (9) of Schedule 8 to this Act or paragraph 5(5) or (8) of Schedule 10 to this Act (penalty interest); or

(b) for the purpose of making the amount payable conform to the amount of the liability imposed by this Part.

(4) Where, on an appeal under section 41 above, it is found that the whole or part of any amount paid or deposited in pursuance of section 41(2) above is not due, so much of that amount as is found not to be due shall be repaid with interest at such rate as the tribunal may determine.

(5) Where, on an appeal under section 41 above, it is found that the whole or part of any amount due to the appellant by way of any repayment in respect of a tax credit has not been paid, so much of that amount as is found not to have been paid shall be paid with interest at such rate as the tribunal may determine.

(6) Where—

(a) an appeal under section 41 above has been entertained notwithstanding that an amount determined by the Commissioners to be payable as aggregates levy has not been paid or deposited, and

(b) it is found on the appeal that that amount is due,

the tribunal may, if they think fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.

(7) Sections 85 and 87 of the Value Added Tax Act 1994 (c. 23) (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—

(a) the references to section 83 of that Act included references to section 41 above; and

(b) the references to value added tax included references to aggregates levy.

43 Adjustments of contracts

(1) Where—

(a) an agreement to supply a quantity of aggregate to any person has been entered into at any time before the commencement date, and

(b) on or after that date aggregates levy is charged on that quantity of aggregate,

so much of the agreement as requires any payment to be made to the supplier at the time when or after the charge to levy on that quantity of aggregate arises shall be adjusted so as to secure that the cost of discharging the liability to pay the levy, to the extent that it would otherwise have been borne by the supplier, is borne by the person making the payment.

(2) Where—

(a) an agreement with regard to any sum payable in respect of the use of land (whether the sum is called rent or royalty or otherwise) provides that the amount of the sum is to be calculated by reference to—

(i) the turnover of a business, or

(ii) the price received for minerals extracted from the land,

(b) the agreement was entered into before commencement date, and

(c) the circumstances are such that (had the agreement been made on or after that date) it might reasonably be expected that it would have provided that aggregates levy charged in particular circumstances be ignored in calculating the turnover or price,

the agreement shall be taken to provide that aggregates levy charged in those circumstances shall be ignored in calculating the turnover or, as the case may be, price.

General provisions

44 Destination of receipts

All money and securities for money collected or received for or on account of aggregates levy shall—

(a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979 (c. 2); and

(b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

45 Regulations and orders

(1) The powers of the Commissioners under this Part to make regulations shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(2) Where regulations made under this Part impose a relevant requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable, subject to subsection (3) below, to a penalty of £250.

(3) Where by reason of any conduct—

(a) a person is convicted of an offence (whether under this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act,

that person shall not by reason of that conduct be liable also to a penalty under any regulations under this Part.

(4) In subsection (2) above "relevant requirement" means any requirement other than one the penalty for a contravention of which is specified in section 25(3) or 33(3) above or in paragraph 2 of Schedule 7 to this Act.

(5) Subject to subsection (6) below, a power under this Part to make any provision by order or regulations—

(a) may be exercised so as to apply the provision only in such cases as may be described in the order or regulations;

(b) may be exercised so as to make different provision for different cases or descriptions of case; and

(c) shall include power by the order or regulations to make such supplementary, incidental, consequential or transitional provision as the Treasury or, as the case may be, the Commissioners may think fit.

(6) Subsection (5) above does not apply to an order under section 16(6) or 24(10) above.

46 Civil penalties

(1) Where a person is liable to a civil penalty imposed by or under this Part—

(a) the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; but

(b) on an appeal relating to any penalty reduced by the Commissioners, an appeal tribunal may cancel the whole or any part of the Commissioners' reduction.

(2) In determining whether a civil penalty should be, or should have been, reduced under subsection (1) above, no account shall be taken of any of the following matters, that is to say—

(a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the penalty;

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of aggregates levy;

(c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.

(3) For the purposes of any provision made by or under this Part under which liability to a civil penalty does not arise in respect of conduct for which there is shown to be a reasonable excuse—

(a) an insufficiency of funds available for paying any amount is not a reasonable excuse; and

(b) where reliance has been placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.

(4) Schedule 10 to this Act (which makes provision about the assessment of civil penalties imposed and about interest on such penalties) shall have effect.

(5) If it appears to the Treasury that there has been a change in the value of money since the time when the amount of a civil penalty provided for by this Part was fixed, they may by order made by statutory instrument substitute, for the amount for the time being specified as the amount of that penalty, such other sum as appears to them to be justified by the change.

(6) In subsection (5) above the reference to the time when the amount of a civil penalty was fixed is a reference—

(a) in the case of a penalty which has not previously been modified under that subsection, to the time of the passing of this Act; and

(b) in any other case, to the time of the making of the order under that subsection that made the most recent modification of the amount of that penalty.

(7) An order under subsection (5) above—

(a) shall not be made unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons; and

(b) shall not apply to the penalty for any conduct before the coming into force of the order.

(8) In this section "civil penalty" means any penalty liability to which arises otherwise than in consequence of a person's conviction for a criminal offence.

47 Service of notices etc

(1) Any notice, notification or requirement that is to be or may be served on, given to or imposed on any person for the purposes of any provision made by or under this Part may be served, given or imposed by sending it to that person or his tax representative by post in a letter addressed to that person or representative at the latest or usual residence or place of business of that person or representative.

(2) Any direction required or authorised by or under this Part to be given by the Commissioners may be given by sending it by post in a letter addressed to each person affected by it at his latest or usual residence or place of business.

(3) Any direction, notice or notification required or authorised by or under this Part to be given by the Commissioners may be withdrawn or varied by them by a direction, notice or notification given in the same manner as the one withdrawn or varied.

48 Interpretation of Part

(1) In this Part—

"accounting period" means a period which, in pursuance of any regulations under section 25(1) above, is an accounting period for the purposes of aggregates levy;

"aggregate" shall be construed in accordance with sections 17(1) and 18 above;

"agreement" includes any arrangement or understanding (whether or not legally enforceable), and cognate expressions shall be construed accordingly;

"agricultural" means agricultural within the meaning of the Agriculture Act 1967 (c. 22) or the Agriculture Act (Northern Ireland) 1949 (c. 2 (N.I.));

"appeal tribunal" means a VAT and duties tribunal;

"the commencement date" has the meaning given by section 16(6) above;

"commercial exploitation" shall be construed in accordance with section 19 above;

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

"conduct" includes acts and omissions;

"construction purposes" shall be construed in accordance with subsection (2) below;

"exempt process" shall be construed in accordance with section 18(2) above;

"forestry" includes the cultivation, maintenance and care of trees or woodland of any description;

"gravel" includes gravel comprising or containing pebbles or stones or both;

"limestone" includes chalk and dolomite;

"member", in relation to a group, shall be construed in accordance with section 35(6) above;

"mixed" includes blended, and cognate expressions shall be construed accordingly;

"non-resident taxpayer" means a person who—

(a) is or is required to be registered for the purposes of aggregates levy, or would be so required but for an exemption by virtue of regulations under section 24(4) above; and

(b) is not resident in the United Kingdom;

"operate" and "operator", in relation to any site, shall be construed in accordance with section 21 above;

"originating site" shall be construed in accordance with section 20 above;

"prescribed" means prescribed by regulations made by the Commissioners under this Part;

"registered" means registered in the register maintained under section 24 above;

"representative member", in relation to a group, shall be construed in accordance with section 35(6) above;

"rock" does not include any rock contained in a quantity of aggregate consisting wholly or mainly of gravel or sand;

"structure" includes roads and paths, the way on which any railway track is or is to be laid and embankments;

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

"tax credit" means a tax credit for which provision is made by tax credit regulations;

"tax credit regulations" means regulations under section 30 above;

"tax representative", in relation to any person, means the person who, in accordance with any regulations under section 33 above, is for the time being that person's tax representative for the purposes of aggregates levy;

"taxable aggregate" shall be construed in accordance with section 17(2) to (4) above;

"United Kingdom waters" means—

(a) the territorial sea adjacent to the United Kingdom; or

(b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29).

(2) References in this Part to the use of anything for construction purposes are references to either of the following, except in so far as it consists in the application to it of an exempt process, that is to say—

(a) using it as material or support in the construction or improvement of any structure;

(b) mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.

(3) References in this Part to winning any aggregate are references to winning it—

(a) by quarrying, dredging, mining or collecting it from any land or area of the seabed; or

(b) by separating it in any other manner from any land or area of the seabed in which it is comprised.

(4) References in this Part, in relation to any accounting period, to aggregates levy due from any person for that period are references (subject to any regulations made by virtue of section 25(2)(a) above) to the aggregates levy for which that person is required, in accordance with regulations under section 25 above, to account by reference to that period.

(5) References in this Part to a repayment of aggregates levy or of an amount of aggregates levy are references to any repayment of an amount to any person by virtue of—

(a) any tax credit regulations;

(b) section 31 above;

(c) paragraph 11(3) of Schedule 5 to this Act; or

(d) paragraph 6(3) of Schedule 10 to this Act.

(6) For the purposes of this Part a person is resident in the United Kingdom at any time if, at that time—

(a) that person has an established place of business in the United Kingdom;

(b) that person has a usual place of residence in the United Kingdom; or

(c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a) above) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

Supplemental

49 Minor and consequential amendments

(1) In section 1(1) of the Provisional Collection of Taxes Act 1968 (c. 2) (taxes in relation to which resolutions may have temporary statutory effect), after "landfill tax," there shall be inserted "aggregates levy,".

(2) In section 197(2) of the Finance Act 1996 (c. 8) (enactments for which interest rates are set under section 197), after paragraph (g) there shall be inserted—

"(h) the following provisions of the Finance Act 2001 (interest payable to or by the Commissioners in connection with aggregates levy), that is to say—

(i) sections 25(2)(f) and 30(3)(f);

(ii) paragraph 8(3)(a) of Schedule 5; and

(iii) paragraphs 2 and 6(1)(b) of Schedule 8.".

(3) In section 827 of the Taxes Act 1988 (no deduction for penalties etc.), the following subsection shall be inserted after subsection (1D)—

"(1E) Where a person is liable to make a payment by way of—

(a) any penalty under any provision of Part 2 of the Finance Act 2001 (aggregates levy),

(b) interest under any of paragraphs 5 to 9 of Schedule 5 to that Act (interest on aggregates levy due and on interest),

(c) interest under paragraph 6 of Schedule 8 to that Act (interest on recoverable overpayments etc.), or

(d) interest under paragraph 5 of Schedule 10 to that Act (interest on penalties),

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.".

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGE AND RATES

Income tax

50 Charge and rates for 2001-02

Income tax shall be charged for the year 2001-02, and for that year—

(a) the starting rate shall be 10%,

(b) the basic rate shall be 22%, and

(c) the higher rate shall be 40%.

51 Starting rate limit for 2001-02

(1) For the year 2001-02 the amount specified in section 1(2)(aa) of the Taxes Act 1988 (the starting rate limit) shall be £1,880.

(2) Accordingly, section 1(4) of that Act (indexation), so far as it relates to the amount so specified, does not apply for that year.

52 Children's tax credit: amount for 2001-02 and subsequent years

(1) In section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) for "£4,420" substitute "£5,200".

(2) This section has effect for the year 2001-02 and subsequent years of assessment.

53 Children's tax credit: baby rate

(1) After section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) insert—

"(2A) For a year of assessment during the whole or part of which a qualifying baby (or more than one) is resident with the claimant, subsection (2) above has effect as if the amount specified there were increased by £5,200.".

(2) After subsection (3) of that section (reduction of amount where claimant has income within the higher rate band) insert—

"(3A) Where subsection (2A) above applies, the reference in subsection (3) above to the amount specified in subsection (2) above is to the higher amount applicable by virtue of subsection (2A) above.".

(3) After subsection (4) of that section (meaning of "qualifying child") insert—

"(4A) In this section "qualifying baby", in relation to a year of assessment, means a qualifying child born in that year.".

(4) In section 257C(1) and (3) of the Taxes Act 1988 (indexation) for "257AA(2)" substitute "257AA(2) and (2A)".

(5) Schedule 13B to the Taxes Act 1988 (children's tax credit: provisions applicable where child lives with more than one adult in a year of assessment) is amended in accordance with Schedule 11 to this Act.

(6) Subsections (1) to (3) and (5) above have effect for the year 2002-03 and subsequent years of assessment.

(7) Subsection (4) above has effect for the purposes of the application of section 257AA of the Taxes Act 1988 for the year 2003-04 and subsequent years of assessment.

Corporation tax

54 Charge and main rate for financial year 2002

Corporation tax shall be charged for the financial year 2002 at the rate of 30%.

55 Small companies' rate and fraction for financial year 2001

For the financial year 2001—

(a) the small companies' rate shall be 20%, and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

56 Corporation tax starting rate and fraction for financial year 2001

For the financial year 2001—

(a) the corporation tax starting rate shall be 10%, and

(b) the fraction mentioned in section 13AA(3) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

CHAPTER 2

OTHER PROVISIONS

Employment

57 Mileage allowances: exemptions and relief

(1) In Chapter 4 of Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge: other exemptions and reliefs), after section 197AC insert—

"Mileage allowances

197AD Mileage allowance payments

(1) There is no charge to tax under Schedule E in respect of approved mileage allowance payments for a qualifying vehicle.

(2) Mileage allowance payments are amounts (other than passenger payments within the meaning of section 197AE(2)) paid to an employee in respect of expenses in connection with the use by him for business travel of a qualifying vehicle.

(3) Mileage allowance payments are approved only if, or to the extent that, for a tax year, the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question does not exceed the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

197AE Passenger payments

(1) There is no charge to tax under Schedule E in respect of approved passenger payments made to an employee for a car or van (whether or not it is a company vehicle) if—

(a) mileage allowance payments (within the meaning of section 197AD(2)) are made to the employee for the car or van, and

(b) if the car or van is made available to the employee by reason of his employment, he is chargeable to tax in respect of it under section 157 or 159AA (cars and vans made available for private use).

(2) Passenger payments are amounts paid to an employee because, while using a car or van for business travel, he carries one or more qualifying passengers in it.

"Qualifying passenger" means a passenger who is also an employee for whom the travel is business travel.

(3) Passenger payments are approved only if, or to the extent that, for a tax year, the total amount of all the passenger payments made to the employee does not exceed the approved amount for passenger payments.

(4) Section 168(6) (when cars and vans are made available by reason of employment) applies for the purposes of subsection (1)(b) above.

197AF Mileage allowance relief

(1) An employee is entitled to mileage allowance relief for a tax year if the employee uses a qualifying vehicle for business travel and—

(a) no mileage allowance payments are made to him for the kind of vehicle in question for the tax year, or

(b) the total amount of all the mileage allowance payments made to him for the kind of vehicle in question for the tax year is less than the approved amount for mileage allowance payments applicable to that kind of vehicle.

(2) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

(3) The amount of mileage allowance relief to which an employee is entitled for a tax year is—

(a) if subsection (1)(a) above applies, the approved amount for mileage allowance payments applicable to the kind of vehicle in question;

(b) if subsection (1)(b) above applies, the difference between the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question and the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) In this section "mileage allowance payments" has the meaning given by section 197AD(2).

197AG Giving effect to mileage allowance relief

(1) Mileage allowance relief to which an employee is entitled for a tax year is given effect as follows.

(2) Where any emoluments of the employment fall within Case I or IIof Schedule E, the relief is allowed as a deduction from those emoluments in calculating the amount chargeable to tax for that tax year.

(3) In the case of emoluments chargeable under Case III of Schedule E for a tax year there may be deducted from those emoluments the amount of any mileage allowance relief—

(a) for that tax year, and

(b) for any earlier tax year in which the employee was resident in the United Kingdom,

which might have been deducted from the emoluments of the employment for the tax year for which the employee is entitled to the relief if those emoluments had been chargeable under Case I of Schedule E.

(4) Subsection (3) above applies only to the extent that the mileage allowance relief cannot be deducted under subsection (2) above.

(5) A deduction shall not be made twice, whether under subsection (2) or (3) above, in respect of the same mileage allowance relief.

197AH Interpretation of sections 197AD to 197AG

Schedule 12AA to this Act defines terms used in sections 197AD to 197AG.".

(2) In the Taxes Act 1988 insert as Schedule 12AA the Schedule set out in Part 1 of Schedule 12 to this Act.

(3) The consequential amendments in Part 2 of Schedule 12 to this Act have effect.

(4) This section has effect for the year 2002-03 and subsequent years of assessment.

58 Mileage allowances: nil liability notices

(1) This section applies if—

(a) mileage allowance payments are made to an employee or office-holder in respect of the use of a vehicle that is not a company vehicle, or

(b) mileage allowance relief is available in respect of the use by an employee or office-holder of a vehicle.

(2) A nil liability notice in force immediately before 6th April 2002 shall cease to have effect in relation to—

(a) payments made, or

(b) benefits, facilities, non-cash vouchers, credit-tokens or cash vouchers provided,

in respect of expenses incurred in connection with the use of the vehicle by the employee or office-holder for business travel.

(3) In subsection (2) "nil liability notice" means a notice under—

(a) section 144(1) of the Taxes Act 1988 (notice of nil liability in respect of non-cash vouchers, credit-tokens or cash vouchers), or

(b) section 166(1) of that Act (notice of nil liability in respect of payments, benefits or facilities).

(4) In this section—

"business travel" has the meaning given by paragraph 2 of Schedule 12AA to the Taxes Act 1988;

"company vehicle" has the meaning given by paragraph 6 of Schedule 12AA to that Act; and

"mileage allowance payments" has the meaning given by section 197AD(2) of that Act.

59 Employees' vehicles: withdrawal of capital allowances

(1) In Chapter 3 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery: qualifying expenditure), for section 36 (restriction on qualifying expenditure in case of employment or office) substitute—

"**36 Restriction on qualifying expenditure in case of employment or office**

(1) Where the qualifying activity consists of an employment or office—

(a) expenditure on the provision of a mechanically propelled road vehicle, or a cycle, is not qualifying expenditure, and

(b) other expenditure is qualifying expenditure only if the plant or machinery is necessarily provided for use in the performance of the duties of the employment or office.

(2) In this section "cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988.".

(2) Section 80 of that Act (vehicles provided for purposes of employment or office) is repealed.

(3) The above amendments apply to expenditure incurred on or after 6th April 2002.

(4) Where immediately before 6th April 2002—

(a) expenditure incurred by an employee on the provision of a mechanically propelled road vehicle, or a cycle, was qualifying expenditure for the purposes of Part 2 of the Capital Allowances Act 2001 (c. 2) , and

(b) the employee is treated for the purposes of that Part as owning an asset as a result of that expenditure having been incurred,

the employee shall be treated for the purposes of that Part of that Act as if he had ceased to own the asset at that time.

(5) In subsection (4)—

"employee" includes an office-holder; and

"cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988 (c. 52).

60 Exemption for works bus services: extension to minibuses

(1) Section 197AA of the Taxes Act 1988 (works bus services: exemption from charge on benefits) is amended as follows.

(2) In subsection (1) (which confers the exemption), after "section 154 (taxable benefits: general charging provision)" insert ", or under section 157 (charge on provision of car for private use),".

(3) In subsection (2) (meaning of works bus service), after "by means of a bus" insert ", or a minibus,".

(4) In subsection (3) after the definition of "bus" insert—

""minibus" means a vehicle constructed or adapted for the carriage of passengers which has a seating capacity of 9 or more, but less than 12;".

(5) In subsection (6) after "154" insert "or 157".

(6) After subsection (8) (determination of seating capacity) insert—

"(9) In determining whether a vehicle is a minibus for the purposes of this section, no account shall be taken of seats in relation to which relevant construction and use requirements are not met.

In this subsection "construction and use requirements" has the same meaning as in Part 2 of the Road Traffic Act 1988 or, in Northern Ireland, Part III of the Road Traffic (Northern Ireland) Order 1995.".

(7) This section has effect for the year 2002-03 and subsequent years of assessment.

61 Employee share ownership plans

The provisions relating to employee share ownership plans are amended in accordance with Schedule 13 to this Act.

Enterprise incentives

62 Enterprise management incentives

Schedule 14 to this Act (which amends Schedule 14 to the Finance Act 2000 (c. 17) (enterprise management incentives)) has effect.

63 Enterprise investment scheme

Schedule 15 to this Act (which makes amendments relating to the enterprise investment scheme) has effect.

64 Venture capital

(1) Schedule 16 to this Act has effect.

(2) In that Schedule—

Part 1 makes amendments relating to venture capital trusts; and

Part 2 makes amendments relating to the corporate venturing scheme.

Capital allowances

65 Energy-saving plant and machinery

Schedule 17 to this Act (first-year allowances in respect of expenditure on energy-saving plant and machinery) has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

66 Fixtures provided in connection with energy management services

(1) Schedule 18 to this Act (fixtures provided in connection with provision of energy management services) has effect in relation to expenditure incurred on or after 1st April 2001.

(2) The Schedule has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

67 Conversion of parts of business premises into flats

Schedule 19 to this Act (capital allowances in respect of expenditure on the conversion of parts of business premises into flats) has effect in relation to expenditure incurred on or after the day on which this Act is passed.

68 Decommissioning of offshore oil infrastructure

Schedule 20 to this Act (capital allowances in respect of expenditure incurred on decommissioning offshore infrastructure) has effect.

69 Minor amendments

(1) Schedule 21 (which makes minor amendments to the Capital Allowances Act 2001 (c. 2)) has effect.

(2) The amendments made by the Schedule have effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

Other relieving provisions

70 Relief for expenditure on remediation of contaminated land

(1) Schedule 22 to this Act (tax relief for expenditure on land remediation) has effect for accounting periods ending on or after 1st April 2001.

(2) In that Schedule—

Part 1 provides for a deduction for certain capital expenditure in computing the profits of a Schedule A business or the profits of a trade for the purposes of Case I of Schedule D,

Part 2 provides for entitlement to relief,

Part 3 provides for the manner of giving effect to the relief,

Part 4 makes special provision for companies carrying on life assurance business, and

Part 5 contains supplementary provisions.

(3) Schedule 23 to this Act (which contains consequential amendments) has effect accordingly.

71 Creative artists: relief for fluctuating profits

(1) In Chapter 5 of Part 4 of the Taxes Act 1988 (computational provisions relating to the Schedule D charge), before section 96 and after the cross-heading "*Special provisions*" insert—

> "**95A Creative artists: relief for fluctuating profits**
>
> Schedule 4A (which enables individuals to make an averaging claim in respect of profits derived wholly or mainly from creative works) shall have effect.
>
> The provisions of that Schedule apply for the year 2000-01 and subsequent years of assessment (so that the first years which may be the subject of an averaging claim are 2000-01 and 2001-02).".

(2) After Schedule 4 to that Act insert the Schedule 4A set out in Part 1 of Schedule 24 to this Act.

(3) The following provisions of the Taxes Act 1988 are repealed—

section 534 (relief for copyright payments etc.);

section 535 (relief where copyright sold after ten years or more);

section 537A (relief for payments in respect of designs);

section 538 (relief for painters, sculptors and other artists).

The repeals have effect in relation to payments actually receivable on or after 6th April 2001.

(4) Part 2 of Schedule 24 to this Act contains amendments consequential on the preceding provisions of this section.

72 Expenditure on film production etc

In section 48(2)(a) of the Finance (No.2) Act 1997 (c. 58) (favourable tax treatment for certain expenditure on film production, etc. incurred before 2nd July 2002) for "2nd July 2002" substitute "2nd July 2005".

73 Deductions for business gifts: yearly limit

(1) Section 577 of the Taxes Act 1988 (prohibition on deduction of expenses in providing business entertainment or gifts) is amended as follows.

(2) In subsection (8)(b) (under which gifts not amounting to more than £10 in any year are disregarded)—

(a) for "year" substitute "relevant tax period", and

(b) for "£10" substitute "£50".

(3) After that subsection insert—

> "(8A) In subsection (8)(b) "relevant tax period" means—
>
> (a) for the purposes of corporation tax, an accounting period;

(b) for the purposes of income tax—

(i) for a year of assessment in relation to which sections 60 to 63 apply and give a basis period, that basis period;

(ii) in any other case, a year of assessment.".

(4) This section applies in relation to the year 2001-02 and subsequent years of assessment or, in the case of companies, in relation to accounting periods beginning on or after 1st April 2001.

Pension funds

74 Payments to employers out of pension funds

(1) Section 601 of the Taxes Act 1988 (charge on payment to employer out of funds held for purposes of exempt approved scheme) is amended as follows.

(2) In subsection (2) (amount recoverable by Board from employer) for "40 per cent. of the payment" substitute "the relevant percentage of the payment".

(3) After that subsection insert—

"(2A) The relevant percentage is 35% or such other percentage (whether higher or lower) as may be prescribed.".

(4) This section applies to payments made to employers after the passing of this Act.

Limited liability partnerships

75 Limited liability partnerships: general

(1) For section 118ZA of the Taxes Act 1988 (treatment of limited liability partnerships) substitute—

"**118ZA Treatment of limited liability partnerships**

(1) For the purposes of the Tax Acts, where a limited liability partnership carries on a trade, profession or other business with a view to profit—

(a) all the activities of the partnership are treated as carried on in partnership by its members (and not by the partnership as such),

(b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and

(c) the property of the partnership is treated as held by the members as partnership property.

References in this subsection to the activities of the limited liability partnership are to anything that it does, whether or not in the course of carrying on a trade, profession or other business with a view to profit.

(2) For all purposes, except as otherwise provided, in the Tax Acts—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade, profession or other business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above."

(2) In the Taxation of Chargeable Gains Act 1992 (c. 12), for section 59A (limited liability partnerships) substitute—

"**59A Limited liability partnerships**

(1) Where a limited liability partnership carries on a trade or business with a view to profit—

(a) assets held by the limited liability partnership are treated for the purposes of tax in respect of chargeable gains as held by its members as partners, and

(b) any dealings by the limited liability partnership are treated for those purposes as dealings by its members in partnership (and not by the limited liability partnership as such);

and tax in respect of chargeable gains accruing to the members of the limited liability partnership on the disposal of any of its assets shall be assessed and charged on them separately.

(2) For all purposes, except as otherwise provided, in the enactments relating to tax in respect of chargeable gains—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade or business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above.

(5) Where subsection (1) above ceases to apply in relation to a limited liability partnership with the effect that tax is assessed and charged—

(a) on the limited liability partnership (as a company) in respect of chargeable gains accruing on the disposal of any of its assets, and

(b) on the members in respect of chargeable gains accruing on the disposal of any of their capital interests in the limited liability partnership,

it shall be assessed and charged on the limited liability partnership as if subsection (1) above had never applied in relation to it.

(6) Neither the commencement of the application of subsection (1) above nor the cessation of its application in relation to a limited liability partnership shall be taken as giving rise to the disposal of any assets by it or any of its members.".

(3) In Chapter 2 of Part 5 of the Taxation of Chargeable Gains Act 1992 (c. 12) (relief for gifts of business assets), after section 169 insert—

"**169A Cessation of trade by limited liability partnership**

(1) This section applies where section 59A(1) ceases to apply to a limited liability partnership.

(2) A member of the partnership who immediately before the time at which section 59A(1) ceases to apply holds an asset, or an interest in an asset, acquired by him—

(a) on a disposal to members of a partnership, and

(b) for a consideration which is treated as reduced under section 165(4)(b) or 260(3)(b),

shall be treated as if a chargeable gain equal to the amount of the reduction accrued to him immediately before that time."

(4) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (groups of companies: meaning of "company"), in paragraph (b) after "company" insert "(other than a limited liability partnership)".

(5) Subsection (3) above shall be deemed to have come into force on 3rd May 2001 and applies where section 59A(1) of the Taxation of Chargeable Gains Act 1992 ceased or ceases to apply as mentioned in section 169A of that Act (as inserted by that subsection) on or after that date.

(6) The other provisions of this section shall be deemed to have come into force on 6th April 2001.

76 Limited liability partnerships: investment LLPs and property investment LLPs

(1) Schedule 25 to this Act has effect with respect to limited liability partnerships whose business consists wholly or mainly in the making of investments.

(2) The provisions of that Schedule shall be deemed to have come into force on 6th April 2001.

Chargeable gains

77 Notional transfers within a group

(1) Section 171A of the Taxation of Chargeable Gains Act 1992 (notional transfers within a group) shall be deemed to have been enacted with the following amendments.

(2) In subsection (2) (corporation tax consequences of election for asset disposed of by member A of a group to be treated as if, immediately before the disposal, it had been transferred to member B of the group) omit the word "and" immediately preceding paragraph (c) and at the end of that paragraph add—

"; and

(d) any incidental costs to A of making the actual disposal to C shall be deemed to be incidental costs to B of making the deemed disposal to C.".

(3) In subsection (4) (election to be made before second anniversary of end of accounting period of A in which disposal made) for "before" substitute "on or before".

78 Taper relief: assets qualifying as business assets

(1) Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) (application of taper relief) shall have effect with the amendments specified in Schedule 26 to this Act.

(2) Those amendments shall have effect, and be deemed always to have had effect, as if they had been included among the amendments made by section 67 of the Finance Act 2000 (c. 17).

79 De-grouping charge: transitional relief

Schedule 29 to the Finance Act 2000 (chargeable gains: non-resident companies and groups etc) shall be deemed to have been enacted with the following paragraph added at the end of Part 3 (transitional provisions) after paragraph 46—

"De-grouping charge: deferral until company leaves new group

47 (1) This paragraph has effect for the purposes of section 179 of the Taxation of Chargeable Gains Act 1992 as that section has effect in relation to assets acquired before 1st April 2000 ("old section 179").

(2) Where—

(a) a company would (apart from this paragraph) fall to be regarded for the purposes of old section 179 as ceasing to be a member of an old group at any time, but

(b) immediately before that time, it is also a member of a new group for the purposes of new section 179,

the company shall not be regarded for the purposes of old section 179 as ceasing to be a member of the old group unless or until it also ceases to be a member of the new group for the purposes of new section 179.

(3) Sub-paragraph (2) above does not prevent the company from being or becoming a member of another old group at any time.

(4) Where a company ceases to be a member of a new group on any occasion, it shall not by virtue of sub-paragraph (2) above be treated for the purposes of old section 179 as if it had on that occasion ceased to be a member of the same old group more than once.

(5) For the purposes of this paragraph—

(a) references to a company being a member of an old group are references to its being, for the purposes of old section 179, a member of a group of companies within the meaning given by old section 170;

(b) references to a company being a member of a new group are references to its being, for the purposes of new section 179, a member of a group of companies within the meaning given by new section 170; and

(c) references to a company ceasing to be a member of an old group or a new group shall be construed in accordance with paragraph (a) or (b) above, as the case may be.

(6) Where, for the purposes of sub-paragraph (2)(b) above, a company is not a member of a new group by reason only that—

(a) the principal company of the old group is not the principal company of the new group, and

(b) the company in question is not an effective 51 per cent subsidiary of the principal company of the new group,

subsection (3)(b) of new section 170 shall not apply in relation to the company for the purposes of this paragraph for so long as it remains an effective 51 per cent subsidiary of the company which was the principal company of the old group.

(7) In this paragraph—

(a) "new section 179" means section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) as it has effect in relation to assets acquired on or after 1st April 2000;

(b) "new section 170" means section 170 of that Act, as amended by the main amendments;

(c) "old section 170" means section 170 of the Taxation of Chargeable Gains Act 1992, as it stands before the main amendments.

(8) Expressions used in this paragraph and in section 170 of the Taxation of Chargeable Gains Act 1992 shall be construed in accordance with that section.".

80 Attribution of gains of non-resident companies

(1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) is amended as follows.

(2) In subsection (4) (no attribution if amount does not exceed one twentieth of gain) for "one twentieth" substitute "one tenth".

(3) In subsection (5) (gains to which the section does not apply) for paragraph (b) substitute—

"(b) a chargeable gain accruing on the disposal of an asset used, and used only—

(i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(ii) for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom,".

(4) For subsection (5A) (credit for tax on attributed gain in relation to later distribution) substitute—

"(5A) Where—

(a) an amount of tax is paid by a person in pursuance of subsection (2) above, and

(b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) before the end of the period specified in subsection (5B) below,

the amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

(a) the end of the period of account of the company in which the chargeable gain accrued, or

(b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

In paragraph (a) above a "period of account" means a period for which the company makes up its accounts."

(5) After subsection (10A) insert—

"(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

(a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person's interest as a participator in the company, and

(b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of section 271(1)(b), (c), (d), (g) or (h) or (2).

In paragraph (a) above "assets of a pension scheme" means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.".

(6) This section applies to chargeable gains accruing as mentioned in section 13(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001.

International matters

81 Double taxation relief

Schedule 27 to this Act (double taxation relief) has effect.

82 Controlled foreign companies: acceptable distribution policy

(1) Part 1 of Schedule 25 to the Taxes Act 1988 (acceptable distribution policy) is amended as follows.

(2) In paragraph 2 (meaning of acceptable distribution policy) at the end of sub-paragraph (1A) (requirement that payment of dividend is taken into account in computing corporation tax) add—

"and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436, 439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 2B below has effect for the purposes of paragraph (b) above."

(3) After paragraph 2A insert—

"2B (1) This paragraph has effect for the purposes of paragraph 2(1A)(b) above.

(2) No payment of dividend by a controlled foreign company for an accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period.

(3) "UK tax avoidance scheme" means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

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

"United Kingdom tax" means corporation tax or any tax chargeable as if it were corporation tax.".

(4) In paragraph 4 (controlled foreign company dividends passing up a chain of related companies) at the end of sub-paragraph (1) (which provides for a payment made by a controlled foreign company to be regarded as made to a United Kingdom resident) add "and shall be taken to satisfy the conditions in paragraph 2(1A) above".

(5) At the end of sub-paragraph (1A) of that paragraph (requirement that the subsequent dividend is taken into account in computing corporation tax) add—

"and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436, 439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 4A below has effect for the purposes of paragraph (b) above.".

(6) In sub-paragraph (2) of that paragraph (interpretation) after "one company is related to another if" insert "neither is resident in the United Kingdom and".

(7) After paragraph 4 insert—

"4A (1) This paragraph has effect for the purposes of paragraph 4(1A)(b) above.

(2) No payment to a company resident in the United Kingdom which represents the whole or part of a dividend paid by a controlled foreign company for an accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that—

(a) there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period, and

(b) so much of the dividend as is represented by that payment will (if paragraph 4(1) above has effect) fall to be brought into account in determining whether the controlled foreign company has done so.

(3) "UK tax avoidance scheme" means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

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

"United Kingdom tax" means corporation tax or any tax chargeable as if it were corporation tax."

(8) This section applies to dividends paid on or after 7th March 2001 by a controlled foreign company for any accounting period of that controlled foreign company which ends on or after that date.

(9) In this section "accounting period" and "controlled foreign company" have the same meaning as they have in Chapter 4 of Part 17 of the Taxes Act 1988.

Miscellaneous

83 Life policies, life annuity contracts and capital redemption policies

(1) Schedule 28 to this Act (which makes amendments relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

(2) The amendments made by Part 1 of that Schedule (which relate to the assignment or surrender of part of, or a share in, the rights conferred by a policy or contract) have effect, in the case of any policy or contract, in relation to any year (within the meaning given by section 546(4) of the Taxes Act 1988) beginning on or after 6th April 2001.

(3) The amendments made by Part 2 of that Schedule (which relate to the provision by insurers etc of information relating to chargeable events happening in connection with a policy or contract) have effect in relation to chargeable events happening on or after 6th April 2002.

84 Exclusion of deductions for deemed manufactured payments

(1) Section 736B of the Taxes Act 1988 (deemed manufactured payments in case of stock lending arrangements) is amended as follows.

(2) In subsection (2) (application of provisions to deemed manufactured payments) after "shall apply" insert ", subject to subsection (2A) below,".

(3) After that subsection insert—

"(2A) The borrower is not entitled, by virtue of anything in Schedule 23A or any provision of regulations under that Schedule, or otherwise—

(a) to any deduction in computing profits or gains for the purposes of income tax or corporation tax, or

(b) to any deduction against total income or, as the case may be, total profits,

in respect of any such deemed requirement or payment as is provided for by subsection (2) above.

Where the borrower is a company, an amount may not be surrendered by way of group relief if a deduction in respect of it is prohibited by this subsection."

(4) This section applies to payments treated under section 736B as made on or after 3rd October 2000.

85 Deduction of tax: payments between companies etc

(1) After section 349 of the Taxes Act 1988 (certain payments to be made under deduction of tax) insert—

"**349A Exceptions to section 349 for payments between companies etc**

(1) The provisions specified in subsection (3) below (which require tax to be deducted on making certain payments) do not apply to a payment made by a company if, at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied.

(2) Subsection (1) above has effect subject to any directions under section 349C.

(3) The provisions are—

section 349(1) (certain annuities and other annual payments, and royalties and other sums paid for use of UK patents),

section 349(2)(a) and (b) (UK interest),

section 349(3A) (dividend or interest on securities issued by building societies), and

section 524(3)(b) (which provides for section 349(1) to apply to proceeds of sale of UK patent rights).

(4) References in subsection (3) above to any provision of section 349 do not include that provision as applied—

(a) under section 777(9) (directions applying section 349(1) to certain payments to non-residents), or

(b) by paragraph 4(2) of Schedule 23A (manufactured overseas dividends to be treated as annual payments within section 349).

(5) References in this section to the company by which a payment is made do not include a company acting as trustee or agent for another person.

(6) For the purposes of this section, a payment by a partnership is treated as made by a company if any member of the partnership is a company.

349B The conditions mentioned in section 349A(1)

(1) The first of the conditions mentioned in section 349A(1) is that the person beneficially entitled to the income in respect of which the payment is made is—

(a) a company resident in the United Kingdom, or

(b) a partnership each member of which is a company resident in the United Kingdom.

(2) The second of those conditions is that—

(a) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"),

(b) the non-resident company carries on a trade in the United Kingdom through a branch or agency, and

(c) the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company.

349C Directions disapplying section 349A(1)

(1) The Board may give a direction to a company directing that section 349A(1) is not to apply in relation to any payment that—

(a) is made by the company after the giving of the direction, and

(b) is specified in the direction or is of a description so specified.

(2) Such a direction shall not be given unless the Board have reasonable grounds for believing as respects each payment to which the direction relates that it is likely that neither of the conditions specified in section 349B will be satisfied in relation to the payment at the time the payment is made.

(3) A direction under this section may be varied or revoked by a subsequent such direction.

(4) In this section "company" includes a partnership of which any member is a company.

349D Section 349A(1): consequences of reasonable but incorrect belief

(1) Where—

(a) a payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied,

(c) if the company did not so believe, tax would be deductible from the payment under section 349, and

(d) neither of the conditions specified in section 349B is satisfied at the time the payment is made,

section 350 applies as if the payment were within section 349 (and Schedule 16 applies as if tax were deductible from the payment under section 349).

(2) In this section "company" includes a partnership of which any member is a company.".

(2) In section 98 of the Taxes Management Act 1970 (c. 9) (penalties for failing to make, or making incorrectly, certain returns etc.), after subsection (4) insert—

"(4A) If—

(a) a failure to comply with section 350(1) of, or Schedule 16 to, the principal Act arises from a person's failure to deliver an account, or show the amount, of a payment, and

(b) the payment is within subsection (4B) below,

subsection (1) above shall have effect as if for "£300" there were substituted "£3,000" and as if for "£60" there were substituted "£600".

(4B) A payment is within this subsection if—

(a) the payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company—

(i) does not believe that either of the conditions specified in section 349B of the principal Act is satisfied, or

(ii) where it believes that either of those conditions is satisfied, could not reasonably so believe,

(c) the payment is one from which tax is deductible under section 349 of the principal Act unless the company reasonably believes that one of those conditions is satisfied, and

(d) neither of those conditions is satisfied at the time the payment is made.

(4C) In subsection (4B) above "company" includes a partnership of which any member is a company.".

(3) In section 338(4) of the Taxes Act 1988 (when payment by company to non-resident to be treated as charge on income), after paragraph (a) insert—

"(aa) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"), the non-resident company carries on a trade in the United Kingdom through a branch or agency and the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company, or".

(4) Subsections (1) to (3) apply to payments made on or after 1st April 2001.

(5) Sections 247 and 248 of the Taxes Act 1988 (companies within a group may elect for section 349 not to apply to payments between them) shall cease to have effect.

(6) Subsection (5) applies in relation to payments made after the day on which this Act is passed.

86 Profits for purposes of small companies' relief

(1) Section 13 of the Taxes Act 1988 (small companies' relief) is amended in accordance with subsections (2) to (4).

(2) In subsection (7) (profits of company for accounting period)—

(a) in paragraph (a), omit "resident in the United Kingdom", and

(b) in paragraph (b), for "section 247(1A)" substitute "subsection (7A) below".

(3) After subsection (7) insert—

"(7A) A company falls within this subsection if—

(a) it is a 75 per cent subsidiary of any other company, or

(b) arrangements of any kind (whether in writing or not) are in existence by virtue of which it could become such a subsidiary.".

(4) For subsection (8AA) (interpretation of subsection (7)) substitute—

"(8AA) Section 13ZA applies for the interpretation of subsection (7) above.".

(5) After section 13 of the Taxes Act 1988 insert—

"**13Z AInterpretation of section 13(7)**

(1) In determining for the purposes of section 13(7) whether one body corporate is a 51 per cent subsidiary of another, that other shall be treated as not being the owner of any share capital—

(a) which it owns indirectly, and

(b) which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

(2) Notwithstanding that at any time a company ("the subsidiary company") is a 51 per cent subsidiary of another company ("the parent company") it shall not be treated at that time as such a subsidiary for the purposes of section 13(7) unless, additionally, at that time—

(a) the parent company would be beneficially entitled to more than 50 per cent of any profits available for distribution to equity holders of the subsidiary company, and

(b) the parent company would be beneficially entitled to more than 50 per cent of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(3) For the purposes of section 13(7) and this section—

(a) "trading or holding company" means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies that are its 90 per cent subsidiaries;

(b) "trading company" means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

(c) a company is owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by companies of which none—

(i) beneficially owns less than 5 per cent of that capital,

(ii) would be beneficially entitled to less than 5 per cent of any profits available for distribution to equity holders of the company, or

(iii) would be beneficially entitled to less than 5 per cent of any assets of the company available for distribution to its equity holders on a winding up,

and those companies are called the members of the consortium.

(4) Schedule 18 (equity holders and assets etc. available for distribution) applies for the purposes of subsections (2) and (3)(c) above as it applies for the purposes of section 413(7)."

(6) The amendments made by this section apply for the purposes of accounting periods ending on or after 1st April 2001.

87 Tax deductions and credits: end of provisional repayment regime

(1) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 (provisional repayments in respect of tax borne by deduction and tax credits) shall cease to have effect as follows.

(2) Those provisions shall not apply in relation to income tax borne by deduction from payments received after 30th September 2001.

(3) For the purposes of the following provisions (as they apply in relation to tax credits)—

(a) section 121 of the Finance Act 1993 (c. 34) (application of Schedule 19AB to tax exempt business of friendly societies) and any regulations under that section, and

(b) any regulations under section 333B of the Taxes Act 1988 (individual savings account business etc. of insurance companies and friendly societies),

that Schedule shall be deemed to continue to apply in relation to pension business of insurance companies as it would do so apart from subsection (2).

(4) The power to make regulations under each of the sections referred to in subsection (3) includes power to set out the text of that Schedule as applied by regulations under that section.

(5) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 shall not apply in relation to tax credits in respect of distributions made on or after 6th April 2004.

General

88 Amendments to the machinery of self-assessment

(1) Schedule 29 to this Act (amendments to the machinery of self-assessment) has effect.

(2) In that Schedule—

Part 1 makes provision about the amendment or correction of returns,

Part 2 makes provision about enquiries into returns,

Part 3 makes provision for the referral of questions to the Special Commissioners during an enquiry,

Part 4 makes provision about the procedure on completion of an enquiry, and Part 5 contains minor and consequential amendments.

(3) Except as otherwise provided, the amendments in that Schedule have effect as from the passing of this Act in relation to returns—

(a) whether made before or after the passing of this Act, and

(b) whether relating to periods before or after the passing of this Act.

89 Recovery proceedings: minor amendments

(1) In sections 66(1) and 67(1) of the Taxes Management Act 1970 (c. 9) (proceedings in county court or sheriff court to recover tax due and payable under an assessment), omit the words "under any assessment".

This amendment applies in relation to proceedings begun after the passing of this Act.

(2) For section 69 of the Taxes Management Act 1970 substitute—

"**69 Recovery of penalty, surcharge or interest**

(1) This section applies to—

(a) penalties imposed under Part 2, 5A or 10 of this Act or Schedule 18 to the Finance Act 1998;

(b) surcharges imposed under Part 5A of this Act; and

(c) interest charged under any provision of this Act (or recoverable as if it were interest so charged).

(2) An amount by way of penalty, surcharge or interest to which this section applies shall be treated for the purposes of the following provisions as if it were an amount of tax.

(3) Those provisions are—

(a) sections 61, 63 and 65 to 68 of this Act;

(b) section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court: restriction of set-off or counterclaim where proceedings, or set-off or counterclaim, relate to tax) and any rules of court imposing any such restriction;

(c) section 35(2)(b) of that Act as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland)."

This amendment applies—

(a) to proceedings begun (or a counterclaim made) after the passing of this Act, and

(b) to a set-off first claimed after the passing of this Act.

(3) In section 70 of the Taxes Management Act 1970 (c. 9) (evidence), in subsection (2)(a) (certificate of collector as to penalty, surcharge or interest payable), for "payable under Part 9 of this Act" substitute "payable under any provision of this Act or the principal Act".

This amendment applies to certificates tendered in evidence after the passing of this Act.

90 Repayment supplements: claim for relief involving two or more years

(1) Section 824 of the Taxes Act 1988 (repayment supplements) is amended as follows.

(2) After subsection (2B) insert—

"(2C) Subsection (1) above shall apply to a repayment made by the Board as a result of a claim for relief under—

(a) paragraph 2 of Schedule 1B to the Management Act (carry back of loss relief),

(b) paragraph 3 of that Schedule (relief for fluctuating profits of farming etc.), or

(c) Schedule 4A to this Act (relief for fluctuating profits of creative artists etc.),

as if it were a repayment falling within that subsection.".

(3) In subsection (3), after paragraph (aa) insert—

"(ab) if the repayment is a repayment as a result of a claim for relief under any of the provisions mentioned in subsection (2C) above, the relevant time is the 31st January next following the year that is the later year in relation to the claim;".

(4) This section applies in relation to repayments made after the passing of this Act.

91 Power to revise excessive penalties

(1) In section 100 of the Taxes Management Act 1970 (determination of penalties by officer of the Board), in subsection (6) (revision of penalty if amount of tax taken into account discovered to be excessive), after "a penalty under" insert "section 93(2), (4) or (5) of this Act or".

(2) This section applies in relation to penalties determined at any time whether before or after the passing of this Act.

PART 4

OTHER TAXES

Stamp duty and stamp duty reserve tax

92 Stamp duty: exemption for land in disadvantaged areas

(1) No stamp duty shall be chargeable under Part 1 or 2, or paragraph 16 of Part 3, of Schedule 13 to the Finance Act 1999 (c. 16) on—

(a) a conveyance or transfer of an estate or interest in land, or

(b) a lease of land,

if the land is situated in a disadvantaged area.

(2) Where stamp duty would be chargeable on an instrument but for subsection (1), that subsection shall have effect in relation to the instrument only if the instrument is certified to the Commissioners as being an instrument on which stamp duty is by virtue of that subsection not chargeable.

(3) No instrument which is certified as mentioned in subsection (2) shall be taken to be duly stamped unless—

(a) it is stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, or

(b) it is stamped with the duty to which it would have been liable but for this section.

(4) For the purposes of this section and Schedule 30 to this Act, a disadvantaged area is an area designated as such by regulations made by the Treasury; and any such regulations may—

(a) designate specified areas as disadvantaged areas, or

(b) provide for areas of a description specified in the regulations to be designated as disadvantaged areas.

(5) If regulations under subsection (4) so provide, the designation of an area as a disadvantaged area shall have effect for such period as may be specified by or determined in accordance with the regulations.

(6) Schedule 30 to this Act (which makes further provision about land in disadvantaged areas) shall have effect.

(7) This section and Schedule 30 to this Act shall be construed as one with the Stamp Act 1891.

(8) The provisions of this section and Schedule 30 to this Act shall have effect in relation to instruments executed on or after such date as may be specified by order made by the Treasury.

(9) Regulations under subsection (4)—

(a) may make different provision for different cases, and

(b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

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

(11) The power to make an order under subsection (8) shall be exercisable by statutory instrument.

93 SDRT: unit trust schemes and individual pension accounts

(1) Schedule 19 to the Finance Act 1999 (c. 16) (which abolishes charges to stamp duty, and introduces a charge to stamp duty reserve tax, in relation to units under a unit trust scheme) is amended as follows.

(2) In paragraph 2(4) (charge to be subject to exclusions provided in paragraphs 6 and 7) after "6" insert ", 6A".

(3) In paragraph 4 (proportionate reduction of tax by reference to units issued) at the end insert—

"(6) If a certificate is given in accordance with paragraph 6A(1)(c) in respect of a period which includes the relevant two-week period in the case of the

unit in question in sub-paragraph (1), there shall be left out of account in applying this paragraph in relation to that unit—

(a) any issue of a unit which is to be held within an individual pension account, and

(b) any surrender of a unit which, immediately before the surrender, was held within an individual pension account.

(7) "Individual pension account" has the same meaning in sub-paragraph (6) as it has in paragraph 6A."

(4) After paragraph 6 insert—

"Exclusion of charge in case of individual pension accounts

6A (1) There is no charge to tax under this Part of this Schedule on the surrender of the unit if—

(a) immediately before the surrender, the unit is held within an individual pension account,

(b) not all the units under the unit trust scheme are so held at that time, and

(c) a certificate pursuant to sub-paragraph (2) is contained in, or provided with, the relevant monthly tax return.

(2) The certificate must be given by the persons making the relevant monthly tax return and must state—

(a) that at all times in the period to which the return relates the trustees or managers were able to identify which of the units under the scheme were held within individual pension accounts, and

(b) that at no time in that period have the trustees or managers imposed any charge on, or recovered any amount from, an IPA unit holder which included an amount directly or indirectly attributable to tax payable by the trustees under this Part of this Schedule.

(3) In sub-paragraph (2), "IPA unit holder" means—

(a) a person acquiring, or who has acquired, a unit under the unit trust scheme, where the unit is to be held within an individual pension account,

(b) a person holding a unit under the scheme, where the unit is held within an individual pension account, or

(c) a person surrendering, or who has surrendered, a unit under the scheme, where immediately before the surrender the unit is or was held within an individual pension account.

(4) In this paragraph—

"individual pension account" has the same meaning as in regulations under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117)) ;

"the relevant monthly tax return", in the case of any surrender, means the notice required by regulations under section 98 of

the Finance Act 1986 (c. 41) to be given by the managers (or, failing that, the trustees) under the unit trust scheme to the Commissioners of Inland Revenue containing among other things details of all surrenders in the relevant two-week period;

"the relevant two-week period" has the meaning given by paragraph 4(2)."

(5) The amendment made by subsection (3) has effect where the relevant two-week period mentioned in paragraph 4(1) of Schedule 19 to the Finance Act 1999 (c. 16) ends after 6th April 2001.

(6) The other amendments made by this section have effect in relation to surrenders made or effected on or after 6th April 2001.

94 SDRT: open-ended investment companies and individual pension accounts

(1) Where there are two or more classes of shares in an open-ended investment company and the company's instrument of incorporation—

(a) provides that shares of one or more of those classes ("the IPA classes") may only be held within an individual pension account, and

(b) does not make such provision in relation to shares of at least one other class,

there is no charge to stamp duty reserve tax under Part 2 of Schedule 19 to the Finance Act 1999 (c. 16) on the surrender of a share of any of the IPA classes.

(2) References in this section to provisions of Schedule 19 to the Finance Act 1999 (c. 16) are references to those provisions as they have effect in relation to open-ended investment companies by virtue of regulations from time to time in force under section 152 of the Finance Act 1995 (c. 4)(as at 6th April 2001, see regulations 3 to 4B of the 1997 Regulations as amended by regulations 4 and 5 of the 1999 (No.2) Regulations).

(3) In this section—

"individual pension account" has the same meaning as it has in regulations from time to time in force under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the 2001 Regulations);

"open-ended investment company" has the meaning given by paragraph 14(2) of Schedule 19 to the Finance Act 1999 (c. 16);

"surrender", in relation to a share in an open-ended investment company, has the same meaning as it has in Part 2 of Schedule 19 to the Finance Act 1999.

(4) For the purposes of subsections (2) and (3)—

"the 1997 Regulations" are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/ 1156) ;

"the 1999 (No.2) Regulations" are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) (Amendment No.2) Regulations 1999 (S.I. 1999/3261);

"the 2001 Regulations" are the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117).

(5) This section has effect in relation to surrenders made or effected on or after 6th April 2001.

95 Exemptions in relation to employee share ownership plans

(1) Schedule 8 to the Finance Act 2000 (c. 17) (employee share ownership plans) is amended as follows.

(2) After paragraph 116 insert—

"Exemptions from stamp duty and stamp duty reserve tax

116A Where, under an approved employee share ownership plan, partnership shares or dividend shares are transferred by the trustees to an employee—

(a) no ad valorem stamp duty is chargeable on any instrument by which the transfer is made, and

(b) no stamp duty reserve tax is chargeable on any agreement by the trustees to make the transfer."

(3) This section has effect in relation to—

(a) instruments executed (within the meaning of the Stamp Act 1891 (c. 39)) after the day on which this Act is passed, and

(b) agreements to transfer shares made after the day on which this Act is passed.

Value added tax

96 VAT: children's car seats

(1) In paragraph 1 of Schedule A1 to the Value Added Tax Act 1994 (c. 23) (supplies benefiting from 5% reduced rate), after sub-paragraph (4) insert—

"(5) The supplies falling within this paragraph also include supplies of children's car seats."

(2) After paragraph 6 of that Schedule insert—

"Interpretation of paragraph 1(5)

7 (1) Paragraph 1(5) above is interpreted in accordance with the provisions of this paragraph.

(2) The following are "children's car seats"—

(a) a safety seat;

(b) the combination of a safety seat and a related wheeled framework;

(c) a booster seat;

(d) a booster cushion.

(3) In this paragraph "safety seat" means a seat—

(a) designed to be sat in by a child in a road vehicle,

(b) designed so that, when in use in a road vehicle, it can be restrained—

(i) by a seat belt fitted in the vehicle, or

(ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or

(iii) in either of those ways, and

(c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

(4) For the purposes of this paragraph, a wheeled framework is "related" to a safety seat if the framework and the seat are each designed so that—

(a) when the seat is not in use in a road vehicle it can be attached to the framework, and

(b) when the seat is so attached, the combination of the seat and the framework can be used as a child's pushchair.

(5) In this paragraph "booster seat" means a seat designed—

(a) to be sat in by a child in a road vehicle, and

(b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

(6) In this paragraph "booster cushion" means a cushion designed—

(a) to be sat on by a child in a road vehicle, and

(b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle.

(7) In this paragraph "child" means a person aged under 14 years.".

(3) The amendments made by this section have effect in relation to supplies made after the day on which this Act is passed.

97 VAT: residential conversions and renovations

(1) In paragraph 1 of Schedule A1 to the Value Added Tax Act 1994 (c. 23) (supplies benefiting from 5% reduced rate), after sub-paragraph (5) (which is inserted by section 96 of this Act) insert—

"(6) The supplies falling within this paragraph also include—

(a) the supply, in the course of a qualifying conversion, of qualifying services related to the conversion;

(b) the supply of building materials if—

(i) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and

(ii) those services include the incorporation of the materials in the building concerned or its immediate site.

(7) The supplies falling within this paragraph also include—

(a) the supply, in the course of the renovation or alteration of a single household dwelling, of qualifying services related to the renovation or alteration;

(b) the supply of building materials if—

(i) the materials are supplied by a person who, in the course of the renovation or alteration of a single household dwelling, is supplying qualifying services related to the renovation or alteration, and

(ii) those services include the incorporation of the materials in the dwelling concerned or its immediate site.

(8) Sub-paragraph (9) below applies where a supply of services is only in part a supply to which sub-paragraph (6)(a) or (7)(a) above applies.

(9) The supply, to the extent that it is one to which paragraph (a) of sub-paragraph (6) or (7) above applies, is to be taken to be a supply to which that paragraph applies; and an apportionment may be made to determine that extent."

(2) After paragraph 7 of that Schedule (which also is inserted by section 96 of this Act) insert—

"Interpretation of paragraph 1(6): introductory

8 (1) Paragraph 1(6) above is interpreted in accordance with paragraphs 9 to 17 and 22 below.

(2) In paragraphs 10 to 14 below, "single household dwelling" means a dwelling—

(a) that is designed for occupation by a single household, and

(b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.

(3) In paragraphs 10 to 14 below "multiple occupancy dwelling" means a dwelling—

(a) that is designed for occupation by persons not forming a single household, and

(b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.

(4) The conditions are—

(a) that the dwelling consists of self-contained living accommodation,

(b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,

(c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and

(d) that the separate disposal of the dwelling is not prohibited by any such terms.

(5) For the purposes of this paragraph, a dwelling "is designed" for occupation of a particular kind if it is so designed—

(a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or

(b) as a result of adaptation.

Interpretation of paragraph 1(6): meaning of "qualifying conversion"

9 (1) A "qualifying conversion" means—

(a) a changed number of dwellings conversion (see paragraph 10 below);

(b) house in multiple occupation conversion (see paragraph 11 below); or

(c) a special residential conversion (see paragraph 12 below).

(2) Sub-paragraph (1) above is subject to paragraphs 14 and 15 below.

Interpretation of paragraph 1(6): meaning of "changed number of dwellings conversion"

10 (1) A "changed number of dwellings conversion" is—

(a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or

(b) a conversion of premises consisting of a part of a building where those conditions are satisfied.

(2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—

(a) different from the number (if any) that the premises contain before the conversion, and

(b) greater than, or equal to, one.

(3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

Interpretation of paragraph 1(6): meaning of "house in multiple occupation conversion"

11 (1) A "house in multiple occupation conversion" is—

(a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or

(b) a conversion of premises consisting of a part of a building where that condition is satisfied.

(2) The condition is that—

(a) before the conversion the premises being converted contain only a single household dwelling or two or more such dwellings,

(b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and

(c) the use to which those premises are intended to be put after the conversion is not to any extent use for a qualifying residential purpose (see paragraph 17 below).

Interpretation of paragraph 1(6): meaning of "special residential conversion"

12 (1) A "special residential conversion" is a conversion of premises consisting of—

(a) a building or two or more buildings,

(b) a part of a building or two or more parts of buildings, or

(c) a combination of—

(i) a building or two or more buildings, and

(ii) a part of a building or two or more parts of buildings,

where the conditions specified in this paragraph are satisfied.

(2) The first condition is that, before the conversion, the premises being converted contain only—

(a) a dwelling or two or more dwellings, or

(b) a dwelling, or two or more dwellings, and—

(i) an ancillary outbuilding occupied together with the dwelling or one or more of the dwellings, or

(ii) two or more ancillary outbuildings each occupied together with the dwelling or one or more of the dwellings.

(3) In sub-paragraph (2) above "dwelling" means single household dwelling or multiple occupancy dwelling.

(4) The second condition is that where before the conversion the premises being converted contain a multiple occupancy dwelling or two or more such dwellings, the use to which that dwelling, or any of those dwellings, was last put before the conversion was not to any extent use for a qualifying residential purpose (see paragraph 17 below).

(5) The third condition is that the premises being converted must be intended to be used after the conversion solely for a qualifying residential purpose.

(6) The fourth condition is that, where the qualifying residential purpose is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.

(7) In sub-paragraph (6) above "institutional purpose" means a purpose within paragraph 17(a) to (c), (f) or (g) below.

Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation

13 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.

(2) Paragraph 1(6)(a) or (b) above does not apply to a supply unless—

(a) it is made to a person who intends to use the premises being converted for the qualifying residential purpose, and

(b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3) below.

(3) Those requirements are that the certificate—

(a) is in such form as may be specified in a notice published by the Commissioners, and

(b) states that the conversion is a special residential conversion.

(4) In sub-paragraph (2)(a) above "the qualifying residential purpose" means the purpose within paragraph 17 below for which the premises being converted are intended to be used after the conversion.

Interpretation of paragraph 1(6): "qualifying conversion" includes related garage works

14 (1) A qualifying conversion includes any garage works related to the—

(a) changed number of dwellings conversion,

(b) house in multiple occupation conversion, or

(c) special residential conversion,

concerned.

(2) In this paragraph "garage works" means—

(a) the construction of a garage, or

(b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.

(3) For the purposes of sub-paragraph (1) above, garage works are "related" to a conversion if—

(a) they are carried out at the same time as the conversion, and

(b) the resulting garage is intended to be occupied with—

(i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,

(ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or

(iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.

(4) In sub-paragraph (2) above "non-residential" means neither designed, nor adapted, for use—

(a) as a dwelling or two or more dwellings, or

(b) for a qualifying residential purpose (see paragraph 17 below).

Interpretation of paragraph 1(6): conversion not "qualifying" if planning consent and building control approval not obtained

15 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.

(2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

Interpretation of paragraph 1(6): meaning of "supply of qualifying services"

16 (1) In the case of a conversion of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the building, or

(b) the carrying out of works within the immediate site of the building that are in connection with—

(i) the means of providing water, power, heat or access to the building,

(ii) the means of providing drainage or security for the building, or

(iii) the provision of means of waste disposal for the building.

(2) In the case of a conversion of part of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the part, or

(b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—

(i) the means of providing water, power, heat or access to the part,

(ii) the means of providing drainage or security for the part, or

(iii) the provision of means of waste disposal for the part.

(3) In this paragraph—

(a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials (see paragraph 22 below);

(b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

Interpretation of paragraphs 11 to 14: meaning of "qualifying residential purpose"

17 For the purposes of paragraphs 11 to 14 above, "use for a qualifying residential purpose" means use as—

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,

(d) residential accommodation for students or school pupils,

(e) residential accommodation for members of any of the armed forces,

(f) a monastery, nunnery or similar establishment, or

(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

Interpretation of paragraph 1(7): introductory

18 (1) Paragraph 1(7) above is interpreted in accordance with this paragraph and paragraphs 19 to 22 below.

(2) For the purposes of paragraph 1(7) above (and paragraphs 19 to 21 below) —

"alteration" includes extension;

"single household dwelling" has the meaning given by paragraph 8(2), (4) and (5) above.

Paragraph 1(7) only applies where dwelling has been empty for at least 3 years

19 (1) Paragraph 1(7) above does not apply to a supply unless either of the empty home conditions is satisfied.

(2) The first "empty home condition" is that the dwelling concerned has not been lived in during the period of 3 years ending with the commencement of the relevant works.

(3) The second "empty home condition" is that—

(a) the dwelling was not lived in during a period of at least 3 years;

(b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—

(i) no later than the end of that period, and

(ii) when the dwelling had been not lived in for at least 3 years;

(c) no works by way of renovation or alteration were carried out to the dwelling during the period of 3 years ending with the acquisition;

(d) the supply is made to a person who is—

(i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a) above, and

(ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b) above; and

(e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.

(4) In this paragraph "the relevant works" means—

(a) where the supply is of the description set out in paragraph 1(7)(a) above, the works that constitute the services supplied;

(b) where the supply is of the description set out in paragraph 1(7)(b) above, the works by which the materials concerned are incorporated in the dwelling concerned or its immediate site.

(5) In sub-paragraph (3) above, references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

Paragraph 1(7) only applies if planning consent and building control approval obtained

20 (1) Paragraph 1(7) above does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.

(2) Paragraph 1(7) above does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

Interpretation of paragraph 1(7): meaning of "supply of qualifying services"

21 (1) "Supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the dwelling, or

(b) the carrying out of works within the immediate site of the dwelling that are in connection with—

(i) the means of providing water, power, heat or access to the dwelling,

(ii) the means of providing drainage or security for the dwelling, or

(iii) the provision of means of waste disposal for the dwelling.

(2) In sub-paragraph (1)(a) above, the reference to the carrying out of works to the fabric of the dwelling does not include the incorporation, or installation as fittings, in the dwelling of any goods that are not building materials (see paragraph 22 below).

Interpretation of paragraph 1(6) and (7): meaning of "building materials"

22 "Building materials" has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).".

(3) The amendments made by this section have effect in relation to supplies made after the day on which this Act is passed.

98 VAT: museums and galleries

(1) The Value Added Tax Act 1994 (c. 23) is amended as follows.

(2) After section 33 insert—

"**33A Refunds of VAT to museums and galleries**

(1) Subsections (2) to (5) below apply where—

(a) VAT is chargeable on—

(i) the supply of goods or services to a body to which this section applies,

(ii) the acquisition of any goods by such a body from another member State, or

(iii) the importation of any goods by such a body from a place outside the member States,

(b) the supply, acquisition or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and

(c) the supply is made, or the acquisition or importation takes place, on or after 1st April 2001.

(2) The Commissioners shall, on a claim made by the body in such form and manner as the Commissioners may determine, refund to the body the amount of VAT so chargeable.

(3) The claim must be made before the end of the claim period.

(4) Subject to subsection (5) below, "the claim period" is the period of 3 years beginning with the day on which the supply is made or the acquisition or importation takes place.

(5) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.

(6) Subsection (7) below applies where goods or services supplied to, or acquired or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, or acquired or imported by, the body that are not attributable to free admissions.

(7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Commissioners to be attributable otherwise than to free admissions.

(8) For the purposes of subsections (6) and (7) above—

(a) goods or services are, and VAT is, attributable to free admissions if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;

(b) the VAT related to a claim is the whole of the VAT chargeable on—

(i) the supplies to the body, and

(ii) the acquisitions and importations by the body,

to which the claim relates.

(9) The Treasury may by order—

(a) specify a body as being a body to which this section applies;

(b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a "relevant" museum or gallery in relation to the body;

(c) specify an additional museum or gallery as being, for the purposes of this section, a "relevant" museum or gallery in relation to a body to which this section applies;

(d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.

(10) References in this section to VAT do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section."

(3) In section 63 (penalties for misdeclarations etc.), after subsection (9) insert—

"(9A) This section shall have effect in relation to a body which is registered and to which section 33A applies as if—

(a) any reference to a VAT credit included a reference to a refund under that section, and

(b) any reference to credit for input tax included a reference to VAT chargeable on supplies, acquisitions or importations which were attributable to the provision by the body of free rights of admission to a museum or gallery that in relation to the body was a relevant museum or gallery for the purposes of section 33A."

(4) Section 79 (repayment supplements) is amended in accordance with subsections (5) to (7).

(5) In subsection (1) (entitlement to supplement), after paragraph (b) insert—

", or

(c) a body which is registered and to which section 33A applies is entitled to a refund under that section,".

(6) In subsection (5) (how supplement to be treated), after paragraph (b) insert—

", and

(c) a supplement paid to any body under subsection (1)(c) shall be treated as an amount due to it by way of refund under section 33A."

(7) In subsection (6)(b) (meaning of "requisite return or claim"), after "section 33" insert "or (as the case may be) the Commissioners' determination under, and the provisions of, section 33A.".

(8) In section 90(3) (VAT not to be refunded if it is repayable under the Provisional Collection of Taxes Act 1968 (c. 2)), after "section 33," insert "33A,".

(9) In Note (9) of Group 14 of Schedule 9 (no entitlement to both exemption and refund), after "33," insert "33A,".

(10) Subject to subsection (11), this section comes into force on 1st September 2001.

(11) For the purpose only of the exercise of the power to make orders under the section 33A(9) inserted by this section, this section comes into force on the day on which this Act is passed.

99 VAT: re-enactment of reduced-rate provisions

(1) For the purpose of re-enacting the provisions of the Value Added Tax Act 1994 (c. 23) that provide for VAT on certain supplies, acquisitions and importations to be charged at a reduced rate of 5 per cent., that Act is amended as follows.

(2) In section 2(1) (VAT to be charged at the rate of 17.5 per cent.), after "Subject to the following provisions of this section" insert "and to the provisions of section 29A".

(3) Section 2(1A) to (1C) and Schedule A1 (which are superseded by the new section 29A and Schedule 7A) shall cease to have effect.

(4) In Part 2 (reliefs, exemptions and repayments), after the heading "*Reliefs etc. generally available*" insert—

"**29A Reduced rate**

(1) VAT charged on—

(a) any supply that is of a description for the time being specified in Schedule 7A, or

(b) any equivalent acquisition or importation,

shall be charged at the rate of 5 per cent.

(2) The reference in subsection (1) above to an equivalent acquisition or importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference (as the case may be) to—

(a) any acquisition from another member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(3) The Treasury may by order vary Schedule 7A by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

(4) The power to vary Schedule 7A conferred by subsection (3) above may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves.

In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.".

(5) After Schedule 7 insert the Schedule 7A set out in Part 1 of Schedule 31 to this Act.

(6) The consequential amendments in Part 2 of Schedule 31 to this Act have effect.

(7) The following provisions have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1st November 2001—

(a) subsections (2) and (5),

(b) subsection (3) so far as providing for section 2(1A) and (1B), and Schedule A1, to cease to have effect, and

(c) subsection (4) so far as inserting subsections (1) and (2) of the new section 29A.

(8) Subsection (3), so far as providing for section 2(1C) to cease to have effect, comes into force on 1st November 2001.

(9) Subsection (6)—

(a) so far as relating to the amendments made by paragraphs 2 and 6(2) of Schedule 31 to this Act, has effect in relation to orders under section 2(2) of the Value Added Tax Act 1994 (c. 23) that make changes only in the rate of VAT that is in force at times on or after 1st November 2001;

(b) so far as relating to the amendment made by paragraph 3 of Schedule 31 to this Act, has effect in relation to supplies made, or to be made, on or after 1st November 2001.

100 VAT representatives

(1) In section 48 of the Value Added Tax Act 1994 (VAT representatives), in subsection (1) (directions requiring appointment of representative), for paragraph (b) substitute—

"(b) is not established, and does not have any fixed establishment, in the United Kingdom;

(ba) is established in a country or territory in respect of which it appears to the Commissioners that the condition specified in subsection (1A) below is satisfied; and".

(2) After that subsection insert—

"(1A) The condition mentioned in subsection (1)(ba) above is that—

(a) the country or territory is neither a member State nor a part of a member State, and

(b) there is no provision for mutual assistance between the United Kingdom and the country or territory similar in scope to the assistance provided for between the United Kingdom and each other member State by the mutual assistance provisions.

(1B) In subsection (1A) above "the mutual assistance provisions" means—

(a) section 11 of the Finance Act 1977 (c. 36) (recovery of duty due etc. in other member States),

(b) section 77 of the Finance Act 1978 (c. 42) (disclosure of tax information to tax authorities in other member States), and

(c) Council Regulation (EEC) No. 218/92 of 27th January 1992 on administrative cooperation in the field of indirect taxation (VAT).".

(3) For subsection (2) of that section (power of taxable person to appoint representative) substitute—

"(2) With the agreement of the Commissioners, a person—

(a) who has not been required under subsection (1) above to appoint another person to act on his behalf in relation to VAT, and

(b) in relation to whom the conditions specified in paragraphs (a), (b) and (c) of that subsection are satisfied,

may appoint another person to act on his behalf in relation to VAT.

(2A) In this Act "VAT representative" means a person appointed under subsection (1) or (2) above."

(4) The amendments made by this section come into force on 31st December 2001.

Petroleum revenue tax

101 PRT: unrelievable field losses

(1) In section 6 of the Oil Taxation Act 1975 (c. 22) (allowance of unrelievable loss from abandoned field), for subsections (1) and (1A) substitute—

"(1) In the case of a participator in an oil field, an allowable unrelievable field loss is the unrelievable portion of an allowable loss falling within subsection (1B) below.

(1A) Subsection (1) above is subject to subsections (5) to (9) below and Schedule 8 to this Act.

(1B) An allowable loss falls within this subsection if—

(a) the loss accrued in any chargeable period from another field ("the abandoned field"),

(b) the person to whom the loss accrued is—

(i) the participator, or

(ii) if the participator is a company, a company associated with the participator in respect of the loss (see subsection (3) below),

(c) the loss accrued to that person as a participator in the abandoned field, and

(d) the winning of oil from the abandoned field has permanently ceased.

(1C) The "unrelievable portion" of an allowable loss falling within subsection (1B) above is so much of that loss as cannot under the provisions of section 7 of this Act be relieved against assessable profits accruing from the abandoned field to the person to whom the loss accrued.

(1D) Subsection (1C) above is subject to Schedule 32 to the Finance Act 2001 (determination of unrelievable portion where Parts 2 and 3 of Schedule 17 to the Finance Act 1980 did not apply to transfer of interest in abandoned field).".

(2) In subsection (2) of that section, for "subsection (1) above" substitute "subsection (1B) above".

(3) In section 113(2) of the Finance Act 1984 (c. 43)—

(a) for the words from "which, in the case" to "in subsection (1)" substitute "falling within subsection (1B)"; and

(b) for "from that other field" substitute "from the abandoned field".

(4) Schedule 32 to this Act has effect.

(5) The provisions of this section shall be deemed to have come into force on 7th March 2001.

102 PRT: allowable decommissioning expenditure

(1) In section 3 of the Oil Taxation Act 1975 (c. 22) (allowable expenditure), for subsections (1C) and (1D) (apportionment of decommissioning expenditure) substitute—

"(1C) In any case where—

(a) any expenditure incurred by a participator in a taxable field would, apart from this subsection, be allowable for the field under subsection (1)(i) or (j) above, and

(b) the qualifying asset that is relevant to the incurring of that expenditure has at some time been used otherwise than in connection with the field,

only the relevant portion of the expenditure is allowable for the field under subsection (1)(i) or (j) above.

(1D) In subsection (1C) above "the relevant portion" of the expenditure is the portion of the expenditure that it is just and reasonable to apportion to use of the asset that is use in connection with the field.

(1E) Subsections (1C) and (1D) above have effect subject to the transitional provisions in section 102(5) to (11) of the Finance Act 2001.".

(2) In subsection (6) of that section, for "subsection (1C) or subsection (1D)" substitute "subsections (1C) and (1D)".

(3) In section 10(2) of that Act (which, in particular, provides that although excluded oil is not oil for the purposes of section 3 of that Act it is oil for the purposes of section 3(1D)), for "subsection (1D)" substitute "subsections (1C) and (1D)".

(4) The amendments made by subsections (1) to (3) apply to expenditure incurred on or after 7th March 2001.

(5) Subsections (6) to (8) apply where—

(a) on or after 7th March 2001 a participator in a taxable field ("the transitional participator") incurs expenditure that falls to be apportioned under the new provision,

(b) the transitional participator was a participator in the field both immediately before, and at the beginning of, 7th March 2001,

(c) the qualifying asset that is relevant to the incurring of the expenditure was, at both of the times mentioned in paragraph (b), a qualifying asset in relation to the transitional participator and the field, and

(d) at a time before 7th March 2001—

(i) a person was a participator in two or more oil fields, and

(ii) the asset was a qualifying asset in relation to that person and each of at least two of those fields.

(6) If there would be no apportionment of the expenditure under the old provision, for the purpose of applying the new provision to the expenditure "the relevant portion" of the expenditure is the taxable field portion.

(7) If the expenditure would be apportioned between two or more oil fields under the old provision, for the purpose of applying the new provision to the expenditure "the relevant portion" of the expenditure is the portion of the taxable field portion which it is just and reasonable to apportion to use of the asset in connection with the field.

(8) In carrying out that apportionment of the taxable field portion, ignore use of the asset in connection with an oil field that is not one of the oil fields between which the expenditure would be apportioned under the old provision.

(9) In subsections (6) to (8) "the taxable field portion" means the portion of the expenditure that it is just and reasonable to apportion to use of the asset in connection with a taxable field.

(10) In subsections (5) to (8)—

"the new provision" means section 3(1C) of the Oil Taxation Act 1975 (c. 22) as substituted by subsection (1);

"the old provision" means section 3(1C) of that Act as it would have effect apart from the amendments made by subsections (1) to (3);

"qualifying asset" has the same meaning as it has for the purposes of the Oil Taxation Act 1983 (c. 56) (see section 8 of that Act).

(11) Subsections (5) to (10) shall be construed as one with Part 1 of the Oil Taxation Act 1975.

103 PRT: expenditure in certain gas-producing fields

(1) In section 10 of the Oil Taxation Act 1975 (modifications of Part 1 in connection with gas sold to the British Gas Corporation under contracts made before end of June 1975), for subsection (3) (modified apportionment rule for expenditure allowable under section 3(1)(a), (b), (c), (hh), (i) or (j)) substitute—

"(3) Subsections (3A) to (3H) below apply where, in the case of any taxable field, the oil—

(a) won and saved from the field, or

(b) expected to be won and saved from the field,

includes oil falling within subsection (1)(a) above.

(3A) Any expenditure allowable under section 3 of this Act for the field by virtue of any of paragraphs (a) to (c) of section 3(1) of this Act shall be a proportion of what it would otherwise have been.

(3B) The proportion mentioned in subsection (3A) above is that which, according to estimates submitted to the Secretary of State after the end of June 1975 and approved by him as reasonable, the field's original reserves of oil exclusive of oil falling within subsection (1)(a) above bear to the field's original reserves of oil inclusive of oil so falling.

(3C) Until estimates have been submitted and approved for the purpose of subsection (3B) above, the expenditure allowable for the field under section 3 of this Act by virtue of section 3(1)(a), (b) or (c) of this Act shall be deemed to be nil.

(3D) Any expenditure allowable under section 3 of this Act for the field by virtue of section 3(1)(hh) of this Act shall be a portion of what it would otherwise have been.

(3E) That portion is determined in accordance with the following rules—

(1) Identify the abandonment guarantee (within the meaning given by section 104 of the Finance Act 1991 (c. 31)) on the obtaining of which the expenditure was incurred.

(2) Identify the liabilities covered by the guarantee.

(3) Identify which of those liabilities relate to qualifying assets.

(4) Identify the portion of the expenditure that it is just and reasonable to apportion to the liabilities identified under rule 3.

(5) Identify the qualifying assets to which the liabilities identified under rule 3 relate.

(6) Identify the use of those qualifying assets that has been (or is expected to be) non-excluded use.

(7) Assume that expenditure is incurred on the provision of those qualifying assets and identify the proportion of the hypothetical expenditure that it would be just and reasonable to apportion to the use of those assets identified under rule 6.

(8) The portion mentioned in subsection (3D) above is then determined by multiplying—

(i) the portion identified under rule 4, by

(ii) the proportion (expressed as a fraction) identified under rule 7.

(3F) Any expenditure allowable under section 3 of this Act for the field by virtue of section 3(1)(i) or (j) of this Act shall be a portion of what it would otherwise have been.

(3G) That portion is determined in accordance with the following rules—

(1) Identify the qualifying asset that is relevant to the incurring of the expenditure.

(2) Identify the use of that qualifying asset that has been non-excluded use.

(3) Assume that expenditure is incurred on the provision of that qualifying asset and identify the proportion of the hypothetical expenditure that it would be just and reasonable to apportion to the use of that asset identified under rule 2.

(4) The portion mentioned in subsection (3F) above is then determined by multiplying—

(i) the expenditure, by

(ii) the proportion (expressed as a fraction) identified under rule 3.

(3H) In subsections (3E) and (3G) above—

"non-excluded use" means—

(a) use in connection with the winning and saving of oil, other than excluded oil, from the field, or

(b) use giving rise to receipts that, for the purposes of the Oil Taxation Act 1983 (c. 56), are tariff receipts attributable to a participator in the field;

"qualifying asset" has the same meaning as it has for the purposes of the Oil Taxation Act 1983 (see section 8 of that Act).".

(2) The amendments made by this section apply to expenditure incurred on or after 7th March 2001.

Landfill tax

104 Landfill tax: rate

(1) In section 42 of the Finance Act 1996 (c. 8) (amount of landfill tax), in subsections (1)(a) and (2) for "£11" substitute "£12".

(2) This section has effect in relation to taxable disposals made, or treated as made, on or after 1st April 2001.

Climate change levy

105 Climate change levy

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) After paragraph 11 insert—

"Exemption: Northern Ireland gas supplies

11A A supply of gas is exempt from the levy if—

(a) the supply is made by a gas utility, and

(b) the person to whom the supply is made intends to cause the gas to be burned in Northern Ireland.".

(3) In paragraph 14(2) (exemption for supplies to electricity producers does not apply to supplies to exempt unlicensed electricity suppliers, no matter what the electricity they produce is used for), at the end insert—

", and

(c) uses the electricity produced otherwise than in exemption-retaining ways.".

(4) For paragraph 14(3)(c) (uses of electricity produced by an auto-generator that cause auto-generator to lose benefit of exemption for supplies to electricity producers), substitute—

"(c) uses the electricity produced otherwise than in exemption-retaining ways.".

(5) In paragraph 14, after sub-paragraph (3) insert—

"(3A) For the purposes of this paragraph, electricity is used in an "exemption-retaining" way if it is used—

(a) in making supplies that are excluded under paragraphs 8 to 10 or exempt under any of paragraphs 11, 12 and 18, or

(b) in any of the ways mentioned in sub-paragraphs (i) to (iv) of paragraph 13(b).".

(6) In paragraph 15(1)(a) (exemption for supplies to combined heat and power stations), for "the commodity is to be used by that person" there is substituted "that person intends to cause the commodity to be used".

(7) The amendments made by this section have effect in relation to supplies made on or after 1st April 2001.

Inheritance tax

106 Transfers within group etc

(1) Section 97 of the Inheritance Tax Act 1984 (c. 51) (transfers within group etc.) is amended as follows.

(2) In subsection (1) (minority participators in close company to be excluded from apportionment under section 94) for paragraph (a) (disposals to which section 171(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) applies which are also transfers of value) substitute—

"(a) there is—

(i) a disposal of an asset by the transferor company, which is a disposal to which section 171(1) of the 1992 Act applies, or

(ii) by virtue of an election under section 171A(2) of that Act, a deemed transfer by the transferor company to another member of the group,

(aa) the disposal is also, or the deemed transfer gives rise to, a transfer of value, and".

(3) The amendment made by this section has effect, and shall be taken always to have had effect, in relation to disposals made, or transfers deemed to have been made, on or after 1st April 2000.

PART 5

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Miscellaneous

107 Interest on unpaid tax, etc.: foot-and-mouth disease

(1) This section applies in any case where, in exercise of their powers of care and management, the Commissioners of Inland Revenue agree that, by reason of circumstances arising as a result of the outbreak of foot-and-mouth disease, the payment of tax by a person may be deferred.

For this purpose "tax" includes any amount chargeable by way of tax, or as a result of the non-payment of tax, in respect of which interest would, apart from this section, be chargeable.

(2) Where this section applies no interest on the amount deferred shall be chargeable in respect of the period—

(a) beginning with 31st January 2001 or, if the Commissioners so direct in any case, any later date from which the agreement for deferred payment has effect, and

(b) ending with the date on which the agreement for deferred payment ceases to have effect.

(3) An agreement for deferred payment ceases to have effect at the end of the period of deferment specified in the agreement, subject as follows.

An agreement for deferred payment shall be treated as not ceasing to have effect if, or to the extent that, the Commissioners agree (whether before or after the end of the period of deferment specified in the agreement) to extend that period by reason of circumstances arising as a result of the outbreak of foot-and-mouth disease.

(4) For the purposes of subsection (3) as it applies to an agreement for payment by instalments, the period of deferment in relation to each instalment ends with the date on or before which that instalment is to be paid.

But if any instalment is not paid by the agreed date and the Commissioners do not agree in accordance with that subsection to extend the period of deferment, the whole agreement shall be treated as ceasing to have effect on that date.

(5) This section shall cease to have effect on a date specified by the Treasury by order made by statutory instrument.

This is without prejudice to its continued operation in relation to an agreement for deferred payment made by the Commissioners before the specified date.

(6) This section applies—

(a) whether the agreement for deferred payment was made before or after the passing of this Act, and

(b) whether the agreement for deferred payment was made before or after the amount to which it relates became due and payable.

(7) If in any case the Commissioners are satisfied that, although no agreement for deferred payment such as is mentioned in subsection (1) was made, such an agreement could have been made, this section shall apply as if such an agreement had been made.

The terms of the notional agreement shall be assumed to be such as the Commissioners are satisfied would have been agreed in the circumstances.

108 Trading funds

(1) Section 2C of the Government Trading Funds Act 1973 (c. 63) (limits on borrowing and public dividend capital) is amended as follows.

(2) In subsection (3) (upper limit on aggregate of borrowing etc. maxima of trading funds), for "£2,000 million" substitute "£8,000 million".

(3) In subsection (4) (power to increase limit in subsection (3) but not above £4,000 million), for "£4,000 million" substitute "£10,000 million".

Supplementary

109 Interpretation

In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988 (c. 1).

110 Repeals and revocations

(1) The enactments mentioned in Schedule 33 to this Act (which include provisions that are spent or of no practical utility) are repealed or revoked to the extent specified.

(2) The repeals and revocations 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.

111 Short title

This Act may be cited as the Finance Act 2001.