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*Status: Point in time view as at 19/07/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, SCHEDULE 9. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 9

Section 42

#### INSURANCE COMPANIES ETC

##### *Expenses of insurance companies*

- 1 (1) Section 76 of ICTA is amended as follows.
- (2) In subsection (8) (expenses attributable to basic life assurance and general annuity business for the purposes of Step 1 are to be those so attributable under proper internal accounting practice) in the second sentence (meaning of “proper internal accounting practice”) at the end of paragraph (b) insert “, or  
(c) the Integrated Prudential Sourcebook.”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

##### *Interpretative provisions relating to insurance companies*

- 2 (1) Section 431(2) of ICTA is amended as follows.
- (2) Insert the following definition at the appropriate place—  
““the Integrated Prudential Sourcebook” means the Integrated Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.
- (3) For the definition of “liabilities” substitute—  
““liabilities”, in relation to an insurance company, means—
  - (a) the mathematical reserves of the company as determined in accordance with chapter 7.3 of the Integrated Prudential Sourcebook, and
  - (b) liabilities of the company (whose value falls to be determined in accordance with chapter 1.3 of that Sourcebook) which arise from deposit back arrangements;and for this purpose “deposit back arrangements” has the same meaning as in that Sourcebook;”.
- (4) Omit the definition of “long-term liabilities”.
- (5) For the definition of “value” substitute—  
““value”, in relation to an asset of an insurance company, means the value of the asset as determined in accordance with chapter 1.3, as read with chapter 3.2, of the Integrated Prudential Sourcebook;”.
- (6) The amendments made by this paragraph have effect in relation to periods of account ending on or after 31st December 2004.

*Status: Point in time view as at 19/07/2007.*

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*Amendment of Chapter 1 of Part 12 of ICTA etc*

3 For section 431A of ICTA substitute—

**“431A Amendment of Chapter etc**

- (1) The Treasury may by order amend any insurance company taxation provision where it is expedient to do so in consequence of the exercise of any power under the Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies.
- (2) Where any exercise of a power under that Act has effect for a period ending on or before, or beginning before and ending after, the day on which an order containing an amendment in consequence of that exercise is made under subsection (1) above, the power conferred by that subsection includes power to provide for the amendment to have effect in relation to that period.
- (3) The Treasury may by order amend any of the following provisions—
  - (a) sections 432ZA, 432A, 432B to 432G and 755A and Schedule 19AA;
  - (b) sections 83A, 85, 88 and 89 of the Finance Act 1989;
  - (c) section 210A of the Taxation of Chargeable Gains Act 1992.
- (4) An order under subsection (3) above may only be made so as to have effect in relation to periods of account—
  - (a) beginning on or after 1st January 2005, and
  - (b) ending before 1st October 2006.
- (5) The Treasury may by order amend subsection (4)(b) above by substituting for “1st October 2006” a date no later than 1st October 2007.
- (6) Any power conferred by this section to make an order includes power to make—
  - (a) different provision for different cases or different purposes, and
  - (b) incidental, supplemental, consequential or transitional provision and savings.
- (7) In this section “insurance company taxation provision” means any of the following—
  - (a) a provision of this Chapter;
  - (b) any other provision of the Tax Acts so far as relating to insurance companies.”.

*Apportionment of income and gains*

F14 .....

<p><b>Textual Amendments</b></p> <p><b>F1</b> Sch. 9 para. 4 repealed (19.7.2007) by <a href="#">Finance Act 2007 (c. 11)</a>, <a href="#">Sch. 27 Pt. 2(10)</a></p>
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*Status: Point in time view as at 19/07/2007.*

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*Section 432B apportionment: participating funds*

- 5 (1) Section 432E of ICTA is amended as follows.
- (2) In subsection (2A) (increase in amount determined under subsection (2) where amount is taken into account under subsection (2) of section 83 of FA 1989 by virtue of subsection (2B) of that section) in the opening words—
- (a) for “an amount is” substitute “an amount or amounts are”;
  - (b) after “subsection (2B) of that section” insert “or by virtue of section 444ACA(2) of this Act”.
- (3) In that subsection, for the definition of “RP” substitute—
- “RP is the amount or the aggregate of the amounts taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of any of the following provisions—
- (a) subsection (2B) of that section;
  - (b) section 444ACA(2) of this Act.”
- (4) The amendments made by this paragraph have effect in relation to insurance business transfer schemes (within the meaning given by section 444AC(11) of ICTA) taking place on or after 2nd December 2004.

*Transfers of business: deemed periodical return*

F26 .....

**Textual Amendments**

F2 Sch. 9 para. 6 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

*Transfers of business: modification of section 444AC of ICTA*

F37 .....

**Textual Amendments**

F3 Sch. 9 para. 7 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

*Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc*

F48 .....

**Textual Amendments**

F4 Sch. 9 para. 8 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

*Equalisation reserves for general business*

- 9 (1) Section 444BA of ICTA is amended as follows.

*Status: Point in time view as at 19/07/2007.*

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- (2) In subsection (11) (meaning of “equalisation reserves rules”) for “Chapter 6 of the Prudential Sourcebook (Insurers)” substitute “ chapter 7.5 of the Integrated Prudential Sourcebook ”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

*Unappropriated surplus on valuation*

- 10 (1) Section 82B of FA 1989 is amended as follows.
- (2) In subsection (1) (section to apply where insurance company has unappropriated surplus on valuation and has not made an election in accordance with Rule 4.1(6) of the Prudential Sourcebook (Insurers) for the period of account in question) in paragraph (b), for “Rule 4.1(6)” substitute “ Rule 9.10(c) ”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

*Relevant financial reinsurance contracts*

F5 11 .....

**Textual Amendments**

F5 Sch. 9 para. 11 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

*Receipts to be taken into account*

- 12 (1) Section 83 of FA 1989 is amended as follows.
- (2) In subsection (2A) (amounts not required to be taken into account by subsection (2)) for paragraph (a) (amounts which are entirely notional) substitute—
- “(a) comprises notional income for the period of account (see subsections (2AA) and (2AB)),
- (aa) represents an inter-fund transfer (see subsections (2AC) and (2AD)),”.
- (3) After that subsection insert—
- “(2AA) For the purposes of subsection (2A)(a) above, an amount brought into account as mentioned in paragraphs (a) to (d) of subsection (2) above for a period of account is to be regarded as notional income for the period of account if—
- (a) it represents income which has not been received, and is not receivable, from another person, and
- (b) a corresponding notional expense of the same amount is brought into account in the period of account;
- and where particular income falls to be regarded as notional income under this subsection, the notional expense by virtue of which that income falls to be so regarded may not be taken into account for determining whether any other income is to be so regarded.

*Status: Point in time view as at 19/07/2007.*

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(2AB) In subsection (2AA) above “notional expense” means an expense which has not been paid, and is not payable, to another person and which—

- (a) is not deductible in computing the profits of the company in respect of its life assurance business in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, but
- (b) had it represented an amount paid or payable to another person, would have been so deductible.

(2AC) For the purposes of subsection (2A)(aa) above, where—

- (a) one or more inter-fund transfers (“transfers-in”) are made into a fund and one or more inter-fund transfers (“transfers-out”) are made out of the fund, and
- (b) the amount brought into account for the period of account as other income in respect of the transfers-in represents the amount by which—
  - (i) the amount or aggregate amount of the transfers-in, exceeds
  - (ii) the amount or aggregate amount of the transfers-out,only the amount of that excess shall be taken to represent the transfers-in.

(2AD) In this section “inter-fund transfer” means a transfer between two funds which in the company's periodical return is shown in, or included in amounts shown in, line 14 or 33 of the Forms 58 for the funds.”

<sup>F6</sup>(4) .....

(5) The amendments made by sub-paragraphs (2) and (3) have effect in relation to periods of account ending on or after 2nd December 2004.

<sup>F7</sup>(6) .....

#### Textual Amendments

**F6** Sch. 9 para. 12(4) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

**F7** Sch. 9 para. 12(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

#### *Meaning of “brought into account”*

13 (1) Section 83A of FA 1989 is amended as follows.

(2) In subsection (2) (accounts which are recognised for the purposes of sections 82A to 83AB)—

- (a) in paragraph (b) (separate revenue account prepared under Chapter 9 of the Prudential Sourcebook (Insurers) in respect of a part of the company's long-term business to be a recognised account) for “part of that business” substitute “with-profits fund (see subsection (6))”;
- (b) omit the words from “Paragraph (b) above” to the end of the subsection.

(3) After subsection (3) insert—

“(3A) Where, in the case of any with-profits fund in respect of which there is prepared such a separate account (“the sub-fund”),—

*Status: Point in time view as at 19/07/2007.*

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- (a) the sub-fund forms part of another with-profits fund (“the wider fund”) in respect of which such a separate account is also prepared,
  - (b) in the case of a company whose life assurance business is mutual business, the sub-fund and each other with-profits fund which forms part of the wider fund are 100:0 funds, and
  - (c) the wider fund—
    - (i) does not form part of another with-profits fund in respect of which such a separate account is also prepared, or
    - (ii) forms part of another with-profits fund in respect of which such a separate account is also prepared and that separate account is treated by this subsection as not being a recognised account for the purposes of those sections,
 the account in respect of the wider fund shall not be a recognised account for the purposes of those sections.
- (3B) Where, in the case of such a separate account prepared in respect of a with-profits fund,—
- (a) the account is not prevented from being a recognised account for the purposes of those sections by virtue of subsection (3A) above, but
  - (b) if paragraph (b) of that subsection were to be omitted, the account would be prevented from being such a recognised account by virtue of that subsection,
- no such separate account prepared in respect of a with-profits fund forming part of that fund shall be such a recognised account.
- (3C) In subsection (3A) above “100:0 fund” means a fund in the case of which—
- (a) the policy holders of the fund are entitled to participate in all the profits of the fund, and
  - (b) no other persons are entitled to participate in any of the profits of the fund.
- (3D) Subsection (3E) below applies where there is prepared such a separate account (“the with-profits account”) in respect of a with-profits fund—
- (a) of which no other with-profits fund forms part, but
  - (b) of which a non-profit fund (see subsection (6)) forms part.
- (3E) Where this subsection applies—
- (a) the with-profits account shall not be a recognised account for the purposes of those sections, but
  - (b) there shall be treated as having been required and prepared a further separate revenue account covering so much of the items brought into account in the with-profits account as remains after excluding the items brought into account in that account in respect of the non-profit fund.”.
- (4) For subsection (4) substitute—
- “(4) If—
- (a) a company prepares a revenue account in respect of the whole of its long-term business (“the main account”),
  - (b) it prepares one or more such separate accounts as are mentioned in subsection (2)(b) above, and

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- (c) the total of the items brought into account in the separate accounts—
- (i) excluding any such accounts which by virtue of subsection (3A), (3B) or (3E)(a) above are not recognised accounts for the purposes of those sections, but
  - (ii) including any such accounts which by virtue of subsection (3E)(b) above are treated as having been required and prepared,

is not equal to the total amount brought into account in the main account,

there shall be treated as having been required and prepared a further separate revenue account covering the balance.”.

<sup>F8</sup>(5) .....

- (6) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1st January 2005.

**Textual Amendments**

**F8** Sch. 9 para. 13(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

*Changes in recognised accounts: attribution of amounts carried forward under s.432F of ICTA*

- 14 (1) After section 83A of FA 1989 insert—

**“83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988**

- (1) This section applies to a company where any revenue account that is recognised for a period of account (the “new period of account”) relates to funds or business which is different from the funds or business to which a revenue account that was recognised for the preceding period of account relates.
- (2) Any subsection (2) excess (within the meaning of section 432F(2) of the Taxes Act 1988) which would have been available under section 432F(3) or (4) of that Act to reduce a subsection (3) figure (within the meaning of section 432F(1) of that Act) of the company in the new period of account shall be attributed between the revenue accounts that are recognised for that period of account in such manner as is appropriate.
- (3) In this section “recognised” means recognised, by virtue of section 83A, for the purposes of sections 82A to 83AB.”.
- (2) The amendment made by this paragraph has effect in relation to new periods of account (within the meaning given by section 83B(1) of FA 1989) beginning on or after 1st January 2005.

*Charge of certain receipts of basic life assurance business*

- 15 (1) Section 85 of FA 1989 is amended as follows.

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- (2) In subsection (2) (receipts excluded from charge under Case VI of Schedule D in respect of receipts referable to company's basic life assurance and general annuity business) after paragraph (e) insert “; or  
 (f) any payment received under the Financial Services Compensation Scheme to enable the company to meet its obligations to policy holders.”.
- (3) In subsection (2C) (rules as to whether receipt is referable to company's basic life assurance and general annuity business for the purposes of subsection (1)) after paragraph (a) insert—  
 “(aa) in the case of a repayment or refund of expenses other than acquisition expenses, the expenses—  
 (i) were attributable to basic life assurance and general annuity business for the purposes of Step 1 in subsection (7) of the new section 76 (see subsection (8) of that section), or  
 (ii) fell to be deducted by virtue of subsection (1) of the old section 76;  
 and for this purpose, “the new section 76” and “the old section 76” have the same meaning as in section 44 of the Finance Act 2004 (see subsection (8) of that section),”.
- (4) The amendments made by this paragraph have effect in relation to accounting periods ending on or after 16th March 2005.

*Corporation tax: policy holders' fraction of profits*

<sup>F9</sup>16 .....

**Textual Amendments**

**F9** Sch. 9 para. 16 repealed (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), arts. 1, **10(b)**

*Overseas life insurance companies*

- 17 (1) Section 156 of FA 2003 is amended as follows.
- (2) For subsection (4) (regulations amending certain provisions relating to overseas life insurance companies may be made with effect from 1st January 2003) substitute—  
 “(4) Regulations under this section may be made so as to have effect in relation to accounting periods or periods of account (whenever beginning) which end on or after the day on which the regulations come into force.”.

*Meaning of “pension business”*

- 18 (1) Schedule 35 to FA 2004 is amended as follows.
- (2) Paragraph 20 (life assurance: meaning of “pension business”) is amended as follows.
- (3) In the section 431B of ICTA substituted by that paragraph, in subsection (2)—

*Status: Point in time view as at 19/07/2007.*

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- (a) after “registered pension scheme” (where first occurring) insert “ by virtue of the withdrawal of registration of the pension scheme under section 157 of the Finance Act 2004 ”;
  - (b) after “in which the pension scheme” insert “ so ”.
- (4) In that section, insert at the end—

“(3) Where—

- (a) immediately before 6th April 2006 an annuity contract falls within any of the descriptions of contracts specified in subsection (2) of this section as it had effect immediately before that date, but
- (b) on or after that date the contract does not fall to be regarded for the purposes of this section as having been entered into for the purposes of a registered pension scheme,

the contract is to be treated for the purposes of this section as having been entered into for such purposes.”.

<sup>F10</sup>(5) .....

<sup>F10</sup>(6) .....

- (7) The preceding provisions of this paragraph come into force on 6th April 2006.

**Textual Amendments**

**F10** Sch. 9 para. 18(5)(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

**Commencement Information**

**II** Sch. 9 para. 18 wholly in force at 6.4.2006; Sch. 9 para. 18(7) in force at Royal Assent and Sch. 9 para. 18(1)-(6) in force at 6.4.2006, see Sch. 9 para. 18(7)

*Miscellaneous references to “class” of business*

19 <sup>F11</sup>(1) .....

<sup>F11</sup>(2) .....

<sup>F11</sup>(3) .....

- (4) In Schedule 29 to FA 2002 (gains and losses of a company from intangible fixed assets) in paragraph 138 (interpretation provisions relating to insurance companies) in sub-paragraph (3), for “class” substitute “ category ”.

- (5) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1st January 2005.

**Textual Amendments**

**F11** Sch. 9 para. 19(1)-(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

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*Status: Point in time view as at 19/07/2007.*

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*Transfers of business: references to accounting period ending with day of transfer*

- 20 (1) Section 12 of ICTA (corporation tax: basis of, and periods for, assessment) is amended as follows.
- (2) In subsection (7A), after “(7ZA) above” insert “ and subject to subsection (7C) below ”.
- <sup>F12</sup>(3) .....
- <sup>F12</sup>(4) .....
- <sup>F12</sup>(5) .....
- (6) In section 213 of TCGA 1992 (spreading of gains and losses under section 212 of TCGA 1992) at the end insert—
- “(10) If the transfer is one to which section 444AA(1) of the Taxes Act applies, the references in this section to the accounting period of the transferor ending with the day of the transfer are references to the accounting period ending immediately before the transfer.”.
- (7) The amendments made by sub-paragraphs (2) to (5) have effect in relation to insurance business transfer schemes taking place on or after 16th March 2005.
- (8) The amendment made by sub-paragraph (6) has effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period beginning on or after 1st January 2003.

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**Textual Amendments**

**F12** Sch. 9 para. 20(3)-(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

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