



Finance Act 1944

1944 CHAPTER 23 7 and 8 Geo 6

An Act to grant certain duties, to alter other duties, and to amend the law relating to the Public Revenue and the National Debt, and to make further provision in connection with Finance. [13th July 1944]

Editorial Information

- X1** The text of ss. 45, 46 was taken from S.I.F. Group 114 (Stamp Duty), the text of ss. 42, 49 and Sch. 4 from S.I.F. Group 63:1 (Income, Corporation and Capital Gains Taxes: Income and Corporation Taxes); provisions omitted from S.I.F. have been dealt with as referred to in other commentary.
- X2** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

Modifications etc. (not altering text)

- C1** Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)
- C2** General amendments etc. to Tax Acts (or Income Tax Acts or Corporation Tax Acts as the case may be) made by [Taxes Management Act 1970 \(c.9, SIF 63:1\), s. 41A\(7\)](#) (as added by [Finance Act 1990 \(c.29, SIF 63:1\), s. 95\(1\)\(2\)](#)), [British Telecommunications Act 1981 \(c.38, SIF 96\), s. 82\(2\)\(7\)](#); [Telecommunications Act 1984 \(c.12, SIF 96\), s. 72\(3\)](#); [Finance Act 1984 \(c.43, SIF 63:1\), ss. 82\(6\), 85\(2\), 89\(1\)\(7\), 96\(1\)\(7\), 98\(7\), Sch. 9 para. 3\(2\)\(9\), Sch. 16 paras. 6, 12 and Finance Act 1985 \(c.54, SIF 63:1\), ss. 72\(1\), 74\(5\), Sch. 23 para. 15\(4\)](#), S.I. 1987/530, regs. 11(2), 13(1), 14, [Income and Corporation Taxes Act 1988 \(c.1, SIF 63:1\), ss. 4, 6, 7, 9, 32, 34, 78, 134, 135, 141, 142, 185, 191, 193, 194, 195, 200, 203, 209, 212, 213, 219, 247, 253, 272, 287, 314, 315, 317, 318, 325, 326, 327, 345, 350, 351, 368, 375, 381, 397, 414, 432, 440, 442, 446, 458, 460, 461, 463, 463\(2\)\(3\)](#) (as added by [Finance Act 1990 \(c.29, SIF 63:1\), s. 50\(2\)](#)), 468, 474, 475, 486, 490, 491, 503, 511, 518, 524, 532, 544, 550, 556, 558, 569, 572, 582, 595, 601, 613, 617, 619, 621, 639, 656, 660, 663, 676, 689, 691, 694, 700, 701, 714, 716, 739, 743, 754, 763, 776, 780, 781, 782, 787, 789, 811, 828, 829, 832, 833, 834, 835, 837, 838, 839, 840, 841, 842, Sch. 2 para. 5, Sch. 4 para. 5, Sch. 13 para. 10, Sch. 16 para. 10, Sch. 21 para. 6, Sch. 26 para. 1, Sch. 27 para. 20, [Finance Act 1988 \(c.39, SIF 63:1\), ss. 66, 127\(1\)\(6\), Sch. 12 para. 6](#), [Capital Allowances Act 1990 \(c.1, SIF 63:1\), ss. 28\(1\), 68\(8\), 74, 82, 83\(5\), 148\(5\), 163\(4\), 164\(2\)](#), S.I. 1990/627 and [Finance Act 1990 \(c.29, SIF 63:1\), s. 25\(10\)](#)

Status: Point in time view as at 02/02/1991.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1944. (See end of Document for details)

Commencement Information

I1 Act partly in force at Royal Assent, partly retrospective, see individual sections; all provisions so far as unrepealed wholly in force at 1.2.1991.

1 **F1**

Textual Amendments

F1 S. 1 repealed by Customs and Excise Act 1952 (c. 44), s. 320, **Sch. 12 Pt I**

2 **F2**

Textual Amendments

F2 S. 2 repealed by Statute Law Revision Act 1950 (c. 6) and Finance Act 1950 (c. 15), s. 50(7)(8), **Sch. 8 Pt II**

3 **F3**

Textual Amendments

F3 S. 3 repealed by Finance Act 1953 (c. 34), ss. 9(3), 35(7), **Sch. 3 Pt. I**

4 **F4**

Textual Amendments

F4 S. 4 repealed by Finance Act 1951 (c. 43), ss. 13, 44(9), **Sch. 7**

5 **F5**

Textual Amendments

F5 S. 5 repealed by Customs and Excise Act 1952 (c. 44), s. 320, **Sch. 12 Pt. I**

6, 7. **F6**

Textual Amendments

F6 Ss. 6, 7 repealed by Statute Law Revision Act 1950 (c. 6)

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8 **F7**

Textual Amendments

F7 S. 8 repealed by [Licensing Act 1953 \(c. 46\)](#), s. 168, [Sch. 10](#)

9 **F8**

Textual Amendments

F8 S. 9 repealed by [Licensing Act 1953 \(c. 46\)](#), s. 168, [Sch. 10](#) and [Licensing \(Scotland\) Act 1959 \(c. 51\)](#), s.200(1), [Sch. 12](#)

10–18 **F9**

Textual Amendments

F9 Pt. II (ss. 10–18) repealed by [Purchase Tax Act 1963 \(c. 9\)](#), s. 41(1), [Sch. 4 Pt. I](#)

19–31 **F10**

Textual Amendments

F10 Pts. III and IV (ss. 19–31) repealed with saving by [Income Tax Act 1952 \(c. 10\)](#), s. 527, Sch. 25

PART V

EXCESS PROFITS TAX

32 Increase of standard profits in certain cases.

(1) Subject to the provisions of this section, if, in relation to any chargeable accounting period beginning at or after the end of March, nineteen hundred and forty-four, the standard profits of a trade or business are ascertained otherwise than by reference to the profits of the standard period, the standard profits shall, in relation to that chargeable accounting period, be increased by one thousand pounds :

Provided that, in relation to a chargeable accounting period which is less than twelve months, the said increase shall be proportionately reduced so as to correspond with the length of the period.

(2) Where—

(a) a trade or business is carried on by a partnership or by a company the directors whereof have a controlling interest therein ; and

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- (b) the standard profits of the trade or business are ascertained by reference to the minimum amount specified in subsection (2) of section thirteen of the Finance (No. 2) Act, 1939 ; and
 - (c) there are three or more working proprietors in the trade or business ;
- subsection (1) of this section shall have effect as if for the reference to one thousand pounds there were substituted a reference to such greater sum, not exceeding two thousand pounds, as is arrived at by allowing five hundred pounds for each working proprietor in the trade or business.
- (3) The preceding provisions of this section shall not apply to any member of a group of companies other than the principal company and, in the case of the principal company of a group of companies the condition set out in subsection (1) of this section that the standard profits of the trade or business must be ascertained otherwise than by reference to the profits of the standard period shall not be deemed to be complied with in relation to a chargeable accounting period if—
- (a) the standard profits of the group for any relevant period consisting of or comprising the whole or any part of that chargeable accounting period are ascertained by aggregating the profits and losses arising in the standard period of the group in the trades or businesses of all the members of the group, other than new subsidiaries, or by aggregating those profits and losses and halving the amount arrived at ; or
 - (b) the standard profits of any new subsidiary for any chargeable accounting period coinciding with or falling wholly or partly within the said chargeable accounting period of the principal company are ascertained by reference to the profits of the standard period of that new subsidiary.

Expressions used in this subsection have the same meanings as they have in the Fifth Schedule to the ^{M1}Finance Act 1940 (which relates to groups of companies).

- (4) Where a deficiency of profits occurring in a chargeable accounting period beginning at or after the end of March, nineteen hundred and forty-four, is greater than it would have been if this section had not been passed, the amount of the increase shall not be available (whether under section fifteen of the Finance (No. 2) Act, 1939, or paragraph 6 of Part IV of the Fifth Schedule to the Finance Act, 1940) to reduce profits for any chargeable accounting period ending at or before that date ; but where by virtue of this subsection the whole of a deficiency occurring in a chargeable accounting period cannot be applied in reducing profits for previous chargeable accounting periods, the amount which cannot be applied shall, for the purposes of paragraph (b) of subsection (2) of the said section fifteen, be treated as part of the balance which, under that paragraph, is to be applied in reducing profits in subsequent chargeable periods.
- (5) The following provisions shall have effect in relation to chargeable accounting periods falling partly before and partly after the end of March, nineteen hundred and forty-four:—
- (a) the standard profits for the whole period shall be computed first on the basis that the foregoing provisions of this section do not apply to such periods as aforesaid and secondly as if the said foregoing provisions applied to such periods as aforesaid and secondly as if the said foregoing provisions applied to such periods as aforesaid as they apply to periods beginning at or after the said end of March, and it shall then be ascertained, on each basis, whether there are excess profits or a deficiency of profits for the whole period, and if so what is the amount thereof;

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- (b) there shall be deemed to be for the first part of the period, excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under paragraph (a) of this subsection on the first basis mentioned therein, and there shall be deemed to be, for the second part of the period, excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under paragraph (a) of this subsection on the second basis mentioned therein;
- (c) for the purposes of this section, the first part of the whole period and the second part of the whole period shall each be treated as if it were a separate chargeable accounting period.

Any apportionment required to be made by paragraph (b) of this subsection shall be made by reference to the number of months or fractions of months in each of the parts of the whole period.

In this subsection, references to the whole period, the first part of the period and the second part of the period shall be construed respectively as references to the whole of the chargeable accounting period falling partly before and partly after the said end of March, so much thereof as falls before the said end of March and so much thereof as falls after the said end of March, and the expression “excess profits” means the amount by which the profits for any period exceed the standard profits therefor.

Modifications etc. (not altering text)

- C3** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C4** S. 32 extended by [Finance \(No. 2\) Act 1945 \(9–10 G. 6. c. 13\)](#), s. 33(4)

Marginal Citations

- M1** [1940 c.29](#)

33 Tax avoidance.

- (1) Section thirty-five of ^{M2}the Finance Act, 1941 (which relates to transactions designed to avoid liability to excess profits tax), shall have effect, and shall, subject to the provisions of this section, be deemed always to have had effect, as amended by the subsequent provisions of this section.
- (2) In subsection (1) of the said section, for the words “the main purpose for which any transaction or transactions was or were effected” there shall be substituted the words “the main purpose or one of the main purposes for which any transaction or transactions was or were effected”, and in subsection (3) of the said section, for the words “on the ground that the main purpose of the transaction or transactions was not the avoidance or reduction of liability to tax” there shall be substituted the words “on the ground that the avoidance or reduction of liability to tax was not the main purpose or one of the main purposes of the transaction or transactions”.
- (3) If it appears in the case of any transaction or transactions, being a transaction which involves, or transactions one or more of which involve—
 - (a) the transfer or acquisition of shares in a company; or

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- (b) a change or changes in the person or persons carrying on a trade or business or part of a trade or business,

that, having regard to the provisions of the law relating to excess profits tax, other than the said section thirty-five and this section, which were in force at the time when the transaction or transactions was or were effected, the main benefit which might have been expected to accrue from the transaction or transactions during the currency of excess profits tax was avoidance or reduction of liability to the tax, the avoidance or reduction of liability to excess profits tax shall be deemed for the purposes of the said section thirty-five to have been the main purpose or one of the main purposes of the transaction or transactions.

- (4) A direction under the said section thirty-five as amended by this section may be given notwithstanding that a direction has been given under that section before the passing of this Act in relation to the transaction or transactions in question or some of them :

Provided that in any case where a direction so given has, before the twenty-fifth day of April, nineteen hundred and forty-four, been cancelled or varied on appeal by the Special Commissioners, no direction given by virtue of this section in relation to the transaction or transactions in question shall affect any chargeable accounting periods ending before the first day of April, nineteen hundred and forty-four.

Modifications etc. (not altering text)

- C5** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M2** 4 & 5 Geo. 6. c. 30.

34 Amendment of s.21 of Finance Act, 1943.

Section twenty-one of the Finance Act, 1943, shall have effect and be deemed always to have had effect as if the word “coal” were inserted after the second word “to” in the fifth line thereof.

Modifications etc. (not altering text)

- C6** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

35–41 **F11**

Textual Amendments

- F11** Pt. VI (ss. 35–41) repealed by Finance Act 1946 (c. 64), s. 67, **Sch. 12 Pt. III**; (with savings) by Finance Act 1965 (c. 25), ss. 88(1), 97(5), **Sch. 22 Pt. IV**; Finance Act 1969 (c. 32), s. 61(6), **Sch 21 Pt. V** and (with savings) by Finance Act 1975 (c. 7), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

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PART VII

MISCELLANEOUS

42 Trading with the enemy.

The provisions of the Fourth Schedule to this Act shall have effect in relation to income tax [^{F12}and death duties] where persons, income or property are or is affected by the law relating to trading with the enemy.

Textual Amendments

F12 Words repealed in relation to deaths occurring after 13.4.1975 and, so far as regards the duties referred to in s. 52(2)(b) of the repealing Act, in relation to any death, by [Finance Act 1975 \(c.7, SIF 99:3\)](#), ss. [52\(2\)](#), [59](#), [Sch. 13 Pt. I](#) note (with a saving in s. 52(3) in relation to repayment or allowance in respect of sums paid before 13.3.1975 on account of the said duties)

43^{F13}

Textual Amendments

F13 [S. 43](#) repealed (with savings) by [Finance Act 1949 \(c. 47\)](#), s. [52\(9\)\(10\)](#), [Sch. 11 Pt. IV](#)

44^{F14}

Textual Amendments

F14 [S. 44](#) repealed by [Finance Act 1963 \(c. 25\)](#) ss. [59\(5\)](#), [73\(8\)\(b\)](#), [Sch. 14 Pt. IV](#)

45 Exemption of certain assignments by seamen from stamp duty.

Stamp duty shall not be charged, and shall be deemed never to have been chargeable, on any assignment rendered valid by Regulation forty-seven D of the Defence (General) Regulations, 1939 (which relates to assignments of wages in payment of contributions to certain bodies representing the interests of or providing benefits for seamen).

46 Extension of Barracks Act 1890 s. 11.

Section eleven of the ^{M3}Barracks Act 1890 (which exempts from stamp duty contracts, conveyances and other documents made with a view to carrying into effect the purposes of that Act) shall have effect as if in the preamble to that Act (which defines the purposes of that Act) the reference to military forces included a reference to naval forces.

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Marginal Citations
M3 1890. c. 25.

47 F15

Textual Amendments
F15 S. 47 repealed by National Loans Act 1968 (c. 13), s. 24(2), Sch. 6 Pt. 1

48 F16

Textual Amendments
F16 S. 48 repealed by Statute Law Revision Act 1950 (c. 6)

49 ^{X3}† **Short title, construction, extent and repeals.**

(1) This Act may be cited as the Finance Act, 1944.

(2) F17

(3) F18

(4) F19

^{X4}(5) Part V of this Act shall be construed as one with Part III of the Finance (No. 2) Act, 1939.

[^{F20X4}(6) Part VI of this Act shall be construed as one with Part I of the ^{M4}Finance Act, 1894.]

(7) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(8) The provisions of the Fourth Schedule to this Act shall, if provision in that behalf is made by an Act of the Parliament of Northern Ireland, apply with any necessary modifications to death duties payable in Northern Ireland as they apply to death duties payable in Great Britain, but save as aforesaid such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(9) F21

Editorial Information
X3 Unreliable margin note.
X4 The text of s. 49(5)(6) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Textual Amendments

- F17** S. 49(2) repealed by [Statute Law \(Repeals\) Act 1971 \(c. 52\)](#)
- F18** S. 49(3) repealed by [Purchase Tax Act 1963 \(c. 9\)](#), s. 41(1), **Sch. 4 Pt. I**
- F19** S. 49(4) repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)
- F20** S. 49(6) repealed in relation to to deaths occurring after 13.4.1975 and, so far as regards the duties referred to in s. 52(2)(b) of the repealing Act, in relation to any death, by [Finance Act 1975 \(c.7, SIF 99:3\)](#), ss. 52(2), 59, **Sch. 13 Pt. I** (with a saving in s. 52(3) in relation to repayment or allowance in respect of sums paid before 13.3.1975 on account of the said duties)
- F21** S. 49(9) repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

Marginal Citations

- M4** 57 & 58 Vict. c. 30.

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F22F22 FIRST SCHEDULE

Textual Amendments

F22 Sch. 1 repealed by Customs and Excise Act 1952 (c. 44), s. 320, **Sch. 12 Pt. 1**

F22

F23F23 SECOND SCHEDULE

Textual Amendments

F23 Sch. 2 repealed by Purchase Tax Act 1963 (c. 9), s. 41(1), **Sch. 4 Pt. I**

F23

F24F24 THIRD SCHEDULE

Textual Amendments

F24 Sch. 3 repealed (with savings) by Finance Act 1975 (c. 7), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

F24

FOURTH SCHEDULE

Section 42.

ENEMY PROPERTY

PART I

INCOME TAX

Tax on income payable to custodian

- 1 Where any income which, but for the operation of the law relating to trading with the enemy, would be chargeable to income tax for any year of assessment apart from this paragraph becomes payable to a custodian, the same assessments to income tax (other than surtax) shall be made for that year on the custodian in respect of income from the source from which that income arose as might have been made on any person if the person who, but for the operation of the said law, would have been entitled to the income had been so entitled.

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2 Where an assessment is made on a custodian under paragraph 1 of this Part of this Schedule in respect of any income, or any income which is paid subject to deduction of income tax is received by a custodian, and, in either case, it is shown to the satisfaction of the Commissioners of Inland Revenue that, but for the operation of the law relating to trading with the enemy, the person who, but for the operation of that law, would have been assessable to, or would have borne, the tax on that income, would, if a claim were made in that behalf, have been granted relief from all or any of the tax the same relief shall be granted to the custodian by repayment or otherwise.

3 Where an assessment is made on a custodian under paragraph 1 of this Part of this Schedule in respect of any income, or any income which is paid subject to deduction of income tax is received by a custodian, and, in either case, it appears that, but for the operation of the law relating to trading with the enemy, the income would have been taken into account in computing the total income of an individual for surtax purposes, that income shall be deemed for surtax purposes to be income of that individual and the same assessments to surtax may, without any notice to make a return being served on the custodian or that individual, be made on the custodian in respect of the income as might have been made on that individual or his executors or administrators if it had been his income and, where that individual has other income, if it were treated as the highest part of his total income:

Provided that where, in the case of any individual, assessments to surtax under this paragraph for any year of assessment could, apart from this proviso, be made on two or more custodians, one of those custodians (to be selected by the Special Commissioners) shall be assessed to surtax for that year in respect of all income to which this paragraph applies in relation to that individual.

4 Where, in the case of any individual who, but for the operation of the law relating to trading with the enemy, would be entitled to any income which is payable to a custodian, the Special Commissioners, on any information before them, are of opinion that any income (not being income to which the preceding paragraphs of this Part of this Schedule apply) would, if notice to make a return were served on that individual, fall to be included in his total income for surtax purposes, they may, without any notice to make a return being served on him or any notice of assessment, make an assessment to surtax upon that individual in respect of that income.

Payment of tax by custodian

5 A custodian shall, save as expressly provided in this Part of this Schedule, pay or cause to be paid, out of money in his hands to which some other person would be entitled but for the operation of the law relating to trading with the enemy, any income tax (including surtax) assessed on a custodian by virtue of paragraph 1 or paragraph 3 of this Part of this Schedule, which, but for the operation of that law, would have been chargeable on or borne by that other person.

6 (1) A custodian shall, on demand of the Commissioners of Inland Revenue as respects tax other than surtax, and on demand of the Special Commissioners as respects surtax, pay or cause to be paid, out of money in his hands to which some other person would be entitled but for the operation of the law relating to trading with the enemy, any sum stated in the demand to be due from that person in respect of income tax other than surtax, or in respect of surtax, as the case may be, for whatever year of assessment (including years before the year 1939-40).

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- (2) Any sum paid by a custodian in pursuance of such a demand shall be deemed for the purposes of the Income Tax Acts to have been paid by the person who is stated in the demand to be the person from whom it is due.
- (3) A sum may be included in any such demand as aforesaid notwithstanding that the relevant assessment is, or is still capable of being, the subject of an appeal.

Effect of release of property or income by custodian

7 Where a custodian releases to or for the benefit of, or to the personal representatives of, any person who has ceased to be an enemy or has died everything in the custodian's hands to which that person or his personal representatives, as the case may be, would, but for the operation of the law relating to trading with the enemy, be entitled—

- (a) any income which, but for the operation of that law, would have belonged to that person or to some person under whom he claims, shall thereafter be treated for all the purposes of the Income Tax Acts as having been income of the person whose income it would have been for those purposes but for the operation of the said law;
- (b) all income tax (including surtax) paid by deduction or otherwise by a custodian in respect of any such income shall thereafter be treated as having been paid by, and all reliefs allowed to a custodian in respect of any such income shall thereafter be treated as having been allowed to, the last-mentioned person; and
- (c) appeals may thereafter be brought by the last-mentioned person or his personal representatives against any assessment (including any assessment to surtax) made on a custodian in respect of any such income as if the assessment had been made on him.

8 Where an assessment is made under any of the preceding provisions of this Part of this Schedule on a custodian and, whether before or after the making of the assessment, the income or any part thereof is paid, transferred or released, or permitted to be paid or transferred, to any other person by the custodian, so much, if any, of the tax payable by virtue of the assessment as cannot, under the preceding provisions of this Part of this Schedule, be paid by the custodian shall be a debt due to the Crown—

- (a) in a case to which the last preceding paragraph applies, from the person whose income it is, under that paragraph, treated as having been, or his personal representatives; and
- (b) in any other case, from the person to whom the income is so paid, transferred or released,

and may be recovered accordingly, and the custodian shall cease to be liable in respect of the tax.

Relaxation of time limits

9 Notwithstanding anything in the Income Tax Acts limiting the time for making assessments, assessments may be made under paragraphs 1, 3 and 4 of this Part of this Schedule at any time before such date as Parliament may hereafter determine, and any appeal against any such assessment, and any claim made either by a custodian or by virtue of paragraph 7 of this Part of this Schedule to relief from tax, may, notwithstanding anything in the Income Tax Acts restricting the time for

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bringing appeals or making claims for relief, be brought or made at any time before the said date.

Supplementary

- 10 For the purposes of paragraphs 1 to 4 of this Part of this Schedule it shall, except so far as the contrary is proved, be assumed that nothing has occurred since the third day of September, nineteen hundred and thirty-nine, to change the persons who, but for the operation of the law relating to trading with the enemy, would be entitled to any money or property, or to income therefrom, and any assessment under paragraph 1 or paragraph 3 of this Part of this Schedule shall specify the person who has been taken to be the person who, but for the operation of the said law, would have been entitled to the relevant income.
- 11 Where income from any source for any year of assessment would become payable to a custodian but for the fact that no income from that source is available for payment in that year, but, apart from the operation of the law relating to trading with the enemy, income tax would nevertheless be chargeable in respect of income from that source for that year, the provisions of this Part of this Schedule shall have effect as if income from that source had been available for payment in that year and become payable to the custodian.
- 12 In this Part of this Schedule, the expression “income” means income for the purposes of the Income Tax Acts:
- Provided that the said expression includes any rents, profits or other sums arising from any land, and any tax under Schedule A or Schedule B in respect of any land shall be treated as tax in respect of income from that land.

Years to which this Part of this Schedule applies

- 13 This Part of this Schedule shall have effect with respect to income tax (including surtax) for the year 1939-40 and subsequent years of assessment and, to the extent expressly provided by paragraph 6 of this Part of this Schedule, with respect also to income tax (including surtax) for previous years of assessment.

[^{F25}PART II

ESTATE DUTY

Textual Amendments

F25 Sch. 4 Pt. II repealed in relation to any death occurring after 15.4. 1969 subject to s. 40(2) of the repealing Act, by Finance Act 1969 (c. 32), s. 61(6), Sch. 21 Pt. V

Modifications etc. (not altering text)

C7 The text of Sch. 4 Pts. II and III is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 1 Property which, but for the operation of the law relating to trading with the enemy, would, for the purposes of the enactments relating to estate duty, pass on the death of a person or be included to a particular extent in property so passing shall, on the

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death of that person, be deemed for those purposes to pass or to be included to that extent in property so passing, as the case may be.

2 Where, but for the operation of the law relating to trading with the enemy, there would have existed at the death of the deceased a debt for which an allowance would have been made under subsection (1) of section seven of the Finance Act, 1894, by deduction from the value of any property deemed to pass as aforesaid, an allowance of the like amount shall be made, and deducted from the value of that property.

3 On the death of a person who, immediately before his death, would, but for the operation of the law relating to trading with the enemy, have been entitled to any property in the hands of or money payable to a custodian, the custodian shall be accountable for any estate duty in respect of any property of which the deceased would, but for the operation of the said law, have been competent to dispose at his death, but shall not be liable for any duty in excess of the amount which can be raised from, or from the proceeds of, property which is in his hands when he first receives notice of the death or which thereafter comes into his hands, being in either case property of which the deceased would have been competent to dispose as aforesaid.

4 No property shall be deemed for the purposes of section four of the Finance Act, 1894, to be property in which the deceased never had an interest if the deceased would at some time have had an interest therein but for the operation of the law relating to trading with the enemy.

5 A custodian shall, on demand of the Commissioners of Inland Revenue, pay or cause to be paid, out of property in his hands or money payable to him, any sum stated in the demand to be due in respect of, or of interest on, estate duty, being duty for the satisfaction of which that property or money is, or would, but for the operation of the law relating to trading with the enemy be, available.

6 Where a custodian releases to the executor of any person everything in his hands to which the executor would, but for the operation of the law relating to trading with the enemy, be entitled, the executor shall be accountable for all estate duty and interest on estate duty for the satisfaction of which the property released is, or but for the operation of the said law would have been, available, in so far as that duty and interest remains unpaid and the custodian shall cease to be accountable therefor.

7 This Part of this Schedule shall have effect, and be deemed always to have had effect, in relation to deaths occurring on or after the third day of September, nineteen hundred and thirty-nine:

Provided that, where before the passing of this Act a trustee or executor has distributed any property, his maximum liability for duty and interest remaining unpaid shall not exceed the amount which can be raised from, or from the proceeds of, property in his hands at the passing of this Act or coming into his hands thereafter, being in either case property which he received as trustee or executor.]

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1944. (See end of Document for details)

PART III

LEGACY DUTY AND SUCCESSION DUTY

Modifications etc. (not altering text)

- C8** The text of Sch. 4 Pts. II and III is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 1 For the avoidance of doubt it is hereby declared that, where any money or other property is paid to or vested in a custodian and, but for the operation of the law relating to trading with the enemy, that money or property would have been paid to or become vested in some other person under such circumstances that legacy duty or succession duty would have become payable, the custodian is accountable for the duty, except so far as it is paid by any other person.
- 2 Where, whether before or after the passing of this Act, a custodian releases to a person property to which that person would, but for the operation of the law relating to trading with the enemy, have become beneficially entitled upon or by virtue of the death of any person, then, whether the death occurred before or after the passing of this Act, the title of the first-mentioned person to the property shall, for the purposes of the enactments relating to legacy duty and succession duty, be deemed to have been created by the same instrument or the same operation of law that would have created it if the law relating to trading with the enemy had not come into operation, the enactments relating to the said duties shall have effect accordingly and, as respects property released after the passing of this Act, the custodian shall be accountable for the duties in the like manner and to the like extent as the person who, if the said law had not come into operation, would have been accountable.
- 3 Where, whether before or after the passing of this Act, a custodian releases to a person property which thereupon becomes subject to trusts, express or implied, which secure the application or devolution of the property in the manner in which it would have been applied or would have devolved if the law relating to trading with the enemy had not come into operation, any title to property arising by virtue of the said trusts shall, for the purposes of the enactments relating to legacy duty and succession duty, be deemed (whether the relevant death took place before or after the passing of this Act) to have been created by the same instrument or the same operation of law that would have created it if the law relating to trading with the enemy had not come into operation, and the said enactments shall have effect accordingly:

Provided that, where before the passing of this Act the trustee has distributed any property, his maximum liability for duty remaining unpaid shall not exceed the amount which can be raised from, or from the proceeds of, property in his hands at the passing of this Act or coming into his hands thereafter, being in either case property which he received as trustee.
- 4 Nothing in the last two preceding paragraphs shall render any legacy duty or succession duty payable in respect of any property in connection with any death if, under paragraph 1 of this Part of this Schedule, legacy duty or, as the case may be, succession duty is payable in respect of that property in connection with that death.

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PART IV

GENERAL

- 1 (1) Any custodian and any person who holds any property to the order of any custodian, on being requested in writing by the Commissioners of Inland Revenue or the Special Commissioners so to do, shall furnish to the Commissioners making the request, within such time, not being less than twenty-eight days, as may be specified therein, such particulars as those Commissioners may require for the purpose of enabling any tax [^{F26}or duty] to be charged or recovered in accordance with the provisions of this Schedule.
- (2) If any person other than a custodian fails without reasonable excuse to comply with any request under this paragraph within the time specified in the request he shall be liable to a penalty not exceeding fifty pounds and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.

Textual Amendments

F26 Words repealed in relation to deaths occurring after 13.4.1975 and, so far as regards the duties referred to in s. 52(2)(b) of the repealing Act, in relation to any death, by [Finance Act 1975 \(c.7, SIF 99:3\)](#), ss. [52\(2\)](#), [59](#), [Sch. 13 Pt. I](#) note (with a saving in s. 52(3) in relation to repayment or allowance in respect of sums paid before 13.3.1975 on account of the said duties)

- 2 In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say,—
- “the law relating to trading with the enemy” includes the Trading with the ^{M5}Enemy Act, 1939, the Defence (Trading with the Enemy) Regulations, 1940, and any orders made by the Treasury or the Board of Trade under or by virtue of that Act or those Regulations, and, except in relation to property in enemy territory within the meaning of that Act, includes also any corresponding law of any country or territory outside the United Kingdom;
- “custodian” means a custodian of enemy property appointed under the said Act;
- “property” has the meaning assigned to it by section seven of the said Act; and any reference in this Schedule to any money, property or income received by or in the hands of a custodian shall be construed as including a reference to money, property or income held to the order of a custodian.

Marginal Citations

M5 [1939 c. 89](#).

- 3 Part I of this Schedule shall be construed as one with the Income Tax Acts, [^{F27}Part II of this Schedule shall be construed as one with Part I of the ^{M6}Finance Act, 1894]
- ...
^{F28}

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1944. (See end of Document for details)

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Textual Amendments

F27 Words repealed in relation to deaths occurring after 13.4.1975 and, so far as regards the duties referred to in s. 52(2)(b) of the repealing Act, in relation to any death, by [Finance Act 1975 \(c.7, SIF 99:3\)](#), ss. [52\(2\)](#), [59](#), [Sch. 13 Pt. I](#) note (with saving in s. 52(3) in relation to repayment or allowances in respect of sums paid before 13.3.1975 on account of the said duties)

F28 Words repealed with saving by [Finance Act 1949 \(c. 47\)](#), [Sch. 11 Pt. IV](#)

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Marginal Citations

M6 [1894 c. 30](#).

F29F29 FIFTH SCHEDULE

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Textual Amendments

F29 [Sch. 5](#) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

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F29

Status:

Point in time view as at 02/02/1991.

Changes to legislation:

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