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STATUTORY INSTRUMENTS

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**2005 No. 3440**

The Finance Act 2002, Schedule 26 (Parts  
2 and 9) (Amendment No. 3) Order 2005

**Amendment of Part 2 of Schedule 26**

5.—(1) Amend paragraph 4 (contracts excluded by virtue of their underlying subject matter) (1) as follows.

(2) In sub-paragraph (2)(b)(i) for the words from “other than shares” onwards substitute insert “other than shares excluded by sub-paragraph (2ZA); or”.

(3) In sub-paragraph (2)(b)(ii) at the end add “other than a scheme to which paragraph 4 of Schedule 10 to the Finance Act 1996 applies”.

(4) After sub-paragraph (2) insert—

“(2ZA) The shares excluded by this sub-paragraph are—

(a) shares in relation to which section 91A or 91B of the Finance Act 1996(2) has effect;

(b) shares in an open-ended investment company to which paragraph 4 of Schedule 10 to the Finance Act 1996(3) applies.”.

(5) In sub-paragraph (2B)(b)—

(a) after “the contract and” insert “—(i)”; and

(b) after “unit trust scheme,” insert—

“or

(ii) any share capital of the company,”.

(6) In sub-paragraph (2D)(a)(ii) after “an asset” insert “or liability”.

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(1) Sub-paragraphs (2), (2A) and (3B) were substituted for sub-paragraph (2) of paragraph 4 by article 4 of S.I.2005/646. Sub-paragraph (2)(b) was amended by article 5 of S.I. 2005/2082.

(2) Sections 91A and 91B were inserted by paragraph 10 of Schedule 7 to the Finance (No. 2) Act 2005 (c. 22).

(3) 1996 c. 8. There are amendments to paragraph 4, but none is relevant for present purposes. Regulation 3 of S.I. 1997/1154 provides that the Tax Acts have effect in relation to open-ended investment companies as they have effect in relation to authorised unit trusts. References in those Acts to companies are (by virtue of that provision) to have effect in relation to open-ended investment companies as they have effect in relation to authorised unit trusts.