



# Finance Act 1975

## 1975 CHAPTER 7

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [13th March 1975]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### VALUE ADDED TAX

##### **1 VAT: eight per cent. rate**

- (1) In section 9 of the Finance Act 1972 (rate of value added tax)—
  - (a) in subsection (1), for the word "ten" there shall be substituted the word "eight"; and
  - (b) subsection (2) (which is spent) shall be omitted.
- (2) The Value Added Tax (Change of Rate) Order 1974 is hereby revoked.
- (3) This section shall be deemed to have come into force on 18th November 1974.

## 2 VAT: special rate for light hydrocarbon oil, etc.

- (1) Subject to subsection (2) below, in its application to the supply or importation of any light oil, petrol substitute or power methylated spirits, within the meaning of the Hydrocarbon Oil (Customs & Excise) Act 1971, section 9 of the Finance Act 1972 (rate of value added tax) shall have effect, and shall be deemed to have had effect on and after 18th November 1974, as if for the rate of tax for the time being in force, whether by virtue of subsection (1) of that section or of any order under subsection (3) thereof, there were substituted the rate of 25 per cent.
- (2) Nothing in subsection (1) above—
  - (a) shall affect the rate of tax chargeable on the supply or importation of light oil in containers not exceeding 20 fluid ounces, where the oil is intended for sale in those containers solely as fuel for mechanical lighters, as defined in section 221(4) of the Customs and Excise Act 1952; or
  - (b) shall apply to any goods of a description for the time being specified in Schedule 4 to the Finance Act 1972 (zero rating).

## 3 Relief for " do-it-yourself " builders

- (1) After section 15 of the Finance Act 1972 there shall be inserted the following section—

**“15A Refund of tax to persons constructing new homes otherwise than in the course of a business.**

- (1) Subject to the following provisions of this section, where, on or after 13th November 1974, tax becomes chargeable on the supply of goods to, or the importation of goods by, a person constructing a dwelling lawfully and otherwise than in the course of a business carried on by him, and those goods—
  - (a) are incorporated in the dwelling or its site, and
  - (b) are of such a nature that, if he were a taxable person constructing the dwelling for the purpose of granting a major interest in it, within the meaning of section 5(6) of this Act, he would be entitled to deduct that tax as input tax,

the Commissioners shall, on a claim made by him in that behalf, refund to him the amount of the tax so chargeable.
- (2) The Commissioners shall not be required to entertain a claim for a refund of tax under this section unless the claim—
  - (a) is made within such time and in such form and manner, and
  - (b) contains such information, and
  - (c) is accompanied by such documents, whether by way of evidence or otherwise,

as the Commissioners may by regulations prescribe.
- (3) In this section—
  - (a) references to a dwelling include references to a garage constructed at the same time as the dwelling and intended to be occupied together with it; and

- (b) references to the construction of a dwelling do not include references to the conversion, reconstruction, alteration or enlargement of any existing building or buildings.”
- (2) At the end of section 40(1) of the Finance Act 1972 (appeals relating to value added tax) there shall be inserted the following paragraph:—
  - “(j) the amount of any refunds under section 15A of this Act”.

#### **4 Refund to diplomatic missions, etc., of VAT on importation of hydrocarbon oil**

At the end of section 17 of the Finance Act 1972 there shall be added the following subsection:—

- “(5) In the following provisions, that is to say—
- (a) section 8(1) of the Consular Relations Act 1968,
  - (b) paragraphs 6 and 12 of Schedule 1 to the International Organisations Act 1968, and
  - (c) section 1(1) of the Diplomatic and other Privileges Act 1971,
- after the words ' customs duty paid on' there shall be inserted the words ' or value added tax paid on the importation of.’”

## **PART II**

### **INCOME TAX AND CORPORATION TAX**

#### **5 Income tax: alteration of additional rates for 1974-75**

Section 7(1) of the Finance Act 1974 (charge of income tax for 1974-75) shall have effect with the substitution for paragraph (b) of the following provisions, that is to say—

- “(b) in respect of so much of the investment income included in an individual's total income as exceeds £1,000 at the additional rates of 10 per cent, for the first £1,000 of the excess and 15 per cent, for the remainder;

except that, in the case of an individual who shows that, at any time within that year, his age or that of his wife living with him was sixty-five years or more, income tax at the additional rate of 10 per cent, shall not be charged in respect of the first £500 of the excess mentioned in paragraph (b) above.”.

#### **6 Investment of pension funds in building societies**

- (1) Where sums payable to exempt pension funds are among the sums with respect to which arrangements have been entered into with a building society under section 343 of the Taxes Act, paragraph (b) of subsection (3) of that section shall not apply to the sums so payable; but the amounts paid or credited in respect of them shall be treated as paid or credited after deduction of income tax from a corresponding gross amount.
- (2) In this section " building society " has the same meaning as in section 343 of the Taxes Act and " exempt pension fund " means any fund or scheme in the case of which

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provision is made by the enactments mentioned in subsection (3) below for exempting the whole or part of its income from income tax.

- (3) The enactments referred to in subsection (2) above are sections 208, 211, 212, 213, 214, 216, and 226 of the Taxes Act and section 21(2) of the Finance Act 1970.

## **7 Early surrender or conversion of life policies**

- (1) Where a policy of life insurance to which this section applies has been issued and, within four years from the making of the insurance in respect of which it was issued, any of the following events happens, that is to say—

- (a) the surrender of the whole or part of the rights conferred by the policy;
- (b) the falling due (otherwise than on death) of a sum payable in pursuance of a right conferred by the policy to participate in profits ; and
- (c) the conversion of the policy into a paid-up or partly paid-up policy;

the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender or, as the case may be, out of the sum falling due or out of the fund available to pay the sums which will be due on death or on the maturity of the policy, a sum determined in accordance with the following provisions of this section, unless the body is wound up and the event is a surrender or conversion effected in connection with the winding-up.

- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the lower of the following, that is to say—

- (a) the appropriate percentage of the premiums payable under the policy up to the happening of the event; and
- (b) the surrender value of the policy at the time of the happening of the event less the complementary percentage of the premiums mentioned in paragraph (a) above.

- (3) If the event is one of those mentioned below, the sum payable to the Board shall not exceed the following limit, that is to say.—

- (a) if it is the surrender of part of the rights conferred by the policy, the value of the rights surrendered at the time of the surrender ;
- (b) if it is the conversion of the policy into a partly paid-up policy, the surrender value, at the time of the conversion, of so much of the policy as is paid up ; and
- (c) if it is the falling due of a sum, that sum.

- (4) If the event was preceded by the happening of such an event as is mentioned in subsection (1) above, subsection (2) above shall apply—

- (a) as if the lower of the amounts mentioned therein were reduced by the sum paid under this section in respect of the earlier event; and
- (b) if the earlier event was such an event as is mentioned in paragraph (a) or (c) of subsection (3) above, as if the surrender value of the policy were increased by the amount which, under that paragraph, limited or might have limited the sum payable under this section in respect of the earlier event.

- (5) For the purposes of this section, the appropriate percentage, in relation to any event, is the percentage equal to the following fraction of the basic rate of income tax in force for the year of assessment in which the event happens, that is to say.—

- (a) if the event happens in the first two of the four years mentioned in subsection (1) above, three-sixths ;

- (b) if it happens in the third of those years, two-sixths; and
  - (c) if it happens in the last of those years, one-sixth;
- and the complementary percentage, in relation to any event, is 100 per cent, less the appropriate percentage.
- (6) Where the annual amount of the premiums payable under a policy of life insurance is at any time increased (whether under the policy or by any contract made after its issue) so as to exceed by more than 25 per cent, the first annual amount so payable, the additional rights attributable to the excess shall be treated for the purposes of this section as conferred by a new policy issued in respect of an insurance made at that time, and the excess shall be treated as premiums payable under the new policy.
- (7) Subject to subsection (8) below, this section applies to any policy of life insurance issued in respect of an insurance made after 26th March 1974; but where it applies by virtue of subsection (6) above to a policy treated as having been issued in respect of an insurance made after that date by reason of an increase in the annual amount of the premiums payable under an earlier policy, it shall apply with the modification that the excess referred to in that subsection shall be taken to be the excess over the annual amount of the premiums at 26th March 1974.
- (8) This section does not apply to a policy unless it is a qualifying policy within the meaning of Schedule 1 to the Taxes Act, and does not in any case apply to such a policy as is mentioned in paragraph (b) or (c) of the proviso to section 19(4) of that Act.

## **8 Surrender, etc. of policies after four years**

- (1) Where a policy of life insurance to which this section applies has been issued and, in the fifth or any later year from the making of the insurance in respect of which it was issued, either of the following events happens, that is to say—
  - (a) the surrender of the whole or part of the rights conferred by the policy ; and
  - (b) the falling due (otherwise than on death or maturity) of a sum payable in pursuance of a right conferred by the policy to participate in profits;then, if either of those events has happened before, the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender, or, as the case may be, out of the sum falling due, a sum determined in accordance with the following provisions of this section.
- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the applicable percentage of the lower of the following—
  - (a) the total of the premiums which are payable in that year under the policy; and
  - (b) the sums payable by reason of the surrender or, as the case may be, the sum falling due;and the percentage to be applied for this purpose shall be a percentage equal to one half of the basic rate of income tax in force in the year of assessment in which the event happens.
- (3) Where, after a sum has become payable under subsection (1) above, and within the same year from the making of the insurance, another such event happens as is mentioned therein, the sums payable under that subsection in respect of both or all of the events shall not exceed the applicable percentage of the total mentioned in subsection (2)(a) above.

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- (4) Where, on the happening of an event in the fifth or any later year from the making of the insurance, any sum is payable under subsection (1) of section 7 of this Act as applied by subsection (6) of that section, as well as under subsection (1) above, subsection (2) above shall apply as if the sums or sum mentioned in paragraph (b) thereof were reduced by the sum payable under section 7 of this Act.
- (5) This section applies to any policy of life insurance issued in respect of an insurance made after 26th March 1974, but only if it is a qualifying policy within the meaning of Schedule 1 to the Taxes Act; but does not apply to a policy issued in the course of an industrial insurance business, as defined in section 1(2) of the Industrial Assurance Act 1923 or of the Industrial Assurance Act (Northern Ireland) 1924.

## **9 Provisions supplementary to sections 7 and 8**

- (1) Where on the happening of an event in relation to a policy of life insurance a sum is payable under section 7 or 8 of this Act, relief under section 19 of the Taxes Act in respect of the relevant premiums paid under the policy shall be reduced by the sum so payable or, as the case may be, by so much of that sum as does not exceed the amount of that relief (or does not exceed so much of that amount as remains after any previous reduction under this section).
- (2) For the purposes of this section the relevant premiums are—
  - (a) in relation to a sum payable under section 7 of this Act, the premiums payable under the policy up to the happening of the event by reason of which the sum is payable; and
  - (b) in relation to a sum payable under section 8 of this Act, the premiums payable in the year (from the making of the insurance) in which the event happens by reason of which the sum is payable.
- (3) Where the relevant premiums are payable in more than one year of assessment the reduction in relief under this section shall, so far as possible, reduce relief for an earlier year of assessment before reducing relief for a later one.
- (4) Any sum paid under section 7 or 8 of this Act by reason of any event shall be treated—
  - (a) as between the parties, as received by the person by whom the premiums under the policy were paid; and
  - (b) for the purposes of income tax, as income tax paid by that person in satisfaction of the increase in liability resulting from the reduction of relief under this section ;

and where that sum exceeds that increase in liability he shall be entitled, on a claim made by him not later than six years after the end of the year of assessment in which the event happens, to repayment of the excess.
- (5) Schedule 1 to this Act shall have effect with respect to the payment of sums payable under section 7 or 8 of this Act and related matters.

## **10 Life policies, life annuities and capital redemption policies**

Sections 19 and 21 and Chapter III of Part XIV of the Taxes Act and Schedule 1 to that Act shall have effect subject to the provisions of Schedule 2 to this Act; and in those provisions references to any section not otherwise identified are to sections of that Act and " Schedule 1 " means Schedule 1 to that Act.

## **11 Extension of tax exemption for certain savings certificates**

In section 95(1) of the Taxes Act (exemption from tax of accumulated interest payable in respect of certain United Kingdom savings certificates), and in section 96(1) of that Act (corresponding exemption for certain Ulster savings certificates), after the words " accumulated interest", wherever occurring, there shall be inserted the words " and any terminal bonus or other sum ".

## **12 Statutory corporation borrowing in foreign currency**

Section 416 of the Taxes Act (local authority borrowing in foreign currency) shall have effect in relation to any securities issued by or loan made to a statutory corporation (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958) as it has effect in relation to any securities issued by a local authority, the references to the beneficial owner or holder of the securities being for this purpose read, in the case of such a loan, as references to the person for the time being entitled to repayment or eventual repayment of the loan.

## **13 Initial allowances for industrial buildings and structures, etc.**

- (1) In relation to expenditure incurred after 12th November 1974 section 1(2) of the Capital Allowances Act 1968 (initial allowances for industrial buildings and structures, etc.) shall have effect as if for the words " three-twentieths " there were substituted the words " one-half " ; and accordingly section 67(2)(d) of the Finance Act 1972 shall not apply to expenditure so incurred.
- (2) Expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of the Capital Allowances Act 1968 (expenditure incurred before trade began) or section 5(1) of that Act (purchase of unused buildings or structures).

## **14 Expenditure on thermal insulation**

- (1) If a person carrying on a trade has after 12th November 1974 incurred expenditure in adding any insulation against loss of heat to any industrial building or structure occupied by him for the purposes of that trade, Chapter I of Part III of the Finance Act 1971 shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him and had been in use for the purposes of the trade, and as if the disposal value of the machinery or plant were nil.
- (2) If a person has after 12th November 1974 incurred expenditure in adding any insulation against loss of heat to any industrial building or structure let by him otherwise than in the course of a trade, Chapter I of Part III of the Finance Act 1971 shall apply as if the expenditure were capital expenditure incurred in providing machinery or plant first let by that person, otherwise than in the course of a trade, at the time when the expenditure was incurred, and as if the property comprised in the lease of the building or structure had as from that time included the machinery or plant, and as if the disposal value of the machinery or plant were nil.
- (3) Any allowance made by virtue of section 46(1) of the Finance Act 1971 in a case where it applies by virtue of subsection (2) above shall (notwithstanding section 48(2) of that Act) be available primarily against the following income, that is to say—

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- (a) income taxed under Schedule A in respect of any premises which at any time in the chargeable period for which the allowance falls to be made consist of or include an industrial building or structure; or
  - (b) income which is the subject of a balancing charge under Chapter I (industrial buildings and structures, etc.) of Part I of the Capital Allowances Act 1968.
- (4) This section shall be construed as if contained in Chapter I of Part III of the Finance Act 1971 ; and in this section " industrial building or structure " has the meaning given by section 7 of the Capital Allowances Act 1968.

## **15 Expenditure on fire safety**

- (1) If a person carrying on a trade has on or after the relevant date incurred expenditure in taking, in respect of any premises used by him for the purposes of the trade—
- (a) steps specified, in a letter or other document sent or given to him by or on behalf of the fire authority on an application for a fire certificate under the Fire Precautions Act 1971 in respect of those premises, as steps that would have to be taken in order to satisfy the authority as mentioned in subsection (4) of section 5 of that Act, being steps that might have been, but were not, specified in a notice under that subsection; or
  - (b) steps which, in consequence of the making of an order under section 10 of that Act prohibiting or restricting the use of the premises, had to be taken to enable the premises to be used without contravention of the order,
- then, if an allowance or deduction in respect of the expenditure could not, apart from this section, be made in taxing the trade or computing the profits or gains arising from it, Chapter I of Part III of the Finance Act 1971 shall apply as regards the expenditure as it would apply by virtue of section 17 of the Finance Act 1974 if the expenditure fell within the said section 17.
- (2) For the purposes of this section the relevant date, in relation to expenditure incurred in taking steps falling within subsection (1)(a) above, is 1st June 1972 and, in relation to expenditure incurred in taking steps falling within subsection (1)(b) above, is 20th March 1972.
- (3) This section shall be construed as if contained in Chapter I of Part III of the Finance Act 1971.

## **16 Trade unions**

- (1) If a trade union entered in the list of trade unions maintained under the Trade Union and Labour Relations Act 1974 was formed after 30th September 1971, it shall be treated as having been a registered trade union within the meaning of section 338 of the Taxes Act (exemption for trade unions) at all times between its formation and its entry in that list.
- (2) If a trade union was a registered trade union on 30th September 1971, it shall be treated for the purposes of the said section 338 as having remained a registered trade union so long as it remained a trade union and was not entered in the said list.

## **17 Sales, etc. at undervalue or overvalue**

- (1) In section 485 of the Taxes Act (sales etc. at undervalue or overvalue), after subsection (5) there shall be inserted as subsection (5A)—



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“(5A) In determining for the purposes of this section whether any person (alone or with others) has control over a body of persons—

- (a) there shall be attributed to him any rights or powers of a nominee for him, that is to say, any rights or powers which another possesses on his behalf or may be required to exercise on his direction or behalf;
- (b) there may also be attributed to him any rights or powers of a person with whom he is connected (within the meaning of section 533 of this Act, but omitting subsections (5) to (7) and the exception in subsection (4)), including any rights or powers of a nominee for such a person, that is to say any rights or powers which another possesses on behalf of such a person or may be required to exercise on his direction or behalf.”.

The amendments made by this subsection shall not apply in relation to transactions carried out before 10th December 1974.

- (2) For the removal of doubt it is hereby declared that in subsections (1)(a) and (2)(a) of the said section 485 the references to both the seller and the buyer being bodies of persons and some other person having control over both of them include cases where both of them are bodies of persons and are under the control of the same persons.
- (3) The Board may, by notice in writing given to any body corporate, require it to give to the Board, within such time (not being less than thirty days) as may be specified in the notice, such particulars (which may include details of relevant documents) as may be so specified of any related transaction which appears to the Board—
  - (a) to be, or to be connected with, a transaction with respect to which the Board might give a direction under the said section 485 ; or
  - (b) to be relevant for determining whether such a direction could or should be given in any case ; or
  - (c) to be relevant for determining for the purposes of that section what price any property sold would have fetched had the sale been one between independent persons dealing at arm's length.
- (4) For the purposes of a notice under subsection (3) above a transaction is a related transaction if, but only if, it is one to which the body corporate to whom the notice is given, or a body corporate associated with that body, was a party; and for the purposes of this subsection two bodies corporate are associated with one another if one is under the control of the other or both are under the control of the same person or persons.
- (5) Where, in the case of a transaction with respect to which it appears to the Board that a direction under the said section 485 might be given—
  - (a) one of the parties is a body corporate resident outside the United Kingdom and a 51 per cent, subsidiary of a body corporate (in this subsection referred to as " the parent body ") resident in the United Kingdom; and
  - (b) the other party is, or is a 51 per cent, subsidiary of, the parent body,the Board may, by notice in writing given to the parent body, require it to make available for inspection any books, accounts or other documents or records whatsoever of the parent body or, subject to subsection (6) below, of any body of persons over which it has control which relate to that transaction, to any other transaction (of whatever nature) in the same assets, or to transactions (of whatever nature) in assets similar to those to which the first-mentioned transaction related.

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- (6) If, in a case in which under subsection (5) above the parent body is by notice required to make available for inspection any books, accounts, documents or records of a body of persons resident outside the United Kingdom over which the parent body has control, it appears to the Board, on the application of the parent body, that the circumstances are such that the requirement ought not to have effect, the Board shall direct that the parent body need not comply with the requirement.

If, on such an application, the Board refuse to give a direction under this subsection, the parent body may, by notice in writing given to the Board within thirty days after the refusal, appeal to the Special Commissioners who, if satisfied that the requirement in question ought in the circumstances not to have effect, may determine accordingly.

- (7) Where it appears to the Board that a body of persons may be a party to a transaction or transactions with respect to which a direction under the said section 485 might be given, then, for the purpose of assisting the Board to determine whether such a direction should be given, an inspector specifically authorised in that behalf by the Board may, at any reasonable time, on production if so required of his authority, enter any premises used in connection with the relevant trade carried on by that body of persons (that is to say, the trade in the course of which the transaction or transactions were effected) and inspect there any books, accounts or other documents or records whatsoever relating to that trade which he considers it necessary for him to inspect for that purpose, and may require any such books, accounts or other documents or records to be produced to him there for inspection.

An inspector's authority for entering any premises under this subsection shall state the name of the inspector and the name of the body of persons carrying on the trade in connection with which the premises are used.

- (8) If and so far as the question in dispute on an appeal to the General Commissioners or, in Northern Ireland, to a county court against an assessment to tax arises from a direction of the Board under the said section 485 and the assessment is for a chargeable period beginning after the passing of this Act, the question shall be referred to and determined by the Special Commissioners.
- (9) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information) there shall be added in the first column of the Table the words " section 17(3) and (5) of the Finance Act 1975 ", and in the second column of the Table the words " section 17(7) of the Finance Act 1975 ".
- (10) Subsection (3) to (7) above shall be construed as one with the said section 485.

## **18 Relief for increase in stock values in financial year 1973**

- (1) Subject to the following provisions of this section, if—
- (a) a company carries on a trade in respect of which it is, for its 1973 accounting period, within the charge to corporation tax under Case I of Schedule D, and
  - (b) the value of the company's trading stock at the end of its 1973 accounting period (in this section referred to as its " closing stock value") exceeds the value of its trading stock at the beginning of that accounting period (in this section referred to as its " opening stock value " ),

the company shall be entitled to relief under this section by reference to the amount of that excess; and in the following provisions of this section the amount of that excess is referred to as the company's " 1973 increase in stock value ".

- (2) In this section " 1973 accounting period " means—
- (a) in the case of a company which has not more than one accounting period ending in the financial year 1973, that accounting period ; and
  - (b) in the case of any other company, a notional accounting period beginning on the first day of the first of the company's accounting periods which ends in the financial year 1973 and ending on the last day of the last of the company's accounting periods which ends in that year;
- and for the purposes of this section an accounting period which ends on the last day of a financial year shall be treated as ending in that year.
- (3) Schedule 3 to this Act shall have effect—
- (a) in any case where a company's 1973 accounting period does not coincide with a period of account or with two or more consecutive periods of account or is longer than twelve months ; and
  - (b) in certain cases where trading stock is transferred between companies which are members of the same group of companies ; and
  - (c) in certain cases of companies beginning or ceasing to carry on a trade or ceasing to be within the charge to corporation tax or to be resident in the United Kingdom.
- (4) For the purposes of the Corporation Tax Acts, other than this section and Schedule 3 to this Act, in any case where a company is entitled to relief under this section—
- (a) the company's closing stock value shall be treated as reduced by an amount equal to its 1973 increase in stock value, less 10 per cent, of its trading income for its 1973 accounting period, and
  - (b) the value of the company's trading stock at the beginning of the period of account which begins on the day following that as at which the closing stock value is determined shall be treated as reduced by the like amount,
- and all such adjustments shall be made in any assessment to corporation tax for any relevant accounting period as are necessary to give effect to any relief under this section.
- (5) A company shall not be entitled to relief under this section unless—
- (a) its closing stock value is not less than £25,000 ; and
  - (b) its 1973 increase in stock value is greater than 10 per cent, of its trading income for its 1973 accounting period; and
  - (c) a claim for the relief is made within the time allowed under subsection (6) below ;
- and, notwithstanding anything in section 155 of the Taxes Act (partnership profits and losses computed in certain cases as if the partnership were a company), nothing in this section shall affect the computation of the profits of, or any loss incurred in, a partnership unless each of the partners is a company.
- (6) A claim for relief under this section in respect of an accounting period may be made at any time before—
- (a) the date on which the assessment to corporation tax for that period becomes final, that is to say, when the assessment can no longer be varied by any Commissioners on appeal or by the order of any court, or
  - (b) the expiry of the period of six months beginning with the date on which this Act is passed,

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whichever is the later.

(7) In any case where—

- (a) by virtue of subsection (2)(b) above, a company's 1973 accounting period consists of two or more accounting periods and the last of those periods (in this subsection referred to as "the relevant accounting period") coincides with a period of account, and
- (b) the company makes a claim for relief under this section, and
- (c) in the relevant accounting period the company incurs a loss in the trade referred to in subsection (1)(a) above,

then, notwithstanding that the relevant accounting period is less than 12 months, in relation to so much of the loss referred to in paragraph (a) above as would not have been incurred if the claim for relief under this section had not been made, subsections (2) and (3) of section 177 of the Taxes Act (carry back of losses against profits of preceding accounting periods ending within a specified time) shall have effect as if the time specified in the said subsection (3) comprised—

- (i) so much of the 1973 accounting period as does not consist of the relevant accounting period ; and
- (ii) the period which ends immediately before the 1973 accounting period and is either equal in length to that period or 12 months, whichever is the shorter.

(8) Where any adjustment is made in the computation of the profits arising or losses incurred in an accounting period in giving effect to a claim for relief under this section, a claim for relief or (as the case may be) for additional relief under any other provision of the Tax Acts which is made in consequence of that adjustment (whether by the company to which the relief under this section is granted or by any other company) shall not be out of time if it is made before the end of the period of six months beginning with the date on which this Act is passed, notwithstanding that the time limit otherwise applicable to a claim under that provision has expired.

(9) In this section " trading stock" has the same meaning as in section 137 of the Taxes Act except that it does not include—

- (a) securities, which for this purpose includes shares and stock, or
- (b) any services, article or material which, if the trade concerned were a profession, would be treated as work in progress for the purposes of section 138 of that Act, or
- (c) in the case of a company which carries on a trade in partnership with other persons at least one of whom is an individual, any interest in the trading stock of the partnership,

and in determining the value of a company's trading stock at any time for the purposes of this section, to the extent that, at or before that time, any payments on account have been received by the company in respect of any trading stock, the value of that stock shall be reduced accordingly.

(10) In this section " trading income " means, in relation to any trade, the income from the trade computed, in accordance with the rules applicable to Case I of Schedule D, except that—

- (a) no deduction or addition shall be made by virtue of section 73, section 74 or section 91 of the Capital Allowances Act 1968 (corporation tax allowances and charges and allowances for capital expenditure on scientific research); and

- (b) no account shall be taken of any set-off or reduction of income to which the company is entitled by virtue of section 177 or section 178 of the Taxes Act (trade etc. losses); and
  - (c) in a case falling within subsection (9)(c) above, any income in relation to the trade carried on by the partnership shall be excluded.
- (11) For the purposes of this section, in any case where, by virtue of subsection (2)(b) above, a company's 1973 accounting period consists of more than one accounting period, its trading income for its 1973 accounting period shall be the aggregate of its trading income for each of the accounting periods of which that period consists.

## PART III

### CAPITAL TRANSFER TAX

#### *Main charging provisions*

#### **19 Capital transfer tax**

- (1) A tax, to be known as capital transfer tax, shall be charged on the value transferred by a chargeable transfer.
- (2) Schedule 4 to this Act shall have effect with respect to the administration and collection of the tax.

#### **20 Transfers and chargeable transfers**

- (1) The following provisions of this section shall have effect, subject to the other provisions of this Part of this Act, for determining for the purposes of capital transfer tax what is a chargeable transfer and what value is transferred by a chargeable transfer.
- (2) Subject to subsections (3) and (4) below, a transfer of value is any disposition made by a person ("the transferor") as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer.
- (3) For the purposes of subsection (2) above no account shall be taken of the value of excluded property which ceases to form part of a person's estate as a result of a disposition.
- (4) A disposition is not a transfer of value if it is shown that it was not intended, and was not made in a transaction intended, to confer any gratuitous benefit on any person and either—
  - (a) that it was made in a transaction at arm's length between persons not connected with each other, or
  - (b) that it was such as might be expected to be made in a transaction at arm's length between persons not connected with each other;

but this subsection does not apply to a disposition by which a reversionary interest is acquired in the circumstances mentioned in section 23(3) of this Act and does not apply to a sale of shares or debentures not quoted on a recognised stock exchange unless it is shown that the sale was at a price freely negotiated at the time of the sale

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or at a price such as might be expected to have been freely negotiated at the time of the sale.

In this subsection " transaction " includes a series of transactions and any associated operations.

- (5) A chargeable transfer is any transfer of value made by an individual after 26th March 1974 other than an exempt transfer.
- (6) A transfer of value made by an individual after that date and exempt only to a limited extent—
  - (a) is, if all the value transferred by it is within the limit, an exempt transfer ; and
  - (b) is, if that value is partly within and partly outside the limit, a chargeable transfer of so much of that value as is outside the limit as well as an exempt transfer of so much of that value as is within the limit.
- (7) For the purposes of this section, where the value of a person's estate is diminished and that of another person's estate is increased by the first-mentioned person's omission to exercise a right he shall be treated as having made a disposition at the time, or the latest time, when he could have exercised the right, unless it is shown that the omission was not deliberate.

## **21 Settled property**

Schedule 5 to this Act shall have effect with respect to settled property.

## **22 Transfer on death**

- (1) On the death of any person after the passing of this Act tax shall be charged as if, immediately before his death, he had made a transfer of value and the value transferred by it had been equal to the value of his estate immediately before his death, but subject to the following provisions of this section.
- (2) Where the deceased was entitled to an interest in possession in settled property which on his death but during the life of the settlor reverted to the settlor, then, unless the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth, the value of the settled property shall be left out of account in determining for the purposes of this Part of this Act the value of the deceased's estate immediately before his death.
- (3) Where the deceased was entitled to an interest in possession in settled property and on his death the settlor's spouse became beneficially entitled to that property, then if—
  - (a) the settlor's spouse was at the time of the death domiciled in the United Kingdom and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which the death occurred; and
  - (b) neither the settlor nor the settlor's spouse had acquired a reversionary interest in the property for a consideration in money or money's worth ;
 the value of the settled property shall be left out of account in determining for the purposes of this Part of this Act the value of the deceased's estate immediately before his death.
- (4) Where one party to a marriage has died before 13th November 1974 and the other party dies after the passing of this Act, then, in determining for the purposes of this Part of this Act the value of the other party's estate immediately before his death, there shall

be left out of account the value of any property which, if estate duty were chargeable on that death, would be excluded from the charge by section 5(2) of the Finance Act 1894 (relief on death of surviving spouse).

(5) Where a person who dies after the passing of this Act—

- (a) had, before 27th March 1974 but not more than seven years before his death, made a gift inter vivos of any property; or
- (b) had, before 27th March 1974 but not at any time there after, a beneficial interest in possession in any property comprised in a settlement;

and by reason thereof any property would, had estate duty been chargeable on his death, have been included by virtue of section 2(1)(c) or 2(1)(b)(i) of the Finance Act 1894 in the property passing on his death, then, in determining for the purposes of capital transfer tax the value of his estate immediately before his death, there shall be included the value which for the purposes of estate duty chargeable on his death would have been the principal value of the property so included (or, in a case where, under paragraph 3 of Part II of Schedule 17 to the Finance Act 1969 the duty chargeable on the property would have been charged on a reduced value, that reduced value).

(6) Where estate duty on the whole or part of the value of any property which would have been included as mentioned in subsection (5) above would, by virtue of section 23 of the Finance Act 1925 or section 28 of the Finance Act 1954, have been chargeable at 55 per cent, of the estate rate, the tax chargeable on that value or part by virtue of subsection (5) above shall be charged at 55 per cent, of the rate represented by the fraction of which—

- (a) the numerator is the amount of tax which (apart from this subsection) would be chargeable on the value of the deceased's estate immediately before his death; and
- (b) the denominator is that value.

(7) Where any part of the property which would have been included as mentioned in subsection (5) above would, by virtue of section 40(2)(c) of the Finance Act 1969, have formed an estate by itself, the tax chargeable under this section shall be the aggregate of—

- (a) the tax that would have been so chargeable if that part had not been so included ; and
- (b) the tax (if any) that would have been so chargeable if that part only had formed the estate of the deceased and the deceased had made no previous chargeable transfers;

but in a case where (by reason of an excess over £25,000) the part referred to in paragraph (b) above would have been a fraction only of any property, the tax that would have been chargeable as mentioned in that paragraph shall be taken to be the like fraction of the tax that would have been so chargeable if the remainder of that property had also been included in the estate of the deceased.

(8) Where the estate duty would have been estate duty under the law of Northern Ireland—

- (a) subsection (5) above shall have effect with the substitution of a reference to four years for the reference in paragraph (a) to seven years, and of a reference to Schedule 1 to the Finance Act (Northern Ireland) 1969 for the reference to Schedule 17 to the Finance Act 1969; and
- (b) subsection (6) shall have effect with the substitution of references to section 3 of the Finance (No. 2) Act (Northern Ireland) 1947 and section 3 of the

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Finance Act (Northern Ireland) 1954 for the references to section 23 of the Finance Act 1925 and section 28 of the Finance Act 1954 ; and

- (c) subsection (7) shall have effect with the substitution of a reference to section 7(2)(c) of the Finance Act (Northern Ireland) 1969 for the reference to section 40(2)(c) of the Finance Act 1969.
- (9) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.

### *Meaning of estate and excluded property*

## **23 Meaning of estate**

- (1) For the purposes of this Part of this Act, a person's estate is the aggregate of all the property to which he is beneficially entitled, except that the estate of a person immediately before his death does not include excluded property.
- (2) A person who has a general power which enables him, or would if he were sui juris enable him, to dispose of any property other than settled property, or to charge money on any property other than settled property, shall be treated as beneficially entitled to the property or money; and for this purpose " general power " means a power or authority enabling the person by whom it is exercisable to appoint or dispose of property as he thinks fit.
- (3) Notwithstanding subsection (1) above, where a person entitled to an interest (whether in possession or not) in any settled property acquires a reversionary interest expectant (whether immediately or not) on that interest, the reversionary interest is not part of his estate for the purposes of this Part of this Act.

## **24 Excluded property**

- (1) The following provisions of this section apply for determining what is excluded property for the purposes of this Part of this Act, in addition to property which is excluded property by virtue of any of the provisions of Schedule 7 to this Act, and subject to paragraph 2 of Schedule 5 to this Act.
- (2) Property situated outside the United Kingdom is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.
- (3) A reversionary interest is excluded property unless—
  - (a) it has at any time been acquired (whether by the person entitled to it or by a person previously entitled to it) for a consideration in money or money's worth; or
  - (b) it is the interest expectant on the determination of a lease treated as a settlement by virtue of paragraph 1(3) of Schedule 5 to this Act.



### *Liability for tax*

## **25 Liability for tax**

- (1) The persons liable for the tax on the value transferred by any chargeable transfer shall be determined in accordance with the following provisions of this section and, in the cases mentioned in other provisions of this Part of this Act, in accordance with those provisions; and, except as otherwise provided, where under this Part of this Act two or more persons are liable for the same tax each of them shall be liable for the whole of it.
- (2) Where the chargeable transfer is made by a disposition (including any omission treated as a disposition under section 20(7) of this Act) of the transferor the persons liable are—
  - (a) the transferor and the transferee ; and
  - (b) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the transfer or who at any such time is beneficially entitled to an interest in possession in the property ; and
  - (c) where by the chargeable transfer any property becomes comprised in a settlement, any person for whose benefit any of the property or income from it is applied.
- (3) Where the chargeable transfer is one made under Schedule 5 to this Act, the persons liable are—
  - (a) the trustees of the settlement; and
  - (b) any person entitled (whether beneficially or not) to an interest in possession in the settled property; and
  - (c) any person for whose benefit any of the settled property or income from it is applied at or after the time of the transfer; and
  - (d) where the chargeable transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom, the settlor.
- (4) Where the chargeable transfer is made within three years of the transferor's death, then, with respect to so much of the tax as exceeds what it would have been had the transferor died more than three years after the transfer, subsection (2)(a) above shall have effect with the omission of the words " the transferor and " and subsection (3) above with the omission of paragraph (d).
- (5) Where the chargeable transfer is (under section 22 of this Act) made on the death of any person, the persons liable are, subject to subsection (7) below.—
  - (a) so far as the tax is attributable to the value of property which either—
    - (i) was not immediately before the death comprised in a settlement; or
    - (ii) was so comprised and consists of land in the United Kingdom which devolves upon or vests in the deceased's personal representatives, the deceased's personal representatives;
  - (b) so far as the tax is attributable to the value of property which, immediately before the death, was comprised in a settlement, the trustees of the settlement;
  - (c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the death or who at any such time is beneficially entitled to an interest in possession in the property;

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- (d) so far as the tax is attributable to the value of any property which, immediately before the death, was comprised in a settlement, any person for whose benefit any of the property or income from it is applied after the death ;
- and for the purposes of this subsection a person entitled to part only of the income of any property shall, notwithstanding anything in paragraph 3 of Schedule 5 to this Act, be deemed to be entitled to an interest in the whole of the property.
- (6) For the purposes of this section—
- (a) any person who takes possession of or intermeddles with, or otherwise acts in relation to, property so as to become liable as executor or trustee (or, in Scotland, any person who intromits with property or has become liable as a vitious intromitter); and
  - (b) any person to whom the management of property is entrusted on behalf of a person not of full legal capacity,
- shall be treated as a person in whom the property is vested.
- (7) Where the chargeable transfer is made on death and any tax is by virtue of section 22(5) of this Act attributable to the value of any property which would have passed on the death for the purposes of estate duty, subsection (5) above does not apply in relation to the tax so attributable but the persons liable for that tax are the persons who would have been accountable for the estate duty in respect of that property.
- (8) Where a transferor is liable for any tax and, by another transfer of value made by him on or after 27th March 1974, any property became the property of a person who at the time of both transfers was his spouse, that person is liable for so much of the tax as does not exceed the value of the property at the time of the other transfer.
- (9) In this section " the transferee " means, in relation to a chargeable transfer, any person the value of whose estate is increased by the transfer; and for the purposes of this section any question whether trustees are resident in the United Kingdom shall be determined as under paragraph 12(5) of Schedule 5 to this Act.
- (10) References in this section to any property include references to any property directly or indirectly representing it.

## **26 Exceptions from liability**

- (1) A purchaser of property, and a person deriving title from or under such a purchaser, shall not by virtue of subsection (2)(b) or (5)(c) of section 25 of this Act be liable for tax attributable to the value of the property, unless the property is subject to an Inland Revenue charge.
- (2) No person other than those liable under subsection (1) or (2) of section 32 or subsection (3) or (4) of section 34 of this Act or, in the case of tax payable on the proceeds of a sale in accordance with paragraph 3(a) of Schedule 9 to this Act, the person liable under paragraph 2(2) of that Schedule, shall be liable for any tax chargeable under those provisions respectively, and no person other than those liable under subsection (3) of section 39 of this Act shall be liable for any tax chargeable under subsection (1) of that section.
- (3) Where a transfer of value is made within one year of the death of the transferor and, by reason of an excess over the amount specified in paragraph 10(1)(b) or 11(1)(b) of Schedule 6 to this Act, any tax is chargeable on a part of the value transferred which is attributable to property given to a charity or property which becomes the property of

a political party, no person other than the charity or, as the case may be, the political party shall be liable for tax on that part.

- (4) A person shall not by virtue of section 25(5)(a) of this Act be liable for tax attributable to the value of any heritable property in Scotland which is vested in him as executor in the circumstances and for the purposes mentioned in subsection (1) or (2) of section 18 of the Succession (Scotland) Act 1964.

## **27 Limitation of liability**

- (1) A person shall not be liable under section 25(5)(a) of this Act for any tax as a personal representative of a deceased person, except to the extent of the following assets, namely—
- (a) so far as the tax is attributable to the value of any property other than such as is mentioned in paragraph (b) below, the assets (other than property so mentioned) which he has received as personal representative or might have so received but for his own neglect or default; and
  - (b) so far as the tax is attributable to property which, immediately before the death, was comprised in a settlement and consists of land in the United Kingdom, so much of that property as is at any time available in his hands for the payment of the tax, or might have been so available but for his own neglect or default.
- (2) A person shall not be liable for tax as trustee in relation to any property, except to the extent of—
- (a) so much of the property as he has actually received or disposed of or as he has become liable to account for to the persons beneficially entitled thereto ; and
  - (b) so much of any other property as is for the time being available in his hands as trustee for the payment of the tax or might have been so available but for his own neglect or default.
- (3) A person not liable as mentioned in subsection (1) or (2) above but liable for tax as a person in whom property is vested or liable for tax as a person entitled to a beneficial interest in possession in any property shall not be liable for the tax except to the extent of that property.
- (4) Where the tax exceeds what it would have been had the transferor died more than three years after the transfer, a person shall not be liable for the excess as a person in whom property is vested otherwise than beneficially, except to the extent of so much of the property as is vested in him at the time of the death ; and a person shall not be liable for the excess as a trustee in relation to any property, except to the extent of—
- (a) so much of the property as is vested in him at the time of the death ; and
  - (b) so much of the property as, after the death, he has actually received or disposed of or as, after the death, he has become liable to account for to the persons beneficially entitled thereto.
- (5) A person liable for tax as a person for whose benefit any settled property, or income from any settled property, is applied, shall not be liable for the tax except to the extent of the amount of the property or income (reduced in the case of income by the amount of any income tax borne by him in respect of it).
- (6) Where a person is liable for any tax—
- (a) under subsection (2) of section 25 of this Act otherwise than as transferor ; or

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(b) under subsection (3) of that section otherwise than as trustee of the settlement; he shall be liable only if the tax remains unpaid after it ought to have been paid, and, in a case where any part of the value transferred is attributable to the tax on it, shall be liable to no greater extent than he would have been had the value transferred been reduced by the tax remaining unpaid.

(7) Subsection (6) above shall not apply in relation to such an excess as is mentioned in subsection (4) above.

## **28 Burden of tax**

(1) Where personal representatives have paid an amount of tax and—

(a) the tax is tax on the value transferred by a chargeable transfer made on death ; and

(b) an Inland Revenue charge for that amount is imposed on any property under paragraph 20 of Schedule 4 to this Act or would be so imposed but for subparagraph (4) of that paragraph ;

the amount shall, where occasion requires, be repaid to them by the person in whom the property is vested.

(2) Where a person has paid to the Board any tax which is or might at his option have been payable by instalments and he is entitled to recover the whole or part of it from another person, that other person shall, unless otherwise agreed between them, be entitled to refund the tax or that part by the same instalments (with the same interest thereon) as those by which it might have been paid to the Board.

(3) Where a person is liable, otherwise than as transferor, and otherwise than under section 25(8) of this Act, for tax attributable to the value of any property he shall, for the purpose of paying the tax or raising the amount of it when paid, have power, whether or not the property is vested in him, to raise the amount of the tax by sale or mortgage of, or a terminable charge on, that property or any part thereof.

(4) A person having a limited interest in any property who pays the tax attributable to the value of that property shall be entitled to the like charge as if the tax so attributable had been raised by means of a mortgage to him.

(5) Any money held on the trusts of a settlement may be expended in paying the tax attributable to the value of any property comprised in the settlement and held on the same trusts.

(6) On an application being made in such form as the Board may prescribe by a person who has paid or borne the tax attributable to the value of any property, being tax for which he is not ultimately liable, the Board shall grant a certificate specifying the tax paid and the debts and incumbrances allowed in valuing the property.

(7) Except to the extent of any repayment which may be or become due from the Board, a certificate under subsection (6) above shall be conclusive as between any person by whom the tax specified in the certificate falls to be borne and the person seeking to recover the tax from him; and any repayment of the tax falling to be made by the Board shall be duly made if made to the person producing the certificate.

(8) References in this section to tax include interest on tax and, in subsections (1) to (5), costs properly incurred in respect of it.

*Reliefs and related provisions*

**29 Exempt transfers and miscellaneous exemptions and reliefs**

Schedule 6 to this Act shall have effect with respect to exempt transfers and Schedule 7 to this Act with respect to the exemptions and reliefs mentioned therein.

**30 Relief for successive charges**

- (1) Where the value of a person's estate was increased by a chargeable transfer (in this section referred to as the previous transfer) made not more than four years before his death, the tax chargeable on his death under section 22 of this Act shall, subject to subsection (2) below, be reduced by the following percentage of the tax charged on so much of the value transferred by the previous transfer as is attributable to the increase, that is to say—
  - (a) by 80 per cent, if the period between the previous transfer and the death was one year or less ;
  - (b) by 60 per cent, if that period was more than one year but not more than two years ;
  - (c) by 40 per cent, if that period was more than two years but not more than three years ; and
  - (d) by 20 per cent, if that period was more than three years.
- (2) No reduction shall be made under this section with respect to an increase attributable to property which, at the time of the death, was settled property, if, under paragraph 5 of Schedule 5 to this Act, tax is chargeable on the death as if the value of that property were reduced.
- (3) Where the value of a person's estate was increased on a death on which estate duty was payable, the preceding provisions of this section shall apply with the necessary modifications and, in particular, as if on that death there had been a chargeable transfer and the estate duty had been tax on the value transferred thereby.

**31 Conditional exemption for certain objects on death**

- (1) The Treasury may, on a claim made for the purpose, designate such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income as—
  - (a) were included in the estate of a person immediately before his death ; and
  - (b) appear to the Treasury to be of national, scientific, historic or artistic interest; to be objects to which this section applies.
- (2) Where, with respect to an object to which this section applies, an undertaking is given, by such person as the Treasury think appropriate in the circumstances of the case, that, until the person entitled to the object dies or the object is disposed of, whether by sale or gift or otherwise.—
  - (a) the object will be kept permanently in the United Kingdom and will not leave it temporarily except for a purpose and a period approved by the Treasury ; and
  - (b) reasonable steps will be taken for the preservation of the object; and
  - (c) reasonable facilities for examining the object for the purpose of seeing the steps taken for its preservation, or, subject to subsection (3) below, for

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purposes of research, will be allowed to any person authorised by the Treasury to examine it;

the value of the object shall be left out of account in determining for the purposes of this Part of this Act the value transferred by the transfer of value made on the death of the person mentioned in subsection (1)(a) above.

- (3) If it appears to the Treasury, on a claim made for the purpose, that any documents which are designated or to be designated as objects to which this section applies contain information which for personal or other reasons ought to be treated as confidential, they may exclude those documents, either altogether or to such extent as they think fit, from so much of an undertaking given or to be given under subsection (2) (c) above as relates to their examination for purposes of research.
- (4) In this section " national interest" includes interest within any part of the United Kingdom.

### **32 Charge on failure of condition of exemption**

- (1) Where, under section 31 of this Act, the value of an object has been left out of account and the Treasury are satisfied that at any time the undertaking given under that section with respect to the object has not been observed in a material respect, tax shall be chargeable with respect to the object in accordance with section 33 of this Act and the person liable for the tax shall be the person who, if the object were sold at the time the tax becomes chargeable, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (2) Where, under section 31 of this Act, the value of an object has been left out of account and—
  - (a) subsection (1) above does not apply ; but
  - (b) the object is disposed of, whether on sale or otherwise,
 then, subject to the following provisions of this section, tax shall be chargeable with respect to the object in accordance with section 33 of this Act and the person liable for the tax shall be the person for whose benefit the object is disposed of ; but where the value of an object has been so left out of account on the death of more than one person the tax chargeable under this subsection shall be chargeable only by reference to the last death.
- (3) Tax shall not be chargeable by virtue of subsection (2) above with respect to an object—
  - (a) on its being sold by private treaty to a body mentioned in paragraph 12 of Schedule 6 to this Act or on its being disposed of to such a body otherwise than by sale; or
  - (b) if it is disposed of otherwise than by sale and the undertaking previously given with respect to it is replaced by a further undertaking under section 31 of this Act.
- (4) For the purposes of subsection (2) above the acceptance of an object under paragraph 17 of Schedule 4 to this Act shall not be treated as a disposal of the object.

### **33 Amount and effect of charge under section 32**

- (1) The following provisions of this section shall have effect where, under section 31 of this Act, the value of any object has been left out of account in determining the value

transferred by the transfer of value made on the death of any person (in this section referred to as the value transferred on death) and tax becomes chargeable with respect to the object under section 32 of this Act by reason of the disposal of the object or the non-observance of an undertaking (in this section referred to as a chargeable event).

- (2) If the chargeable event occurs within three years of the death—
  - (a) the value of the object (at the time of the death) shall no longer be left out of account, and tax shall be chargeable on the value transferred on death as if section 31 of this Act had never applied to the object; and
  - (b) the tax chargeable under section 32 of this Act with respect to the object shall be so much of the tax chargeable on the value transferred on death as is attributable to the value restored under this subsection.
- (3) If the chargeable event occurs more than three years after the death, the tax chargeable under section 32 of this Act with respect to the object shall be so much of the tax that would have been chargeable on the value transferred on death as would have been attributable to the value of the object if—
  - (a) section 31 of this Act had not applied to the object; and
  - (b) the value of the object at the time of the death had been equal to its value at the time of the chargeable event and, if the chargeable event was a disposal on sale, that value had been equal to the proceeds of sale.
- (4) Where—
  - (a) under section 31 of this Act the value of two or more objects has been left out of account in determining the value transferred on death ; and
  - (b) those objects formed a set at the time of the death ; and
  - (c) tax becomes chargeable under section 32 of this Act with respect to two or more of the objects by reason of chargeable events occurring at different times;then, subject to subsection (5) below, the preceding provisions of this section shall apply as if both or all the chargeable events had occurred at the time of the earlier or earliest one, and the tax chargeable with respect to the objects and (where necessary) the tax chargeable on the value transferred on death shall be adjusted accordingly on the occurrence of each of the subsequent chargeable events.
- (5) Subsection (4) above does not apply with respect to two or more chargeable events which are disposals to different persons who are neither acting in concert nor connected with each other.

### **34 Conditional exemption for certain buildings etc. on death**

- (1) Where any of the following property was included in the estate of a person immediately before his death, that is to say—
  - (a) land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;
  - (b) a building for the preservation of which special steps should in the opinion of the Treasury be taken by reason of its outstanding historic or architectural interest;
  - (c) land which adjoins such a building as is mentioned in paragraph (b) above and which in the opinion of the Treasury is essential for the protection of the character and amenities of the building, or,
  - (d) an object which in the opinion of the Treasury is historically associated with such a building as is mentioned in paragraph (b) above ;

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the Treasury may, on a claim made for the purpose, designate the property as property to which this section applies.

- (2) Where, with respect to any property to which this section applies, an undertaking is given, by such person as the Treasury think appropriate in the circumstances of the case, that, until the person entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise, reasonable steps will be taken—

- (a) in the case of land falling within subsection (1)(a) above, for the maintenance of the land and the preservation of its character ; and
- (b) in the case of any other property, for the maintenance, repair and preservation of the property and, if it is an object falling within subsection (1)(d) above, for keeping it associated with the building concerned;

and for securing reasonable access to the public, the value of the property shall be left out of account in determining for the purposes of this Part of this Act the value transferred by the transfer of value made on the death of the person mentioned in subsection (1) above (in this section referred to as the value transferred on his death).

- (3) Where, under subsection (2) above, the value of any property has been left out of account and the Treasury are satisfied that at any time the undertaking given under that subsection in respect of that property has not been observed in a material respect, then, subject to subsection (5) below, tax shall be chargeable in accordance with subsection (7) or (8) below with respect to the property and any property associated with it, and the person liable for the tax shall be the person who, if the property were sold at the time the tax becomes chargeable, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.

- (4) Where, under subsection (2) above, the value of any property has been left out of account in determining the value transferred on the death of any person and—

- (a) subsection (3) above does not apply ; but
- (b) the property is disposed of, whether on sale or otherwise,

then, subject to subsections (5) and (6) below, tax shall be chargeable in accordance with subsection (7) or (8) below with respect to the property and any property associated with it, and the person liable for the tax shall be the person for whose benefit the property is disposed of; but where the value of the property has been left out of account on the death of more than one person the tax chargeable under this subsection shall be chargeable only by reference to the last death.

- (5) The Treasury may direct that the tax chargeable under this section on a failure to observe an undertaking with respect to any property or on the disposal of any property shall be chargeable with respect only to that property, if it appears to them that the entity consisting of the building, land and objects concerned has not been materially affected.

- (6) Tax shall not be chargeable under subsection (4) above with respect to any property—

- (a) on its being sold by private treaty to a body mentioned in paragraph 12 of Schedule 6 to this Act or on its being disposed of to such a body otherwise than by sale; or,
- (b) if it is disposed of otherwise than by sale and the undertaking previously given with respect to it is replaced by a further undertaking under subsection (2) above;

and for the purposes of subsection (4) above the acceptance of any property under paragraph 17 of Schedule 4 to this Act shall not be treated as a disposal of the property.



- (7) Where, under this section, tax becomes chargeable with respect to any property within three years of the death on which its value has been left out of account—
- (a) the value of the property (at the time of the death) shall no longer be left out of account and tax shall be chargeable on the value transferred on the death as if this section had never applied to the property; and
  - (b) the tax chargeable under this section with respect to the property shall be so much of the tax chargeable on the value transferred on the death as is attributable to the value restored under this subsection.
- (8) Where, under this section, tax with respect to any property becomes chargeable more than three years after the death, the tax shall be so much of the tax that would have been chargeable on the value transferred on the death as would have been attributable to the value of the property if—
- (a) this section had not applied to the property; and
  - (b) the value of the property at the time of the death had been equal to its value at the time the tax becomes chargeable and, if it becomes chargeable on a sale, that value had been equal to the proceeds of sale.
- (9) For the purposes of this section two or more properties are associated with each other if one of them is a building falling within subsection (1)(b) above and the other or others such land or objects as, in relation to that building, fall within subsection (1)(c) or (d) above.

### **35 Relief, in certain circumstances, for agricultural property**

Part I of Schedule 8 to this Act shall have effect for giving relief where the value transferred by a chargeable transfer is determined by reference to the value of agricultural property and the conditions mentioned in that Part are satisfied.

### **36 Relief for woodlands**

Schedule 9 to this Act shall have effect for giving relief where the value transferred by a chargeable transfer made on death is determined by reference to the value of woodlands and the conditions mentioned in that Schedule are satisfied.

### *Rate of tax and valuation*

### **37 Rate of tax**

- (1) The tax charged on the value transferred by a chargeable transfer made by any transferor shall be charged at the following rate or rates, that is to say—
- (a) if the transfer is the first chargeable transfer made by that transferor, at the rate or rates applicable to that value under the appropriate Table set out in subsection (3) below;
  - (b) if the transfer is not the first chargeable transfer made by that transferor, at the rate or rates applicable under that Table to such part of the aggregate of that value and of the values previously transferred by chargeable transfers made by that transferor, as is the highest part of that aggregate and is equal to that value.
- (2) Except as otherwise provided, the First Table set out in subsection (3) below is the appropriate Table for a transfer made on or at any time within three years of the death

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of the transferor, and the Second Table set out in that subsection is the appropriate Table for any other transfer.

- (3) In each of the Tables set out below any rate shown in the third column is that applicable to such portion of the value concerned as exceeds the lower limit shown in the first column but does not exceed the upper limit (if any) shown in the second column.

FIRST TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	15,000	Nil
15,000	20,000	10
20,000	25,000	15
25,000	30,000	20
30,000	40,000	25
40,000	50,000	30
50,000	60,000	35
60,000	80,000	40
80,000	100,000	45
100,000	120,000	50
120,000	150,000	55
150,000	500,000	60
500,000	1,000,000	65
1,000,000	2,000,000	70
2,000,000	—	75

SECOND TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	15,000	Nil
15,000	20,000	5
20,000	25,000	
25,000	30,000	10
30,000	40,000	m
40,000	50,000	15

Portion of value		Rate of tax
50,000	60,000	m
60,000	80,000	20
80,000	100,000	22i
100,000	120,000	27i
120,000	150,000	35
150,000	200,000	42i
200,000	250,000	50
250,000	300,000	55
300,000	500,000	60
500,000	1,000,000	65
1,000,000	2,000,000	70
2,000,000	—	75

### 38 Valuation

- (1) Except as otherwise provided by this Part of this Act, the value at any time of any property shall for the purposes of capital transfer tax be the price which the property might reasonably be expected to fetch if sold in the open market at that time; but that price shall not be assumed to be reduced on the ground that the whole property is to be placed on the market at one and the same time.
- (2) Schedule 10 to this Act shall have effect with respect to the valuation of property for the purposes of capital transfer tax and the determination of the value transferred by a transfer of value.

#### *Other charges*

### 39 Close companies

- (1) Subject to the following provisions of this section, where a close company makes a transfer of value, tax shall be charged as if each individual to whom an amount is apportioned under this section had made a transfer of value of such amount as after deduction of tax (if any) would be equal to the amount so apportioned, less the amount (if any) by which the value of his estate is more than it would be but for the company's transfer; but for this purpose his estate shall be treated as not including any rights or interests in the company.
- (2) For the purposes of subsection (1) above the value transferred by the company's transfer of value shall be apportioned among the participators according to their respective rights and interests in the company immediately before the transfer, and any amount so apportioned to a close company shall be further apportioned among its participators, and so on; but—
  - (a) so much of that value as is attributable to any payment or transfer of assets to any person which falls to be taken into account in computing that person's

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- profits or gains or losses for the purposes of income tax or corporation tax shall not be apportioned; and
- (b) if any amount which would otherwise be apportioned to an individual who is domiciled outside the United Kingdom is attributable to the value of any property outside the United Kingdom, that amount shall not be apportioned.
- (3) The persons liable for the tax chargeable under subsection (1) above shall be the company and, so far as it remains unpaid after it ought to have been paid, the persons to whom any amounts have been apportioned under this section and any individual (whether such a person or not) the value of whose estate is increased by the company's transfer ; but—
- (a) a person to whom not more than 5 per cent, of the value transferred is apportioned shall not as such be liable for any of the tax ; and
- (b) each of the other persons to whom any part of that value has been apportioned shall be so liable only for such part of the tax as corresponds to that part of that value; and
- (c) a person shall not as a person the value of whose estate is increased be liable for a greater amount than the amount of the increase.
- (4) Notwithstanding section 51(2) of this Act, tax chargeable under subsection (1) above shall be left out of account in determining with respect to any time after the company's transfer what previous transfers of value have been made by a person falling within subsection (3)(a) above.
- (5) Where there is at any time an alteration in so much of a close company's share or loan capital as does not consist of shares or securities quoted on a recognised stock exchange or an alteration in any rights attaching to shares in or debentures of a close company which are not so quoted, the alteration shall be treated as having been made by a disposition made at that time by the participators, whether or not it would fall to be so treated apart from this subsection.
- (6) In this section—
- " alteration " includes extinguishment;
- " close company " means a company within the meaning of the Corporation Tax Acts which is, or would, if resident in the United Kingdom, be a close company for the purposes of those Acts;
- " participator ", in relation to any company, means any person who is (or would be if the company were resident in the United Kingdom) a participator in relation to that company for the purposes of Chapter III of Part XI of the Taxes Act, other than a person who would be such a participator by reason only of being a loan creditor.
- (7) In determining for the purposes of this section whether a disposition made by a close company is a transfer of value or what value is transferred by such a transfer section 41 of this Act shall be disregarded.
- (8) References in this section to a person's rights and interests in a company include rights and interests in the assets of the company available for distribution among the participators in the event of a winding up or in any other circumstances.
- (9) This section has effect subject to paragraph 24 of Schedule 5 to this Act.

#### **40 Tax chargeable in certain cases of future payments, etc.**

- (1) Where a disposition made for a consideration in money or money's worth is a transfer of value and any payments made or assets transferred by the transferor in pursuance of the disposition are made or transferred more than one year after the disposition is made, tax (if any) shall be charged as if—
  - (a) any payment made or asset transferred in pursuance of the disposition were made or transferred in pursuance of a separate disposition made, without consideration, at the time the payment is made or the asset is transferred ; and
  - (b) the amount of the payment made or the value of the asset transferred in pursuance of each of those separate dispositions were the chargeable portion of the payment or asset.
- (2) For the purposes of this section the chargeable portion of any payment made or any asset transferred at any time shall be such portion of its value at that time as is found by applying to it the fraction of which—
  - (a) the numerator is the value actually transferred by the disposition first mentioned in subsection (1) above (calculated as if no tax were payable on it); and
  - (b) the denominator is the value, at the time of that disposition, of the aggregate of the payments made or to be made and assets transferred or to be transferred by the transferor in pursuance of it.

#### **41 Free loans etc.**

- (1) Where a person, otherwise than in a transaction at arm's length between persons not connected with each other, allows another the use of money or other property without consideration in money or money's worth or for a consideration less than could reasonably be expected in such a transaction, he shall be treated as making a transfer of value in every chargeable period in which he allows that use; and—
  - (a) the value transferred thereby shall be the difference between the amount of the consideration (if any) for that period and that of the consideration that might be so expected; and
  - (b) the transfer shall be treated as being made at the end of the chargeable period or, if earlier, at the time when that use comes to an end ; and
  - (c) the transfer shall be treated as made out of the transferor's income.
- (2) In this section " chargeable period ", in relation to any use, means the period beginning when the use is begun and ending with 5th April next following, and every subsequent period of twelve months ending with 5th April, but no period beginning before 6th April 1976 shall be a chargeable period.

#### **42 Annuity purchased in conjunction with life policy**

- (1) Where—
  - (a) a policy of life insurance is issued in respect of an insurance made on or after 27th March 1974 or is on or after that date varied or substituted for an earlier policy; and
  - (b) at the time the insurance is made or at any earlier or later date an annuity on the life of the insured is purchased; and
  - (c) the benefit of the policy is vested in a person other than the person who purchased the annuity;

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then, unless it is shown that the purchase of the annuity and the making of the insurance (or, as the case may be, the substitution or variation) were not associated operations, the person who purchased the annuity shall be treated as having made a transfer of value by a disposition made at the time the benefit of the policy became so vested (to the exclusion of any transfer of value which, apart from this section, he might have made as a result of the vesting or of the purchase and the vesting being associated operations).

- (2) The value transferred by that transfer of value shall be equal to whichever of the following is less, namely.—
  - (a) the aggregate of—
    - (i) the value of the consideration given for the annuity; and
    - (ii) any premium paid or other consideration given under the policy on or before the transfer; and
  - (b) the value of the greatest benefit capable of being conferred at any time by the policy, calculated as if that time were the date of the transfer.
- (3) The preceding provisions of this section shall apply, with the necessary modifications, where a contract for an annuity payable on a person's death is on or after 27th March 1974 made or varied or substituted for or replaced by such a contract or a policy of life insurance as they apply where a policy of life insurance is issued, varied or substituted as mentioned in subsection (1) above.

#### *Miscellaneous*

### **43 Chargeable transfers affecting more than one property**

- (1) Where the value transferred by a chargeable transfer is determined by reference to the values of more than one property the tax chargeable on the value transferred shall be attributed to the respective values in the proportions which they bear to their aggregate, but subject to any provision reducing the amount of tax attributable to the value of any particular property.
- (2) Where the value transferred by more than one chargeable transfer made by the same person on the same day depends on the order in which the transfers are made, they shall be treated as made in the order which results in the lowest value chargeable.

### **44 Associated operations**

- (1) In this Part of this Act " associated operations " means, subject to subsection (2) below, any two or more operations of any kind, being—
  - (a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income; or
  - (b) any two operations of which one is effected with reference to the other, or with a view to enabling the other to be effected or facilitating its being effected, and any further operation having a like relation to any of those two, and so on; whether those operations are effected by the same person or different persons, and whether or not they are simultaneous ; and " operation " includes an omission.

- (2) The granting of a lease for full consideration in money or money's worth shall not be taken to be associated with any operation effected more than three years after the grant, and no operation effected on or after 27th March 1974 shall be taken to be associated with an operation effected before that date.
- (3) Where a transfer of value is made by associated operations carried out at different times it shall be treated as made at the time of the last of them; but where any one or more of the earlier operations also constitute a transfer of value made by the same transferor, the value transferred by the earlier operations shall be treated as reducing the value transferred by all the operations taken together, except to the extent that the transfer constituted by the earlier operations but not that made by all the operations taken together is exempt under paragraph 1 of Schedule 6 to this Act.

#### **45 Persons treated as domiciled in the United Kingdom**

- (1) Except as otherwise provided, a person not domiciled in the United Kingdom at any time (in this section referred to as " the relevant time ") shall be treated for the purposes of this Part of this Act as domiciled in the United Kingdom at the relevant time if—
  - (a) he was domiciled in the United Kingdom on or after 10th December 1974 and within the three years immediately preceding the relevant time; or
  - (b) he was resident in the United Kingdom on or after 10th December 1974 and in not less than seventeen of the twenty years of assessment ending with the year of assessment in which the relevant time falls ; or
  - (c) he has, since 10th December 1974, become and has remained domiciled in the Islands and, immediately before becoming domiciled there, he was domiciled in the United Kingdom.
- (2) For the purposes of subsection (1)(b) above the question whether a person was resident in the United Kingdom in any year of assessment shall be determined as for the purposes of income tax, but without regard to any dwelling-house available in the United Kingdom for his use.
- (3) In this section " the Islands " means the Channel Islands and the Isle of Man.

#### *Disposition for maintenance of family*

#### **46 Dispositions for maintenance of family**

- (1) A disposition is not a transfer of value if it is made by one party to a marriage in favour of the other party or of a child of either party and is—
  - (a) for the maintenance of the other party, or
  - (b) for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (2) A disposition is not a transfer of value if it is made in favour of a child who is not in the care of a parent of his and is for his maintenance, education or training for a period ending not later than the year in which—
  - (a) he attains the age of eighteen ; or
  - (b) after attaining that age he ceases to undergo full-time education or training;

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but paragraph (b) above applies only if before attaining that age the child has for substantial periods been in the care of the person making the disposition.

- (3) A disposition is not a transfer of value if it is made in favour of a dependent relative of the person making the disposition and is a reasonable provision for his care or maintenance.
- (4) A disposition is not a transfer of value if it is made in favour of an illegitimate child of the person making the disposition and is for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions; and where a disposition satisfying those conditions is a disposal of an interest in possession in settled property, the interest shall not, by virtue of paragraph 4(1) of Schedule 5 to this Act, be treated for the purposes of that Schedule as coming to an end.
- (6) In this section—
  - " child " includes a step-child and an adopted child and " parent " shall be construed accordingly ;
  - " dependent relative " means, in relation to any person, a relative of his, or of his spouse, who is incapacitated by old age or infirmity from maintaining himself, or the mother of that person, or of his spouse, if the mother is widowed or living apart from her husband, or, in consequence of dissolution or annulment of marriage, a single woman ;
  - " marriage", in relation to a disposition made on the occasion of the dissolution or annulment of a marriage, and in relation to a disposition varying a disposition so made, includes a former marriage ; and
  - " year " means any period of twelve months ending with 5th April.

#### **47 Deeds of family arrangement, etc.**

- (1) So far as a deed of family arrangement or similar instrument which is made not more than two years after the death of any person varies the dispositions (whether effected by will or under the law relating to intestacy) of the property of which he was competent to dispose.—
  - (a) the variation shall not be a transfer of value ; and
  - (b) this Part of this Act shall apply as if the variation had been effected by the deceased.
- (2) Where a legacy or any interest in a deceased person's estate is disclaimed within two years of his death and the disclaimer is not made for a consideration in money or money's worth, the disclaimer is not a transfer of value.
- (3) An election by a surviving spouse under section 47A of the Administration of Estates Act 1925 (redemption of life interest in residuary estate) is not a transfer of value ; and where such an election is made this Part of this Act shall have effect as if the surviving spouse, instead of being entitled to the life interest, had been entitled to a sum equal to the capital value mentioned in that section.



- (4) Where a person becomes entitled to an interest in settled property but disclaims the interest, then, if the disclaimer is not made for a consideration in money or money's worth, this Part of this Act shall apply as if he had not become entitled to the interest.
- (5) In relation to a death occurring before the passing of this Act but not before 10th December 1972 subsection (1) above shall have effect as if the reference to a deed of family arrangement or similar instrument made not more than two years after the death were a reference to such a deed or instrument made not more than two years after the passing of this Act.

*Estate duty and obsolete death duties*

**48 Interest on repayment of estate duty and on instalments of duty**

- (1) In relation to any period falling after 12th November 1974 any sums repayable as sums paid in excess of estate duty or interest on estate duty shall carry interest at the same rate as that at which the duty, if outstanding, would have carried interest.
- (2) Interest paid to any person under this section shall not be income of that person for any tax purposes.
- (3) Subject to the following provisions of this section, where estate duty charged on a death occurring after 12th November 1974 is payable by instalments under section 62 of the Finance Act 1971 or section 3 of the Finance Act (Northern Ireland) 1971—
  - (a) as being charged in respect of property falling within paragraph (a) or (b) of subsection (2) of that section; or
  - (b) as being attributable to the net value of a business or an interest in a business ;it shall, for the purpose of any interest to be added to each instalment, be treated as carrying interest from the date at which the instalment is payable.
- (4) Subsection (3) above does not apply to estate duty payable in respect of shares or securities of a company falling within paragraph (a) of subsection (5) below unless it also falls within paragraph (b) or (c) of that subsection.
- (5) The companies referred to in subsection (4) above are—
  - (a) any company whose business consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings, or making or holding investments;
  - (b) any company whose business consists wholly or mainly in being a holding company (within the meaning of section 154 of the Companies Act 1948) of one or more companies not falling within paragraph (a) above; and
  - (c) any company whose business is that of a jobber (as defined in section 477 of the Taxes Act) or discount house, and is carried on in the United Kingdom.
- (6) Subsection (3) above does not apply to estate duty charged in respect of property which, by reason of an interest which came to an end, or a gift which was made, before 13th November 1974, passes on death by virtue of section 2(1)(b)(i) or section 2(1)(c) of the Finance Act 1894.
- (7) Subsection (3) above applies only to the extent that the principal value in respect of which the duty is payable as mentioned therein does not exceed £250,000; and any excess shall be attributed to duty in respect of the shares, securities, business or interest concerned in proportion to their respective values.

## **49 Abolition of estate duty and transitional provisions**

- (1) Estate duty shall not be levied on the principal value of any property passing on a death occurring after the passing of this Act; and the enactments relating to estate duty shall have effect in relation to a death occurring before the passing of this Act but after 12th November 1974 subject to the amendments specified in Schedule 11 to this Act.
- (2) Part II of Schedule 8 to this Act shall have effect for making, in relation to deaths occurring after 12th November 1974, provisions with respect to estate duty similar to those made with respect to capital transfer tax by Part I of that Schedule.
- (3) Where, under the enactments relating to estate duty, any property was treated, by virtue of any disposition made or interest subsisting after 26th March 1974, as passing on a death occurring before the passing of this Act, that disposition or the coming to an end of that interest shall not be a chargeable transfer.
- (4) Where estate duty is under section 61(5) of the Finance (1909-10) Act 1910 payable on the net moneys received from the sale of timber, trees or wood when felled or cut during the period referred to therein and that period has not ended before the passing of this Act, that period shall end immediately after the first transfer of value made after the passing of this Act in which the value transferred is, or is determined by reference to, the value of the land concerned, other than a transfer exempt by virtue of paragraph 1 of Schedule 6 to this Act.
- (5) So far as any provision in any document, whether executed before or after the passing of this Act, refers (in whatever terms) to estate duty or death duties it shall have effect, as far as may be, as if the reference included a reference to capital transfer tax chargeable under section 22 of this Act.

## **50 Final abolition of obsolete death duties**

- (1) After the passing of this Act no person shall in any case be required to account for or pay, and the Board shall not in any case charge, levy, recover or collect—
  - (a) any duty described in Schedule 1 to the Finance Act 1894;
  - (b) any duty imposed on a representation or inventory by any Act in force before the Customs and Inland Revenue Act 1881;
  - (c) any legacy duty, succession duty or settlement estate duty;
 (including in each case any duty which is then outstanding).
- (2) This section does not affect any right to repayment of or to any allowance in respect of any sum paid before the passing of this Act on account of any such duty.

### *Supplemental*

## **51 Interpretation of Part III**

- (1) In this Part of this Act, except where the context otherwise requires.—
  - " amount " includes value ;
  - " barrister " includes a member of the Faculty of Advocates;
  - " the Board " means the Commissioners of Inland Revenue;
  - " charity " and " charitable " have the same meanings as in the Income Tax Acts ;

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" disposition " includes a disposition effected by associated operations;

" enactment " includes an enactment of the Parliament of Northern Ireland and an Order in Council made under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972;

" estate duty " includes estate duty under the law of Northern Ireland;

" excluded property " shall be construed in accordance with section 24 of, and paragraph 2 of Schedule 5 and paragraphs 3, 5 and 6 of Schedule 7 to, this Act;

" Government department " includes a Northern Ireland department;

" heritable security " means any security capable of being constituted over any interest in land by disposition or assignation of that interest in security of any debt and of being recorded in the General Register of Sasines;

" incumbrance " includes any heritable security, or other debt or payment secured upon heritage;

" Inland Revenue charge " means a charge imposed by virtue of paragraph 20 of Schedule 4 to this Act;

" local authority " has the meaning assigned to it by section 52 of the Finance Act 1974 ;

" mortgage " includes a heritable security and a security constituted over any interest in movable property;

" personal representatives " includes any person by whom or on whose behalf an application for a grant of administration or for the resealing of a grant made outside the United Kingdom is made, and any such person as is mentioned in section 25(6)(a) of this Act;

" property " includes rights and interests of any description ;

" purchaser " means a purchaser in good faith for consideration in money or money's worth other than a nominal consideration and includes a lessee, mortgagee or other person who for such consideration acquires an interest in the property in question ;

" reversionary interest " means a future interest under a settlement, whether it is vested or contingent (including an interest expectant on the termination of an interest in possession which, by virtue of paragraph 3 of Schedule 5 to this Act, is treated as subsisting in part of any property);

" tax " means capital transfer tax ;

" the Special Commissioners " has the same meaning as in the Taxes Management Act 1970.

- (2) Except as otherwise provided, references in this Part of this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person ; and " transferor " shall be construed accordingly.
- (3) References in this Part of this Act (except section 45) to a person being domiciled in the United Kingdom or outside the United Kingdom shall be construed in accordance with that section.
- (4) For the purposes of this Part of this Act any question whether a person is connected with another shall be determined as, for the purposes of Part III of the Finance Act 1965, it falls to be determined under paragraph 21 of Schedule 7 to that Act, but as if in that paragraph " relative " included uncle, aunt, nephew and niece and " settlement", " settlor " and " trustee " had the same meanings as in this Part of this Act.

- (5) References in this Part of this Act (except paragraph 11(10) of Schedule 5) to property to which a person is beneficially entitled do not include references to property to which a person is entitled as a corporation sole.

## **52 Consequential amendments and repeals**

- (1) In consequence of the preceding provisions of this Part of this Act the enactments mentioned in Schedule 12 to this Act shall have effect subject to the amendments specified therein.
- (2) The enactments mentioned in Part I of Schedule 13 to this Act are hereby repealed, to the extent specified in the third column of that Part—
- (a) in relation to deaths occurring after the passing of this Act; and
  - (b) so far as they relate to the duties mentioned in section 50 of this Act, in relation to any death.
- (3) The repeal by this section of any enactment relating to a duty mentioned in section 50 of this Act shall not affect its operation for the purposes of any such right to repayment or allowance as is referred to in subsection (2) of that section.

## **PART IV**

### **MISCELLANEOUS AND GENERAL**

## **53 Recipient bodies referred to in Finance Act 1972, s. 119**

- (1) In section 119 of the Finance Act 1972 for the words " falling within Schedule 25 to this Act", wherever they occur, there shall be substituted the words " mentioned in paragraph 12 of Schedule 6 to the Finance Act 1975 ".
- (2) This section shall have effect in relation to disposals made after 26th March 1974.

## **54 Appeals on questions of value of unquoted shares or of securities**

- (1) In section 47(3) of the Taxes Management Act 1970 for the words from "by the General Commissioners" to " section 44(4) of this Act" there shall be substituted the words " by the Special Commissioners. "
- (2) Where at the time this Act is passed any such appeal as is mentioned in section 47(3) of the Taxes Management Act 1970 is pending before any General Commissioners, the Special Commissioners may, if they think fit, on an application made by the parties, arrange with the General Commissioners for the transfer of the proceedings to the Special Commissioners, and the proceedings may be so transferred accordingly.

## **55 Local loans**

- (1) Loans in pursuance of section 3 of the National Loans Act 1968 may be made by the Public Works Loan Commissioners, in addition to any loans made by them under section 132 of the Finance Act 1972, but the aggregate of—
- (a) the commitments of the Commissioners outstanding at any time in respect of undertakings entered into by them to grant such loans ; and

(b) the advances in respect of such loans made by them under this section up to that time,  
shall not exceed £2,000 million or such greater amount as may be specified in an order under subsection (2) below.

- (2) The Treasury may, on not more than three occasions, by order made by statutory instrument increase or further increase the limit imposed by subsection (1) above by such sum not exceeding £2,000 million as may be specified in the order.
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.

## **56 Signature of certain requisitions and requests of the Treasury**

Without prejudice to the Treasury Instruments (Signature) Act 1849, any requisition or request for a credit under section 13 or 15 of the Exchequer and Audit Departments Act 1866 or section 1(3) of the National Loans Act 1968 may be signed by any two of the following persons, namely the Secretaries of the Treasury and such officers as the Treasury may from time to time appoint to that duty.

## **57 Appointment of General Commissioners in Scotland, and amendment of declaration to be made by certain officers**

- (1) As from 16th May 1975 subsection (3) of section 2 of the Taxes Management Act 1970 (appointment of General Commissioners for divisions in Scotland) shall be amended as follows, that is to say—
- (a) for the words " the appropriate local authority " there shall be substituted the words " the Secretary of State "; and
- (b) the words from " but " to the end of the subsection shall be omitted;
- and any appointment made under that subsection before that date shall have effect on and after it as if made under that subsection as so amended.
- (2) In the form of declaration set out in Part I of Schedule 1 to the Taxes Management Act 1970 (declarations by General and Special Commissioners and others), for the words from " my duties " to " gains " (where that word first occurs) there shall be substituted the words " the duties of my office ", for the words " my duties " where occurring elsewhere in that form there shall be substituted the words " those duties ", and for the words " income tax or any tax on company profits or capital gains " there shall be substituted the words " inland revenue ".
- (3) Nothing in subsection (2) above shall invalidate any declaration made before the passing of this Act.

## **58 Amendments of Vehicles (Excise) Act (Northern Ireland) 1972**

- (1) In section 7 of the Vehicles (Excise) Act (Northern Ireland) of 1972 (that is to say [1972 c. 10](#) of Northern Ireland) as amended by Article 15 of the Finance (Northern Ireland) Order 1972, subsection (2A) (vehicles adapted for use by disabled persons exempt from duty under that Act) shall be amended as follows—
- (a) for the words " specifically and extensively adapted " there shall be substituted the word " suitable ", and
- (b) paragraph (a) shall be omitted.

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This subsection shall be deemed to have come into force on 31st July 1974 (when corresponding amendments took effect in Great Britain).

- (2) Section 38(1) of that Act shall have effect, and be deemed always to have had effect, with the substitution for " 1971 " (enacted in error for " 1972 ") of " 1972 ".

## **59 Citation, interpretation, construction and repeals**

- (1) This Act may be cited as the Finance Act 1975.
- (2) In this Act " the Taxes Act " means the Income and Corporation Taxes Act 1970.
- (3) In this Act—
- (a) Part I shall be construed as one with Part I (value added tax) of the Finance Act 1972 ; and
  - (b) Part II, so far as it relates to income tax, shall be construed as one with the Income Tax Acts and, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts.
- (4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference to that enactment as applied, by or under any other enactment, including this Act.
- (5) The enactments mentioned in Schedule 13 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

## SCHEDULES:

### SCHEDULE 1

Section 9.

#### COLLECTION OF SUMS PAYABLE UNDER SECTION 7 OR 8

- 1 Any body by whom a policy to which section 7 or 8 of this Act applies has been issued shall, within thirty days of the end of the period ending with 31st March 1976 and of every subsequent period of twelve months make a return to the collector of the sums which, in that period, have become payable by it under either of those sections.
- 2
  - (1) Any sum which is to be included in a return made under paragraph 1 above shall be due at the time by which the return is to be made and shall be paid without being demanded.
  - (2) Where any sum which was or ought to have been included in such a return is not paid by the end of the period for which the return was to be made it may be recovered by an assessment as if it were income tax for the year of assessment in which that period ends; and where it appears to the inspector that a sum which ought to have been so included had not been included or that a return is not correct he may make such an assessment to the best of his judgment.
  - (3) All the provisions of the Income Tax Acts relating to the assessment and collection of tax, interest on unpaid tax, appeals and penalties shall, with the necessary modifications, apply in relation to sums due under this paragraph ; and for the purposes of those provisions so far as they relate to interest on unpaid tax, a sum assessed in pursuance of this paragraph shall be treated as having been payable when it would have been payable had it been included in a return under paragraph 1 above.
  - (4) Where, on an appeal against an assessment made in pursuance of this paragraph, it is determined that a greater sum has been assessed than was payable, the excess, if paid, shall be repaid.
- 3 Where a body has paid a sum which is payable under section 7 or 8 of this Act it shall give within thirty days to the person by whom the sum is, under section 9(4) of this Act, treated as received a statement specifying that sum and showing how it has been arrived at.
- 4
  - (1) The Board or an inspector may, by notice in writing served on the body by whom a policy to which section 7 or 8 of this Act applies has been issued, require the body, within such time, not being less than thirty days, as may be specified in the notice—
    - (a) to furnish such particulars; or
    - (b) to make available for inspection by an officer authorised by the Board such books and other documents in the possession or under the control of the body ;as the Board or officer may reasonably require for the purposes of those sections or this Schedule.

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- (2) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information) there shall be added in the first column of the Table the words " paragraph 4 of Schedule 1 to the Finance Act 1975 ".

## SCHEDULE 2

Section 10.

### LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

#### PART I

##### QUALIFYING POLICIES—CERTIFICATION

- 1 (1) A policy of life insurance issued in respect of an insurance made on or after such day as the Treasury may by order made by statutory instrument appoint (in this Schedule referred to as "the appointed day ") or varied on or after the appointed day shall not be a qualifying policy within the meaning of Schedule 1 unless—
  - (a) it is certified as such by the Board ; or
  - (b) it conforms with a form which, at the time the policy is issued or varied, is either—
    - (i) a standard form certified by the Board as a standard form of qualifying policy ; or
    - (ii) a form varying from a standard form so certified in no other respect than by making such additions thereto as are, at the time the policy is issued, certified by the Board as compatible with a qualifying policy when made to that standard form and satisfy any conditions subject to which they are so certified ;
 and any certificate issued in pursuance of paragraph (a) above shall be conclusive evidence that the policy is a qualifying policy within the meaning of that Schedule.
- (2) In issuing a certificate in pursuance of sub-paragraph (1) above the Board may disregard any provision of the policy, standard form or addition which appears to them insignificant.
- (3) Where the Board refuse to certify a policy as being a qualifying policy within the meaning of Schedule 1, the person to whom it is issued may appeal to the General Commissioners or, if he so elects, to the Special Commissioners.
- (4) The preceding provisions of this paragraph do not apply in relation to such a policy as is mentioned in paragraph 3 of Schedule 1 (friendly societies policies).
- 2 (1) In paragraph 11(1) of Schedule 1—
  - (a) for the words " which is in its opinion" there shall be substituted the words " which is certified by the Board as being ",
  - (b) after the words " Part I of this Schedule " there shall be added the words " or which conforms with such a form as is mentioned in paragraph 1(1)(6) of Schedule 2 to the Finance Act 1975 and is in the opinion of the body issuing it a qualifying policy ".
  - (c) after the words "allocated to the policy" there shall be inserted the words " the reference number of the relevant Inland Revenue certificate (if any " )".



- (2) In paragraph 11(2) of Schedule 1 for the words " and is in the opinion of the body by whom it was issued a qualifying policy after the variation " there shall be substituted the words " and, after the variation, it either is certified by the Board as a qualifying policy or conforms with such a form as is referred to in sub-paragraph (1) above and is in the opinion of the body by whom it was issued a qualifying policy ".
- (3) In paragraph 11(3) of Schedule 1 for "£26" there shall be substituted " £52 ".

## PART II

### AMENDMENT OF QUALIFYING CONDITIONS

- 3 (1) The following provisions of this paragraph shall have effect for determining for the purposes of Schedule 1 and this Schedule whether a policy has been varied or whether a policy which confers on the person to whom it is issued an option to have another policy substituted for it or to have any of its terms changed is a qualifying policy.
- (2) If the policy is one issued in respect of an insurance made before the appointed day—
  - (a) any such option shall, until it is exercised, be disregarded in determining whether the policy is a qualifying policy ; and
  - (b) any change in the terms of the policy which is made in pursuance of such an option shall be deemed to be a variation of the policy.
- (3) If the policy is one issued in respect of an insurance made on or after the appointed day, the policy shall not be a qualifying policy unless it satisfies the conditions applicable to it under Schedule 1 before any such option is exercised and—
  - (a) each policy that might be substituted for it in pursuance of such an option would satisfy those conditions under the rules of paragraph 9 of that Schedule ; and
  - (b) the policy would continue to satisfy those conditions under the rules of that paragraph as applied by paragraph 10 of that Schedule if each or any of the changes capable of being made in pursuance of such an option had been made and were treated as a variation ;and it shall not be treated as being varied by reason only of any change made in pursuance of such an option.
- 4 (1) In relation to any policy issued in respect of an insurance made on or after the appointed day paragraphs 1 and 2 of Schedule 1 shall have effect subject to the following provisions of this paragraph.
- (2) In paragraph for the words " sub-paragraphs (2) to (4)" there shall be substituted the words " sub-paragraphs (2) to (4A) ".
- (3) In paragraph 1 the following shall be inserted after sub-paragraph (4) :—
  - “(4A) Except where—
    - (a) the capital sum referred to in sub-paragraph (1) above is payable only in the circumstances mentioned in sub-paragraph (3) or (4) above, and
    - (b) the policy does not provide for any payment on the surrender in whole or in part of the rights conferred by it, and

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- (c) the specified term mentioned in sub-paragraph (3) or, as the case may be, (4) above ends at or before the time when the person whose life is insured attains the age of seventy-five years, the capital sum, so far as payable on death, must not be less than 75 per cent, of the total premiums that would be payable if the death occurred at the age of seventy-five years, the age being, if the sum is payable on the death of the first to die of two persons, that of the older of them, if on the death of the survivor of them, that of the younger of them, and, in any other case, that of the person on whose death it is payable; and if the policy does not secure a capital sum in the event of death occurring before the age of sixteen or some lower age, it must not provide for the payment in that event of an amount exceeding the total premiums previously paid under it.”
- (4) In determining, for the purposes of sub-paragraph (3) above, whether a capital sum is less than 75 per cent, of the total premiums, any amount included in the premiums by reason of their being payable otherwise than annually shall be disregarded, and if the policy is issued in the course of an industrial assurance business as defined in section 1(2) of the Industrial Assurance Act 1923 or of the Industrial Assurance Act (Northern Ireland) 1924, 10 per cent, of the premiums payable under the policy shall be treated as so included.
- (5) In paragraph 1(5) for the words " carries a guaranteed surrender value " there shall be substituted the words " provides for a payment on the surrender in whole or in part of the rights conferred by the policy ".
- (6) In paragraph 1(7) after the words " by reason of that event" there shall be inserted the words " but where what is so payable is either an amount consisting of one sum or an amount made up of two or more sums, the 75 per cent, mentioned in sub-paragraph (4A) above shall be compared with the smaller or smallest amount so payable ".
- (7) In paragraph 2(1)(d)(i) for the words " three-quarters" there shall be substituted the words " 75 per cent. " and after the words " otherwise than annually " there shall be inserted the words " except that if, at the beginning of that term, the age of the person concerned exceeds fifty-five years, the capital sum so guaranteed may, for each year of the excess, be less by 2 per cent, of that total than 75 per cent, thereof, the person concerned being, if the capital sum is payable on the death of the first to die of two persons, the older of them, if on the death of the survivor of them, the younger of them and, in any other case, the person on whose death it is payable. "
- (8) In paragraph 2(1)(e) after the words "except by surrender" there shall be inserted the words " in whole or in part of the rights conferred by the policy ".

- 5       Where the new policy referred to in paragraph 9 of Schedule 1 is one issued on or after the appointed day then, in determining under sub-paragraph (2) of that paragraph whether that policy would or would not (apart from that paragraph) be a qualifying policy there shall be left out of account so much of the first premium payable thereunder as is accounted for by the value of the old policy.

### PART III

#### RELIEF UNDER SECTION 19 OR 20

- 6 (1) In section 21—
- (a) subsection (2) shall be omitted ;
  - (b) in subsection (3) for the words " those mentioned in subsection (2) above" there shall be substituted the words " capital sums on death ";
  - (c) in subsection (4) for the words "subsections (2) and (3)" (in both places) there shall be substituted the words " subsection. (3) ";
  - (d) in subsection (5) the words "or of 7 per cent" shall be omitted.
- (2) This paragraph has effect for the year 1976-77 and subsequent years of assessment
- 7 (1) Where a policy issued in the course of an industrial assurance business, as defined in section 1(2) of the Industrial Assurance Act 1923 or of the Industrial Assurance Act (Northern Ireland) 1924, is not a qualifying policy by virtue of paragraph 1 or 2 of Schedule 1 but is a policy with respect to which the conditions in paragraphs (b) and (c) of sub-paragraph (1) of paragraph 4 of Schedule 1 are satisfied, it shall be a qualifying policy whether or not the conditions of paragraphs (a) and (d)(iii) of that sub-paragraph are satisfied with respect to it; but where they are not satisfied relief under section 19 in respect of premiums paid under the policy shall be given only on such amount (if any) as would have been the amount of the premiums had those conditions been satisfied.
- (2) This paragraph has effect in relation to any policy issued in respect of an insurance made after the appointed day.

### PART IV

#### CHARGES IN CONNECTION WITH POLICIES OF LIFE INSURANCE, CONTRACTS FOR LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

- 8 This Part of this Schedule shall have effect in relation to any event happening in any year (as defined in paragraph 9(9) below) which falls wholly after the passing of this Act, but without prejudice to the operation in relation to earlier events of paragraphs 10(1), 12(2), 16 and 17 below.
- 9 (1) In section 394(1)(a)—
- (a) in sub-paragraph (iii) the words " or in part" and in sub-paragraph (iv) the words " or of any share therein " shall be omitted ; and
  - (b) after sub-paragraph (iv) there shall be added—
    - “(v) an excess of the reckonable aggregate value mentioned in sub-paragraph (6) of paragraph 9 of Schedule 2 to the Finance Act 1975 over the allowable aggregate amount mentioned in sub-paragraph (7) of that paragraph, being an excess occurring at the end of any year (as defined in sub-paragraph (9) of that paragraph), except, if it ends with another chargeable event, the final year; and”
- (2) In section 394(1)(b)(ii) after the word " assignment " there shall be added the words " or such an excess as is mentioned in paragraph (a)(v) above " and after the word " effected " there shall be inserted the words " or occurs ".

- (3) In section 396(1) the words " or in part", where they first occur, and the words " or of any share therein " shall be omitted and after the words " of those rights " there shall be inserted the words " or an excess of the reckonable aggregate value mentioned in sub-paragraph (6) of paragraph 9 of Schedule 2 to the Finance Act 1975 over the allowable aggregate amount mentioned in sub-paragraph (7) of that paragraph, being an excess occurring at the end of any year (as defined in sub-paragraph (9) of that paragraph), except, if it ends with another chargeable event, the final year ".
- (4) In section 398(1)—
- (a) the words "or in part" and the words "or of any share therein " shall be omitted ; and
  - (b) at the end of paragraph (iii) there shall be inserted “and
    - (iv) an excess of the reckonable aggregate value mentioned in sub-paragraph (6) of paragraph 9 of Schedule 2 to the Finance Act 1975 over the allowable aggregate amount mentioned in sub-paragraph (7) of that paragraph, being an excess occurring at the end of any year (as defined in sub-paragraph (9) of that paragraph), except, if it ends with another chargeable event, the final year”,
- (5) For the purposes of sections 394, 396 and 398 as amended by the preceding sub-paragraphs there shall be calculated as at the end of each year, but subject to sub-paragraph (8) below.—
- (a) the value, as at the time of surrender or assignment, of any part of or share in the rights conferred by the policy or contract which has been assigned or surrendered up to the end of the year ; and
  - (b) the appropriate portion of any payment made up to the end of the year by way of premium or as a lump sum consideration;
- and the appropriate portion of any payment shall be one-twentieth for the year in which it is made, increased by a further one-twentieth for each of the subsequent nineteen years, but subject to sub-paragraph (8) below.
- (6) The reckonable aggregate value referred to in those sections shall be—
- (a) the sum of the values calculated under sub-paragraph (5) above; less
  - (b) the sum of the values so calculated for a previous year and brought into account on the previous happening of a chargeable event.
- (7) The allowable aggregate amount referred to in those sections shall be—
- (a) the aggregate of the appropriate portions calculated under sub-paragraph (5) above ; less
  - (b) the aggregate of the appropriate portions so calculated for a previous year and brought into account on the previous happening of a chargeable event.
- (8) In making the calculations required by sub-paragraph (5) above there shall be excluded—
- (a) from the value mentioned in paragraph (a) thereof, the value of any part of or share in the rights conferred by the policy or contract which has been assigned or surrendered before the commencement of the first year which falls wholly after the passing of this Act; and
  - (b) from the appropriate portion mentioned in paragraph (b) thereof, the one-twentieth mentioned therein for any year before that first year.

- (9) In this paragraph "year" means the twelve months beginning with the making of the insurance or contract and any subsequent period of twelve months ; except that—
- (a) death, the maturity of the policy or the surrender of the whole of the rights conferred by the policy or contract shall be treated as ending the final year; and
  - (b) if the final year would by virtue of paragraph (a) above begin and end in the same year of assessment, the final year and the year preceding it shall together be one year.
- 10 (1) At the end of section 394(4) there shall be added the words " and are not at the time of the event held by the original beneficial owner. "
- (2) In section 394(5) the words from " and references " to the end and, in section 395(4), the words from "and any sum paid" to " under the policy " shall be omitted.
- (3) Sub-paragraph (1) above applies in relation to any event happening on or after 10th December 1974.
- 11 (1) In section 395(1)—
- (a) in paragraph (a) for the words from " over" to the end there shall be substituted the words " over the sum of the following—
    - (i) the total amount previously paid under the policy by way of premiums ; and
    - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events ".
  - (b) in paragraph (b) the words "or in part" shall be omitted and for the words from the first " over " to the end there shall be substituted the words " over the sum of the following—
    - (i) the total amount previously paid under the policy by way of premiums ; and
    - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events ";
  - (c) for paragraph (c) there shall be substituted the following—
    - “(c) if the event is an assignment, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments or of any previously assigned share in the rights conferred by the policy, over the sum of the following—
      - (i) the total amount previously paid under the policy by way of premiums ; and
      - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events”;
  - (d) after paragraph (c) there shall be added the following paragraph—
    - “(d) if the event is the occurrence of such an excess as is mentioned in section 394(1)(v) above, the amount of the excess.”
- (2) After section 395(3) there shall be inserted the following subsection—
- “(3A) Where there is an assignment, otherwise than for money or money's worth, of all the rights conferred by the policy the calculations required to be made

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by paragraph 9 of Schedule 2 to the Finance Act 1975 shall be made, in the first instance, without regard to any surrender or assignment of part of or a share in those rights which takes place after the assignment, and any gain treated as arising under subsection (1)(d) above on the calculation so made shall be treated as arising to the assignor.”

- 12 (1) At the end of section 396(1) there shall be added the words " and where the terms of the contract provide for the payment of a capital sum on death and the contract was made on or after 10th December 1974, the death shall be treated for the purposes of this section and section 397 below as a surrender in whole of the rights conferred by the contract. "
- (2) At the end of section 396(2) there shall be added the words " and are not at the time of the event held by the original beneficial owner ".
- (3) Sub-paragraph (2) above applies in relation to any event happening on or after 10th December 1974.
- 13 (1) In section 397(1)—
  - (a) in paragraph (a) the words " or in part" shall be omitted, after the words " payable by reason of the event " there shall be inserted the words " plus the amount or value of any relevant capital payments ", and after the word " over " there shall be inserted the words " the sum of the following " and for sub-paragraph (ii) and the word " or " preceding it there shall be substituted “and
    - (ii) the total amount treated as a gain by virtue of paragraph (c) below on the previous happening of chargeable events”;
  - (b) for paragraph (b) there shall be substituted the following—
    - “(b) if the event is an assignment, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments or of any previously assigned share in the rights conferred by the contract, over the sum of the following—
      - (i) the amount specified in subsection (1)(a)(i) above ;
      - and
      - (ii) any amount treated as a gain by virtue of paragraph (c) below on the previous happenings of chargeable events”;
  - (c) after paragraph (b) there shall be added the following paragraph—
    - “(c) if the event is the occurrence of such an excess as is mentioned in section 396(1) above, the amount of the excess.”
- (2) At the end of section 397(2) there shall be added the words 'and subsection (3A) of that section shall apply for the purposes of this section with the substitution of references to the contract for references to the policy'.
- (3) At the end of section 397 there shall be added the following subsection—
  - “(3) In this section "relevant capital payments" means, in relation to any contract, any sum or other benefit of a capital nature paid or conferred under the contract before the happening of the chargeable event.”

- 14 In section 398(1) at the end of sub-paragraph (i), there shall be added the words "except where the sums payable on maturity are annual payments chargeable to tax under Schedule D".
- 15 For the purposes of sections 394 to 402 and of this Schedule the falling due of a sum payable in pursuance of a right conferred by a policy or contract to participate in profits shall be treated as the surrender of rights conferred by the policy or contract
- 16 (1) Where—
- (a) under section 399, a gain arising in connection with a policy or contract would be treated as forming part of an individual's total income ; and
  - (b) the policy was issued in respect of an insurance made after 26th March 1974 or the contract was made after that date and;
  - (c) any sum is at any time after the making of the insurance or contract lent to or at the direction of that individual by or by arrangement with the body issuing the policy or, as the case may be, the body with which the contract was made;
- then, subject to sub-paragraph (3) below, the same results shall follow under sections 7 to 9 of this Act, this Schedule and sections 394 to 402, as if at the time the sum was lent there had been a surrender of part of the rights conferred by the policy or contract and the sum had been paid as consideration for the surrender (and if the policy is one falling within subsection (2) of section 394, those results shall follow under section 8 of this Act, whether or not a gain would be treated as arising on the surrender).
- (2) If the whole or any part of the sum is repaid the repayment shall be treated, for the purpose of computing any gain arising on the happening, at the end of the final year, of a chargeable event, as a payment of a premium or lump sum consideration.
- (3) The preceding provisions of this paragraph do not apply in relation to a policy if—
- (a) it is a qualifying policy within the meaning of Schedule 1 ; and
  - (b) either interest at a commercial rate is payable on the sum lent or the sum is lent to a full-time employee of the body issuing the policy for the purpose of assisting him in the purchase or improvement of a dwelling used or to be used as his only or main residence.
- (4) In this paragraph "final year" has the same meaning as in paragraph 9 above.
- 17 Where, under section 397, a gain is to be treated as arising in connection with a contract for a life annuity made after 26th March 1974—
- (a) section 399 shall have effect, in relation to the gain, as if subsection (4) were omitted ; and
  - (b) the gain shall be chargeable to tax under Case VI of Schedule D; but
  - (c) any relief under section 400 shall be computed as if this paragraph had not been enacted.
- 18 Where a chargeable event on the happening of which an amount is included in an individual's total income by virtue of Section 399(1)(a) follows the happening of another chargeable event in relation to the same policy or contract, and each of the events is such an excess as is mentioned in section 394(1)(a)(v), 396(1) or 398(1)(iv), subsection (3) of section 400 (top slicing relief) shall have effect in relation to that amount as if the number of complete years referred to in it were the number of complete years elapsing between that other event (or, if more than one, the last of diem) and the first-mentioned event.
- 19 (1) Where such an excess as is mentioned in paragraph (a) or (b) of section 395(1) or paragraph (a) of section 397(1) would be treated as a gain arising in connection with

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a policy or contract and would form part of an individual's total income for the year of assessment in which the final year ends, a corresponding deficiency occurring at the end of the final year shall be allowable as a deduction from his total income for that year of assessment, so far as it does not exceed the total amount treated as a gain by virtue of section 395(1)(d) or 397(1)(c) on the previous happenings of chargeable events.

- (2) In this paragraph " final year " has the same meaning as in paragraph 9 above.
- 20 (1) Section 402 shall have effect subject to the following provisions of this paragraph.
- (2) Where the chargeable event is an assignment of all the rights conferred by the policy or contract the certificate shall also specify any such excess as is mentioned in section 394(1)(a)(v), 396(1) or 398(1)(iv) which has occurred since the relevant date, the date on which it occurred and the value of the part of or share in the rights which have been surrendered or assigned since the relevant date.
- (3) Where the chargeable event is the occurrence of such an excess as is mentioned in section 394(1)(a)(v), 396(1) or 398(1)(iv), section 402 shall apply with the omission of subsection (2)(b) and the certificate shall also specify the value of the part of or share in the rights surrendered or assigned in any year since the relevant date and the amounts paid by way of premiums in any year since the relevant date.
- (4) In this paragraph "year" has the meaning assigned to it by paragraph 9(9) above and " the relevant date ", in relation to any certificate, means the date of the chargeable event in respect of which the last certificate under section 402 was delivered or, if none was delivered, the commencement of the policy or contract.

### SCHEDULE 3

Section 18.

#### INCREASE IN STOCK VALUES : SUPPLEMENTARY PROVISIONS

- 1 (1) In any case where a company's 1973 accounting period does not coincide with a period of account or with two or more consecutive periods of account, the company's 1973 increase in stock value shall be determined for the purposes of the principal section not in accordance with subsection (1) of that section but by reference to a period (in this Schedule referred to as "the 1973 reference period") determined in accordance with this paragraph.
- (2) In any case where the beginning of a company's 1973 accounting period does not coincide with the beginning of a period of account, the 1973 reference period shall begin at the beginning of the period of account Which is current at the beginning of the company's 1973 accounting period.
- (3) In any case where the end of a company's 1973 accounting period does not coincide with the end of a period of account, the 1973 reference period shall end at the end of the period of account which is current at the end of the company's 1973 accounting period.
- (4) In any case where sub-paragraph (2) above does not apply the 1973 reference period shall begin at the beginning of the company's 1973 accounting period and in any case where sub-paragraph (3) above does not apply the 1973 reference period Shall end at the end of the company's 1973 accounting period.



- 2 (1) In any case where paragraph 1(1) applies, a company's 1973 increase in stock value shall be determined for the purposes of the principal section by the formula:—

$$\frac{A(C-O)}{N}$$

where—

" A " is the number of months in the company's 1973 accounting period or 12, whichever is the less ;

" C " is the value of the company's trading stock at the end of the 1973 reference period ;

" O " is the value of the company's trading stock at the beginning of the 1973 reference period ; and

" N " is the number of months in the 1973 reference period.

- (2) In any case where a company's 1973 increase in stock value falls to be determined in accordance with sub-paragraph (1) above, any reference in subsections (3) to (5) of the principal section or in the following provisions of this Schedule—
- (a) to the company's closing stock value shall be construed as a reference to the value of the company's trading stock at the end of the 1973 reference period; and
  - (b) to the company's trading income for its 1973 accounting period shall be construed as a reference to that fraction of its trading income for the 1973 reference period of which the numerator is A and the denominator is N, as defined in sub-paragraph (1) above.
- (3) For the purposes of sub-paragraph (2)(b) above, the company's trading income for the 1973 reference period shall be the aggregate of its trading income for each of the accounting periods comprised in the 1973 reference period.
- 3 In any case where a company's 1973 accounting period comprises more than 12 months and paragraph 1 above does not apply, then, for the purposes of the principal section.—
- (a) the company's 1973 increase in stock value, as determined in accordance with subsection (1) of that section, and
  - (b) the company's trading income for its 1973 accounting period,
- shall each be reduced by multiplying them by the fraction of which the numerator is 12 and the denominator is the number of months in the company's 1973 accounting period.
- 4 (1) The provisions of this paragraph shall have effect for the purposes of the principal section and the preceding provisions of this Schedule in any case where—
- (a) one or more companies (in this paragraph referred to as " the transferee company or companies ") forming part of a group of companies acquires or acquire trading stock from one or more other companies (in this paragraph referred to as "the transferor company or companies") forming part of the same group ; and
  - (b) the acquisition occurs during the 1973 accounting period of the transferee company or companies or, if paragraph 1(1) above applies in relation to that company or those companies, during the 1973 reference period; and
  - (c) the acquisition referred to in paragraph (a) above takes place in consequence or as part of a reconstruction, reorganisation, change in trading arrangements or other scheme which is carried out by companies forming part of the group

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of companies concerned and which results in a reduction in the trading stock held by one or more of those companies and a corresponding increase in the trading stock held by the other or others.

- (2) If a claim for relief under the principal section is made by the transferee company or the transferor company or, as the case may be, by any of the transferee companies or transferor companies, then the company claiming relief and all other companies which—

- (a) are either transferee companies or transferor companies, and
- (b) have the same 1973 accounting period as the company claiming relief,

shall be treated as one company for the purpose of determining the aggregate of the relief to which they are entitled under the principal section:

Provided that if paragraph 1(1) above applies in relation to the company claiming relief, another company shall not be treated as falling within paragraph (b) above unless paragraph 1(1) above also applies in relation to that other company and both that company and the company claiming relief have the same 1973 reference period.

- (3) For the purpose specified in sub-paragraph (2) above, any reference in the principal section or in the preceding provisions of this Schedule to the value of a company's stock at any time or to its trading income for any period shall be construed as a reference to the aggregate of the values of stocks at that time or, as the case may be, the aggregate of the trading incomes for that period, of all the companies which, for that purpose, are treated as one by virtue of that sub-paragraph.
- (4) Where the aggregate of the relief to which two or more companies are entitled under the principal section has been determined in accordance with sub-paragraphs (2) and (3) above, the relief shall be apportioned between them so that the relief to which any one of them is so entitled bears to the relief to which the other or others is or are so entitled the same proportion as the closing stock value of that one of them bears to the closing stock value or values of the other or others.
- (5) For the purposes of this paragraph, companies shall be treated as forming part of a group of companies if and only if they would be deemed to be members of the group for the purposes of section 258 of the Taxes Act (group relief).

- 5 (1) A company shall not be entitled to relief under the principal section if its 1973 accounting period or, if that period consists of more than one accounting period, any of those accounting periods ends by virtue of the company—

- (a) ceasing to trade or to be, in respect of the trade concerned or of all the trades carried on by the company, within the charge to corporation tax ; or
- (b) ceasing to be resident in the United Kingdom ; or
- (c) ceasing to be within the charge to corporation tax.

- (2) In any case where a company's 1973 increase in stock value falls to be determined in accordance with paragraph 2(1) above, sub-paragraph (1) above shall have effect as if the reference therein to the company's 1973 accounting period or the accounting periods of which it consists were a reference to any of the accounting periods comprised in the company's 1973 reference period.

- 6 (1) Subject to the following provisions of this paragraph, where a company claims relief under the principal section and, immediately before the beginning of its 1973 accounting period, the company was not carrying on the trade to which the claim relates then, unless—

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- (a) the company acquired the initial trading stock of that trade on a sale or transfer from another person on that person's ceasing to carry on that trade, and
    - (b) the stock so acquired is, or is included in, the company's trading stock as valued at the beginning of its 1973 accounting period,

the company shall be treated for the purposes of the principal section and the preceding provisions of this Schedule as having at the beginning of its 1973 accounting period trading stock of such value as appears to the inspector to be reasonable and just.
  - (2) In determining, for the purposes specified in sub-paragraph (1) above, the value of trading stock to be attributed to a company at the beginning of its 1973 accounting period, the inspector shall have regard to all the relevant circumstances of the case and, in particular.—
    - (a) to movements during the company's 1973 accounting period in the costs of items of a kind comprised in the company's trading stock during that period ; and
    - (b) to changes during that period in the volume of the trade in question carried on by the company.
  - (3) Any Commissioners dealing with an appeal from the decision of an inspector on a claim in a case where, in accordance with sub-paragraph (1) above, the inspector has attributed to a company at the beginning of its 1973 accounting period trading stock of a particular value shall, in hearing and determining the appeal, in so far as it relates to the value of the trading stock to be so attributed, determine such value as appears to them to be reasonable and just, having regard to those factors to which the inspector is required to have regard by virtue of sub-paragraph (2) above.
  - (4) In any case where paragraph 1(1) above applies to a company's 1973 accounting period, for any reference in sub-paragraphs (1) to (3) above to that accounting period there shall be substituted a reference to the 1973 reference period.
- 7
- (1) In this Schedule " the principal section " means section 18 of this Act and " 1973 accounting period", " trading stock" and " trading income " have the same meaning as in the principal section.
  - (2) In any case where a company's 1973 accounting period or the 1973 reference period consists of a number of complete months and a fraction of a month, any reference in the preceding provisions of this Schedule to the number of months in the period shall be construed as including that fraction of a month (and in any case where any such period is less than one month any such reference shall be construed as a reference to that fraction of a month of which the period consists).
  - (3) Subsection (11) of the principal section shall apply for the purposes of this Schedule as it applies for the purposes of the principal section.

## SCHEDULE 4

Section 19.

### ADMINISTRATION AND COLLECTION OF CAPITAL TRANSFER TAX

#### *Management of tax*

- 1       The tax shall be under the care and management of the Board.

#### *Accounts by persons liable for tax*

- 2       (1) Subject to the following provisions of this paragraph, the personal representatives of a deceased person and every person who—
- (a) is liable as transferor for tax on the value transferred by a chargeable transfer, or would be so liable if tax were chargeable on that value, or
  - (b) is liable as trustee of a settlement for tax on the value transferred by a transfer of value made after 26th March 1974, or would be so liable if tax were chargeable on that value;
- shall deliver to the Board an account specifying to the best of his knowledge and belief all relevant property and the value of that property.
- (2) Where the account is to be delivered by personal representatives (but not where it is to be delivered by a person who is an executor of the deceased only in respect of settled land in England and Wales) the relevant property is all property which formed part of the deceased's estate immediately before his death; but—
- (a) if the personal representatives, after making the fullest enquiries that are reasonably practicable in the circumstances, are unable to ascertain the exact value of any particular property, their account shall in the first instance be sufficient as regards that property if it contains a statement to that effect, a provisional estimate of the value of the property and an undertaking to deliver a further account of it as soon as its value is ascertained ; and
  - (b) the Board may from time to time give such general or special directions as they think fit for restricting the property to be specified in pursuance of this sub-paragraph by any class of personal representatives.
- (3) Where sub-paragraph (2) above does not apply the relevant property is any property to the value of which the tax is or would be attributable.
- (4) Except in the case of an account to be delivered by personal representatives, a person shall not be required to deliver an account under this paragraph with respect to any property if a full and proper account of that property, specifying its value, has already been delivered to the Board by some other person who is or would be liable for the tax attributable to the value of the property, unless that other person is or would be liable with him jointly as trustee.
- (5) An account under the preceding provisions of this paragraph shall be delivered—
- (a) in the case of an account to be delivered by personal representatives, before the expiration of the period of twelve months from the end of the month in which the death occurs, or, if it expires later, the period of three months beginning with the date on which the personal representatives first act as such ; and
  - (b) in the case of an account to be delivered by any other person, before the expiration of the period of twelve months from the end of the month in which

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the transfer is made or, if it expires later, the period of three months beginning with the date on which he first becomes liable for tax.

- (6) In the case of a transfer of value made more than six months before the passing of this Act, sub-paragraph (5)(b) above shall have effect with the substitution of a reference to the period of six months from the passing of this Act for the reference to a period of twelve months.
- (7) A person liable for tax under section 32 or 34 of this Act or under paragraph 2 of Schedule 9 to this Act shall deliver an account under this paragraph before the expiration of the period of six months from the end of the month in which the event by reason of which the tax is chargeable occurs.

*Corrective and supplementary accounts*

- 3 If a person who has delivered an account under paragraph 2 above discovers at any time that the account is defective in a material respect by reason of anything contained in or omitted from it he shall, within six months of that time, deliver to the Board a further account containing such information as may be necessary to remedy the defect

*Returns by certain persons acting for settlors*

- 4 (1) Subject to sub-paragraph (2) below, where any person, in the course of a trade or profession carried on by him, other than the profession of a barrister, has been concerned with the making, after 26th March 1974, of a settlement and knows or has reason to believe—
- (a) that the settlor was domiciled in the United Kingdom, and
  - (b) that the trustees of the settlement are not or will not be resident in the United Kingdom ;
- he shall, within three months of the making of the settlement or, if it was made before the passing of this Act, within three months of the passing of this Act, make a return to the Board stating the names and addresses of the settlor and of the trustees of the settlement.
- (2) A person shall not be required to make a return under this paragraph in relation to—
- (a) any settlement made by will, or
  - (b) any other settlement, if such a return in relation to that settlement has already been made by another person or if an account has been delivered in relation to it under paragraph 2 above.
- (3) Paragraph 12(5) of Schedule 5 to this Act applies for the purposes of this paragraph.

*Power to require information*

- 5 (1) The Board may by notice in writing require any person to furnish them within such time, not being less than thirty days, as may be specified in the notice with such information as the Board may require for the purposes of this Part of this Act.
- (2) A notice under this paragraph may be combined with one relating to income tax.
- (3) A barrister or solicitor shall not be obliged in pursuance of a notice under this paragraph to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained ; except that—

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- (a) a solicitor may be so obliged to disclose the name and address of his client; and
- (b) if his client is resident outside the United Kingdom and carries on outside the United Kingdom a business which includes the provision for persons in the United Kingdom of services or facilities relating to the formation of companies outside the United Kingdom, the making of settlements outside the United Kingdom, or the securing of control over, or the management or administration of, such companies or settlements, a solicitor may also be so obliged to disclose the names and addresses of persons in the United Kingdom for whom such services or facilities have been provided in the course of that business.

*Notice of determination of relevant matters*

- 6 (1) Where it appears to the Board that a transfer of value has been made or where a claim under this Part of this Act is made to the Board in connection with a transfer of value, the Board may give notice in writing to any person who appears to the Board to be the transferor or the claimant or to be liable for any of the tax chargeable on the value transferred, stating that they have determined the matters specified in the notice.
- (2) The matters that may be specified in a notice under this paragraph in relation to any transfer of value are all or any of the following:—
- (a) the date of the transfer ;
  - (b) the value transferred and the value of any property to which the value transferred is wholly or partly attributable ;
  - (c) the transferor;
  - (d) the tax chargeable (if any) and the persons who are liable for the whole or part of it;
  - (e) the amount of any payment made in excess of the tax for which a person is liable and the date from which and the rate at which tax or any repayment of tax overpaid carries interest; and
  - (f) any other matter that appears to the Board to be relevant for the purposes of this Part of this Act.
- (3) A determination for the purposes of a notice under this paragraph of any fact relating to a transfer of value—
- (a) shall, if that fact has been stated in an account or return under this Schedule and the Board are satisfied that the account or return is correct, be made by the Board in accordance with that account or return; but
  - (b) may, in any other case, be made by the Board to the best of their judgment.
- (4) A notice under this paragraph shall state the time within which and the manner in which an appeal against any determination in it may be made.
- (5) Subject to any variation by agreement in writing or on appeal, a determination in a notice under this paragraph shall be conclusive for the purposes of this Part of this Act against the person on whom the notice is served ; and if the notice is served on the transferor and specifies a determination of the value transferred by the transfer of value or previous transfers of value, the determination, so far as relevant to the tax chargeable in respect of later transfers of value (whether or not made by the transferor) shall be conclusive also against any other person, subject however to any adjustment under paragraph 23 or 24 below.

### *Appeals*

- 7
- (1) A person on whom a notice under paragraph 6 above has been served may, within thirty days of the service, appeal against any determination specified in it by notice in writing given to the Board and specifying the grounds of appeal.
  - (2) Subject to the following provisions of this paragraph the appeal shall be to the Special Commissioners.
  - (3) Where it is so agreed between the appellant and the Board, or the High Court, on an application made by the appellant, is satisfied that the matters to be decided on the appeal are likely to be substantially confined to questions of law and gives leave for that purpose, the appeal may be to the High Court.
  - (4) Neither the Special Commissioners nor the High Court shall determine any question as to the value of land in the United Kingdom on any appeal under this paragraph, but on any such question the appeal shall be to the Lands Tribunal or, as the case may be, the Lands Tribunal for Scotland or for Northern Ireland.
  - (5) In the application of this paragraph to Scotland, for references to the High Court there shall be substituted references to the Court of Session.

### *Appeals out of time*

- 8
- An appeal under paragraph 7 above may be brought out of time with the consent of the Board or the Special Commissioners; and the Board—
- (a) shall give that consent if satisfied, on an application for the purpose, that there was a reasonable excuse for not bringing the appeal within the time limited and that the application was made thereafter without unreasonable delay; and
  - (b) shall, if not so satisfied, refer the application for determination by the Special Commissioners.

### *Procedure before Special Commissioners*

- 9
- (1) On an appeal before the Special Commissioners—
    - (a) the Board may be represented by any of its officers; and
    - (b) any party to the appeal may be represented by a barrister, solicitor or any accountant who has been admitted a member of an incorporated society of accountants or, with the leave of the Special Commissioners, by any other person.
  - (2) The Special Commissioners may at any time before the determination of an appeal give notice to any party to the proceedings other than the Board requiring him within the time specified in the notice—
    - (a) to deliver to them such particulars as they may require for the purpose of determining the appeal; and
    - (b) to make available for inspection by them, or by an officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Special Commissioners, contain or may contain information relating to the subject matter of the proceedings;and any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under paragraph (a) above and

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the Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts or other documents made available for inspection under paragraph (b) above.

- (3) The Special Commissioners may summon any person to appear before them and give evidence, and a witness before the Special Commissioners may be examined on oath.
- (4) On an appeal before the Special Commissioners, the Special Commissioners may allow the appellant to put forward any ground of appeal not specified in the notice of appeal and may take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (5) The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed.

*Statement of case for opinion of High Court*

- 10 (1) Within thirty days of the determination by the Special Commissioners of an appeal under this Schedule any party to the appeal may question the determination on a point of law by a written request to the Special Commissioners to state and sign a case for the opinion of the High Court.
- (2) A request for a case under this paragraph shall be accompanied by a fee of £1 and any such case shall set forth the facts and the determination of the Commissioners.
- (3) A party requiring a case to be stated under this paragraph shall, within thirty days of receiving it, send it to the High Court and shall at or before the time of sending it to the High Court send a copy of it to every other party.
- (4) The High Court shall hear and determine any question of law arising on the case and may reverse, affirm or amend the determination of the Special Commissioners or make such other order as the court thinks fit.
- (5) The High Court may cause the case to be sent back for amendment, and the special Commissioners shall amend it accordingly.
- (6) This paragraph shall have effect—
  - (a) in its application to Scotland, with the substitution of references to the Court of Session for references to the High Court; and
  - (b) in its application to Northern Ireland, with the substitution of references to the Court of Appeal in Northern Ireland for references to the High Court.

*Inspection for the purposes of valuation*

- 11 (1) If the Board authorise any person to inspect any property for the purpose of ascertaining its value for the purposes of this Part of this Act the person having the custody or possession of that property shall permit him to inspect it at such reasonable times as the Board may consider necessary.
- (2) If any person wilfully delays or obstructs a person acting in pursuance of this paragraph he shall be liable on summary conviction to a fine not exceeding £20.



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### *Payment of tax*

- 12 (1) Except as otherwise provided by the following provisions of this Schedule, the tax on the value transferred by a chargeable transfer shall be due six months after the end of the month in which the chargeable transfer is made or, in the case of a transfer made after 5th April and before 1st October in any year otherwise than on death, at the end of April in the next year.
- (2) Personal representatives shall, on delivery of their account, pay all the tax for which they are liable and may, on delivery of that account, also pay any part of the tax chargeable on the death for which they are not liable, if the persons liable therefore request them to make the payment.
- (3) So much of the tax chargeable on the value transferred by a chargeable transfer made within three years or, as the case may be, one year of the death of the transferor as—
- (a) exceeds what it would have been had the transferor died more than three years after the transfer ; or
  - (b) is tax for which, by virtue of section 26(3) of this Act, only a charity or only a political party is liable ;
- shall be due six months after the end of the month in which the death occurs.
- (4) Tax chargeable under section 32 or 34 of this Act or paragraph 2 of Schedule 9 to this Act shall be due six months after the end of the month in which the event by reason of which it is chargeable occurs.
- (5) The Board may in the first instance, and without prejudice to the recovery of the remainder of the tax, accept or demand payment of an amount by reference to the value stated in an account delivered to the Board under paragraph 2 or 3 above.
- (6) Nothing in this paragraph shall be taken to authorise the recovery from, or require the payment by, any person of tax in excess of his liability as limited by section 27 of this Act.

### *Payment of tax by instalments*

- 13 (1) Subject to the following provisions of this paragraph, where any of the tax payable on the value transferred by a chargeable transfer made on death is attributable to the value of.—
- (a) land of any description, wherever situated ; or
  - (b) shares or securities of a company which gave the deceased control of the company immediately before his death ; or
  - (c) shares or securities of a company not falling under paragraph (b) above and not quoted on a recognised stock exchange, if either the condition stated in sub-paragraph (2) below is fulfilled or the Board are satisfied that the tax attributable to their value cannot be paid in one sum without undue hardship ; or
  - (d) shares of a company not falling under paragraph (b) above and not quoted on a recognised stock exchange, if the conditions stated in sub-paragraph (3) below are fulfilled;
- the tax so attributable may, if the person paying it by notice in writing to the Board so elects, be paid at his option either by eight equal yearly instalments or by sixteen equal half-yearly instalments, of which the first shall be payable six months after the end of the month in which the death occurred ; and interest under paragraph 19

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below on the unpaid portion of the tax shall be added to each instalment and paid accordingly, except as otherwise provided in paragraph 16 below.

- (2) The condition mentioned in sub-paragraph (1)(c) above is that not less than 20 per cent, of so much of the tax chargeable on the value transferred by the chargeable transfer as is tax for which the person paying the tax attributable as mentioned in sub-paragraph (1) above is liable (in the same capacity) consists of tax attributable to the value of those shares or securities or such other tax (if any) as may by virtue of this paragraph or paragraph 14 below be paid by instalments.
- (3) The conditions mentioned in sub-paragraph (1)(d) above are that so much of the value transferred as is attributable to the shares exceeds £5,000 and that either—
  - (a) the nominal value of the shares is not less than 10 percent, of the nominal value of all the shares of the company at the time of the death ; or
  - (b) the shares are ordinary shares and their nominal value is not less than 10 per cent, of the nominal value of all ordinary shares of the company at the time of the death.
- (4) Notwithstanding the making of an election under this paragraph, the tax for the time being unpaid, with interest to the time of payment, may be paid at any time, and if at any time (whether before or after the expiration of the six months mentioned in sub-paragraph (1) above) the whole or any part of the land, shares or securities is sold, the tax unpaid (or in the case of a sale of part, the proportionate part of that tax) shall become payable forthwith (or, if the said six months have not expired, on their expiration), together with any interest accrued under paragraph 19 below.
- (5) Sub-paragraphs (1) and (4) above shall apply also in relation to a chargeable transfer made otherwise than on death, if either—
  - (a) the tax attributable as mentioned in sub-paragraph (1) above is borne by the person benefiting from the transfer ; or
  - (b) the transfer is made under paragraph 4, 6(2), 12 or 15 of Schedule 5 to this Act and the land, shares or securities to the value of which the tax is attributable continue to be comprised in the settlement;
 and shall then apply subject to the modifications mentioned in sub-paragraph (6) below.
- (6) Where sub-paragraphs (1) and (4) above apply by virtue of sub-paragraph (5) above, they shall apply as if—
  - (a) references to the date on which the death occurred were references to the date of the chargeable transfer;
  - (b) references to the time six months after the end of the month in which that date falls were references to the time when the tax would be due if it were not payable by instalments ;
  - (c) references to the deceased were references to the transferor or, if the transfer is made under paragraph 6, 12 or 15 of Schedule 5 to this Act, to the trustees of the settlement;
  - (d) the reference to the land, shares or securities being sold—
    - (i) in a case within sub-paragraph (5)(a), included a reference to any chargeable transfer in which the value transferred is wholly or partly attributable to the value of the land, shares or securities, other than a transfer made on death ; and
    - (ii) in a case within sub-paragraph (5)(b), were a reference to the land, shares or securities ceasing to be comprised in the settlement; and

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- (e) the reference to the condition stated in sub-paragraph (2) were omitted ; and
- (f) the reference in sub-paragraph (3) to the value transferred were a reference to that value calculated as if no tax were chargeable on it;

and the question whether tax could be paid in one sum without undue hardship shall be determined on the assumption that the shares or securities concerned would be retained by the persons liable to pay the tax.

- (7) For the purposes of this paragraph a person has control of a company at any time if he then has the control of powers of voting on all questions, or on any particular question, affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised thereon ; and—
    - (a) shares or securities shall be deemed to give a person control of a company if, together with any shares or securities which are related property within the meaning of paragraph 7 of Schedule 10 to this Act, they would be sufficient to give him control of the company (as defined in the preceding provisions of this sub-paragraph); and
    - (b) where shares or securities are comprised in a settlement, any powers of voting which they give to the trustees of the settlement shall be deemed to be given to the person beneficially entitled in possession to the shares or securities (except in a case where no individual is so entitled).
  - (8) In this paragraph " ordinary shares" means shares which carry either—
    - (a) a right to dividends not restricted to dividends at a fixed rate; or
    - (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above.
- 14 (1) Where any of the tax payable on the value transferred by a chargeable transfer made on death is attributable to the net value of a business or of an interest in a business, the tax so attributable may, if the person paying the tax by notice in writing to the Board so elects, be paid at his option either by eight equal yearly instalments or by sixteen equal half-yearly instalments, of which the first shall be payable six months after the end of the month in which the death occurred ; and interest under paragraph 19 below on the unpaid portion of the tax shall be added to each instalment and paid accordingly, except as otherwise provided in paragraph 16 below.
- (2) For the purposes of this paragraph the net value of a business is the value of the assets used in the business (including goodwill) reduced by the aggregate amount of any liabilities incurred for the purposes of the business ; and in ascertaining for the purposes of this paragraph the value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the business would have fallen to be ascertained under this paragraph if the tax had been attributable to the entire business.
  - (3) Sub-paragraph (4) of paragraph 13 above applies in relation to this paragraph and any business or interest in a business as it applies in relation to that paragraph and the land, shares or securities mentioned therein ; and—
    - (a) in the application of that sub-paragraph to a business, the sale of an interest or part of an interest in the business shall be treated as a sale of part of the business; and
    - (b) in its application to an interest in a business, the payment, under a partnership agreement or otherwise, of any sum in satisfaction of the whole or any part of the interest otherwise than on a sale shall be treated as a sale of that interest or part at the time of payment.

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- (4) The preceding provisions of this paragraph shall apply also in relation to a chargeable transfer made otherwise than on death, if either—
- (a) the tax attributable as mentioned in sub-paragraph (1) above is borne by the person benefiting from the transfer, or
  - (b) the transfer is made under paragraph 4, 6(2), 12 or 15 of Schedule 5 to this Act and the business or interest to the value of which the tax is attributable continues to be comprised in the settlement;
- and shall then apply subject to the modifications mentioned in sub-paragraph (5) below.
- (5) Where sub-paragraphs (1) to (3) above apply by virtue of sub-paragraph (4) above they shall apply as if—
- (a) references to the time six months after the end of the month in which the death occurred were references to the time when the tax would be due if it were not payable by instalments ; and
  - (b) references to the business or an interest in the business being sold—
    - (i) in a case within sub-paragraph (4)(a), included a reference to any chargeable transfer in which the value transferred is wholly or partly attributable to the value of the business or interest other than a transfer made on death ; and
    - (ii) in a case within sub-paragraph (4)(b), were a reference to the business or interest ceasing to be comprised in the settlement.
- (6) In this paragraph " business " includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.
- 15 Tax chargeable on such a chargeable transfer as is mentioned in paragraph 4 of Schedule 9 to this Act may, if the person paying the tax by notice in writing to the Board so elects, be paid at his option either by eight equal yearly instalments or by sixteen equal half-yearly instalments, of which the first shall be payable six months after the end of the month in which the transfer is made.
- 16 (1) Subject to the following provisions of this paragraph, where tax payable on the value transferred by a chargeable transfer—
- (a) is payable by instalments under paragraph 13 or 14 above and the tax is attributable to the value of any shares, securities, business or interest in a business ; or
  - (b) is payable by instalments under paragraph 15 above ;
- it shall, for the purpose of any interest to be added to each instalment, be treated as carrying interest from the date at which the instalment is payable.
- (2) Sub-paragraph (1) above does not apply to tax attributable to the value of shares or securities of a company falling within paragraph (a) of sub-paragraph (3) below unless it also falls within paragraph (b) or (c) of that sub-paragraph.
- (3) The companies referred to in sub-paragraph (2) above are—
- (a) any company whose business consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings, or making or holding investments;

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- (b) any company whose business consists wholly or mainly in being a holding company (within the meaning of section 154 of the Companies Act 1948) of one or more companies not falling within paragraph (a) above ; and
  - (c) any company whose business is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom.
- (4) Sub-paragraph (1) above does not apply to tax attributable to the value included under section 22(5) of this Act in the value of a person's estate immediately before his death.
- (5) Sub-paragraph (1)(a) above applies only to the extent that the value on which the tax concerned is payable, when added to so much of the value transferred by any previous transfer of value made by the same transferor as is value the tax on which also fell within that sub-paragraph, does not exceed £250,000; and if it does exceed that amount the excess shall be attributed to the tax attributable to the values of the shares, securities, business or interest concerned in proportion to those values respectively.
- (6) The reference in sub-paragraph (5) above to the same transferor includes, in relation to chargeable transfers which are made under paragraph 6, 12 or 15 of Schedule 5 to this Act, the assumed transferor referred to in paragraph 6(4) of that Schedule.
- (7) For the purposes of this paragraph transfers of value made by the same transferor on the same day shall be treated as one.

*Acceptance of property in satisfaction of tax*

- 17 (1) The Board may, if they think fit, on the application of any person liable to pay tax, accept in satisfaction of the whole or any part of it any property to which this paragraph applies.
- (2) This paragraph applies to any such land as may be agreed upon between the Board and the person liable to pay tax.
- (3) This paragraph also applies to any objects which are or have been kept in any building—
- (a) if the Board have determined to accept or have accepted that building in satisfaction or part satisfaction of tax or of estate duty; or
  - (b) if the building or any interest therein belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall or belongs to a Government department or is held for the purposes of a Government department; or
  - (c) if the building is one of which the Secretary of State is guardian under the Ancient Monuments Consolidation and Amendment Act 1913 or of which the Department of Finance for Northern Ireland is guardian under the Historic Monuments Act (Northern Ireland) 1971 ; or
  - (d) if the building belongs to any body specified in paragraph 12 of Schedule 6 to this Act;
- in any case where it appears to the Treasury desirable for the objects to remain associated with the building.
- (4) This paragraph also applies to—
- (a) any work of art which the Treasury are satisfied is preeminent for aesthetic merit or historical value ;

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- (b) any picture, print, book, manuscript, scientific object or other thing which the Treasury are satisfied is pre-eminent for its national, scientific or historic interest; and
  - (c) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the Treasury are satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest.
- (5) In this paragraph "national interest" includes interest within any part of the United Kingdom.
- 18 (1) Where a person has power to sell any property in order to raise money for the payment of tax, he may agree with the Board for the property to be accepted in satisfaction of that tax in pursuance of paragraph 17 above ; and, except as regards the nature of the consideration and the receipt and application thereof, any such agreement shall be subject to the same provisions and shall be treated for all purposes as a sale made in the exercise of the said power, and any conveyance or transfer made or purporting to be made to give effect to such an agreement shall have effect accordingly.
- (2) This paragraph shall not affect section 32(4) or 34(6) of this Act.

#### *Interest*

- 19 (1) If—
  - (a) an amount of tax charged on the value transferred by a chargeable transfer made after 5th April and before 1st October in 1975 or any later year and otherwise than on death remains unpaid after the end of the period ending with April in the next year ; or
  - (b) an amount of tax charged on the value transferred by any other chargeable transfer remains unpaid after the end of the period of six months beginning with the end of the month in which the chargeable transfer was made (or, if it ends later, the period of six months from the passing of this Act) ; or
  - (c) an amount of tax chargeable under section 32 of this Act or paragraph 2 of Schedule 9 to this Act remains unpaid after the end of the period of six months beginning with the end of the month in which the event by reason of which it is chargeable occurs ; it shall carry interest from the end of that period at the following rate per annum, that is to say.—
    - (i) if the chargeable transfer was made on death, 6 per cent.;
    - (ii) in any other case, 9 per cent.;
 or (in either case) at such rate as the Treasury may from time to time by order made by statutory instrument prescribe.
- (2) Sub-paragraph (1) above shall apply in relation to tax for which, under section 26(3) of this Act, only a charity or only a political party is liable, and in relation to such an excess as is mentioned in section 27(4) of this Act, as if the chargeable transfer had been made on the death of the transferor.
- (3) Any repayment of an amount paid in excess of a liability for tax or for interest on tax shall carry interest from the date on which the payment was made at the same rate as that at which the tax, if outstanding, would have carried interest.
- (4) Interest payable under sub-paragraph (1) above shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes ; and interest paid

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to any person under sub-paragraph (3) above shall not be income of that person for any tax purposes.

- (5) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of the House of Commons.

*Inland Revenue charge for unpaid tax*

- 20 (1) Except as otherwise provided, where any tax charged on the value transferred by a chargeable transfer, or any interest on it, is for the time being unpaid a charge for the amount unpaid (to be known as an Inland Revenue charge) is by virtue of this paragraph imposed in favour of the Board on—
- (a) any property to the value of which the value transferred is wholly or partly attributable ; and
  - (b) where the chargeable transfer is made by the making of a settlement or is made under Schedule 5 to this Act, any property comprised in the settlement.
- (2) References in sub-paragraph (1) above to any property include references to any property directly or indirectly representing it.
- (3) Where the chargeable transfer is made on death, personal or movable property situated in the United Kingdom which was beneficially owned by the deceased immediately before his death and vests in his personal representatives is not subject to the Inland Revenue charge ; and for this purpose " personal property " includes leaseholds and undivided shares in land held on trust for sale, whether statutory or not, and the question whether any property was beneficially owned by the deceased shall be determined without regard to paragraph 3(1) of Schedule 5 to this Act.
- (4) No heritable property situated in Scotland is subject to the Inland Revenue charge, but where such property is disposed of any other property for the time being representing it is subject to the charge to which the first-mentioned property would have been subject but for this sub-paragraph.
- (5) The Inland Revenue charge imposed on any property shall take effect subject to any incumbrance thereon which is allowable as a deduction in valuing that property for the purposes of the tax.
- (6) Except as provided by paragraph 21 below, a disposition of property subject to an Inland Revenue charge shall take effect subject to that charge.
- 21 (1) Where property subject to an Inland Revenue charge, or an interest in such property, is disposed of to a purchaser, then if at the time of the disposition—
- (a) in the case of land in England and Wales, the charge was not registered as a land charge or, in the case of registered land, was not protected by notice on the register; or
  - (b) in the case of land in Northern Ireland the title to which is registered under the Local Registration of Title (Ireland). Act 1891, the charge was not entered as a burden on the appropriate register maintained under that Act or was not protected by a caution or inhibition under that Act or, in the case of other land in Northern Ireland, the purchaser had no notice of the facts giving rise to the charge ; or
  - (c) in the case of personal property situated in the United Kingdom other than such property as is mentioned in paragraph (a) or (b) above, and of any

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property situated outside the United Kingdom, the purchaser had no notice of the facts giving rise to the charge ; or

- (d) in the case of any property, a certificate of discharge had been given by the Board under this Schedule and the purchaser had no notice of any fact invalidating the certificate,

the property or interest shall then cease to be subject to the charge but the property for the time being representing it shall be subject to it.

- (2) Where property subject to an Inland Revenue charge, or an interest in such property, is disposed of to a purchaser in circumstances where it does not then cease to be subject to the charge, it shall cease to be subject to it on the expiration of the period of six years beginning with the later of the following dates, namely—
  - (a) the date on which the tax became due ; and
  - (b) the date on which a full and proper account of the property was first delivered to the Board in connection with the chargeable transfer concerned.
- (3) In this paragraph " the time of the disposition " means—
  - (a) in relation to registered land, the time of registration of the disposition; and
  - (b) in relation to other property, the time of completion.
- (4) On the coming into operation of section 39 of the Land Registration Act (Northern Ireland) 1970 that Act shall be substituted in sub-paragraph (1)(b) above for the Act mentioned therein.

#### *Recovery of tax*

- 22 (1) The Board shall not take any legal proceedings for the recovery of any amount of tax or of interest on tax which is due from any person unless the amount has been agreed in writing between that person and the Board or has been determined and specified in a notice under paragraph 6 above.
- (2) Where an amount has been so determined and specified but an appeal to which this sub-paragraph applies is pending against the determination the Board shall not take any legal proceedings to recover the amount determined except such part of it as may be agreed in writing or determined and specified in a further notice under paragraph 6 above to be a part not in dispute.
- (3) Sub-paragraph (2) above applies to any appeal under paragraph 7 above but not to any further appeal; and paragraph 7 above shall have effect, in relation to a determination made in pursuance of sub-paragraph (2) above, as if sub-paragraph (4) of that paragraph were omitted.

#### *Adjustments*

- 23 (1) Where too little tax has been paid in respect of a chargeable transfer the tax underpaid shall be payable with interest thereon under paragraph 19 above, whether or not the amount that has been paid was that stated as payable in a notice under paragraph 6 above ; but subject to the following provisions of this paragraph and to paragraph 25 below.
- (2) Where tax attributable to the value of any property is paid in accordance with an account duly delivered to the Board under this Schedule and the payment is made and accepted in full satisfaction of the tax so attributable, no proceedings shall be



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brought for the recovery of any additional tax so attributable after the expiration of the period of six years beginning with the later of the following dates, namely.—

- (a) the date on which the payment (or in the case of tax paid by instalments the last payment) was made and accepted ; and
- (b) the date on which the tax or the last instalment became due;

and on the expiration of that period any liability for the additional tax and any Inland Revenue charge for that tax shall be extinguished.

- (3) In any case of fraud, wilful default or neglect by a person liable for the tax, the period mentioned in sub-paragraph (2) above shall be the period of six years beginning when the fraud, default or neglect comes to the knowledge of the Board.
- 24 (1) If it is proved to the satisfaction of the Board that too much tax has been paid on the value transferred by a chargeable transfer or on so much of that value as is attributable to any property, the Board shall repay the excess unless the claim for repayment was made more than six years after the date on which the payment or last payment of the tax was made.
- (2) References in this paragraph to tax include references to interest on tax.

#### *Certificates of discharge*

- 25 (1) Where application is made to the Board by a person liable for any tax on the value transferred by a chargeable transfer which is attributable to the value of property specified in the application, the Board, on being satisfied that the tax so attributable has been or will be paid, may give a certificate to that effect, and shall do so if the chargeable transfer is one made on death or the transferor has died.
- (2) Where tax is or may be chargeable on the value transferred by a transfer of value and—
- (a) application is made to the Board after the expiration of two years from the transfer (or, if the Board think fit to entertain the application, at an earlier time) by a person who is or might be liable for the whole or part of the tax ; and
  - (b) the applicant delivers to the Board, if the transfer is one made on death, a full statement to the best of his knowledge and belief of all property included in the estate of the deceased immediately before his death and, in any other case, a full and proper account under this Schedule ;
- the Board may, as the case requires, determine the amount of the tax or determine that no tax is chargeable ; and subject to the payment of any tax so determined to be chargeable the Board may give a certificate of their determination, and shall do so if the transfer of value is one made on death or the transferor has died.
- (3) Subject to sub-paragraph (4) below.—
- (a) a certificate under sub-paragraph (1) above shall discharge the property shown in it from the Inland Revenue charge on its acquisition by a purchaser ; and
  - (b) a certificate under sub-paragraph (2) above shall discharge all persons from any further claim for the tax on the value transferred by the chargeable transfer concerned and extinguish any Inland Revenue charge for that tax.
- (4) A certificate under this paragraph shall not discharge any person from tax in case of fraud or failure to disclose material facts and shall not affect any further tax that

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may be payable if any further property is afterwards shown to have been included in the estate of a deceased person immediately before his death ; but in so far as the certificate shows any tax to be attributable to the value of any property it shall remain valid in favour of a purchaser of that property without notice of any fact invalidating the certificate.

*Determination of questions on previous view of law*

- 26      Where any payment has been made and accepted in satisfaction of any liability for tax and on a view of the law then generally received or adopted in practice, any question whether too little or too much has been paid or what was the right amount of tax payable shall be determined on the same view, notwithstanding that it appears from a subsequent legal decision or otherwise that the view was or may have been wrong.

*Administration actions*

- 27      Where proceedings are pending in any court for the administration of any property to the value of which any tax charged on the value transferred by a chargeable transfer is attributable, the court shall provide, out of any such property in the possession or control of the court, for the payment of any of the tax so attributable, or interest on it, which remains unpaid.

*Penalties*

- 28      (1) Subject to sub-paragraph (2) below, any person who—  
             (a) fails to deliver an account under paragraph 2 or 3 above ; or  
             (b) fails to make a return under paragraph 4 above ; or  
             (c) fails to comply with a notice under paragraph 5 above; or  
             (d) fails to comply with a notice under paragraph 9(2) above:  
         shall be liable to a penalty not exceeding £50 and, if the failure continues after it has been declared by a court or the Special Commissioners, to a further penalty not exceeding £10 for each day on which it continues.
- (2) A person shall not be liable to a penalty under this paragraph for a failure which is remedied before proceedings in which the failure could be declared are commenced; and where a person has a reasonable excuse for the failure he shall not be liable to a penalty under this paragraph unless he fails to remedy it without unreasonable delay after the excuse has ceased.
- 29      A person who, after being duly summoned under paragraph 9(3) above, neglects or refuses to appear before the Special Commissioners at the time and place appointed for that purpose or refuses to be sworn or to answer any lawful question concerning the matters under consideration shall be liable to a penalty not exceeding £50.
- 30      (1) If any person liable for any tax on the value transferred by a chargeable transfer fraudulently or negligently delivers, furnishes or produces to the Board any incorrect account, information or document, he shall be liable, in the case of fraud, to a penalty not exceeding the aggregate of £50 and twice the difference mentioned in sub-paragraph (2) below and, in the case of negligence, to a penalty not exceeding the aggregate of £50 and that difference.

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- (2) The difference referred to in sub-paragraph (1) above is the amount by which the tax for which that person is liable exceeds what would be the amount of that tax if the facts were as shown in the account, information or document
  - (3) Any person not liable for tax on the value transferred by a chargeable transfer who fraudulently or negligently furnishes or produces to the Board any incorrect information or document in connection with the transfer shall be liable, in the case of fraud, to a penalty not exceeding £500, and in the case of negligence to a penalty not exceeding £250.
  - (4) Any person who assists in or induces the delivery, furnishing or production in pursuance of this Schedule of any account, information or document which he knows to be incorrect shall be liable to a penalty not exceeding £500.
- 31 (1) If after any account, information or document has been delivered, furnished or produced by any person without fraud or negligence it comes to his notice that it was incorrect in any material respect it shall be treated for the purposes of paragraph 30 above as having been negligently delivered, furnished or produced unless the error is remedied without unreasonable delay.
- (2) If after any account, information or document has been delivered, furnished or produced by any person in pursuance of this Schedule it comes to the notice of any other person that it contains an error whereby tax for which that other person is liable has been or might be underpaid, that other person shall inform the Board of the error ; and if he fails to do so without unreasonable delay he shall be liable to the penalty to which he would be liable under paragraph 30 above if the account, information or document had been delivered, furnished or produced by him and the case were one of negligence.

#### *Recovery of penalties*

- 32 (1) All proceedings for the recovery of penalties under this Schedule shall be commenced by the Board or, in Scotland, by the Board or the Lord Advocate.
- (2) Any such proceedings may be commenced either before the Special Commissioners or in the High Court or the Court of Session and shall, if brought in the High Court, be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland.
- (3) Where any such proceedings are brought before the Special Commissioners, an appeal shall lie from their decision to the High Court or, as the case may be, the Court of Session—
- (a) by either party, on a question of law ; and
  - (b) by the defendant (in Scotland, defender) against the amount of any penalty awarded ;
- and on an appeal under paragraph (b) above the Court may either confirm the decision or reduce or increase the sum awarded.
- (4) Proceedings under this paragraph before the Special Commissioners shall be by way of information in writing made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way.

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- (5) References in this paragraph to the Court of Session are references to that Court as the Court of Exchequer in Scotland.
- 33 (1) No proceedings for the recovery of a penalty under this Schedule shall be brought after the expiration of the period of three years beginning with the date on which the amount of the tax properly payable in respect of the chargeable transfer concerned was notified by the Board to the person or one of the persons liable for the tax or any part of it.
- (2) Where the person who has incurred any such penalty has died, any proceedings for the recovery of the penalty which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate.
- 34 Any penalty awarded by the Special Commissioners shall be recoverable by the Board as a debt due to the Crown.

*Summary award of penalties*

- 35 (1) Any penalty incurred by a person for a failure to comply with a notice under paragraph 9(2) above or incurred under paragraph 29 above may be awarded summarily by the Special Commissioners, notwithstanding that no proceedings for its recovery have been commenced.
- (2) An appeal shall lie to the High Court or the Court of Session against any award of a penalty under this paragraph and on such an appeal the Court may either confirm or reverse the decision of the Special Commissioners or reduce or increase the sum awarded.

*Evidence*

- 36 For the purposes of the preceding provisions of this Schedule, a notice under paragraph 6 of this Schedule specifying any determination which can no longer be varied or quashed on appeal shall be sufficient evidence of the matters determined.

*Mitigation of penalties*

- 37 The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery of any penalty, and may also, after judgment, further mitigate or entirely remit the penalty.

*Refusal of probate or administration where tax unpaid*

- 38 (1) After section 156 of the Supreme Court of Judicature (Consolidation) Act 1925 there shall be inserted the following section:—

**“156A Capital transfer tax accounts.**

- (1) Subject to subsection (2) of this section, the High Court shall not make any grant or reseal any grant made outside the United Kingdom except on the production of an account prepared in pursuance of Part III of the Finance Act 1975 showing by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue either that the capital transfer tax

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payable on the delivery of the account has been paid or that no such tax is so payable.

- (2) Arrangements may be made between the President of the Family Division and the Commissioners of Inland Revenue providing for the purposes of this section in such cases as may be specified in the arrangements that the receipt or certification of an account may be dispensed with or that some other document may be substituted for the account required by Part III of the Finance Act 1975.”

- (2) In section 42 of the Probate and Legacy Duties Act 1808 after the words "as aforesaid", where they first occur, there shall be inserted the words "nor unless that inventory shows by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue either that the capital transfer tax payable on the delivery of the inventory has been paid or that no capital transfer tax is so payable" ; and at the end there shall be inserted the following words—

“Provided that arrangements may be made between the Court of Session and the said Commissioners providing for the purposes of this section in such cases as may be specified that the said inventory shall be effective without such receipt or certification as aforesaid, or that some other document may be substituted for the inventory”.

- (3) After section 99 of the Probates and Letters of Administration Act (Ireland) 1857 there shall be inserted the following section:—

**“99A Capital transfer tax accounts.**

- (1) Subject to subsection (2) of this section, the High Court shall not make any grant or reseal any grant made outside the United Kingdom except on the production of an account prepared in pursuance of Part III of the Finance Act 1975 showing by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue either that the capital transfer tax payable on the delivery of the account has been paid or that no such tax is so payable.

- (2) Arrangements may be made between the Lord Chief Justice of Northern Ireland and the Commissioners of Inland Revenue providing for the purposes of this section in such cases as may be specified in the arrangements that the receipt or certification of an account may be dispensed with or that some other document may be substituted for the account required by Part III of the Finance Act 1975.”

- (4) The sections inserted by sub-paragraphs (1) and (3) and the amendment made by sub-paragraph (2) above have effect in relation to grants and confirmations in respect of the estates of persons dying after the passing of this Act.

*Form, verification and delivery of accounts*

- 39 (1) All accounts and other documents required for the purposes of this Part of this Act shall be in such form and shall contain such particulars as may be prescribed by the Board.

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- (2) All accounts to be delivered to the Board under this Part of this Act shall be supported by such books, papers and other documents, and verified (whether on oath or otherwise) in such manner, as the Board may require.
- (3) For the purposes of this Part of this Act, an account delivered to a probate registry pursuant to arrangements made between the President of the Family Division or the Lord Chief Justice of Northern Ireland and the Board shall be treated as an account delivered to the Board.
- 40 In the application of this Schedule to Scotland, references to an account required to be delivered to the Board by the personal representatives of a deceased person, however expressed, shall be construed as references to such an inventory or additional inventory as is mentioned in section 38 of the Probate and Legacy Duties Act 1808 which has been duly exhibited as required by that section.

#### *Service of documents*

- 41 A notice or other document which is to be served on a person under this Part of this Act may be delivered to him or left at his usual or last known place of residence or served by post, addressed to him at his usual or last known place of residence or his place of business or employment.

#### *Supplemental*

- 42 (1) Sections 21, 22 and 35 of the Inland Revenue Regulation Act 1890 (proceedings for fines, etc.) shall not apply in relation to the tax.
- (2) Section 16 of the Stamp Act 1891, section 56 of the Finance Act 1946 and section 27 of the Finance (No. 2) Act (Northern Ireland) 1946 (inspection of public records and records of unit trusts) shall apply in relation to the tax as they apply in relation to stamp duties.
- 43 Section 44(3) of the Finance Act 1950 and section 3(3) of the Finance Act (Northern Ireland) 1951 (certificate of prospective amount of estate duty) shall, notwithstanding their repeal by this Act, have effect with the necessary modifications in relation to tax for which trustees of a settlement may become liable under section 25(7) of this Act.
- 44 In the application of this Schedule to Northern Ireland references to the High Court shall, except where the context otherwise requires, be construed as references to a judge of that court

### SCHEDULE 5

Section 21.

#### SETTLED PROPERTY

##### *Definition of "settlement" and related expressions*

- 1 (1) The following provisions of this paragraph apply for determining what is to be taken for the purposes of capital transfer tax to be a settlement, and what property is, accordingly, referred to as property comprised in a settlement or as settled property; and who is the settlor and a trustee in relation to a settlement.

- (2) "Settlement" means any disposition or dispositions of property, whether effected by instrument, by parol or by operation of law, or partly in one way and partly in another, whereby the property is for the time being—
- (a) held in trust for persons in succession or for any person subject to a contingency ; or
  - (b) held by trustees on trust to accumulate the whole or part of any income of the property or with power to make payments out of that income at the discretion of the trustees or some other person, with or without power to accumulate surplus income ; or
  - (c) charged or burdened (otherwise than for full consideration in money or money's worth paid for his own use or benefit to the person making the disposition), with the payment of any annuity or other periodical payment payable for a life or any other limited or terminable period ;
- or would be so held or charged or burdened if the disposition or dispositions were regulated by the law of any part of the United Kingdom; or whereby, under the law of any other country, the administration of the property is for the time being governed by provisions equivalent in effect to those which would apply if the property were so held, charged or burdened.
- (3) A lease of property which is for life or lives, or for a period ascertainable only by reference to a death, or which is terminable on, or at a date ascertainable only by reference to, a death, shall be treated as a settlement and the property as settled property, unless the lease was granted for full consideration in money or money's worth, and where a lease not granted as a lease at a rack rent is at any time to become a lease at an increased rent it shall be treated as terminable at that time.
- (4) In relation to Scotland "settlement" also includes—
- (a) an entail;
  - (b) any deed by virtue of which an annuity is charged on, or on the rents of, any property (the property being treated as the property comprised in the settlement).
- (5) In sub-paragraph (4) above, "deed" includes any disposition, arrangement, contract, resolution, instrument or writing.
- (6) "Settlor", in relation to a settlement, includes any person by whom the settlement was made directly or indirectly, and in particular (but without prejudice to the generality of the preceding words) includes any person who has provided funds directly or indirectly for the purpose of or in connection with the settlement or has made with any other person a reciprocal arrangement for that other person to make the settlement.
- (7) "Trustee", in relation to a settlement in relation to which there would be no trustees apart from this sub-paragraph, means any person in whom the settled property or its management is for the time being vested.
- (8) Where more than one person is a settlor in relation to a settlement and the circumstances so require, this Schedule and section 25(3)(d) of this Act shall apply in relation to it as if the settled property were comprised in separate settlements.
- (9) In the application of this Schedule to Scotland, any reference to an interest in possession in settled property is a reference to an interest of any kind under a settlement actually being enjoyed by the person in right of that interest and the

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person in right of such an interest at any time shall be deemed to be entitled to a corresponding interest in the whole or any part of the property comprised in the settlement.

- (10) In the application of this Part of this Act to Northern Ireland this paragraph shall have effect as if references to property held in trust for persons included references to property standing limited to persons and as if the lease referred to in sub-paragraph (3) did not include a lease in perpetuity within the meaning of section 1 of the Renewable Leasehold Conversion Act 1849 or a lease to which section 37 of that Act applies.

#### *Excluded property*

- 2 (1) Where property comprised in a settlement is situated outside the United Kingdom—
- (a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made ; and
  - (b) section 24(2) of this Act applies to a reversionary interest in the property but does not otherwise apply in relation to the property.
- (2) In determining whether property comprised in a settlement which became so comprised before 10th December 1974 is excluded property section 45 of this Act shall be disregarded.

#### *Interests in possession*

- 3 (1) A person beneficially entitled to an interest in possession in settled property shall be treated as beneficially entitled to the property in which the interest subsists.
- (2) Where the person entitled to the interest is entitled to part only of the income (if any) of the property, the interest shall be taken to subsist in such part only of the property as bears to the whole thereof the same proportion as the part of the income to which he is entitled bears to the whole of the income.
- (3) Where the part of the income of any property to which a person is entitled is a specified amount (or the whole less a specified amount) in any period, his interest in the property shall be taken, subject to sub-paragraph (4) below, to subsist in such part (or in the whole less such part) of the property as produces that amount in that period.
- (4) The Treasury may from time to time by order made by statutory instrument prescribe a higher and a lower rate for the purposes of this paragraph ; and where tax is chargeable in accordance with sub-paragraph (3) above by reference to the value of the part of a property which produces a specified amount or by reference to the value of the remainder (but not where chargeable transfers are made simultaneously and tax is chargeable by reference to the value of that part as well as by reference to the value of the remainder) the value of the part producing that specified amount—
- (a) shall, if tax is chargeable by reference to the value of that part, be taken to be not less than it would be if the property produced income at the higher rate so prescribed ; and
  - (b) shall, if tax is chargeable by reference to the value of the remainder, be taken to be not more than it would be if the property produced income at the lower rate so prescribed ;
- but the value to be taken by virtue of paragraph (a) above as the value of part of a property shall not exceed the value of the whole of the property.



- (5) Where the person entitled to the interest is not entitled to any income of the property but is entitled, jointly or in common with one or more other persons, to the use and enjoyment of the property, his interest shall be taken to subsist in such part of the property as corresponds to the proportion which the annual value of his interest bears to the aggregate of the annual values of his interest and that or those of the other or others.
- (6) Where, under paragraph 1(3) of this Schedule, a lease of property is to be treated as a settlement, the lessee's interest in the property shall be taken to subsist in the whole of the property less such part of it as corresponds to the proportion which the value of the lessor's interest (as determined under Schedule 10 to this Act) bears to the value of the property.
- (7) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of the House of Commons.

*Termination of interest in possession treated as transfer of value*

- 4 (1) Where a person beneficially entitled to an interest in possession in any property comprised in a settlement disposes of his interest the disposal—
- (a) is not a transfer of value ; but
  - (b) shall be treated for the purposes of this Schedule as the coming to an end of his interest;
- and tax shall be charged accordingly under the following provisions of this paragraph.
- (2) Where at any time during the life of a person beneficially entitled to an interest in possession in any property comprised in a settlement his interest comes to an end, tax shall be charged, subject to the following provisions of this paragraph, as if at that time he had made a transfer of value and the value transferred had been equal to the value of the property in which his interest subsisted.
  - (3) If the person whose interest in the property comes to an end becomes on the same occasion beneficially entitled to the property or to another interest in possession in the property tax shall not be chargeable under this paragraph, except in the case mentioned in sub-paragraph (10)(b) below.
  - (4) If the interest comes to an end by being disposed of by the person beneficially entitled thereto and the disposal is for a consideration in money or money's worth, tax shall be chargeable under this paragraph as if the value of the property in which the interest subsisted were reduced by the amount of the consideration ; but in determining that amount the value of a reversionary interest in the property or of any interest in other property comprised in the same settlement shall be left out of account.
  - (5) If the interest comes to an end during the settlor's life and on the same occasion the property in which the interest subsisted reverts to the settlor, tax shall not be chargeable under this paragraph unless the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth.
  - (6) If the interest comes to an end and on the same occasion the settlor's spouse becomes beneficially entitled to the settled property, then if—
    - (a) the settlor's spouse is then domiciled in the United Kingdom and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which the interest comes to an end ; and

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- (b) neither the settlor nor the settlor's spouse had acquired a reversionary interest in the property for a consideration in money or money's worth ;  
tax shall not be chargeable under this paragraph.
- (7) Where the person beneficially entitled to the interest is the surviving spouse of a person who has died before 13th November 1974, tax shall not be chargeable under this paragraph if the value of the property in which the interest subsists would, by virtue of section 22(4) of this Act, have been left out of account in determining the value of his estate had he died immediately before the coming to an end of the interest.
- (8) The tax chargeable under this paragraph in a case where—
  - (a) the settlement was made before 27th March 1974 ; and
  - (b) the interest comes to an end before 10th December 1974 ;
shall not in any case exceed the tax that would be so chargeable if the values transferred by previous chargeable transfers made by the person beneficially entitled to the interest had been equal to the values (if any) on which tax is chargeable under this paragraph on the earlier termination of an interest in the settled property.
- (9) Where a transaction is made between the trustees of the settlement and a person who is, or is connected with.—
  - (a) the person beneficially entitled to an interest in the property; or
  - (b) a person beneficially entitled to any other interest in that property or to any interest in any other property comprised in the settlement; or
  - (c) a person for whose benefit any of the settled property may be applied,
and, as a result of the transaction, the value of the first-mentioned property is less than it would be but for the transaction, a corresponding part of the interest shall be deemed for the purposes of this paragraph to come to an end, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (10) References in this paragraph to any property and to an interest in any property include references to part of any property or interest; and—
  - (a) the tax chargeable under this paragraph on the coming to an end of part of an interest shall be charged as if the value of the property (or part) in which the interest subsisted were a corresponding part of the whole thereof; and
  - (b) if the value of the property (or part) to which or to an interest in which a person becomes entitled as mentioned in sub-paragraph (3) above is less than the value on which tax would be chargeable apart from that sub-paragraph, tax shall be chargeable on a value equal to the difference.
- (11) Tax shall not be chargeable under this paragraph if the settled property is excluded property.

*Relief for successive charges on interest in possession*

- 5 (1) Where the value transferred by a chargeable transfer falls to be determined by reference to the value of any settled property in which there subsists an interest in possession to which the transferor is entitled, and—
  - (a) the value transferred by an earlier chargeable transfer also fell to be determined by reference to the value of that property; and
  - (b) that earlier transfer either was or included the making of the settlement or was made after the making of the settlement;

then, if the period between those transfers is not more than four years, tax shall be charged as if the value of that property were reduced—

- (i) by 80 per cent, if that period is one year or less;
- (ii) by 60 per cent, if that period is more than one year but not more than two years ;
- (iii) by 40 per cent, if that period is more than two years but not more than three years ; and
- (iv) by 20 per cent, if that period is more than three years.

- (2) Where the transferor became entitled to the interest on the death of a person and estate duty was payable on that death in respect of the settled property sub-paragraph (1) above shall apply as if the period referred to therein were the period between the death and the chargeable transfer.

*Charge on capital distributions of settled property*

- 6 (1) Where a distribution payment is made out of property comprised in a settlement and at the time the payment is made no interest in possession subsists in the property or in the part of it Out of which the payment is made, the payment is in this Schedule referred to as a capital distribution.
- (2) Where a person becomes entitled to an interest in possession in the whole or any part of the property comprised in a settlement at a time when no such interest subsists in the property or that part, a capital distribution shall be treated as being made out of the property or that part of the property; and the amount of the distribution shall be taken to be equal to the value at that time of the property or, if the interest is in part only of that property, of that part.
- (3) Where, at a time when no interest in possession subsists in property comprised in a settlement or in a part of that property, a transaction is made between the trustees of the settlement and a person who is, or is connected with.—
- (a) a person beneficially entitled to an interest in any of the settled property; or
  - (b) a person for whose benefit any of the settled property may be applied ;
- and, as a result of the transaction, the value of the property or part is less than it would be but for the transaction, a capital distribution shall be treated as being made out of the property or part of an amount equal to that by which that value is less, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (4) Tax shall be charged on any capital distribution as on the value transferred by a chargeable transfer where—
- (a) the value transferred less the tax payable on it is equal to the amount of the capital distribution ; and
  - (b) the rate applicable is that specified in paragraphs 7 to 9 below;
- and in those paragraphs " the assumed transferor " means the person who Would be the transferor in relation to the chargeable transfer assumed by this sub-paragraph and the appropriate Table for the purposes of those paragraphs (including the calculation of any tax that would have been chargeable as mentioned in paragraph 7(2)(a) below) is the Second Table set out in section 37(3) of this Act.
- (5) The reference in sub-paragraph 4(a) above to the tax payable on a capital distribution does not include any tax which is payable by a person to whom a distribution

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payment is made ; and in relation to a capital distribution treated as made under sub-paragraph (2) or (3) above or paragraph 12, 15(3) or 24(2) below, sub-paragraph (4) (a) above shall have effect as if the words " less the tax payable on it" were omitted.

- (6) Notwithstanding sub-paragraph (1) above, a distribution payment which is made to the settlor or the settlor's spouse shall not be a capital distribution if the settlor or, as the case may be, the settlor's spouse is domiciled in the United Kingdom at the time the payment is made and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which it is made.
- (7) Sub-paragraph (2) above shall not be taken to apply in the case of a person who, on surviving another person for a specified period, becomes entitled to an interest in possession as from the other person's death.
- (8) Where a person entitled to an interest in possession in part of the property comprised in a settlement became so entitled as a member of a class, sub-paragraph (2) above shall not apply on his becoming entitled, as such a member, to an interest in possession in another part of that property, if he becomes so entitled on the death under full age of another member of that class.

*Rates of charge on capital distributions following chargeable transfers*

- 7 (1) This paragraph applies where, at or after the relevant time and before the capital distribution, there has been a transfer of value which satisfies the conditions stated in paragraph 11(2) below.
- (2) So far as the amount on which tax is chargeable, when added to the amount of all previous distribution payments made out of property comprised in the settlement, does not exceed the initial value, the rate chargeable shall be equal to the fraction of which—
  - (a) the numerator is the amount of the tax which would have been charged on the value transferred by the relevant transfer, or such part of that amount as is attributable to the initial value, if the value so transferred had been equal to the aggregate of the initial values of the settlement and any related settlement; and
  - (b) the denominator is the initial value.
- (3) So far as the amount on which tax is chargeable, when so added, exceeds the initial value, the rate or rates chargeable shall be the rate or rates that would be applicable if the assumed transferor had made previous chargeable transfers and the aggregate of the values transferred by them were equal to the aggregate of—
  - (a) the values transferred by any chargeable transfers which the person who made the relevant transfer had made before the relevant transfer;
  - (b) the aggregate of the initial values of the settlement and any related settlement; and
  - (c) the amounts of any previous distribution payments out of property comprised in the settlement, so far as the tax (if any) chargeable thereon is chargeable in accordance with this sub-paragraph.

*Rate of charge on other capital distributions*

- 8 (1) This paragraph applies where paragraph 7 above does not apply.

- (2) The rate or rates chargeable shall be the rate or rates that would be applicable if the assumed transferor—
- (a) had made previous chargeable transfers in any case where there had been previous distribution payments made on or after 27th March 1974 out of the settled property ; but
  - (b) had made no previous chargeable transfers in any other case ;
- and, where paragraph (a) above applies, the aggregate of the values transferred by the previous chargeable transfers were equal to the aggregate amounts of the previous distribution payments mentioned therein.

*Further property added by settlor*

- 9 (1) The following provisions of this paragraph apply where, by a transfer of value made by the settlor at any time after the making of the settlement and after 26th March 1974 (in this paragraph referred to as " the subsequent transfer ") further property is added to the property comprised in the settlement immediately before the subsequent transfer (in this paragraph referred to as " the previous property " ).
- (2) The subsequent transfer shall be treated for the purposes of paragraphs 6 to 8 above as the making of a separate settlement and the further property as property comprised in that separate settlement, and the following provisions of this paragraph shall apply for determining the property out of which any capital distributions made after the subsequent transfer are to be treated as made.
- (3) If paragraph 7 above would have applied to a capital distribution made immediately before the subsequent transfer, any capital distribution made after the subsequent transfer shall be treated as made—
- (a) out of the previous property, if or to the extent that the amount of the distribution, when added to the amount of all previous distribution payments made out of the settled property, does not exceed the previous value defined in sub-paragraph (4) below; and
  - (b) out of the further property in any other case.
- (4) For the purposes of sub-paragraph (3) above the previous value is the initial value, increased, if there was an earlier transfer which is a " subsequent transfer " as defined above, by the value, immediately after the earlier transfer, of any property added by it to the settled property.
- (5) If paragraph 7 above would not have applied to a capital distribution made immediately before the subsequent transfer, any capital distribution made after the subsequent transfer shall be treated as made—
- (a) out of the previous property, if or to the extent that the amount of the distribution, when added to the amount of any previous distribution payment made since the subsequent transfer, does not exceed the value of the settled property immediately before the subsequent transfer ; and
  - (b) out of the further property in any other case ;
- and accordingly, where paragraph (b) above applies, the rate or rates chargeable shall be determined in accordance with paragraph 7 above (and, where there is a further subsequent transfer, in accordance with sub-paragraphs (3) and (4) above).

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*Capital distributions after termination of interest of settlor or settlor's spouse*

- 10 Where, after the termination of an interest in possession in a part (in this paragraph referred to as the chargeable part) of any property comprised in a settlement made after 26th March 1974, a capital distribution is made out of the chargeable part, and—

- (a) the settlor or the settlor's spouse was the person entitled to the interest before its termination, and either the settlor or the settlor's spouse was entitled to an interest in possession in the chargeable part immediately after the making of the settlement; and
- (b) the making of the settlement either was not a transfer of value or was an exempt transfer or a transfer exempt to the extent of the value of the chargeable part;

paragraphs 6 to 9 above shall apply as if the chargeable part were comprised in a separate settlement made by the person entitled to the first-mentioned interest on its termination and the termination of the interest were the relevant transfer; and as if the subsequent termination of any interest of his in any other part of the settled property were an addition made by him to the property comprised in that separate settlement.

*Interpretation of paragraphs 6 to 10*

- 11 (1) The following provisions apply for the interpretation of paragraphs 6 to 10 above.
- (2) The relevant transfer, in relation to any settlement, is the first transfer of value made at or after the relevant time which satisfies the conditions—
- (a) that the value of the property comprised in the settlement or of that part of it out of which the capital distributions are made was taken into account in determining the value transferred; and
  - (b) that the transfer was, or would but for paragraph 19(2) below or paragraphs 2 to 7 of Schedule 6 to this Act have been, a chargeable transfer ; and
  - (c) that, if the settlement was made before 27th March 1974, the transfer was made neither under paragraph 4 above nor on death ;
- and where it was not a chargeable transfer the reference in paragraph 7(2)(a) above to the tax which would have been charged is a reference to the tax which would have been charged but for paragraph 19(2) below or paragraphs 2 to 7 of Schedule 6 to this Act.
- (3) The relevant time, in relation to any settlement, is, if the settled property became comprised in the settlement on the death of any person, the time immediately before his death, and, in any other case, the time when the settlement was made.
- (4) Where, by the same disposition, property ceases to be comprised in one settlement and becomes comprised in another settlement, the property shall be treated as remaining comprised in the first settlement.
- (5) The amount of any distribution payment which is a capital distribution shall be taken (except for the purposes of paragraph 6(4)(a)) to be the amount on which tax is chargeable in respect of it.
- (6) A settlement is related to another if the same transfer of value is the relevant transfer in relation to both ; and for this purpose transfers of value made by the same person on the same day shall be treated as one.

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- (7) " Distribution payment" means, subject to sub-paragraph (8) below, any payment which—
- (a) is not income of any person for any of the purposes of income tax and would not for any of those purposes be income of a person not resident in the United Kingdom if he were so resident; and
  - (b) is not a payment in respect of costs or expenses;
- and " payment" includes the transfer of assets other than money.
- (8) The amount of any capital distribution treated as made under paragraph 6(2) or (3) above or paragraph 15(3) or 24(2) below shall also be deemed to be a distribution payment; but where, after an amount has been taken into account by virtue of this sub-paragraph as a distribution payment made out of the whole or part of any property, one or more distribution payments are made (otherwise than under this sub-paragraph) out of that property or part, the amount so taken into account shall be treated as reducing the amount of those payments.
- (9) " Initial value", in relation to any settlement, means the value, immediately after the relevant transfer, of the property then comprised in the settlement.
- (10) " Interest in possession " means an interest in possession to which an individual is beneficially entitled or, if the following conditions are satisfied, an interest in possession to which a company is beneficially entitled, the conditions being—
- (a) that the business of the company consists wholly or mainly in the acquisition of interests in settled property ; and
  - (b) that the company has acquired the interest for full consideration in money or money's worth from an individual who was beneficially entitled to the interest.
- (11) References to settled property shall be construed as referring only to property which is not excluded property.

*Periodic charge to tax*

- 12 (1) Where, at a relevant anniversary, no interest in possession subsists in the property comprised in a settlement or in a part of that property, a capital distribution of an amount equal to the value immediately before that anniversary of that property or part shall be treated as made out of that property or part, and tax shall be charged on a capital distribution so treated as made at 30 per cent, of the rate at which it would be chargeable under paragraphs 6 to 10 above on a capital distribution of the same amount made at the same date, but subject to any reduction under sub-paragraph (4) below.
- (2) Where the trustees of the settlement are not resident in the United Kingdom a capital distribution of a corresponding amount shall also be treated as made if no interest in possession subsists in the property or in a part thereof at the end of any year in the period of ten years ending with a relevant anniversary, except the last and except any year ending before 1st January 1976 ; and tax shall be charged on a capital distribution so treated as made at 3 per cent, of the rate at which it would be chargeable under paragraphs 6 to 10 above on a capital distribution of the same amount made at the same date.
- (3) Any tax charged by virtue of sub-paragraph (2) above shall be allowed as a credit against the tax chargeable on the next capital distribution made, or treated by virtue

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of sub-paragraph (1) above as made, out of the property or, as the case may be, out of the part concerned.

- (4) Where the whole or part of the value mentioned in sub-paragraph (1) above is attributable to property—
- (a) which was added by the settlor after the end of the first of the ten years ending with the relevant anniversary ; or
  - (b) in which an interest in possession subsisted throughout at least one of those ten years ;
- the rate at which, under sub-paragraph (1) above, tax is chargeable on that value or that part of it shall be reduced by one-tenth for each of those ten years throughout which either the settled property did not include that property, or an interest in possession subsisted in that property.
- (5) For the purposes of this paragraph trustees of a settlement shall be regarded as not resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom.
- (6) For the purposes of this paragraph a relevant anniversary, in relation to a settlement, is the end of the ten years beginning with the date of the transfer of value which is the relevant transfer in relation to the settlement (or would be the relevant transfer in relation to it if dispositions made or events happening at that date could be chargeable transfers and paragraph (c) of paragraph 11(2) above were omitted) and the end of every subsequent ten years ; but no date falling before 1st April 1980 is a relevant anniversary.
- (7) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.
- (8) Section 51(2) of this Act does not apply to a charge to tax under this paragraph so as to make it the relevant transfer in relation to any settlement.

*Tax credit for periodic charge*

- 13 (1) Subject to sub-paragraph (2) below, where tax is charged at a relevant anniversary on any capital distribution treated by virtue of paragraph 12(1) above as made out of any property, the effective rate at which that tax is charged (taking into account any reduction under paragraph 12(4) above) shall reduce the rate at which, apart from this paragraph, tax would be chargeable on any capital distribution made out of that property on or not later than twenty years after that relevant anniversary.
- (2) The amounts by which tax on any capital distribution is reduced under sub-paragraph (1) above by reason of any tax charged under paragraph 12(1) above shall not together exceed the amount of the tax so charged.
- (3) In this paragraph " relevant anniversary " has the same meaning as in paragraph 12 above.

*Transitional relief for settlements made before 27th March 1974*

- 14 (1) In relation to a settlement made before 27th March 1974 paragraphs 6 to 12 above shall apply with the following modifications.



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- (2) Subject to sub-paragraphs (3) to (5) below, the rate at which tax is chargeable on any capital distribution made before 1st April 1980 out of property comprised in the settlement (but not on any capital distribution which, under paragraph 9 above, is treated as made out of property comprised in a separate settlement made after 26th March 1974) shall be the following percentage of the rate at which it would be chargeable apart from this paragraph, that is to say—
- (a) 10 per cent, if the capital distribution is made before 1st April 1976 ;
  - (b) 12 1/2 per cent, if it is made after 31st March 1976 but before 1st April 1977;
  - (c) 15 per cent, if it is made after 31st March 1977 but before 1st April 1978 ;
  - (d) 17 1/2 per cent, if it is made after 31st March 1978 but before 1st April 1979 ; and
  - (e) 20 per cent, if it is made after 31st March 1979.
- (3) Where any capital distribution made after 31st March 1976 but before 1st April 1977 could not have been made except as the result of some proceedings before a court, this paragraph shall have effect in relation to it as if it had been made before 1st April 1976.
- (4) Sub-paragraph (2) above does not apply in relation to a capital distribution treated as made under paragraph 12(2) above.
- (5) Sub-paragraph (2) above does not apply—
- (a) in relation to a capital distribution treated as made under paragraph 6(2) above, unless the person becoming entitled as mentioned therein ; or
  - (b) in relation to a capital distribution treated as made under paragraph 15(3) below, unless each of the beneficiaries referred to therein ; or
  - (c) in relation to a distribution payment made for the benefit of any person, unless that person ;
- is an individual who is domiciled in the United Kingdom at the time the capital distribution is made and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which it is made.
- (6) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.

*Accumulation and maintenance settlements*

- 15 (1) This paragraph applies to any settlement where—
- (a) one or more persons (in this paragraph referred to as beneficiaries) will, on or before attaining a specified age not exceeding twenty-five, become entitled to, or to an interest in possession in, the settled property or part of it; and
  - (b) no interest in possession subsists in the settled property or part and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.
- (2) Where this paragraph applies to a settlement—
- (a) a payment made to a beneficiary out of the settled property or part concerned shall not be a capital distribution and a capital distribution shall not be treated as made under paragraph 6(2) above on a beneficiary's becoming entitled to an interest in the property or part; and

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- (b) no capital distribution shall be treated as made out of the property or part by virtue of paragraph 12 above at any time during the period for which the income is to be accumulated as mentioned in sub-paragraph (1)(b) above.
- (3) Where no interest in possession subsists in the property comprised in a settlement or some part of that property but the conditions stated in paragraphs (a) and (b) of sub-paragraph (1) above are not satisfied with respect to the property or part, then, if those conditions become satisfied with respect to the property or any part thereof a capital distribution shall be treated as being made out of the property or part and the amount of the distribution shall be taken to be equal to the value of the property with respect to which those conditions become satisfied.
- (4) Where the conditions stated in paragraphs (a) and (b) of sub-paragraph (1) above are satisfied at any time when there is only one beneficiary, they shall not be treated as ceasing to be satisfied on his death or on his attaining the specified age, if they would again be satisfied on the birth of another person.
- (5) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.

#### *Superannuation schemes*

- 16 (1) This paragraph applies to any scheme or fund mentioned in subsection (1) or subsection (2) of section 221 of the Taxes Act, to any fund to which section 218 of that Act applies, to any exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970 and to any other sponsored superannuation scheme as defined in section 226(11) of the Taxes Act.
- (2) An interest in or under a fund or scheme to which this paragraph applies which comes to an end on the death of the person entitled to it shall be left out of account in determining for the purposes of this Part of this Act the value of his estate immediately before his death, if the interest—
  - (a) is, or is a right to, a pension or annuity; and
  - (b) is not an interest resulting (whether by virtue of the instrument establishing the fund or scheme or otherwise) from the application of any benefit provided under the fund or scheme otherwise than by way of a pension or annuity.
- (3) Paragraphs 3 and 4 above shall not apply in relation to an interest satisfying the conditions of paragraphs (a) and (b) of sub-paragraph (2) above ; and where any tax chargeable on a transfer of value is attributable to the value of such an interest, the persons liable for it shall not include the trustees of the scheme or fund but shall, where the transfer is made on the death of the person entitled to the interest, include his personal representatives.
- (4) In relation to an interest in or under a fund or scheme to which this paragraph applies, section 23(2) of this Act shall apply as if the words " other than settled property " were omitted (in both places).
- (5) Paragraphs 6 to 12 above shall not apply in relation to any property which is part of or held for the purposes of a fund or scheme to which this paragraph applies.
- (6) The reference in sub-paragraph (5) above to property which is part of or held for the purposes of a fund or scheme does not include a reference to a benefit which, having become payable under the fund or scheme, becomes comprised in a settlement; and

where in such a case the settlement is made by a person other than the person entitled to the benefit, the settlement shall for the purposes of this Part of this Act be treated as made by the person so entitled.

*Trusts for benefit of employees, etc.*

- 17 (1) Where settled property is held on trusts which, either indefinitely or until the end of a period (whether defined by a date or in some other way) do not permit any of the settled property to be applied otherwise than for the benefit of—
- (a) persons of a class defined by reference to employment in a particular trade, profession or undertaking or employment by, or office with, a body carrying on a trade, profession or undertaking; or
  - (b) persons of a class defined by reference to marriage or relationship to, or dependence on, persons of a class defined as mentioned in paragraph (a) above ; or
  - (c) charities;
- then, subject to sub-paragraph (2) below, this paragraph applies to that settled property or, as the case may be, applies to it during that period.
- (2) Where any such class is defined by reference to employment by or office with a particular body this paragraph applies to the settled property only if the class comprises all or most of the persons employed by or holding office with that body.
- (3) Where this paragraph applies to any settled property—
- (a) the property shall be treated as comprised in one settlement, whether or not it would fall to be so treated apart from this paragraph; and
  - (b) an interest in possession in any part of the settled property shall be disregarded for the purposes of this Schedule if that part is less than 5 per cent, of the whole ; and
  - (c) subject to sub-paragraph (4) below, a payment out of the settled property shall not be a capital distribution and shall not be taken into account as a distribution payment; and
  - (d) paragraph 7 above shall not apply to any capital distribution made out of the settled property ; and
  - (e) paragraph 12 above shall apply subject to sub-paragraph (5) below, and paragraph 13 above shall not apply.
- (4) Sub-paragraph (3)(c) above does not apply in relation to any payment made for the benefit of a person who is, or is connected with.—
- (a) a person who has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year ; or
  - (b) in a case where the employment in question is employment by a close company, a person who is a participator in relation to that company and would, on a winding-up of the company, be entitled to not less than 5 per cent, of its assets.
- (5) Where this paragraph applies to any settled property, tax which would otherwise be chargeable at a relevant anniversary under paragraph 12(1) above shall be deferred until either a capital distribution is made or this paragraph ceases to apply to the settled property; and when any deferred tax becomes chargeable it shall be charged—

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- (a) at the rate at which it would be chargeable if the relevant anniversary fell on the date on which the tax becomes chargeable ; and
  - (b) on an amount determined in accordance with the following provisions of this paragraph.
- (6) Where any deferred tax becomes chargeable when this paragraph ceases to apply to the settled property it shall be chargeable on an amount equal to the current value of the settled property.
- (7) Where any of the deferred tax becomes chargeable when a capital distribution is made—
  - (a) it shall be chargeable on an amount determined under sub-paragraph (8) below ; and
  - (b) the amount of the tax shall reduce the amount on which tax is chargeable on that capital distribution (and if it exceeds that amount the excess shall reduce the amount on which tax is chargeable on the next capital distribution, and so on).
- (8) So far as any tax which would otherwise be chargeable on a relevant anniversary becomes chargeable when a capital distribution is made it shall be charged on an amount (in this sub-paragraph referred to as the first amount) equal to the proper proportion of the current value of the property out of which the capital distribution is made ; and where the capital distribution is made after the next relevant anniversary and, accordingly, more than one deferred tax becomes chargeable—
  - (a) the second deferred tax shall be charged on the first amount less the amount of the first deferred tax; and
  - (b) the third deferred tax (if any) shall be charged on the amount found under paragraph (a) above less the amount of the second deferred tax ;
 and so on.
- (9) For the purposes of this paragraph—
  - (a) the current value of any property is its value at the time any tax deferred under this paragraph becomes chargeable ; and
  - (b) the proper proportion of the current value of any property out of which a capital distribution is made is the proportion which the amount on which tax is chargeable on the capital distribution bears to that current value ;
 and in this paragraph " close company " and " participator " have the same meanings as in section 39 of this Act, " relevant anniversary " has the same meaning as in paragraph 12 above and " year " has the same meaning as in paragraph 2 of Schedule 6 to this Act.

#### *Protective trusts*

- 18 (1) This paragraph applies to settled property held on trusts to the like effect as those specified in section 33(1) of the Trustee Act 1925 ; and in this paragraph " the principal beneficiary " and " the trust period " have the same meanings as in that section.
- (2) Where this paragraph applies to any settled property—
- (a) tax shall not be charged under paragraph 4(2) above on the coming to an end during the trust period of the principal beneficiary's interest in the property ; and

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(b) a distribution payment made out of the settled property for the benefit of the principal beneficiary shall not be a capital distribution.

(3) Sub-paragraphs (5) to (9) of paragraph 17 above shall apply where this paragraph applies to any settled property as if the references to that paragraph were references to this paragraph and references to that paragraph ceasing to apply to the settled property included references to the coming to an end of the trust period.

*Trusts for benefit of mentally disabled persons*

19 (1) This paragraph applies to settled property held on trusts under which, during the life of a mentally disabled person, no interest in possession in the settled property subsists and which secure that any of the settled property which is applied during his life is applied only or mainly for his benefit.

(2) Where this paragraph applies to any settled property, then—

(a) if the mentally disabled person is the settlor, neither the making of the settlement nor any addition made by him to the settled property shall be a chargeable transfer ; and

(b) a distribution payment made out of the settled property for the benefit of the mentally disabled person shall not be a capital distribution.

(3) Sub-paragraphs (5) to (9) of paragraph 17 above shall apply where this paragraph applies to any settled property as if the references to that paragraph were references to this paragraph and references to that paragraph ceasing to apply to the settled property included references to the death of the mentally disabled person.

(4) In this paragraph " mentally disabled person " means a person who by reason of mental disorder within the meaning of the Mental Health Act 1959 is incapable of administering his property or managing his affairs.

*Charitable trusts*

20 Paragraphs 6 to 12 above do not apply in relation to settled property held for charitable purposes only.

*Compensation funds*

21 Paragraphs 6 to 12 above do not apply in relation to any fund which is maintained or administered by a representative association of persons carrying on a trade or profession and the only or main objects of which are compensation for or relief of losses or hardship incurred or likely to be incurred through the default or alleged default of persons carrying on the trade or profession or of their agents or servants.

*Administration period*

22 (1) Where a person would have been entitled to any interest in possession in the whole or part of the residue of the estate of a deceased person had the administration of that estate been completed, the same consequences shall follow under this Schedule as if he had become entitled to an interest in possession in the unadministered estate and in the property (if any) representing ascertained residue, or in a corresponding part of it, on the date as from which the whole or part of the income of the residue would have been attributable to his interest had the residue been ascertained immediately after the death of the deceased person.

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(2) In this paragraph—

- (a) " unadministered estate " means all the property for the time being held by personal representatives as such, excluding property devolving on them otherwise than as assets for the payment of debts and excluding property that is the subject of a specific disposition, and making due allowance for outstanding charges on residue and for any adjustments between capital and income remaining to be made in due course of administration;
- (b) " ascertained residue " means property which, having ceased to be held by the personal representatives as such, is held as part of the residue ;
- (c) " charges on residue ", and " specific disposition " have the same meanings as in Part )(V of the Taxes Act and the reference to the completion of the administration of an estate shall be construed as if contained in that Part.

*Sales and mortgages of reversionary interests*

- 23 (1) Where a reversionary interest in settled property was before 27th March 1974 sold or mortgaged for full consideration in money or money's worth, no greater amount of tax shall be payable by the purchaser or mortgagee when the interest falls into possession than the amounts of estate duty that would have been payable by him if none of the provisions of this Act had been passed; and any tax which, by virtue of this paragraph, is not payable by the mortgagee but which is payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.
- (2) Where the interest was sold or mortgaged to a close company in relation to which the person entitled to the interest was a participator, sub-paragraph (1) above applies only to the extent that other persons had rights and interests in the company.
- (3) Sub-paragraph (2) above shall be construed as if contained in section 39 of this Act.

*Close companies*

- 24 (1) In relation to a person who is a participator in his capacity as trustee of a settlement, subsection (1) of section 39 of this Act shall not apply ; and
- (a) the references in that section to subsection (1) thereof shall have effect as references to sub-paragraph (2) below ; and
  - (b) in relation to tax chargeable by virtue of sub-paragraph (2) below, subsection (4) of that section shall apply with the necessary modifications.
- (2) Where any part of the value transferred by a close company is apportioned to a trustee of a settlement under section 39 of this Act, then—
- (a) if an interest in possession subsists in the settled property a part of that interest corresponding to such part of the property as is of a value equal to the part so apportioned less the amount specified in sub-paragraph (3) below shall be treated for the purposes of this Schedule as having come to an end on the making of the transfer ; and
  - (b) if no interest in possession subsists in the settled property, the part of the value so apportioned less the amount specified in sub-paragraph (3) below shall be treated as a capital distribution made at the time of the transfer ;
- and where an interest in possession subsists in part only of the settled property paragraphs (a) and (b) above shall apply with the necessary adjustments of the values and amounts referred to therein.

- (3) The amount referred to in paragraphs (a) and (b) of sub-paragraph (2) above is the amount (if any) by which the value of the settled property is more than it would be apart from the company's transfer, leaving out of account the value of any rights or interests in the company.
- (4) Nothing in subsection (4) of section 39 of this Act shall be taken to prevent a transfer of value assumed to have been made by a person falling under sub-section (3)(a) of that section from being a relevant transfer as defined in paragraph 11 above.
- (5) Where a close company is entitled to an interest in possession in settled property the persons who are participators in relation to the company shall be treated for the purposes of this Schedule as being the persons beneficially entitled to that interest according to their respective rights and interests in the company.
- (6) In this paragraph expressions defined in section 39 of this Act have the same meanings as in that section.

## SCHEDULE 6

Section 29.

### EXEMPT TRANSFERS

#### PART I

##### DESCRIPTION

###### *Transfers between spouses*

- 1 (1) Subject to the provisions of Part II of this Schedule and the following provisions of this paragraph, a transfer of value is an exempt transfer to the extent that the value of the estate of the transferor's spouse is increased.
- (2) If, immediately before the transfer, the transferor but not the transferor's spouse is domiciled in the United Kingdom the transfer is exempt to the extent only that the increase in the value of the spouse's estate does not exceed £15,000 less any increase previously taken into account for the purposes of the exemption conferred by this paragraph.
- (3) Where the transfer is made on death and the whole or part of the value of any property which devolved on or was given to the spouse (within the meaning of section 121 of and Schedule 26 to the Finance Act 1972) would have been included under section 22(5) of this Act had it not fallen to be disregarded under section 121 of that Act, the value that would have been so included shall reduce the £15,000 mentioned in sub-paragraph (2) above.
- (4) In its application to Northern Ireland, sub-paragraph (3) above shall have effect as if for the references to section 121 of and Schedule 26 to the Finance Act 1972 there were substituted references to Article 5 of and Schedule 2 to the Finance (Northern Ireland) Order 1972.

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*Values not exceeding £1,000*

- 2 (1) Transfers of value made by a transferor in any one year are exempt to the extent that the values transferred by them (calculated as values on which no tax is payable) do not exceed £1,000.
- (2) Where those values (if any) fall short of £1,000, the amount by which they so fall short shall, in relation to the next following year, be added to the £1,000 mentioned in sub-paragraph (1) above ; and where they exceed £1,000 the excess—
- (a) shall, as between transfers made on different days, be attributed, so far as possible, to a later rather than an earlier transfer; and
  - (b) shall, as between transfers made on the same day, be attributed to them in proportion to the values transferred by them.
- (3) In this paragraph " year " means the period beginning with 27th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April.
- 3 (1) In relation to the period beginning with 27th March 1974 and ending with 5th April 1974 and the period of twelve months ending with 5th April 1975, paragraph 2 above shall have effect as if for the references to £1,000 there were substituted references to whichever of the following is the greater—
- (a) £1,000, and
  - (b) the aggregate value of gifts made by the transferor in that period and qualifying for small gifts relief from estate duty.
- (2) For the purposes of this paragraph a gift qualifying for small gifts relief from estate duty is a gift which would by virtue of section 59(2) of the Finance (1909-10) Act 1910 or section 33 of the Finance Act 1949 or section 6 of the Finance Act (Northern Ireland) 1949 have been excluded from the property passing on the donor's death for the purposes of estate duty if he had died immediately after making the gift.

*Small gifts to same person*

- 4 (1) Transfers of value made by a transferor in any one year by outright gifts to any one person are exempt to the extent that the values transferred by them (calculated as values on which no tax is chargeable) do not exceed £100.
- (2) In this paragraph " year " has the same meaning as in paragraph 2 above.

*Normal expenditure out of income*

- 5 (1) A transfer of value is an exempt transfer if, or to the extent that, it is shown—
- (a) that it was made as part of the normal expenditure of the transferor ; and
  - (b) that (taking one year with another) it was made out of his income ; and
  - (c) that, after allowing for all transfers of value forming part of his normal expenditure, the transferor was left with sufficient income to maintain his usual standard of living.
- (2) A payment of a premium on a policy of insurance on the transferor's life, or a gift of money or money's worth applied, directly or indirectly, in payment of such a premium, shall not for the purposes of this paragraph be regarded as part of his normal expenditure if, when the insurance was made, or at any earlier or later time, an annuity was purchased on his life, unless it is shown that the purchase of the



annuity and the making or any variation of the insurance or of any prior insurance for which the first-mentioned insurance was directly or indirectly substituted, were not associated operations.

- (3) Where a purchased life annuity (within the meaning of section 230 of the Taxes Act) was purchased after 12th November 1974 then, in relation to transfers of value made after 5th April 1975, so much of the annuity as is, for the purposes of the provisions of the Tax Acts relating to income tax on annuities and other annual payments, treated as the capital element contained in the annuity, shall not be regarded as part of the transferor's income for the purposes of this paragraph.

*Gifts in consideration of marriage*

- 6 (1) Transfers of value made by gifts in consideration of marriage are exempt to the extent that the values transferred by such transfers made by any one transferor in respect of any one marriage (calculated as values on which no tax is payable) do not exceed—
- (a) in the case of gifts within sub-paragraph (2) below by a parent of a party to the marriage, £5,000 ;
  - (b) in the case of other gifts within sub-paragraph (2) below, £2,500 ; and
  - (c) in any other case £1,000 ;
- any excess being attributed to the transfers in proportion to the values transferred.
- (2) A gift is within this sub-paragraph if—
- (a) it is an outright gift to a child or remoter descendant of the transferor, or
  - (b) the transferor is a parent or remoter ancestor of either party to the marriage, and either the gift is an outright gift to the other party to the marriage or the property comprised in the gift is settled by the gift, or
  - (c) the transferor is a party to the marriage, and either the gift is an outright gift to the other party to the marriage or the property comprised in the gift is settled by the gift;
- and in this paragraph " child" includes an illegitimate child, an adopted child and a step-child and " parent", " descendant" and " ancestor " shall be construed accordingly.
- (3) A disposition shall not be treated for the purposes of this paragraph as a gift made in consideration of marriage—
- (a) in the case of an outright gift, if or in so far as it is a gift to a person other than a party to the marriage;
  - (b) in the case of any other disposition, if the persons who are or may become entitled to any benefit under the disposition include any person other than—
    - (i) the parties to the marriage, issue of the marriage, or a wife or husband of any such issue ;
    - (ii) persons becoming entitled on the failure of trusts for any such issue under which trust property would (subject only to any power of appointment to a person falling within sub-paragraph (i) or (iii) of this paragraph) vest indefeasibly on the attainment of a specified age or either on the attainment of such an age or on some earlier event, or persons becoming entitled (subject as aforesaid) on the failure of any limitation in tail;

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- (iii) a subsequent wife or husband of a party to the marriage, or any issue, or the wife or husband of any issue, of a subsequent marriage of either party;
  - (iv) persons becoming entitled under such trusts, subsisting under the law of England or of Northern Ireland, as are specified in section 33(1) of the Trustee Act 1925 or section 34(1) of the Trustee Act (Northern Ireland) 1958 (protective trusts), the principal beneficiary being a person falling within sub-paragraph (i) or (iii) of this paragraph, or under such trusts, modified by the enlargement, as respects any period during which there is no such issue as aforesaid in existence, of the class of potential beneficiaries specified in paragraph (ii) of the said section 33(1) or paragraph (b) of the said section 34(1);
  - (v) persons becoming entitled under trusts subsisting under the law of Scotland and corresponding with such trusts as are mentioned in sub-paragraph (iv) above ;
  - (vi) as respects a reasonable amount of remuneration, the trustees of the settlement.
- (4) References in sub-paragraph (3) above to issue shall apply as if any person legitimated by a marriage, or adopted by the husband and wife jointly, were included among the issue of that marriage.
- 7 In relation to marriages before the passing of this Act paragraph 6 above shall have effect with the substitution of a reference to £5,000 for the reference in sub-paragraph (1) to £2,500.

*Interpretation of paragraphs 2 to 7*

- 8 Section 51(2) of this Act does not apply to the interpretation of paragraphs 2 to 7 above.

*Transfers in course of trade, etc.*

- 9 A transfer of value made in the carrying on of a trade, profession or vocation is an exempt transfer if it is allowable as a deduction in computing the profits or gains of that trade, profession or vocation for the purposes of income tax (or would be so allowable if those profits or gains were sufficient and fell to be so computed).

*Gifts to charities*

- 10 (1) Subject to the provisions of Part II of this Schedule, transfers of value are exempt to the extent that the values transferred by them—
- (a) are attributable to property which is given to charities ; and
  - (b) so far as made on or within one year of the death of the transferor, do not exceed £100,000.
- (2) Notwithstanding anything in paragraph 6 of Schedule 5 to this Act, where property is given to a charity by the making of a distribution payment within the meaning of that paragraph, the distribution payment is not a capital distribution for the purposes of that Schedule.

- (3) For the purposes of this paragraph property is given to charities if it becomes the property of charities or is held on trust for charitable purposes only.
- (4) Where, in the case of a transfer of value made on death, the whole or part of the value of any property which was given (within the meaning of section 121 of and Schedule 26 to the Finance Act 1972) to charities would have been included under section 22(5) of this Act had it not fallen to be disregarded under section 121 of that Act, the value that would have been so included shall reduce the £100,000 mentioned in sub-paragraph (1) above.
- (5) In its application to Northern Ireland, sub-paragraph (4) above shall have effect as if for the references to section 121 of and Schedule 26 to the Finance Act 1972 there were substituted references to Article 5 of and Schedule 2 to the Finance (Northern Ireland) Order 1972.

*Gifts to political parties*

- 11 (1) Subject to the provisions of Part II of this Schedule, transfers of value are exempt to the extent that the values transferred by them—
  - (a) are attributable to property which becomes the property of a political party qualifying for exemption under this paragraph ; and
  - (b) so far as made on or within one year of the death of the transferor, do not exceed £100,000.
- (2) A political party qualifies for exemption under this paragraph if, at the last general election preceding the transfer of value.—
  - (a) two members of that party were elected to the House of Commons ; or
  - (b) one member of that party was elected to the House of Commons and not less than one hundred and fifty thousand votes were given to candidates who were members of that party.

*Gifts for national purposes etc.*

- 12 Subject to the provisions of Part II of this Schedule, a transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property which becomes the property of—
  - The National Gallery.
  - The British Museum.
  - The Royal Scottish Museum.
  - The National Museum of Wales.
  - The Ulster Museum.
  - Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this paragraph by the Treasury.
  - Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom.
  - Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom.
  - The National Trust for Places of Historic Interest or Natural Beauty.

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The National Trust for Scotland for Places of Historic Interest or Natural Beauty.

The National Art Collections Fund.

The Friends of the National Libraries.

The Historic Churches Preservation Trust.

The Nature Conservancy Council.

Any local authority.

Any Government department (including the National Debt Commissioners).

Any university or university college in the United Kingdom.

*Gifts for public benefit*

- 13 (1) Subject to the provisions of Part II of this Schedule, a transfer of value is an exempt transfer to the extent that—
- (a) the value transferred by it is attributable to property within sub-paragraph (2) below which becomes property of a body not established or conducted for profit; and
  - (b) the Treasury so direct (whether before or after the time of the transfer).
- (2) Property is within this sub-paragraph if it is—
- (a) land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;
  - (b) a building for the preservation of which special steps should in the opinion of the Treasury be taken by reason of its outstanding historic or architectural or aesthetic interest and the cost of preserving it;
  - (c) land used as the grounds of a building within paragraph (b) above;
  - (d) an object which at the time of the transfer is ordinarily kept in, and which is given with, a building within paragraph (b) above;
  - (e) property given as a source of income for the upkeep of, property within any of the paragraphs of this sub-paragraph ;
  - (f) a picture, print, book, manuscript, work of art or scientific collection which in the opinion of the Treasury is of national or historic or scientific interest.
- (3) The Treasury shall not give a direction under sub-paragraph (1) above—
- (a) in relation to land within sub-paragraph (2)(a) above, unless in their opinion the body whose property it becomes is an appropriate one to be responsible for the preservation of its character;
  - (b) in relation to property within sub-paragraph (2)(b) or (f) above, unless in their opinion the body whose property it becomes is an appropriate one to be responsible for its preservation ;
  - (c) in relation to property within sub-paragraph (2)(e) above, if or to the extent that, in the opinion of the Treasury, the property will produce more income than is needed (with a reasonable margin) for the upkeep of the other property in question.
- (4) Before giving a direction under sub-paragraph (1) above in relation to any property (other than property within sub-paragraph (2)(e) above) the Treasury may require such undertakings to be entered into, including undertakings restricting the use or disposal of the property, as they think appropriate for securing the preservation of the property or its character and reasonable access to it for the public.

- (5) Any undertaking entered into by virtue of sub-paragraph (4) above may be varied from time to time by agreement between the Treasury and the person bound by the undertaking, and the Treasury may require further undertakings to be entered into as a condition for agreeing to any such variation or consenting to anything for which their consent is required by any undertaking.
- (6) The obligations imposed by any undertaking entered into by virtue of this paragraph shall be enforceable for the public benefit by injunction (or, in Scotland, by interdict or by petition under section 91 of the Court of Session Act 1868), and any purported disposition of property in contravention of an undertaking shall be void, as if the obligation had been imposed by Act of Parliament.
- (7) Property is given with other property for the purposes of this paragraph if the value transferred by a transfer of value is attributable to both and both become the property of the same body.
- (8) In this paragraph " national interest" includes interest within any part of the United Kingdom.

*Gifts made before 10th December 1974 and not relevant to estate duty*

- 14 A transfer of value made by any person before 10th December 1974 is exempt to the extent that the value transferred thereby is attributable to the value of any property which, if the transferor had died immediately after the transfer, would not have been treated for the purposes of estate duty as passing on his death.

## PART II

### EXCEPTIONS

- 15 (1) Paragraphs 1 and 10 to 13 above do not apply in relation to any property if the testamentary or other disposition by which it is given takes effect on the termination after the transfer of value of any interest or period ; but paragraph 1 above is not excluded by virtue of this sub-paragraph by reason only that the property is given to a spouse only if he survives the other spouse for a specified period.
- (2) Paragraphs 1 and 10 to 13 above do not apply in relation to any property if the testamentary or other disposition by which it is given depends on a condition which is not satisfied within twelve months after the transfer.
- (3) Paragraphs 10 to 13 above do not apply in relation to any property if—
- (a) the testamentary or other disposition by which it is given is defeasible ; or
  - (b) the property is an interest in other property and that interest is less than the donor's or the property is given subject to an interest reserved or created by the donor or is given for a limited period ; or
  - (c) the property or any part of it may become applicable for purposes other than charitable purposes or those of a body mentioned in paragraph 11, 12 or 13 above ;
- except that paragraph (b) above shall not prevent paragraph 12 above from applying in relation to property consisting of the benefit of an agreement restricting the use of land.
- (4) For the purposes of sub-paragraph (3) above—

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- (a) any question whether any interest is less than the donor's or whether property is given subject to an interest shall be decided as at a time twelve months after the transfer of value ; and
  - (b) any disposition which has not been defeated at that time and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.
- (5) For the purposes of this paragraph property is given to any person or body if it becomes the property of or is held on trust for that person or body, and " donor " shall be construed accordingly.

### PART III

#### SUPPLEMENTARY PROVISIONS

##### *Preliminary*

- 16 Where any one or more of paragraphs 1 and 10 to 13 above apply in relation to a transfer of value but the transfer is not wholly exempt—
- (a) any question as to the extent to which it is exempt or, where it is exempt up to a limit, how an excess over the limit is to be attributed to the gifts concerned shall be determined in accordance with paragraphs 17 to 21 below ; and
  - (b) the relief resulting from those paragraphs shall, notwithstanding the terms of any disposition, be allocated in accordance with paragraph 22 below.

##### *Abatement not attributable to tax*

- 17 Where a gift would be abated owing to an insufficiency of assets and without regard to any tax chargeable, the gift shall be treated for the purposes of the following provisions of this Part of this Schedule as so abated.

##### *Abatement for tax—specific gifts*

- 18 Where the value attributable, in accordance with paragraph 19 below, to specific gifts exceeds the value transferred the gifts shall be treated as reduced to the extent necessary to reduce their value to that of the value transferred ; and the reduction shall be made in the order in which, under the terms of the relevant disposition or any rule of law, it would fall to be made on a distribution of assets.

##### *Attribution of value to specific gifts*

- 19 (1) Such part of the value transferred shall be attributable to a specific gift as corresponds to the value of the gift; but if or to the extent that the gift—
- (a) is not a gift with respect to which the transfer is exempt or is outside the limit up to which the transfer is exempt; and
  - (b) does not bear its own tax ;
- the amount corresponding to the value of the gift shall be taken to be such amount as, after deduction of tax at the assumed rate specified in sub-paragraph (3) below, would be equal to the value of the gift.

- (2) Where any question arises as to which of two or more specific gifts are outside the limit up to which a transfer is exempt or as to the extent to which a specific gift is outside that limit—
- (a) the excess shall be attributed to gifts not bearing their own tax before being attributed to gifts bearing their own tax; and
  - (b) subject to paragraph (a) above, the excess shall be attributed to the gifts in proportion to their values.
- (3) For the purposes of this paragraph—
- (a) the assumed rate is the rate found by dividing the assumed amount of tax by the value transferred ; and
  - (b) the assumed amount of tax is the amount of tax found by applying the rate or rates applicable under section 37 of this Act to the value transferred without regard to paragraphs 1 and 10 to 13 above.
- (4) For the purposes of this paragraph, any liability of the transferor which is not to be taken into account under paragraph 1(3) of Schedule 10 to this Act shall be treated as a specific gift.

*Attribution of value to residuary gifts*

- 20        Such part only of the value transferred shall be attributed to gifts of residue or shares in residue as is not attributed under paragraph 19 above to specific gifts.

*Gifts made separately out of different funds*

- 21        Where gifts taking effect on a transfer of value take effect separately out of different funds the preceding provisions of this Part of this Schedule shall be applied separately to the gifts taking effect out of each of those funds, with the necessary adjustments of the values and amounts referred to in those provisions.

*Allocation of relief*

- 22        (1) The reduction referred to in the following provisions of this paragraph is the reduction in tax resulting from paragraphs 1 and 10 to 13 above, after allowing for the reduction in the effective rate at which tax is chargeable.
- (2) The reduction shall reduce tax attributable to gifts bearing their own tax before reducing tax attributable to other gifts and, subject thereto, shall reduce the tax attributable to different gifts in proportion to their value.
- (3) Subject to sub-paragraph (4) below, the reduction shall reduce only tax falling on a gift with respect to which the transfer of value is exempt and, if it is so exempt only up to a limit, shall not reduce tax falling on so much of the gift as is outside the limit; and in particular, where such a gift is a gift of a share in residue or in any property, the reduction shall not reduce the tax falling on so much of the residue or that property as is not such a gift or is outside that limit.
- (4) The reduction may reduce tax attributable to specific gifts with regard to which the transfer is exempt or to so much of such gifts as is within the limit up to which it is exempt, notwithstanding that it falls on residue.

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### *Interpretation*

23 (1) In this Part of this Schedule—

" gift ", in relation to any transfer of value, means the benefit of any disposition or rule of law by which, on the making of the transfer, any property becomes (or would but for any abatement become) the property of any person or applicable for any purpose and " given " shall be construed accordingly;

" specific gift " means any gift other than a gift of residue or of a share in residue.

- (2) For the purposes of this Part of this Schedule a gift bears its own tax if the tax attributable to it falls on the person who becomes entitled to the property given or (as the case may be) is payable out of property applicable for the purposes for which the property given becomes applicable.

## SCHEDULE 7

Section 29.

### MISCELLANEOUS EXEMPTIONS AND RELIEFS

#### *Death on active service, etc.*

- 1 (1) Section 22 of this Act shall not apply in relation to the death of a person in whose case it is certified by the Defence Council or the Secretary of State—

- (a) that he died from a wound inflicted, accident occurring or disease contracted at a time when the conditions specified in sub-paragraph (2) below were satisfied, or
- (b) that he died from a disease contracted at some previous time, the death being due to or hastened by the aggravation of the disease during a period when those conditions were satisfied.

- (2) The conditions referred to in sub-paragraph (1) above are that the deceased was a member of any of the armed forces of the Crown or was employed as mentioned in sub-paragraph (3) below or (not being a member of any of those forces and not being so employed) was subject to the law governing any of those forces by reason of association with or accompanying any body of those forces and (in any case) was either—

- (a) on active service against an enemy, or
- (b) on other service of a warlike nature or which in the opinion of the Treasury involved the same risks as service of a warlike nature.

- (3) The employment referred to in sub-paragraph (2) above is employment as a person of any of the following descriptions, namely—

- (a) member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof ;
- (b) member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof;
- (c) member of the Territorial Army Nursing Service;
- (d) member of the Women's Royal Naval Service or any reserve thereof;



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- (e) woman medical or dental practitioner serving in the Royal Navy or any naval reserve ; (f) member of the Auxiliary Territorial Service ;
- (g) woman employed with the Royal Army Medical Corps or the Royal Army Dental Corps with relative rank as an officer ;
- (h) member of the Women's Auxiliary Air Force ;
- (i) woman employed by the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer;
- (j) member of the Voluntary Aid Detachments employed under the Admiralty, Army Council, Air Council, or Defence Council.

*Cash options under approved annuity schemes*

- 2 Where under a contract or trust scheme approved by the Board under section 226 or 226A of the Taxes Act or (before the commencement of that Act) under section 22 of the Finance Act 1956 (retirement annuities) an annuity becomes payable on a person's death to a widow, widower or dependant of that person, and under the terms of the contract or scheme a sum of money might at his option have become payable instead to his personal representatives, he shall not, by virtue of section 23(2) of this Act, be treated as having been beneficially entitled to that sum.

*Government securities free of tax while in foreign ownership*

- 3 (1) Where securities have been issued by the Treasury subject to a condition authorised by section 22 of the Finance (No. 2) Act 1931 (or section 47 of the Finance (No. 2) Act 1915) for exemption from taxation so long as the securities are in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom the securities are excluded property—
- (a) if they are not settled property and are in the beneficial ownership of such a person ; or
  - (b) if they are settled property and such a person is beneficially entitled to an interest in possession in them.
- (2) If the securities are settled property and no interest in possession subsists in them the condition of sub-paragraph (1)(b) above shall be treated as satisfied if it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied or who might become beneficially entitled to an interest in possession in it are persons neither domiciled nor ordinarily resident in the United Kingdom.
- (3) Section 45 of this Act does not apply for the purposes of this paragraph.

*Overseas pensions*

- 4 (1) In determining for the purposes of this Part of this Act the value of a person's estate immediately before his death there shall be left out of account any pension payable under the regulations or rules relating to any fund vested in Commissioners under section 273 of the Government of India Act 1935 or to any fund administered under a scheme made under section 2 of the Overseas Pensions Act 1973 which is certified by the Secretary of State for the purpose of this paragraph to correspond to an Order in Council under subsection (1) of the said section 273.
- (2) For the purposes of tax—

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- (a) a pension paid under the authority of a scheme made under section 2 of the Overseas Pensions Act 1973 which is constituted by the Pensions (India, Pakistan and Burma) Act 1955 or is certified by the Secretary of State for the purposes of this paragraph to correspond to the said Act of 1955 shall be treated as if it had been paid by the Government of India or the Government of Pakistan (according as the arrangements in pursuance of which the pension was first paid under the said Act of 1955 were made with the one or the other Government);
  - (b) a pension paid out of any fund established in the United Kingdom by the Government of any country which is, or forms part of, a colony, protectorate, protected state or United Kingdom trust territory shall, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under the Government, be treated as if it had been paid by the Government by which the fund was established ;
  - (c) a pension paid out of the Central African Pension Fund established by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 shall be treated as if it had been paid by the Government of a territory outside the United Kingdom ; and
  - (d) so much of any pension paid to or in respect of any person under—
    - (i) the scheme which by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973 is constituted under that section by section 2 or subsection (2) of section 4 of the Overseas Service Act 1958 ; or
    - (ii) such other scheme made under section 2 of the said Act of 1973 as is certified by the Secretary of State for the purposes of the Taxes Act to correspond to section 2 or subsection (2) of section 4 of the said Act of 1958;
 as is certified by the Secretary of State to be attributable to service under the Government of an overseas territory shall be treated as if it had been paid by the Government of that territory.
- (3) Sub-paragraph (1) above shall be construed as if contained in section 273 of the Government of India Act 1935 ; and for the purposes of sub-paragraph (2) above—
- (a) "pension" includes a gratuity and any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any other addition thereto ;
  - (b) " United Kingdom trust territory " means a territory administered by the Government of the United Kingdom under the trusteeship system of the United Nations ;
  - (c) " overseas territory " means any country or territory outside the United Kingdom;
  - (d) references to the Government of any such country or territory as is mentioned in paragraph (b) or (d) of that sub-paragraph include a Government constituted for two or more such countries or territories and any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such countries or territories.
- (4) If, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for a pension, allowance or gratuity within the meaning of section 1 of the Overseas Pensions Act 1973, payments in respect of it are made under that section, this paragraph shall apply in relation to the pension, allowance or gratuity,

exclusive of so much (if any) of it as is paid by virtue of the application to it of any provisions of the Pensions (Increase) Act 1971 or any enactment repealed by that Act, as if it continued to be paid by the Government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

*Savings by persons domiciled in Channel Islands or Isle of Man*

- 5 (1) Where the person beneficially entitled to the rights conferred by any of the following, namely—
- (a) war savings certificates;
  - (b) national savings certificates (including Ulster savings certificates) ;
  - (c) premium savings bonds ;
  - (d) deposits with the National Savings Bank or with a trustee savings bank;
  - (e) deposits with a savings bank with respect to which a certificate of the Treasury under section 414 of the Taxes Act is in force;
  - (f) any certified contractual savings scheme within the meaning of section 415 of the Taxes Act;
- is domiciled in the Channel Islands or the Isle of Man the rights are excluded property.
- (2) Section 45 of this Act does not apply for the purposes of this paragraph.

*Visiting forces and staff of allied headquarters*

- 6 (1) The emoluments paid by the Government of any designated country to a member of a visiting force of that country, not being a citizen of the United Kingdom and colonies, are excluded property.
- (2) Any tangible movable property the presence of which in the United Kingdom is due solely to the presence in the United Kingdom of any such member of a visiting force as is referred to in sub-paragraph (1) above while serving as a member of the force is excluded property.
- (3) A period during which any such member of a visiting force as is referred to in sub-paragraph (1) above is in the United Kingdom by reason solely of his being such a member shall not be treated for the purposes of tax as a period of residence in the United Kingdom or as creating a change of his residence or domicile.
- (4) In the foregoing provisions of this paragraph, references to a visiting force shall apply to a civilian component of a visiting force as they apply to the force itself, and those provisions shall be construed as one with Part I of the Visiting Forces Act 1952, but so that for the purposes of this paragraph references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.
- (5) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by sub-paragraphs (1) to (3) above on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.

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- (6) In the case of persons of any category for the time being agreed between Her Majesty's Government in the United Kingdom and the other members of the North Atlantic Council, employment by a designated allied headquarters shall be treated for the purposes of sub-paragraphs (2) and (3) above as if it were service as a member of a visiting force of a designated country.
- (7) For the purposes of this paragraph—
  - " allied headquarters " means any international military headquarters established under the North Atlantic Council;
  - " designated " means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.
- (8) Any Order in Council under this paragraph may be varied or revoked by a subsequent Order in Council.
- (9) Any Order in Council made under section 73 of the Finance Act 1960 which is in force immediately before the passing of this Act shall have effect for the purposes of this paragraph as if it had also been made under this paragraph, and may be varied or revoked accordingly.

#### *Double taxation relief*

- 7 (1) If Her Majesty by Order in Council declares that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to capital transfer tax payable under the laws of the United Kingdom and any tax imposed under the laws of that territory which is of a similar character or is chargeable on or by reference to death or gifts inter vivos, and that it is expedient that those arrangements should have effect, the arrangements shall, notwithstanding anything in this Part of this Act, have effect so far as they provide for relief from capital transfer tax, or for determining the place where any property is to be treated as situated for the purposes of the tax.
- (2) Any arrangements to which effect is given under this paragraph may include provision for relief in cases occurring before the making of the arrangements and provisions as to property which is not itself subject to double taxation.
- (3) Any Order in Council made under this paragraph may be revoked by a subsequent Order in Council, and any such revoking Order may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.
- (4) An Order under this paragraph shall not be submitted to Her Majesty in Council unless a draft of it has been laid before the House of Commons and approved by it by resolution.
- (5) Where any arrangements have effect by virtue of this paragraph, no obligation as to secrecy shall prevent the Board or an authorised officer of the Board from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.
- (6) Where, under any Order in Council made or having effect as made under section 54 of the Finance (No. 2) Act 1945 or section 2 of the Finance Act (Northern Ireland) 1946 and having effect immediately before the passing of this Act, arrangements with the government of any territory outside the United Kingdom are specified, the Order shall, notwithstanding the repeal of that section, remain in force and have effect as

if any provision made by those arrangements in relation to estate duty extended to capital transfer tax chargeable by virtue of section 22 of this Act, and nothing in section 45 of this Act shall be taken to affect the interpretation of any such provision ; but the Order may be amended or revoked by an Order in Council made under this paragraph.

- 8      Where the Board are satisfied that in any territory outside the United Kingdom any amount of tax chargeable by reason of any disposition or other event is attributable to the value of any property situated in that territory, then, if that tax is of a character similar to that of capital transfer tax or is chargeable on or by reference to death or gifts inter vivos and any capital transfer tax chargeable by reference to the same disposition or other event is also attributable to the value of that property, they shall allow a sum equal to the first-mentioned amount as a credit against that capital transfer tax.

## SCHEDULE 8

Sections 35 and 49(2).

### RELIEF FOR AGRICULTURAL PROPERTY

#### PART I

##### CAPITAL TRANSFER TAX

###### *Nature of relief*

- 1      (1) Where the value transferred by a chargeable transfer is determined by reference to the value of agricultural property in the United Kingdom and the conditions stated in paragraph 3 below are satisfied, then, if—
- (a) the value transferred would be reduced if computed in accordance with paragraph 2 below ; and
  - (b) a person liable to pay the whole or part of the tax on the value transferred makes a claim in that behalf to the Board within two years of the transfer or such longer time as the Board may allow;
- the value transferred shall be so computed and tax shall be chargeable accordingly, but subject to the limit imposed by paragraph 5 below.
- (2) The conditions stated in paragraph 3 below shall be deemed to be satisfied with respect to a transfer of value (in this sub-paragraph referred to as the current transfer) if—
- (a) not more than two years before the current transfer there was (or would have been had this Act then been in force) a transfer of value ; and
  - (b) the value transferred by the earlier transfer was or would have been determined by reference to the value of the same agricultural property as in the case of the current transfer; and
  - (c) the conditions stated in paragraph 3 below were or would have been satisfied with respect to the earlier transfer; and
  - (d) the agricultural property was, at the time of the current transfer, occupied for the purposes of agriculture by the transferor or by the personal

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representatives of the person who was or would have been the transferor in relation to the earlier transfer.

- (3) In the following provisions of this Part of this Schedule " the unreduced value ", in relation to a chargeable transfer, means the value transferred, calculated before the reduction and as if no tax were chargeable on it.
- 2       Where the value transferred is to be computed in accordance with this paragraph there shall first be ascertained such part of the unreduced value as is attributable to the agricultural value of the agricultural property (in this Part of this Schedule referred to as the part eligible for relief) and the value transferred shall then be computed as if the part eligible for relief were reduced by applying to it the fraction of which—
- (a) the numerator is the multiplied rental value of the agricultural property; and
  - (b) the denominator is the agricultural value of the agricultural property.

#### *Conditions for relief*

- 3       (1) The conditions referred to in paragraph 1(1) above are—
- (a) that the transferor was, in not less than five of the seven years ending with 5th April immediately preceding the transfer, wholly or mainly engaged in the United Kingdom in any of the capacities mentioned in sub-paragraph (2) below (or partly in one of them and partly in another or others); and
  - (b) subject to paragraph 4 below, that the agricultural property was at the time of the transfer occupied by him for the purposes of agriculture and either was so occupied by him throughout the two years immediately preceding the transfer or replaced other agricultural property and was so occupied by him for a period which, when added to any period during which he so occupied the replaced property, comprised at least two years in the five years immediately preceding the transfer.
- (2) The capacities referred to in sub-paragraph (1) above are those of—
- (a) a person who carries on farming as a trade either alone or in partnership;
  - (b) a person employed in farming carried on as a trade by another person;
  - (c) a director of a company carrying on farming in the United Kingdom as its main activity ; or
  - (d) a person undergoing full-time education.
- (3) Where not less than 75 per cent, of the transferor's relevant income was immediately derived by him from his engagement in agriculture in the United Kingdom, the condition in sub-paragraph (1)(a) above shall be taken to be satisfied ; and for this purpose—
- (a) "relevant income" is the aggregate of income in any five of the last seven years of assessment immediately preceding the transfer which is earned income for the purposes of income tax other than income from a pension, superannuation or other allowance, deferred pay or compensation for loss of office ; and
  - (b) the question what was the transferor's income shall be determined without regard to section 37 of the Taxes Act (aggregation of wife's income).
- (4) Where the agricultural property had, at some time before the transfer, been occupied by the transferor for the purposes of agriculture and was, throughout the period between that time and the transfer, so occupied by a member of his family, the

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conditions in sub-paragraph (1) above shall be treated as satisfied if they would have been satisfied had the transfer occurred at that time.

- (5) Where the condition in sub-paragraph (1)(b) above is satisfied but the agricultural property which was occupied by the transferor at the time of the transfer was not occupied by him for the purposes of agriculture throughout the two years immediately preceding the transfer, then if the agricultural property which it replaced had, at the time when it ceased to be so occupied, a lower agricultural value than the first-mentioned property had at the time when it was first so occupied, the part eligible for relief shall be ascertained as if the agricultural value of the first-mentioned property were reduced by applying to it the fraction of which—
- (a) the numerator is that lower agricultural value ; and
  - (b) the denominator is the agricultural value which the first-mentioned property then had.
- (6) For the purposes of sub-paragraph (1) above, where the transferor became entitled to the agricultural property on the death of another person—
- (a) his occupation of the agricultural property shall be deemed to have begun on the death of that person ; and
  - (b) if that other person was the transferor's spouse and the condition stated in sub-paragraph (1)(a) above was at the time of the death satisfied with respect to the spouse, it shall be treated as having then been satisfied with respect to the transferor.
- (7) For the purposes of sub-paragraph (1) above occupation by a company which is controlled by the transferor shall be treated as occupation by the transferor; and for this purpose the question whether any company is controlled by the transferor shall be determined as for the purposes of paragraph 13 of Schedule 4 to this Act.
- (8) For the purposes of this paragraph, occupation of any property by a Scottish partnership shall, notwithstanding section 4(2) of the Partnership Act 1890, be treated as occupation of it by the partners.
- (9) For the purposes of sub-paragraph (4) above, a person is a member of the transferor's family if he is the transferor's spouse or a relative of the transferor or of the transferor's spouse or is the spouse of such a relative ; and " relative " means ancestor, lineal descendant, brother, sister, uncle, aunt, nephew or niece, " spouse " includes former spouse, and an adopted person shall be treated as the child of the person or persons by whom he was adopted and an illegitimate person as the child of his mother and reputed father.

#### *Companies*

- 4 So far as the value transferred is determined by reference to the value of shares in or debentures of a company it shall be taken for the purposes of this Schedule to be determined by reference to the value of any agricultural property if and only if—
- (a) the agricultural property forms part of the company's assets and part of the value of the shares or debentures can be attributed to the agricultural value of the agricultural property ; and
  - (b) the shares or debentures gave the transferor control of the company immediately before the transfer (the question whether they did so being determined as for the purposes of paragraph 13 of Schedule 4 to this Act); and

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- (c) the main activity of the company is, and has been throughout the two years immediately preceding the transfer, farming in the United Kingdom ; and
- (d) the agricultural property was at the time of the transfer occupied by the company for the purposes of farming and either was so occupied by it throughout the two years immediately preceding the transfer or replaced other agricultural property and was so occupied by it for a period which, when added to any period during which it so occupied the replaced property, comprised at least two years in the five years immediately preceding the transfer ;

and the condition stated in paragraph (d) above shall replace that stated in paragraph 3(1)(b) above, and the references to that paragraph and to the transferor in paragraph 3(5) above shall be construed accordingly.

#### *Limitation of relief*

- 5 (1) Relief under this Part of this Schedule shall be given only to the extent that either—
- (a) the part eligible for relief, when added to the part eligible for relief under any previous chargeable transfer made by the same transferor, does not exceed £250,000 ; or
  - (b) the area of the agricultural property by reference to which the relief is given, together with that of any agricultural property by reference to which relief was given under previous chargeable transfers made by the same transferor, does not exceed one thousand acres.
- (2) For the purposes of sub-paragraph (1)(b) above—
- (a) where the transferor and some other person were together beneficially entitled to the agricultural property by reference to which the relief is given, the area of the property shall be taken to be such part thereof as corresponds to the transferor's share ; and
  - (b) where the agricultural property by reference to which the relief is given forms part of the assets of a company, the area of the property shall be taken to be such part thereof as corresponds to the proportion which the value of the shares and debentures first mentioned in paragraph 4 above bears to the value of all the shares in and debentures of the company.
- (3) For the purposes of this paragraph chargeable transfers made by the same person on the same day shall be treated as one ; and where the relief that could otherwise be given in respect of a chargeable transfer exceeds the limit imposed by this paragraph the excess shall be attributed to the agricultural properties concerned in proportion to their respective agricultural values or areas.

#### *Farming*

- 6 In this Schedule " farming " has the meaning which it would have in the Tax Acts if in those Acts " farm land " included market garden land; and for the purposes of this Schedule the question whether a person carries on farming as a trade shall be determined as for the purposes of income tax or, as the case may be, corporation tax.

#### *Agricultural property*

- 7 In this Schedule " agricultural property " means agricultural land or pasture and includes woodland if occupied with agricultural land or pasture and the occupation



is ancillary to that of the agricultural land or pasture ; and also includes such cottages, farm buildings and farm-houses, together with the land occupied with them, as are of a character appropriate to the property.

*Agricultural value*

- 8 For the purposes of this Schedule the agricultural value of any agricultural property shall be taken to be the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property.

*Multiplied rental value*

- 9 (1) For the purposes of this Schedule the multiplied rental value of any agricultural property in Great Britain is twenty times its rental value as defined below or such other multiple of that rental value as the Treasury may from time to time by order made by statutory instrument prescribe.
- (2) The rental value of any agricultural property in Great Britain is the annual rent at which the property might reasonably be expected to be let with vacant possession as an agricultural holding if the landlord undertook to bear the cost of insurance and of repairs to buildings and fixed equipment so far as such cost is not normally borne by a tenant.
- (3) The multiplied rental value of agricultural property in Northern Ireland is seven-tenths or such fraction of its agricultural value as the Treasury may from time to time by order made by statutory instrument prescribe.
- (4) The fraction to be prescribed by an order under sub-paragraph (3) above shall be such as appears to the Treasury to represent the average of reductions made under paragraph 2 above in the case of agricultural property in Great Britain in the last period of twelve months preceding the making of the order which is a period for which information adequate for ascertaining that average is available, but taking into account any order under sub-paragraph (1) above.
- (5) If the fraction first prescribed by an order under sub-paragraph (3) above is less than seven-tenths that sub-paragraph shall be deemed always to have had effect as if that fraction had been specified therein instead of seven-tenths; and so much of any tax paid as would not then have been chargeable shall be repaid.
- (6) No order shall be made under this paragraph unless a draft of it has been laid before and approved by a resolution of the House of Commons.

*Channel Islands and Isle of Man*

- 10 This Part of this Schedule applies in relation to land or activities carried on in the Channel Islands or the Isle of Man as if the land were situated or the activities were carried on in the United Kingdom ; and the multiplied rental value of agricultural property in the Channel Islands or the Isle of Man shall be the same fraction of its agricultural value as in the case of agricultural property in Northern Ireland.

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### *Saving*

- 11 Nothing in this Part of this Schedule shall be taken to apply to the value included under section 22(5) of this Act in the value of a person's estate immediately before his death.

## **PART II**

### ESTATE DUTY

#### *Nature of relief*

- 12 Where the estate chargeable with estate duty on the death of a person dying after 12th November 1974 comprises agricultural property, other than agricultural property included (under section 2(1)(b)(i) or 2(1)(c) of the Finance Act 1894) by reason of an interest which came to an end or a gift which was made before 13th November 1974, then, if the conditions stated in paragraph 3 above (as modified by paragraph 16 below) are satisfied that—
- (a) the principal value of the agricultural property would be reduced if computed in accordance with paragraph 13 below; and
  - (b) the person accountable for estate duty in respect of the agricultural property makes a claim in that behalf to the Board within six months of the passing of this Act or such longer time as the Board may allow ;
- the principal value of that property shall be so computed and estate duty charged accordingly, but subject to the limit imposed by paragraph 15 below.
- 13 (1) Where the principal value of any agricultural property is to be computed in accordance with this paragraph it shall be computed, subject to sub-paragraph (2) below, as if the agricultural value of the property were equal to its multiplied rental value.
- (2) Where paragraph 3(5) above (as modified by paragraph 16 below) applies the principal value of the agricultural property shall be computed as if it were reduced by such proportion of the difference between it and the multiplied rental value of the property as is equal to the fraction mentioned in that paragraph.

#### *Companies*

- 14 Where an estate comprises shares in or debentures of a company the principal value of which falls to be estimated in accordance with section 55 of the Finance Act 1940 or section 15 of the Finance (No. 2) Act (Northern Ireland) 1946, and the conditions stated in sub-paragraphs (a), (c) and (d) of paragraph 4 above (as modified by paragraph 16 below) are satisfied with respect to the company, any agricultural property and the shares or debentures, paragraphs 12 and 13 above shall apply, with the necessary modifications, in relation to the principal value of the shares or debentures and estate duty chargeable in respect thereof.

#### *Limitation of relief*

- 15 Relief under this Part of this Schedule shall be given only to the extent that either—
- (a) the agricultural value of the agricultural property does not exceed £250,000 ; or

- (b) the area of the agricultural property does not exceed one thousand acres.

*Supplementary*

- 16 (1) For the purposes of relief under this Part of this Schedule—
- (a) paragraphs 3, 4 and 5(2) above shall apply as if for references to the transferor and the transfer there were substituted references to the deceased and his death ;
  - (b) paragraph 3(5) above shall apply with the further modification specified in sub-paragraph (2) below ;
  - (c) paragraph 5(2) above shall apply for the purposes of paragraph 15 above ; and
  - (d) paragraph 9(5) above shall apply as if for the reference to tax there were substituted a reference to estate duty.
- (2) For the purposes of relief under this Part of this Schedule paragraph 3(5) above shall apply as if it required the principal value of the agricultural property to be computed in accordance with paragraph 13(2) above.

SCHEDULE 9

Section 36.

RELIEF FOR WOODLANDS

*Nature of relief*

- 1 (1) Subject to the following provisions of this Schedule, where any part of the value of a person's estate immediately before his death is attributable to the value of land in the United Kingdom on which trees or underwood are growing but which is not agricultural property within the meaning of Schedule 8 to this Act, and the conditions stated in paragraph 5 below are satisfied, then, if the person liable for the whole or part of the tax so elects—
- (a) the value of the trees or underwood shall be left out of account in determining the value transferred on the death ; but
  - (b) tax shall be charged in the circumstances mentioned in paragraph 2 below in accordance with paragraph 3 below.
- (2) An election under this paragraph must be made by notice in writing to the Board within two years of the death or such longer time as the Board may allow.

*Tax chargeable on disposal of trees or underwood*

- 2 (1) Subject to the following provisions of this paragraph, where, under paragraph 1 above, the value of any trees or underwood has been left out of account in determining the value transferred on the death of any person, and the whole or any part of the trees or underwood is disposed of, whether together with or apart from the land on which they were growing, then, if the disposal occurs before any part of the value transferred on the death of any other person is attributable to the value of that land, tax shall be charged in accordance with paragraph 3 below.
- (2) The person liable for the tax chargeable under this paragraph shall be the person who is entitled to the proceeds of the sale or would be so entitled if the disposal were a sale.

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- (3) Sub-paragraph (1) above does not apply to a disposal made by any person to his spouse.
- (4) Where tax has been charged under this paragraph on the disposal of any trees or underwood tax shall not again be charged in relation to the same death on a further disposal of the same trees or underwood.

*Basis and rate of tax chargeable under paragraph 2*

- 3 Where the value of any trees or underwood has been left out of account in determining the value transferred on the death of any person and tax is chargeable under paragraph 2 above on a disposal of the trees or underwood, it shall be charged on the following amount, namely.—

- (a) if the disposal is a sale for full consideration in money or money's worth, on the net proceeds of the sale ; and
- (b) in any other case, on the net value, at the time of the disposal, of the trees or underwood ;

and at the rate or rates at which it would have been chargeable on that death if that amount, and any amount on which tax was previously chargeable under that paragraph in relation to the death, had been included in the value transferred on death and the amount on which the tax is chargeable had formed the highest part of that value.

*Credit for tax charged under paragraph 2*

- 4 Where a disposal on which tax is chargeable under paragraph 2 above is a chargeable transfer, the value transferred by it shall be calculated as if the value of the trees or underwood had been reduced by the tax chargeable under that paragraph.

*Conditions of relief*

- 5 (1) The conditions referred to in paragraph 1 above are that the deceased either was beneficially entitled to the land throughout the five years immediately preceding his death or became beneficially entitled to it otherwise than for a consideration in money or money's worth and, subject to sub-paragraph (2) below, that—
  - (a) if the land is situated in Great Britain, the land is managed in accordance with a plan approved by the Forestry Commissioners under a forestry dedication covenant or forestry dedication agreement within the meaning of the Forestry Act 1967; and
  - (b) if the land is situated in Northern Ireland, either a grant with respect to the land has been made under section 2 of the Forestry Act (Northern Ireland) 1953 or the land is managed in accordance with a plan approved under section 3(1)(c) of that Act in connection with the Planting and Maintenance of Woodlands Scheme administered by the Department of Agriculture for Northern Ireland for the purposes of those sections.
- (2) In the case of a person dying before 1st January 1976 paragraphs (a) and (b) of sub-paragraphs (1) above do not apply and, in the case of a person dying before 1st January 1981—
  - (a) the condition in sub-paragraph (1)(a) above shall be deemed to be satisfied if a forestry dedication covenant or a forestry dedication agreement in respect

of the land has been offered to the Forestry Commissioners and the offer has not been refused ; and

- (b) the condition in sub-paragraph (1)(b) above shall be taken to be satisfied if a grant has been applied for or a plan for the management of the land has been submitted to the Department of Agriculture for Northern Ireland for approval and the application or approval has not been refused.

### *Interpretation*

- 6 (1) In this Schedule—
  - (a) references to the value transferred on a death are references to the value transferred by the chargeable transfer made on that death ;
  - (b) references to the net proceeds of sale or the net value of any trees or underwood are references to the proceeds of sale or value after deduction of any expenses allowable under this Schedule so far as those expenses are not allowable for the purposes of income tax ; and
  - (c) references to the disposal of any trees or underwood include references to the disposal of any interest in the trees or underwood (and references to a disposal of the same trees or underwood shall, where the case so requires, be construed as referring to a disposal of the same interest).
- (2) The expenses allowable under this Schedule are, in relation to any trees or underwood the value of which has been left out of account on any death.—
  - (a) the expenses incurred in disposing of the trees or underwood ; and
  - (b) the expenses incurred in replanting within three years of a disposal to replace the trees or underwood disposed of; and
  - (c) the expenses incurred in replanting to replace trees or under wood previously disposed of, so far as not allowable on the previous disposal.

## SCHEDULE 10

Section 38.

### VALUATION

#### **PART I**

#### —GENERAL

#### *Liabilities*

- 1 (1) Except as otherwise provided by this Part of this Act, in determining the value of a transferor's estate at any time his liabilities at that time shall be taken into account.
- (2) The liabilities to be taken into account in determining the value of a transferor's estate immediately after a transfer of value include his liability for tax on the value transferred but not his liability (if any) for any other tax or duty resulting from the transfer ; and in computing his liability for tax—
  - (a) no allowance shall be made for the fact that the tax will not be due immediately ; and

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- (b) any tax recovered otherwise than from the transferor or from a person liable for it under section 25(8) of this Act shall be treated as having been paid in discharge of a liability in respect of which the transferor had a right to reimbursement.
- (3) Except in the case of a liability imposed by law, a liability incurred by the transferor shall be taken into account only to the extent that it was incurred for a consideration in money or money's worth.
- (4) Subject to sub-paragraph (2) above, where a liability falls to be discharged after the time at which it is to be taken into account it shall be valued as at the time at which it is to be taken into account.
- (5) A liability in respect of which there is a right to reimbursement shall be taken into account only to the extent (if any) that reimbursement cannot reasonably be expected to be obtained.
- 2      A liability which is an incumbrance on any property shall, so far as possible, be taken to reduce the value of that property.
- 3      Where a liability taken into account is a liability to a person resident outside the United Kingdom which neither—
  - (a) falls to be discharged in the United Kingdom ; nor
  - (b) is an incumbrance on property in the United Kingdom,
 it shall, so far as possible, be taken to reduce the value of property outside the United Kingdom.

*Tax on capital gains borne by donee*

- 4      (1) Where a chargeable transfer is or includes a disposal of an asset and on the disposal a gain accrues to the transferor for the purposes of Part III of the Finance Act 1965, then, if—
  - (a) the whole or part of the gain is a chargeable gain or a development gain ; and
  - (b) the whole or part of any capital gains tax or income tax chargeable on the gain is borne by the donee (within the meaning of paragraph 19 of Schedule 7 to that Act);
 the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.
- (2) Where the chargeable transfer is made under Schedule 5 to this Act, sub-paragraph (1) above shall have effect as if for the reference to the transferor there were substituted a reference to the trustee.

*Restriction on freedom to dispose*

- 5      (1) Where, by a contract made at any time, the right to dispose of any property has been excluded or restricted, then, in determining the value of the property for the purpose of the first relevant event happening after that time.—
  - (a) the exclusion or restriction shall be taken into account only to the extent (if any) that consideration in money or money's worth was given for it; but
  - (b) if the contract was a chargeable transfer or was part of associated operations which together were a chargeable transfer, an allowance shall be made for

the value transferred thereby (calculated as if no tax had been chargeable on it) or by so much thereof as is attributable to the exclusion or restriction.

- (2) Where the contract was-made before 27th March 1974 sub-paragraph (1) above applies only if the first relevant event is a transfer made on death.
- (3) In this paragraph "relevant event", in relation to any property, means—
  - (a) a chargeable transfer in the case of which the whole or part of the value transferred is attributable to the value of the property ; and
  - (b) anything which would be such a chargeable transfer but for this paragraph.

*Incidental expenses incurred by transferor*

- 6 In determining the value transferred by a transfer of value, expenses incurred by the transferor in making the transfer (but not his liability for tax)—
- (a) shall, if borne by him, be left out of account;
  - (b) shall, if borne by a person benefiting from the transfer be treated as reducing the value transferred.

*Valuation of related property*

- 7
- (1) Where the value of any property comprised in a person's estate would be less than the appropriate portion of the value of the aggregate of that and any related property, it shall be the appropriate portion of the value of that aggregate.
  - (2) For the purposes of this paragraph, property is related to the property comprised in a person's estate if—
    - (a) it is comprised in the estate of his spouse ; or
    - (b) it is, or is part of, the property comprised in a settlement made by him or his spouse before 27th March 1974, and no interest in possession subsists in that property or part.
  - (3) The appropriate portion of the value of the aggregate mentioned in sub-paragraph (1) above is such portion thereof as would be attributable to the value of the first-mentioned property if the value of that aggregate were equal to the sums of the values of that and any related property, the value of each property being determined as if it did not form part of that aggregate.
  - (4) For the purposes of sub-paragraph (3) above the proportion which the value of a smaller number of shares of any class bears to the value of a greater number thereof shall be taken to be that which the smaller number bears to the greater; and similarly with stock, debentures and units of any other description of property.
  - (5) Shares shall not be treated for the purposes of sub-paragraph (4) above as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

*Value of lessor's interest*

- 8 Where, under paragraph 1(3) of Schedule 5 to this Act, a lease of property is to be treated as a settlement, the value of the lessor's interest in the property shall be taken to be such part of the value of the property as bears to it the same proportion as the value of the consideration, at the time the lease was granted, bore to what would then have been the value of a full consideration in money or money's worth.

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*Value transferred on death*

- 9 (1) In determining the value of a person's estate immediately before his death—
- (a) changes in the value of his estate which have occurred by reason of the death and fall within sub-paragraph (2) below shall be taken into account as if they had occurred before the death; and
  - (b) allowance shall be made for reasonable funeral expenses; and
  - (c) where there is a liability to make payments or transfer assets under such a disposition as is mentioned in section 40 of this Act, the liability shall be computed as if the amount or value of the payments or assets were reduced by the chargeable portion thereof (as defined in that section); and
  - (d) an allowance against the value of property situated outside the United Kingdom shall be made for any expense incurred in administering or realising the property which is shown to be attributable to the situation of the property, but the allowance shall not exceed five per cent, of the value of the property.
- (2) A change falls within this sub-paragraph if it is an addition to the property comprised in the estate or an increase or decrease of the value of any property so comprised; but the termination on the death of any interest or the passing of any interest by survivorship does not fall within this sub-paragraph.
- (3) Part II of this Schedule shall apply with respect to the valuation of qualifying investments (as defined in that Part) which are comprised in a person's estate immediately before his death and are sold by the appropriate person (as so defined) within the period of twelve months immediately following the date of the death.

*Value of amounts due*

- 10 In determining the value of a right to receive a sum due under any obligation it shall be assumed that the obligation will be duly discharged, except if or to the extent that recovery of the sum is impossible or not reasonably practicable and has not become so by any act or omission of the person to whom the sum is due.

*Value of life policies, etc.*

- 11 (1) Subject to the following provisions of this paragraph, in determining in connection with a transfer of value the value of a policy of insurance on a person's life or of a contract for an annuity payable on a person's death, that value shall be taken to be not less than—
- (a) the total of the premiums or other consideration which, at any time before the transfer of value, has been paid under the policy or contract or any policy or contract for which it was directly or indirectly substituted ; less
  - (b) any sum which, at any time before the transfer of value, has been paid under, or in consideration for the surrender of any right conferred by, the policy or contract or a policy or contract for which it was directly or indirectly substituted.
- (2) Sub-paragraph (1) above does not apply where the transfer of value is made on the death of the person whose life was insured or, as the case may be, on whose death the annuity is payable.
- (3) Sub-paragraph (1) above does not apply where the policy is one under which the sum assured becomes payable only if the person whose life is insured dies before the



expiry of a specified term or both before the expiry of a specified term and during the life of a specified person and which, if that specified term ends, or can, under the policy, be extended so as to end, more than three years after the making of the insurance, satisfies the condition that, if neither the person whose life is insured nor the specified person dies before the expiry of the specified term—

- (a) the premiums are payable during at least two-thirds of that term and at yearly or shorter intervals ; and
- (b) the premiums payable in any one period of twelve months are not more than twice the premiums payable in any other such period.

(4) Where the policy is one under which—

- (a) the benefit secured is expressed in units the value of which is published and subject to fluctuation ; and
- (b) the payment of each premium secures the allocation to the policy of a specified number of such units ;

then, if the value, at the time of the transfer of value, of the units allocated to the policy on the payment of premiums is less than the aggregate of what the respective values of those units were at the time of allocation, the value to be taken under subparagraph (1) above as a minimum shall be reduced by the amount of the difference.

#### *Farm cottages*

- 12 In determining the value of any agricultural property which includes cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottages are suitable for the residential purposes of persons not so employed.

#### *Open market price of unquoted shares and securities*

- 13 (1) In determining the price which unquoted shares or securities might reasonably be expected to fetch if sold in the open market it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.
- (2) In this paragraph " unquoted shares or securities " means shares or securities which are not quoted on a recognised stock exchange.

## **PART II**

### **—VALUATION OF CERTAIN SECURITIES SOLD WITHIN TWELVE MONTHS OF DEATH**

#### *Interpretation*

- 14 (1) In this Part of this Schedule—

" the appropriate person ", in relation to any qualifying investments comprised in a person's estate immediately before his death, means the person liable for tax attributable to the value of those investments or, if there is more than one such person, and one of them is in fact paying the tax, that person;

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" the loss on sale " means the amount determined in accordance with paragraph 15 below ;

" qualifying investments " means shares or securities which at the date of the death in question are quoted on a recognised stock exchange, holdings in a unit trust which at that date is an authorised unit trust (as denned in section 358 of the Taxes Act) and shares in any common investment fund established under section 1 of the Administration of Justice Act 1965 ;

" relevant proportion ", in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under paragraph 17 below;

" sale value ", in relation to any qualifying investments, means their value for the purposes of paragraph 15(b) below ;

" value on death ", in relation to any qualifying investments, means their value for the purposes of paragraph 15(a) below.

- (2) Any reference in this Part of this Schedule to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under paragraph 15 below in determining the loss on sale.

#### *The relief*

- 15 On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this Part of this Schedule the amount (if any) by which—
- (a) the aggregate of the values which, apart from this Part of this Schedule, would be the values for the purposes of tax of all the qualifying investments comprised in a person's estate immediately before his death which are sold by the appropriate person within the period of twelve months immediately following the date of the death exceeds
  - (b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale.
- 16 Subject to the following provisions of this Part of this Schedule, in determining the tax chargeable on the death in question, the value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.
- 17 Subject to paragraph 18 below, if a claim is made under this Part of this Schedule and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale made as mentioned in paragraph 15(a) above, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim, the loss on sale of the investments to which the claim relates shall be treated for the purposes of paragraph 16 above as reduced by the proportion which the aggregate of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in paragraph 15(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).
- 18 (1) If a claim is made under this Part of this Schedule by any person in a capacity other than that of personal representative or trustee—

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- (a) paragraph 17 above shall have effect in his case as if for the words " in the same capacity as that in which he makes the claim" there were substituted the words " otherwise than in the capacity of personal representative or trustee " , and
  - (b) no account shall be taken under that paragraph of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.
- (2) For the purposes of this paragraph and the following paragraphs, two investments, not being investments in an authorised unit trust or common investment fund, shall not be treated as of the same description if they are separately quoted on a recognised stock exchange, and an investment in one authorised unit trust or common investment fund shall not be treated as of the same description as an investment in another authorised unit trust or common investment fund.

*The appropriate person*

- 19 For the purposes of this Part of this Schedule—
- (a) the personal representatives of the deceased, and
  - (b) the trustees of a settlement,
- shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).
- 20 A claim made by the appropriate person under paragraph 15 above shall specify the capacity in which he makes the claim, and any reference in the preceding provisions of this Part of this Schedule to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

*Valuation on sale and purchase*

- 21 In any case where, for the purposes of this Part of this Schedule, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall be taken of expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.
- 22 (1) Subject to sub-paragraph (2) below, for the purposes of this Part of this Schedule where any investments are sold or purchased by the appropriate person the date on which they are so sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase the investments.
- (2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of this Part of this Schedule, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.

*Value of part of a fund*

- 23 (1) In any case where—
- (a) part only of a holding of qualifying investments is comprised in a person's estate, and

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- (b) investments included in that holding are sold by the appropriate person within the period of twelve months immediately following the date of the death,

this Part of this Schedule shall apply as if the entirety of the holding were comprised in the estate and, if a claim is made under paragraph 15 above in respect of the investments referred to in paragraph (b) above, the taxable fraction of the value of the investments to which the claim relates, as determined under this Part of this Schedule, shall be the value of that part of those investments which is comprised in the estate.

- (2) In sub-paragraph (1) above, "taxable fraction" means the fraction of which the numerator is the value, as determined apart from this Part of this Schedule, of the part of the holding referred to in paragraph (a) of that sub-paragraph and the denominator is the value, as so determined, of the entirety of that holding.

*Exchanges of qualifying investments*

- 24 (1) Subject to sub-paragraph (3) below, if, within the period of twelve months immediately following the date of the death in question, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments comprised in the deceased's estate immediately before his death, then, regardless of the nature of the property taken in exchange, if the market value of those investments is at the date of the exchange greater than their value on death, they shall be treated for the purposes of this Part of this Schedule as having been sold at the date of the exchange for a price equal to that market value.
- (2) For the purposes of this paragraph, the market value of any investments at any time means the value which they would (apart from this Part of this Schedule) have for the purposes of tax if they were comprised in the estate of a person who died at that time.
- (3) This paragraph does not apply in any case where the exchange falls within paragraph 27(1) below.

*Aggregation of capital receipts with sale price of investments*

- 25 (1) For the purposes of paragraph 15(b) above, if—
- (a) at any time after the death in question (whether during or after the expiry of the period of twelve months immediately following the date of the death) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments comprised in the deceased's estate immediately before his death, and
- (b) those investments are sold by him within that period;
- the price for which those investments were sold or, as the case may be, the best consideration referred to in paragraph 15(b) above shall be taken to be increased by an amount equal to the capital payment: or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.
- (2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this paragraph as a capital payment attributable to those investments.

- (3) In this paragraph "capital payment", in relation to any investment, does not include the price paid on the sale of the investments but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

*Payment of calls*

- 26 For the purposes of paragraph 15(a) above if—
- (a) at any time after the death in question (whether during or after the expiry of the period of twelve months immediately following the date of the death) the appropriate person pays an amount in pursuance of a call in respect of any qualifying investments comprised in the deceased's estate immediately before his death, and
  - (b) those investments are sold by the appropriate person within that period,
- the value on death of those investments shall be the aggregate of the amount so paid and their value as determined apart from this Part of this Schedule.

*Effect of changes in a holding between death and sale*

- 27 (1) This paragraph applies in any case where, within the period of twelve months immediately following the date of the death in question, there occurs in relation to any qualifying investments comprised in the deceased's estate immediately before his death (in this paragraph referred to as "the original holding") a transaction to which paragraph 4 of Schedule 7 to the Finance Act 1965 applies, that is to say—
- (a) a reorganisation, within the meaning of that paragraph, or reduction of the share capital of a company; or
  - (b) the conversion of securities within the meaning of paragraph 5 of that Schedule ; or
  - (c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that paragraph 6 of that Schedule applies ; or
  - (d) the issue by a company of shares or debentures under such an arrangement as is referred to in paragraph 7 of that Schedule;
- or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which paragraph 4 of that Schedule applies by virtue of section 45(8) of the Finance Act 1965.
- (2) Subject to sub-paragraph (3) below, where this paragraph applies the holding of investments which, as the result of the transaction, constitutes a new holding, within the meaning of paragraph 4 of the said Schedule 7, shall be treated for the purposes of this Part of this Schedule as being the same as the original holding ; and references in the following provisions of this paragraph to the new holding shall be construed accordingly.
- (3) If, in a case where this paragraph applies, the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of sub-paragraph (5) below, the value on death of the new holding shall be treated as the aggregate of—
- (a) the value on death of the original holding, and
  - (b) an amount equal to that consideration,

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and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.

(4) For the purposes of sub-paragraph (3) above, there shall not be treated as consideration given for the new holding or any part of it—

- (a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
- (b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

(5) If, in a case where this paragraph applies, the appropriate person sells, within the period referred to in sub-paragraph (1) above, any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{V_s(H - S)}{(V_s + V_r)}$$

where—

$V_s$  is the sale value of the investments,

$V_r$  is the market value at the time of the sale of any investments remaining in the new holding after the sale,

$H$  is the value on death of the new holding, and

$S$  is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

(6) Sub-paragraph (2) of paragraph 24 above shall apply for the purposes of sub-paragraph (5) above as it applies for the purposes of that paragraph.

*Effect of purchase, etc., of investments of the same description*

28 (1) If, at any time within the period of twelve months immediately following the date of the death in question, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—

- (a) investments comprised in the deceased's estate immediately before his death, and
- (b) investments acquired by the appropriate person, by purchase or otherwise, after the death but not in the circumstances in which paragraph 27 above applies,

the investments so sold shall be apportioned for the purposes of this Part of this Schedule between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.

(2) For the purposes of this paragraph, if the appropriate person holds investments of any description in the capacity of personal representative or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.

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*Status: This is the original version (as it was originally enacted).*

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*Attribution of values to specific investments*

- 29 (1) This paragraph shall have effect in determining the value for the purposes of tax (and, accordingly, the market value for the purposes of capital gains tax under section 26 of the Finance Act 1965) of any investment (in this paragraph referred to as a "specific investment") which is included among the investments to which a claim relates.
- (2) Subject to the following provisions of this paragraph, the value of a specific investment shall be its sale value.
- (3) Subject to the following provisions of this paragraph, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by paragraph 17 above—
- (a) if the value on death of a specific investment exceeds its sale price, the value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death ; and
- (b) if the sale price of a specific investment exceeds its value on death, the value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.
- (4) For the purposes of sub-paragraphs (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in paragraph 26 above, shall be reduced by the amount so paid in respect of that investment.
- (5) In a case where, by virtue of sub-paragraph (3) of paragraph 27 above, the value on death of the new holding, within the meaning of that paragraph, includes an amount equal to the consideration referred to in that sub-paragraph, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of sub-paragraphs (2) and (3) above, by an amount which bears to that consideration the like proportion as the value on death of the specific investment sold bears to the value on death of the whole of the new holding.
- (6) In sub-paragraph (3) above " sale price", in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale ; and paragraph 25 above shall apply for the purposes of this sub-paragraph as it applies for the purposes of paragraph 15(b) above.

*Limitation of loss on sale*

- 30 In any case where, apart from this paragraph, the loss on sale of any investments—
- (a) in respect of which an amount has been paid in pursuance of a call as mentioned in paragraph 26 above, or
- (b) which are sold as mentioned in paragraph 27(5) above,
- would exceed their value as determined apart from this Part of this Schedule, their sale value shall be treated for the purposes of paragraphs 16 and 29 above as being of such an amount that the loss on sale would be equal to their value as so determined.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 11

Section 49.

### AMENDMENT OF ESTATE DUTY ENACTMENTS

#### PART I

##### —GREAT BRITAIN

- 1        In Part I of Schedule 17 to the Finance Act 1969 (determination of amount of estate duty on estate) for paragraph (b) there shall be substituted the following paragraph:
  - “(b) in any other case shall be the same amount as the amount of capital transfer tax which would, under section 37 of the Finance Act 1975, be charged on that aggregate principal value if it were the value transferred by a chargeable transfer made on death and the transferor had made no previous chargeable transfer”.
- 2        (1) In section 121(1)(c) of the Finance Act 1972 (which gives relief for a surviving spouse up to a limit of £15,000) the words " up to a limit of £15,000 " shall be omitted.
  - (2) In Schedule 26 to that Act (provisions supplementary to section 121)—
    - (a) in paragraph 15—
      - (i) in sub-paragraph (a) after the words "paragraph (a) " there shall be inserted the words " or (c) "; and
      - (ii) in sub-paragraph (b) the words " or (c)" shall be omitted;
    - (b) in paragraph 17—
      - (i) in sub-paragraph (a) after the words "paragraph (a)" there shall be inserted the words " or (c) "; and
      - (ii) in sub-paragraph (b) the words " or (c)" (in each place where those words appear) shall be omitted;
    - (c) in paragraph 19, in sub-paragraph (a) the words " or (c)" shall be omitted ; and
    - (d) in paragraph 20, the words " or (c) " shall be omitted.
  - (3) Where one party to a marriage dies after 12th November 1974 and subsequently (but before the passing of this Act) the other party dies, section 32(2) of the Finance Act 1954 shall have effect in relation to the death of that other party with the omission of the words inserted by paragraph 26 of Schedule 26 to the Finance Act 1972.
  - (4) The preceding provisions of this paragraph do not apply where, immediately before the death, the deceased but not his spouse was domiciled in the United Kingdom.
- 3        Section 23 of the Finance Act 1925 and section 28 of the Finance Act 1954 (reduced rates on agricultural property and certain business assets) shall not have effect except in relation to property which, by reason of an interest which came to an end or a gift which was made before 13th November 1974, passes on death by virtue of section 2(1)(b)(i) or section 2(1)(c) of the Finance Act 1894.



## PART II

### —NORTHERN IRELAND

- 4 In Part I of Schedule 1 to the Finance Act (Northern Ireland) 1969 (determination of amount of estate duty payable on estate) for paragraph (b) there shall be substituted the following paragraph:
- “(b) in any other case shall be the same amount as the amount of capital transfer tax which would, under section 37 of the Finance Act 1975, be charged on that aggregate principal value if it were the value transferred by a chargeable transfer made on death and the transferor had made no previous chargeable transfer”.
- 5 (1) In Article 5(1)(c) of the Finance (Northern Ireland) Order 1972 (which gives relief for a surviving spouse up to a limit of £15,000) the words " up to a limit of £15,000 " shall be omitted.
- (2) In Schedule 2 to that Order (provisions supplementary to Article 5)—
- (a) in paragraph 15—
- (i) in sub-paragraph (a) after the words " sub-paragraph (a)" there shall be inserted the words " or (c) "; and
- (ii) in sub-paragraph (b) the words " or (c)" shall be omitted;
- (b) in paragraph 17—
- (i) in sub-paragraph (a) after the words " sub-paragraph (a)" there shall be inserted the words " or (c) "; and
- (ii) in sub-paragraph (b) the words " or (c)" (in each place where those words appear) shall be omitted;
- (c) in paragraph 19, in sub-paragraph (a) the words " or (c)" shall be omitted ; and
- (d) in paragraph 20, the words " or (c)" shall be omitted.
- (3) Where one party to a marriage dies after 12th November 1974 and subsequently (but before the passing of this Act) the other party dies, section 2(1) of the Finance Act (Northern Ireland) 1954 shall have effect in relation to the death of that other party with the omission of the words inserted by paragraph 26 of Schedule 2 to the Finance (Northern Ireland) Order 1972.
- (4) The preceding provisions of this paragraph do not apply where, immediately before the death, the deceased but not his spouse was domiciled in the United Kingdom.
- 6 Section 3 of the Finance (No. 2) Act (Northern Ireland) 1947 and section 3 of the Finance Act (Northern Ireland) 1954 (reduced rates on agricultural property and certain business assets) shall not have effect except in relation to property which, by reason of an interest which came to an end or a gift which was made before 13th November 1974, passes on death by virtue of section 2(1)(b)(i) or section 2(1)(c) of the Finance Act 1894.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 12

Section 52.

### CONSEQUENTIAL AMENDMENTS

#### *General*

- 1       References in any enactment, or in any instrument made under any enactment, to estate duty or to death duties shall be construed as including references to capital transfer tax chargeable under section 22 of this Act.
- 2       The amendments made by the following paragraphs—
  - (a)   so far as they relate to estate duty, have effect in relation to deaths occurring after the passing of this Act, and
  - (b)   so far as they relate to capital transfer tax, have effect in relation to transfers of value whenever made.

#### *The Local Registration of Title (Ireland) Act 1891*

- 3       (1) In the Local Registration of Title (Ireland) Act 1891, the following subsection shall be added at the end of section 45—

“(5) The registering authority may, upon the application of the Board of Inland Revenue and without the concurrence of the registered owner, register an Inland Revenue charge (within the meaning of Part IU of the Finance Act 1975) as a burden under this section affecting the land or any interest therein subject to that charge.”.
- (2) This paragraph shall cease to have effect on the day on which section 39 of the Land Registration Act (Northern Ireland) 1970 comes into operation.

#### *The Colonial Probates Act 1892*

- 4       In section 2(1) of the Colonial Probates Act 1892 after the words " deceased person " there shall be inserted the words " then (subject to section 156A of the Supreme Court of Judicature (Consolidation) Act 1925, section 42 of the Probate and Legacy Duties Act 1808 and section 99A of the Probates and Letters of Administration Act (Ireland) 1857) ".

#### *The Land Registration Act 1925*

- 5       (1) The Land Registration Act 1925 shall be amended as follows.
  - (2) In section 20(1)(a), after the word " register" there shall be inserted the words " and any charge for capital transfer tax subject to which the disposition takes effect under section 73 of this Act ".
  - (3) In section 23(1)(b), after the word "register" there shall be inserted the words " and any charge for capital transfer tax subject to which the disposition takes effect under section 73 of this Act ".
  - (4) In section 59(6), after the word " interest" there shall be inserted the words " or a charge for capital transfer tax subject to which the disposition takes effect under section 73 of this Act ".

(5) In section 64(1), at the end of paragraph (c) there shall be added the words " or a notice of a charge for capital transfer tax ".

(6) For section 73 there shall be substituted the following section—

**“73 Inland Revenue charge for capital transfer tax.**

A disposition shall take effect subject to any subsisting Inland Revenue charge under Part III of the Finance Act 1975 unless—

- (a) the disposition is in favour of a purchaser within the meaning of that Part; and
- (b) the charge is not, at the time of registration of the disposition, protected by notice on the register.”

*The Inheritance (Family Provision) Act 1938*

- 6     (1) In section 3(1) of the Inheritance (Family Provision) Act 1938 for the words " death duties" there shall be substituted the words " capital transfer tax ".
- (2) In section 5(1) of that Act, in the definition of "net estate ", for the words " estate duty " there shall be substituted the words " capital transfer tax ".

*The Finance Act 1946*

- 7     (1) In section 50 of the Finance Act 1946—
- (a) in subsection (1), for the words "section 56 of the Finance (1909-10) Act 1910 " there shall be substituted the words " paragraph 17 of Schedule 4 to the Finance Act 1975 ", and for the word "duty" there shall be substituted the words " capital transfer tax ";
  - (b) in subsection (2), for the word "duty" wherever it occurs there shall be substituted the word " tax "; and
  - (c) in subsection (5), after the word " sub-lease" there shall be inserted the words " or the lending ", and for the words " in respect of " there shall be substituted the word " of ".
- (2) In section 51 of that Act—
- (a) in subsection (1), for the words " section 56 of the Finance (1909-10) Act 1910" there shall be substituted the words " paragraph 17 of Schedule 4 to the Finance Act 1975 "; and
  - (b) in subsection (2), for the words " section 56" there shall be substituted the words " paragraph 17 ".

*The Crown Proceedings Act 1947*

- 8     In section 14(1) of the Crown Proceedings Act 1947—
- (a) in paragraph (a), for the words " death duties " there shall be substituted the words " capital transfer tax "; and
  - (b) in paragraph (b), for the words from " payment" to the end there shall be substituted the words " payment of capital transfer tax under Part III of the Finance Act 1975 ".

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- 9 In section 14 of the Crown Proceedings Act 1947, as applied to the Crown in right of Her Majesty's Government in the United Kingdom by the Northern Ireland (Crown Proceedings) Order 1949, in paragraph (c) and (d) after the words " value added tax " there shall be inserted the words " and capital transfer tax ".

*Small Estates (Representation) Act 1961*

- 10 (1) In relation to Scotland section 1 of the Small Estates (Representation) Act 1961 shall be amended as provided by the following sub-paragraphs.
- (2) For subsection (2) there shall be substituted the following subsection—
- “(2) Gross estate in this Act and in the enactments specified in the First Schedule to this Act means the aggregate of the property heritable and moveable included in the deceased's estate, and for the purposes of this Act and those enactments the value of the net estate shall be taken to be the value of the gross estate less reasonable funeral expenses and the aggregate of all liabilities enforceable against the deceased which were incurred for his benefit, and in respect of which he had no right of recourse.”
- (3) Subsection (3) shall be omitted.

*The Licensing Act 1964*

- 11 In section 14(3) of the Licensing Act 1964 for the words from " and subject" to " estate duty " there shall be substituted the words " as the value of property is determined by them for the purposes of capital transfer tax, but subject to an appeal to the High Court by any of the persons interested in the licensed premises ".

*The Finance Act 1965*

- 12 For section 25A of the Finance Act 1965 there shall be substituted the following section:—

**“25A Gifts subject to capital transfer tax on death.**

- (1) Where the value of any asset comprised in a gift inter vivos is by virtue of section 22(5) of the Finance Act 1975 included in the value of the estate of any person for the purposes of capital transfer tax, and at the time of that person's death the asset—
- (a) is owned by the donee, or
  - (b) is property settled by the gift or property which for the purposes of section 38 of the Finance Act 1957 or section 1 of the Finance Act (Northern Ireland) 1957 would by virtue of subsection (9) thereof be treated as property settled by the gift,
- then, subject to subsection (2) below, the asset shall for the purposes of this Part of this Act be deemed to be disposed of and immediately re-acquired at that time by the donee or trustee for a consideration equal to the value so included; but no chargeable gain shall accrue on the disposal.
- (2) Where the value so included is reduced by virtue of section 35 of the Finance Act 1968 or section 1 of the Finance Act (Northern Ireland) 1968, the appropriate portion only of the asset shall be deemed to be so disposed of

and re-acquired ; and for this purpose the appropriate portion is the reduced value so included divided by the value before the reduction.”

- 13 For section 26 of that Act there shall be substituted the following section:—

**“26 Market value determined for capital transfer tax.**

Where on the death of any person capital transfer tax is chargeable on the value of his estate immediately before his death and the value of an asset forming part of that estate has been ascertained (whether in any proceedings or otherwise) for the purposes of that tax, the value so ascertained shall be taken for the purposes of this Part of this Act to be the market value of that asset at the date of the death.”

- 14 (1) Section 31 of that Act shall be amended as follows.
- (2) In subsection (1) for the words from "under section 15(2)" to the end there shall be substituted the words " the asset is property falling within paragraph 13(2)(f) of Schedule 6 to the Finance Act 1975 and the Treasury give a direction in relation to it under paragraph 13(1) of that Schedule ".
- (3) In subsection (3) for the words " the said section 40 applies " there shall be substituted the words " section 31 of the Finance Act 1975 applies or might apply " and for the words " section 48(1) of the Finance Act 1950 " there shall be substituted the words " section 31(2) of the Finance Act 1975 ".
- (4) In subsection (5) for the words from the beginning to " tax on chargeable gains " there shall be substituted the words " If there is a sale of the asset and capital transfer tax is chargeable under section 32(2) of the Finance Act 1975 or would be chargeable if an undertaking under section 31 of that Act as well as under subsection (3) of this section had been given ".
- (5) For subsection (6) there shall be substituted the following subsection:—
- “(6) A gain shall not be a chargeable gain if it accrues on the disposal of an object with respect to which an undertaking under subsection (3) of this section or section 31 of the Finance Act 1975 has been given, and the disposal is such as is referred to in section 32(3)(a) of that Act or is a disposal to the Board under paragraph 17 of Schedule 4 to that Act.”
- (6) In subsection (7) for the words from " until the asset" to " 1930 and " there shall be substituted the words " until the person entitled to the asset dies or it is disposed of, whether by sale or gift or otherwise ; and if the asset subject to the undertaking is disposed of otherwise than on sale, and without a further undertaking being given under that subsection " ; and at the end of the subsection there shall be added the words " References in this subsection to a disposal shall be construed without regard to any provision of this Part of this Act under which an asset is deemed to be disposed of ".
- (7) In subsection (8) for the words " estate duty becomes payable " there shall be substituted the words " capital transfer tax becomes chargeable " and for the words " the estate duty" there shall be substituted the words " that tax ".
- (8) Subsection (9) shall be omitted.
- 15 In section 32 of that Act for the words from "if under section 40 " to the end of subsection (1) there shall be substituted the words " if the asset is property falling

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under paragraph 13(2)(a), (b), (c), (d) or (e) of Schedule 6 to the Finance Act 1975 and the Treasury give a direction in relation to it under paragraph 13(1) of that Schedule " ; and subsection (3) shall be omitted.

*The Income and Corporation Taxes Act 1970*

- 16 (1) Section 430 of the Taxes Act shall be amended as follows.
- (2) In subsection (1), for paragraph (a) there shall be substituted the following paragraph—
- “(a) in determining the value of his estate for the purposes of any capital transfer tax chargeable on his death, and”.
- (3) In subsection (2), for the words "estate duty payable in respect of" there shall be substituted the words " capital transfer tax attributable to ".
- (4) In subsection (4), for the words " principal value " there shall be substituted the word " value ".
- (5) In subsection (5), there shall be substituted—
- (a) for the words from " accountable " to " Northern Ireland ) ", the words " liable for capital transfer tax and the Board " ;
  - (b) for the words " principal value ", the word " value " ; and
  - (c) for the words " any estate duty ", the words " any capital transfer tax ".

*The Finance Act 1971*

- 17 In paragraph 11 of Schedule 12 to the Finance Act 1971 for the words from the beginning to "by any percentage" in sub-paragraph (b) there shall be substituted the following:—
- “Where a life interest (within the meaning of section 25 of the Finance Act 1965) in settled property is terminated by the death of a person on whose death capital transfer tax is chargeable under section 22 of the Finance Act 1975 and, under subsection (5) of that section, a value falls to be included in respect of the settled property, then.—
- (a) if that value is the principal value of the property, paragraphs 6 and 9 above shall apply as if that person had been entitled to the life interest at his death ; and
  - (b) if that value is a value reduced by any percentage under paragraph 3 of Part II of Schedule 17 to the Finance Act 1969 or paragraph 3 of Part II of Schedule 1 to the Finance Act (Northern Ireland) 1969”.

*The Land Charges Act 1972*

- 18 (1) The Land Charges Act 1972 shall be amended as follows.
- (2) In section 2(4)(ii), for the words " the Finance Act 1894 or " there shall be substituted the words " Part III of the Finance Act 1975 or under ", and for the words " death duties " there shall be substituted the words " capital transfer tax ".
- (3) In section 2(5)(i), for the words from " any enactment" to " 1926 " there shall be substituted the words " Part III of the Finance Act 1975 (capital transfer tax) ".

- (4) In section 3(6), for the word " duties " there shall be substituted the word " tax ".
- (5) In section 4(6), after the words "money's worth" there shall be inserted the words " (or, in the case of an Inland Revenue charge, a purchaser within the meaning of Part III of the Finance Act 1975)".
- (6) In section 17(1), for the words " ' will' and ' death duties'" there shall be substituted the words " and ~ will' ".

*The Finance Act 1974*

- 19 (1) Schedule 1 to the Finance Act 1974 shall be amended as follows.
  - (2) In paragraph 17(1)(a), for the words following " confirmation " there shall be substituted the words " capital transfer tax payable on the delivery of the personal representatives' account and attributable to the value of personal property to which the deceased was beneficially entitled immediately before his death and which vests in the personal representatives or would vest in them if the property were situated in the United Kingdom ; or ".
  - (3) For paragraph 20 there shall be substituted the following paragraph:—

“20        Sufficient evidence of the amount of capital transfer tax paid as mentioned in paragraph 17(1)(a) above and of any statements relevant to its computation may be given by the production of a document purporting to be a certificate from the Board.”
  - (4) In paragraph 21, for sub-paragraph (a) there shall be substituted the following sub-paragraph:—

“(a)    references to capital transfer tax include any interest payable on that tax ; and”.

*The Inheritance (Family Provision) Act (Northern Ireland) 1960*

- 20 (1) In section 5(1) of the Inheritance (Family Provision) Act (Northern Ireland) 1960, for the words " estate duty " there shall be substituted the words " capital transfer tax ".
- (2) In section 9(1) of that Act, in the definition of " net estate ", for the words " estate duty " there shall be substituted the words " capital transfer tax ".

*The Land Registration Act (Northern Ireland) 1970*

- 21 In Schedule 6 to the Land Registration Act (Northern Ireland) 1970 the following paragraph shall be added at the end of Part II—

*“Registration of Inland Revenue charge*

- 7 Notwithstanding anything in paragraph 3 above, the registering authority may, upon the application of the Board of Inland Revenue and without the concurrence of the registered owner or an order of the court, register an Inland Revenue charge (within the meaning of Part III of the Finance Act 1975) as a Schedule 6 burden affecting the land or any interest therein subject to that charge.”.

*Status: This is the original version (as it was originally enacted).*

## SCHEDULE 13

Section 59.

### REPEALS

#### PART I

#### DEATH DUTIES

Chapter	Short Title	Extent of Repeal
<i>Enactment of the Parliament of Great Britain</i>		
36 Geo. 3. c. 52.	The Legacy Duty Act 1796.	The whole Act so far as unrepealed.
<i>Enactments of the Parliament of the United Kingdom</i>		
41 Geo. 3. c. 86.	The Probate Duty Act 1801.	The whole Act so far as unrepealed.
48 Geo. 3. c. 149.	The Probate and Legacy Duties Act 1808.	Sections 35 to 37.  In section 38, the words "personal or moveable", in both places where those words occur, the words "duly stamped as required by this Act" and the words from "and in any case any person or persons hereby required" to the end.  Sections 39 and 41.
54 Geo. 3. c. 92.	The Probate and Legacy Duties (Ireland) Act 1814.	Section 22. Section 38. The Schedule.
55 Geo. 3. c. 184.	The Stamp Act 1815.	Section 2.  In section 37, the word "personal" and the words from "and also a further sum" to the end.  Section 38. Sections 42 to 51. Part III of the Schedule.
56 Geo. 3. c. 56.	The Probate Duty (Ireland) Act 1816.	In section 115, the words from the beginning to "in Ireland; and".

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.



*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		Sections 121 to 129. The Schedule.
5 & 6 Vict. c. 79.	The Railway Passenger Duty Act 1842.	The whole Act so far as unrepealed.
5 & 6 Vict. c. 82.	The Stamp Duties (Ireland) Act 1842.	The whole Act except sections 35 and 40.  In section 35, the words from " and also a further sum " to the end.
16 & 17 Vict. c. 51.	The Succession Duty Act 1853.	The whole Act so far as unrepealed.
16 & 17 Vict. c. 59.	The Stamp Act 1853.	Section 8.
20 & 21 Vict. c. 79.	The Probates and Letters of Administration Act (Ireland) 1857.	Section 99.  In section 100, the words from " and the original affidavit" to " such original affidavit".
21 & 22 Vict. c. 56.	The Confirmation of Executors (Scotland) Act 1858.	In section 9, the words from " and such inventory " to the end.  Sections 15 and 16.  In section 17, the words from the beginning to "any such statement, and ".
22 & 23 Vict. c. 36.	The Probate Duty Act 1859.	The whole Act so far as unrepealed.
23 & 24 Vict. c. 15.	The Probate Duty Act 1860.	The whole Act so far as unrepealed.
23 & 24 Vict. c. 80.	The Heritable Securities (Scotland) Act 1860.	The whole Act so far as unrepealed.
24 & 25 Vict. c. 92.	The Probate Duty Act 1861.	The whole Act so far as unrepealed.
25 & 26 Vict. c. 22.	The Revenue Act 1862.	The whole Act so far as unrepealed.
27 & 28 Vict. c. 56.	The Revenue (No. 2) Act 1864.	The whole Act so far as unrepealed.
31 & 32 Vict. c. 124.	The Inland Revenue Act 1868.	Section 7.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
38 & 39 Vict. c. 41.	The Intestates Widows and Children (Scotland) Act 1875.	In section 3, the words from " Provided always " to " before being recorded ".
		Section 8.
39 & 40 Vict. c. 24.	The Small Testate Estates (Scotland) Act 1876.	Section 8.
43 Vict. c. 14.	The Customs and Inland Revenue Act 1880.	The whole Act so far as unrepealed.
44 & 45 Vict. c. 12.	The Customs and Inland Revenue Act 1881.	Part in except section 34.
52 & 53 Vict. c. 7.	The Customs and Inland Revenue Act 1889.	The whole Act.
53 & 54 Vict. c. 37.	The Foreign Jurisdiction Act 1890.	In Schedule 1, the entry relating to section 20 of the Finance Act 1894.
55 & 56 Vict. c. 6.	The Colonial Probates Act 1892.	In section 2(2), paragraph (a).
		In section 2(5), the words from " Such rules shall " to the end.
		In section 6, the definition of " probate duty ".
56 & 57 Vict. c. 5.	The Regimental Debts Act 1893.	In section 3, the words "probate duty, or of" and the word " other ".
57 & 58 Vict. c. 30.	The Finance Act 1894.	The whole Act so far as unrepealed.
59 & 60 Vict. c. 28.	The Finance Act 1896.	Part IV so far as unrepealed.
		In section 39, the words from " Part Four " to " 1894 ".
61 & 62 Vict. c. 10.	The Finance Act 1898.	Sections 13 and 14.
63 & 64 Vict. c. 7.	The Finance Act 1900.	Part III so far as unrepealed.
7 Edw. 7. c.13.	The Finance Act 1907.	Part III so far as unrepealed.
		In section 30(2), the words from "Part III" to " 1894".
10 Edw. 7 & 1 Geo. 5. c. 8.	The Finance (1909-10) Act 1910.	Part III so far as unrepealed.
		Section 96(3).
1 & 2 Geo. 5. c. 48.	The Finance Act 1911.	Section 18.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 5. c. 8.	The Finance Act 1912.	The whole Act so far as unrepealed.
3 & 4 Geo. 5. c. 16.	The Foreign Jurisdiction Act 1913.	In the Schedule, the entry relating to section 20 of the Finance Act 1894.
4 & 5 Geo. 5. c. 10.	The Finance Act 1914.	The whole Act, so far as unrepealed.
4 & 5 Geo. 5. c. 76.	The Death Duties (Killed in War) Act 1914.	The whole Act.
7 & 8 Geo. 5. c. 31.	The Finance Act 1917.	Section 29. In section 38(1), the words from " Part IV " to " 1894 ".
8 & 9 Geo. 5. c. 15.	The Finance Act 1918.	Section 44.
9 & 10 Geo. 5. c. 32.	The Finance Act 1919.	Part III so far as unrepealed. In section 38(1), the words from " Part III" to " 1894 ".
		Schedule 3.
10 & 11 Geo. 5. c. 67.	The Government of Ireland Act 1920.	Section 28.
11 & 12 Geo. 5. c. 32.	The Finance Act 1921.	Part IV so far as unrepealed. Section 63. In section 65(1), the words from " Part IV " to the end.
12 & 13 Geo. 5. c. 17.	The Finance Act 1922.	Section 45.
14 & 15 Geo. 5. c. 21.	The Finance Act 1924.	Section 38.
15 & 16 Geo. 5. c. 20.	The Law of Property Act 1925.	Sections 16 to 18.
15 & 16 Geo. 5. c. 21.	The Land Registration Act 1925.	Section 3(iii). In section 59(5), the words " or an Inland Revenue charge ".
15 & 16 Geo. 5. c. 23.	The Administration of Estates Act 1925.	Section 53(3).
15 & 16 Geo. 5. c. 36.	The Finance Act 1925.	Part III so far as unrepealed. Section 28(3). Schedule 4.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act 1925.	In section 157, in paragraph (a) the words "the Inland Revenue affidavit and ", and paragraph (b).  In section 175(1), the definition of " Inland Revenue affidavit ".
17 & 18 Geo. 5. c. 10.	The Finance Act 1927.	Section 51.
18 & 19 Geo. 5. c. 17.	The Finance Act 1928.	Section 30(2) and (3).
20 & 21 Geo. 5. c. 28.	The Finance Act 1930.	Part III so far as unrepealed.  Section 53(3).  Schedule 2.
21 & 22 Geo. 5. c. 28.	The Finance Act 1931.	Sections 40 and 41.
23 & 24 Geo. 5. c. 19.	The Finance Act 1933.	Section 43.
23 & 24 Geo. 5. c. 36.	The Administration of Justice (Miscellaneous Provisions) Act 1933.	Section 3.
26 Geo. 5 & 1 Edw. 8. c. 2.	The Government of India Act 1935.	Section 273(5).
26 Geo. 5 & 1 Edw. 8. c. 34.	The Finance Act 1936.	Part III so far as unrepealed.
1 Edw. 8 & 1 Geo. 6. c. 54.	The Finance Act 1937.	Section 31.
1 & 2 Geo. 6. c. 45.	The Inheritance (Family Provision) Act 1938.	In section 5, the definition of " death duties ".
1 & 2 Geo. 6. c. 46.	The Finance Act 1938.	Section 47.  Section 55(4).
2 & 3 Geo. 6. c. 41.	The Finance Act 1939.	Part IV so far as unrepealed.  Section 38(4).
2 & 3 Geo. 6. c. 109.	The Finance (No. 2) Act 1939.	Section 23 so far as unrepealed.  Section 24(4).
3 & 4 Geo. 6. c. 29.	The Finance Act 1940.	Part IV so far as unrepealed.  Section 64.  Section 65(5).  Schedule 7.
3 & 4 Geo. 6. c. 48.	The Finance (No. 2) Act 1940.	Part IV.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
4 & 5 Geo. 6. c. 30. 6 & 7 Geo. 6. c. 28. 7 & 8 Geo. 6. c. 23.	The Finance Act 1941. The Finance Act 1943. The Finance Act 1944.	Section 42(5). Schedule 6. Sections 45 and 46. Section 26. Part VI so far as unrepealed. In section 42, the words " and death duties ". Section 49(6). Schedule 3. Part II of Schedule 4. In Part IV of Schedule 4, in paragraph 1(1) the words " or duty" and in paragraph 3 the words from " Part II " to " 1894 ".
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act 1945.	Sections 54 to 57. Section 62(5).
9 & 10 Geo. 6. c. 64.	The Finance Act 1946.	Part V so far as unrepealed. Section 49. Section 67(6). Schedule 10.
10 & 11 Geo. 6. c. 35.	The Finance Act 1947.	Part V so far as unrepealed. Section 74(6).
11 & 12 Geo. 6. c. 38.	The Companies Act 1948.	In section 459(9)(c), the words from " subsection (4)" to "Act) of" and the word " other ".
11 & 12 Geo. 6. c. 49.	The Finance Act 1948.	Section 82(7).
12, 13 & 14 Geo. 6. c. 47.	The Finance Act 1949.	Sections 27 to 29. Sections 31 to 33. Section 52(4). Schedule 7. The saving at the end of Part IV of Schedule 11.
14 Geo. 6. c. 15.	The Finance Act 1950.	Part IV.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
14 & 15 Geo. 6. c. 43.	The Finance Act 1951.	Section 50(5). Sections 33 to 35. Section 44(5).
15 & 16 Geo. 6 & 1 Eliz. 2. c. 33.	The Finance Act 1952.	Sections 71 and 72. Schedule 13.
1 & 2 Eliz. 2. c. 34.	The Finance Act 1953.	Section 30.
2 & 3 Eliz. 2. c. 44.	The Finance Act 1954.	Part IV so far as unrepealed. Section 35(5).
4 & 5 Eliz. 2. c. 54.	The Finance Act 1956.	Sections 33 and 34. Section 36. Sections 40 and 41. Section 44(5).
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957.	Part V so far as unrepealed. Section 42(2)(e).
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958.	Part V so far as unrepealed. Section 37. Section 40(2)(e). Schedule 8.
7 & 8 Eliz. 2. c. 58.	The Finance Act 1959.	Sections 34 and 35.
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960.	Part IV. Section 73. Section 79(3)(d).
9 & 10 Eliz. 2. c. 37.	The Small Estates (Representation) Act 1961.	Section 1(1)(a). Section 1(2) except as respects Scotland. Section 1(3). Section 2. Section 3(5). In Schedule 1, paragraphs 3 and 6.
9 & 10 Eliz. 2. c. 45.	The Rating and Valuation Act 1961.	Section 29(3).
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962.	Section 28.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		Section 29.  In section 34, in subsection (2) the words from "Part in shall" to " 1894" and in subsection (4) the words from the beginning to "twenty-nine ".
1963 c. 25.	The Finance Act 1963.	Part III.  In section 73(4) the words from " Part III" to " 1894 ".
1964 c. 41.	The Succession (Scotland) Act 1964.	Section 19. Section 22(4).
1965 c. 25.	The Finance Act 1965.	Section 25(4A). Section 31(9). Section 32(3). Section 88.
1965 c. 32.	The Administration of Estates (Small Payments) Act 1965.	Section 4(2) and (3).
1965 c. 74.	The Superannuation Act 1965.	Section 93(3).
1966 c. 18.	The Finance Act 1966.	Sections 41 and 42.  In section 53(2), the words from " Part V " to " 1894 ".
1967 c. 54.	The Finance Act 1967.	Section 38.
1968 c. 44.	The Finance Act 1968.	Sections 35 to 37. Section 61(6). Schedule 14.
1969 c. 32.	The Finance Act 1969.	Part III. Section 61(3)(d). Schedule 17.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 427(2), the proviso.  In section 430, subsection (3), in subsection (5) the words " or, as the case may

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*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		be, that Ministry ", and subsection (7).
		Section 432(10).
		In Schedule 15, paragraphs 8 and 9.
<a href="#">1970 c. 24.</a>	The Finance Act 1970.	Sections 30 and 31.
		In Schedule 5, paragraph 14.
<a href="#">1971 c. 68.</a>	The Finance Act 1971.	Sections 61 and 62.
		In Schedule 6, paragraphs 53(a) and 58(b).
		In Schedule 12, paragraphs 12, 14, 15 and 18.
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	Sections 120 and 121.
		Section 134(3)(d).
		Schedule 25, so far as it relates to estate duty.
		Schedule 26.
<a href="#">1973 c. 51.</a>	The Finance Act 1973.	Sections 45 and 46.
		In section 50(1)(a), the words " other than estate duty ".
		In section 51, paragraph (a) of subsection (1) and paragraph (a) of subsection (5).
		In section 53, in subsection (2) the words "and the reference " to the end, subsections (6) to (8), and in subsection (9) the words "and subsection (6) above ".
		In section 54, in subsection (1) the words " estate duty ".
		Section 59(3)(d).
		Schedule 18.
		In Schedule 20, paragraphs 2 and 8.
		In Schedule 21, paragraph 2.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.



*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1974 c. 30.	The Finance Act 1974.	Section 51, so far as it relates to estate duty.  In section 52, in subsection (1) the words " or estate duty "  In Schedule 1, paragraphs 19 and 22.  In Schedule 12, paragraphs 1 to 5 and paragraph 12.
<i>Enactments of the Parliament of Northern Ireland</i>		
12 & 13 Geo. 5. c. 18 (N.I.).	The Finance Act (Northern Ireland) 1922.	Section 8.
13 & 14 Geo. 5 c. 14 (N.I.).	The Double Taxation Relief Act (Northern Ireland) 1923.	Part II of the Schedule.
14 & 15 Geo. 5. c. 19 (N.I.).	The Finance Act (Northern Ireland) 1924.	Section 9.
15 & 16 Geo. 5. c. 9 (N.I.).	The Finance (Estate Duty) Act (Northern Ireland) 1925.	The whole Act.
17 & 18 Geo. 5. c. 11 (N.I.).	The Finance Act (Northern Ireland) 1927.	The whole Act.
20 & 21 Geo. 5. c. 11 (N.I.).	The Finance Act (Northern Ireland) 1930.	The whole Act.
21 & 22 Geo.5. c. 24 (N.I.).	The Finance Act (Northern Ireland) 1931.	Section 2.
23 & 24 Geo. 5. c. 28 (N.I.).	The Finance Act (Northern Ireland) 1933.	Section 5.
26 Geo. 5 & 1 Edw. 8. c. 33 (N.I.).	The Finance Act (Northern Ireland) 1936.	Sections 4, 6, 7 and 8.
2 & 3 Geo. 6. c. 8 (N.I.).	The Finance Act (Northern Ireland) 1939.	Section 2.
2 & 3 Geo. 6. c. 26 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1939.	The whole Act.
4 & 5 Geo. 6. c. 20 (N.I.).	The Finance Act (Northern Ireland) 1940.	The whole Act.
4 & 5 Geo. 6. c 22 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1940.	The whole Act.
5 & 6 Geo. 6. c. 11 (N.I.).	The Finance Act (Northern Ireland) 1941.	The whole Act.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1943 c. 5 (N.I.).	The Finance Act (Northern Ireland) 1943.	The whole Act.
1944 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1944.	Sections 1 and 2. Section 9(1). The Schedule.
1946 c. 1 (N.I.).	The Finance Act (Northern Ireland) 1946.	Sections 2, 3 and 5(1).
1946 c. 17 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1946.	Part I. Section 34(2). Schedules 1, 3 and 4.
1947 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1947.	Part I. Section 12(2).
1947 c. 22 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1947.	The whole Act.
1948 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1948.	Section 15(1). Section 18(2).
1949 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1949.	Part I. Section 17(2). Schedule 1. The saving at the end of Part I of Schedule 4.
1951 c. 12 (N.I.).	The Finance Act (Northern Ireland) 1948 (Amendment) Act (Northern Ireland) 1951.	The whole Act.
1951 c. 17 (N.I.).	The Finance Act (Northern Ireland) 1951.	Part I. Section 19(2).
1952 c. 13 (N.I.).	The Finance Act (Northern Ireland) 1952.	Part I. In section 21, in subsection (1), the words from " but subject " to the end of the subsection. Section 22(2). Schedules 1 and 2.
1953 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1953.	Section 1.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1954 c. 3 (N.I.).	The Finance (Miscellaneous Provisions) Act (Northern Ireland) 1954.	Section 1. Section 14(2).
1954 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1954.	Part I. Section 17(2). Schedule 1.
1955 c. 24 (N.I.).	The Administration of Estates Act (Northern Ireland) 1955.	Section 47(2)(a).
1956 c. 11 (N.I.).	The Finance Act (Northern Ireland) 1956.	Part I. Section 10(2).
1957 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1957.	Part I. Section 10(2).
1957 c. 24 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1957.	Sections 1 and 2. The Schedule.
1958 c. 14 (N.I.).	The Finance Act (Northern Ireland) 1958.	Part I. Section 15(2). Schedule 1. In Schedule 2, Part I.
1959 c. 9 (N.I.).	The Finance Act (Northern Ireland) 1959.	Part I. Section 18(2).
1960 c. 7 (N.I.).	The Finance Act (Northern Ireland) 1960.	Part I. Section 13(2)(a).
1960 c. 22 (N.I.).	The Companies Act (Northern Ireland) 1960.	In section 403(9)(b), the words from "subsection (4)" to "Act) of" and the word "other".
1961 c. 10 (N.I.).	The Finance Act (Northern Ireland) 1961.	Part I. Section 15(2).
1962 c. 17 (N.I.).	The Finance Act (Northern Ireland) 1962.	Part I. Section 9(2).
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	Part I. Section 22(3).
1965 c. 16 (N.I.).	The Finance Act (Northern Ireland) 1965.	Part I.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1966 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1966.	Section 11(2). In Schedule 2, Part I. Part I. Section 17(2). In Schedule 3, Part I.
1967 c. 5 (N.I.).	The Administration of Estates (Small Payments) Act (Northern Ireland) 1967.	Section 4(2).
1967 c. 20 (N.I.).	The Finance Act (Northern Ireland) 1967.	Part I. Section 21(2).
1968 c. 17 (N.I.).	The Finance Act (Northern Ireland) 1968.	Part I. Section 24(2). Schedule 1. In Schedule 6, Part I.
1969 c. 18 (N.I.).	The Finance Act (Northern Ireland) 1969.	Part I. Section 20(2). Schedule 1. In Schedule 5, Part I.
1970 c. 18 (N.I.).	The Land Registration Act (Northern Ireland) 1970.	In Part I of Schedule 5, it paragraph 1 the words " death duties and ".
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	Part I. Section 20(2). Schedule 1. In Schedule 3, Part I.
1971 c. 27 (N.I.).	The Finance Act (Northern Ireland) 1971.	Part I. Section 10(2). Schedule 1.
<i>Instruments</i>		
S.R. & O. 1922 No. 80.	The Government of Ireland (Adaptation of the Taxing Acts) Order 1922.	Part III.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
<a href="#">S.R. &amp; O. 1923 No. 406.</a>	The Relief in respect of Double Taxation (Irish Free State) Declaration 1923.	Part II of the Schedule.
<a href="#">S.I. 1957 No. 1534.</a>	The Federation of Malaya (Adaptation of Enactments) Order in Council 1957.	The whole Order.
<a href="#">S.I. 1972 No. 1100.</a>	The Finance (Northern Ireland) Order 1972.	Article 1(2). Part II. Schedules 1 and 2. In Schedule 4, Part I.
<a href="#">S.I. 1973 No. 1323.</a>	The Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.	Article 2(2). Part II. In Article 12, in paragraph 1 the words " estate duty or ". Schedule 1. In Schedule 3, paragraph 2.

These repeals have effect—

- (a) in relation to deaths occurring after the passing of this Act; and
- (b) so far as they relate to any duty mentioned in section 50 of this Act, in relation to any death, but subject to section 52(3) of this Act.

## PART II

### MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
<i>Enactments of the Parliament of the United Kingdom</i>		
<a href="#">26 Geo. 5 &amp; 1 Edw. 8. c. 34.</a>	The Finance Act 1936.	Section 34.
<a href="#">1968 c. 13.</a>	The National Loans Act 1968.	Section 1(4).
<a href="#">1970 c. 9.</a>	The Taxes Management Act 1970.	In section 2, in subsection (3), the words from " but" to the end of the subsection.

1. The repeal in the Taxes Management Act 1970 takes effect on 16th May 1975.
2. The repeals in section 21 of the Income and Corporation Taxes Act 1970 have effect for the year 1976-77 and subsequent years of assessment.
3. The repeals in sections 394 to 398 of the Income and Corporation Taxes Act 1970 have effect in relation to the events mentioned in paragraph 8 of Schedule 2 to this Act.
4. The repeal in the Vehicles (Excise) Act (Northern Ireland) 1972, has effect as from 31st July 1974.
5. The repeals of Schedule 25 to the Finance Act 1972 and section 51 of the Finance Act 1974 have effect in relation to disposals made after 26th March 1974.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	<p>In section 21, subsection (2), and, in subsection (5), the words " or of 7 per cent. ".</p> <p>In section 394, in subsection (1), in paragraph (a)(iii) the words " or in part", in paragraph (a)(iv) the words " or of any share therein ", and in subsection (5) the words from " and references " to the end.</p> <p>In section 395, in subsection (1)(b) the words " or in part" and, in subsection (4), the words from " and any sum paid " to " under the policy ".</p> <p>In section 396(1) the words " or in part" where they first occur, and the words " or of any share therein ".</p> <p>In section 397(1)(a) the words " or in part ".</p> <p>In section 398(1) the words " or in part " and the words " or of any share therein ".</p>
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	<p>Section 9(2).</p> <p>Schedule 25, except so far as it relates to estate duty.</p>
<a href="#">1974 c. 30.</a>	The Finance Act 1974.	Section 51, except so far as it relates to estate duty.

*Enactment of the Parliament of Northern Ireland*

<a href="#">1972 c. 10 (N.I.).</a>	The Vehicles (Excise) Act (Northern Ireland) 1972.	Section 7(2A)(a).
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1. The repeal in the Taxes Management Act 1970 takes effect on 16th May 1975.
2. The repeals in section 21 of the Income and Corporation Taxes Act 1970 have effect for the year 1976-77 and subsequent years of assessment.
3. The repeals in sections 394 to 398 of the Income and Corporation Taxes Act 1970 have effect in relation to the events mentioned in paragraph 8 of Schedule 2 to this Act.
4. The repeal in the Vehicles (Excise) Act (Northern Ireland) 1972, has effect as from 31st July 1974.
5. The repeals of Schedule 25 to the Finance Act 1972 and section 51 of the Finance Act 1974 have effect in relation to disposals made after 26th March 1974.