



# Finance Act 1978

## 1978 CHAPTER 42

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. [31st July 1978]

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

#### CUSTOMS AND EXCISE

##### **1 Tobacco products duty**

- (1) In the case of any cigarette having a tar yield of not less than 20 mg. the Table in section 4(1) of the Finance Act 1976 (excise duty on tobacco products) shall have effect as if the rate of duty in paragraph 1 were increased by £2.25 per thousand cigarettes.
- (2) The Commissioners may make regulations—
  - (a) prescribing how the tar yield of cigarettes is to be determined for the purposes of this section;
  - (b) without prejudice to section 4(2) of the said Act of 1976, enabling the whole or any part of the additional duty imposed by this section to be remitted or

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repaid in such cases as may be specified in the regulations or determined by the Commissioners and subject to such conditions as they see fit to impose.

(3) For the purposes of section 6 of the said Act of 1976 (power to alter rates of duty) the increase specified in subsection (1) above shall be treated as a rate of duty separate from that applying apart from the increase; and in section 2(2) of the Finance Act 1977 (calculation of duty in case of cigarettes more than 9 cm. long) for the words " For the purposes of paragraph 1 in the Table in the said section 4(1) " there shall be substituted the words " For the purposes of the references to a thousand cigarettes in paragraph 1 in the Table in section 4(1) of the Finance Act 1976 and in section 1(1) of the Finance Act 1978 ".

(4) This section shall come into force on 4th September 1978.

## **2 Repayment of excise duty on beer etc.**

(1) The Commissioners may by regulations provide for excise duty charged on liquor to which this subsection applies and which is used as an ingredient in the production or manufacture of—

- (a) any beverage of an alcoholic strength not exceeding 2° of proof; or
- (b) any such article (other than a beverage) as the Commissioners may determine having regard to the alcoholic content thereof,

to be repaid subject to such conditions as may be imposed by or under the regulations.

This subsection applies to beer and to wine, made-wine and cider imported into the United Kingdom.

(2) The Commissioners may by regulations provide for excise duty charged on imported wine which is converted into vinegar to be repaid subject to such conditions as may be imposed by or under the regulations.

## **3 Warehousing regulations**

In section 16(2) of the Finance (No. 2) Act 1975 (warehousing regulations) after paragraph (d) there shall be inserted—

- “(e) enabling the Commissioners to allow goods to be removed from warehouse without payment of duty in such circumstances and subject to such conditions as they may determine ;”.

## **4 Control of movement of goods**

(1) The Commissioners may by regulations impose conditions and restrictions as respects—

- (a) the movement of imported goods between the place of importation and a place approved by the Commissioners for the clearance out of charge of such goods; and
- (b) the movement of goods intended for export between a place approved by the Commissioners for the examination of such goods and the place of exportation.

(2) The regulations may in particular—

- (a) require the goods to be moved within such period and by such route as may be specified by or under the regulations;

- (b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified ; and
  - (c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.
- (3) If any person contravenes or fails to comply with any regulation or any requirement imposed by or under the regulations, that person and the person then in charge of the goods shall each be liable to a penalty of £500 and any goods in respect of which the offence was committed shall be liable to forfeiture.

## **5 Penalty for removing seals etc.**

- (1) Where, in pursuance of any power conferred by the customs and excise Acts or of any requirement imposed by or under those Acts, a seal, lock or mark is used to secure or identify any goods for any of the purposes of those Acts and—
- (a) at any time while the goods are in the United Kingdom or within the limits of any port or on passage between ports in the United Kingdom, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person ; or
  - (b) at any time before the seal, lock or mark is lawfully removed, any of the goods are wilfully removed by any person,
- that person and the person then in charge of the goods shall each be liable to a penalty of £500 ; and for the purposes of this subsection goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.
- (2) Where, in pursuance of any Community requirement or practice which relates to the movement of goods between countries or of any international agreement to which the United Kingdom is a party and which so relates,—
- (a) a seal, lock or mark is used (whether in the United Kingdom or elsewhere) to secure or identify any goods for customs or excise purposes ; and
  - (b) at any time while the goods are in the United Kingdom, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person,
- that person and the person then in charge of the goods shall each be liable to a penalty of £500.
- (3) This section shall be treated for all purposes as included in Part II of the Customs and Excise Act 1952 and section 70 of that Act, which is superseded by this section, shall cease to have effect.

## **6 Anti-dumping measures on ECSC products**

- (1) In relation to any product covered by the ECSC treaty, the Secretary of State may by order make such provision as appears to him to be appropriate for the purpose of giving effect to any Recommendation or other Community obligation arising under that treaty and relating to the imposition, amendment, suspension, revocation or annulment of anti-dumping measures, that is to say, measures for affording protection against dumping or the granting of bounties or subsidies by countries which are not members of the Coal and Steel Community.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, so far as may be necessary for giving effect to a Community obligation, an order under that subsection may, in circumstances specified in the order,—

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- (a) require the provision of security of an amount determined under the order by way of provisional duty ;
- (b) provide for the collection of the whole or a particular proportion of any amount so secured ;
- (c) charge a duty of customs ; and
- (d) make provisions of the order applicable to goods imported into the United Kingdom or another member State before the order comes into force;

and the power to make an order under that subsection includes power to vary or revoke an order previously made in the exercise of that power and shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

- (3) Where the application or amount of any charge imposed by an order under subsection (1) above depends on some factor other than the country of origin, the Commissioners may require the importer of any goods to state such facts as they may think necessary in order to determine the duty chargeable on those goods; and if any facts so required are not stated, the duty chargeable shall be determined on the basis that the facts are such as the Commissioners may determine.
- (4) Section 9 of the Finance Act 1961 (the regulator) shall not apply to any duty chargeable on goods by virtue of subsection (1) above, and any such duty shall be in addition to any other duty of customs for the time being chargeable on those goods.
- (5) Subject to subsections (6) and (7) below, after the passing of this Act, the powers conferred on the Secretary of State by the Customs Duties (Dumping and Subsidies) Act 1969 (in the following provisions of this section referred to as " the 1969 Act") shall not be exercisable except in relation to products covered by the ECSC Treaty and then only in cases where the imposition of a duty under that Act to protect an industry within the United Kingdom is compatible with Community obligations ; and, to the limited extent that it remains operative by virtue of this subsection, the 1969 Act shall have effect—
  - (a) subject to the amendments in Schedule 1 to this Act; and
  - (b) subject to such amendments as the Secretary of State may specify by order made by statutory instrument, being amendments which appear to him to be necessary or desirable to take account of any international agreement to which the United Kingdom is a party.
- (6) No order shall be made under subsection (5) above unless a draft of it has been laid before Parliament and approved by a resolution of each House, and the power to make such an order—
  - (a) does not extend to the provisions of sections 1(1) and (3), 7(1), 8, 9(1) and (2) and 10 of the 1969 Act (which relate to the charge and levy of duty); and
  - (b) is without prejudice to the power to make amendments of enactments under section 2 (2) of the European Communities Act 1972 (for the purpose of implementing Community obligations).
- (7) Nothing in subsection (5) above shall affect—
  - (a) the continued operation of any order made under the 1969 Act which is in force at the passing of this Act (notwithstanding that it may relate to goods which are not products covered by the ECSC Treaty); or
  - (b) the exercise, in relation to any such order as is referred to in paragraph (a) above, of any power conferred by section 10(3) or section 15(4) of the 1969

Act to vary or remove a duty having effect by virtue of the order or to vary or revoke the order itself.

- (8) After subsection (6) of section 5 of the European Communities Act 1972 (power to make provision by regulations as regards reliefs from import duties) there shall be inserted the following subsection—

“(6A) The reference in subsection (6) above to import duties includes a reference—

- (a) to duties charged by an order under subsection (1) of section 6 of the Finance Act 1978; and
- (b) to duties under the Customs Duties (Dumping and Subsidies) Act 1969, as that Act has effect by virtue of subsection (5) of that section”;

and any reference to import duties in regulations made under the said subsection (6) before as well as after the passing of this Act shall be construed accordingly.

- (9) So much of Part I of Schedule 3 to the European Communities Act 1972 as provides for the repeal of the 1969 Act from a date to be appointed by the Secretary of State shall cease to have effect.

## **7 Gaming licence duty in Scotland**

- (1) For the purpose of determining the amount of the duty chargeable under section 14 of the Betting and Gaming Duties Act 1972 on a gaming licence in respect of premises in Scotland for a period beginning after 31st March 1978 the rateable value of any lands and heritages shall be ascertained in accordance with the following provisions of this section in any case where a rateable value is shown for them in the valuation roll for the time being in force and either a lower value or no value was shown for them in the valuation roll in force on 31st March 1978.

- (2) Where the rateable value of any lands and heritages falls to be ascertained in accordance with this section, then—

- (a) if a rateable value was shown for them in the valuation roll in force on 31st March 1978, their rateable value shall be taken to be the value so shown, but subject to paragraph (b) below;
- (b) if, since the value so shown was entered in that valuation roll, there has been a material change of circumstances affecting the value of the lands and heritages, their rateable value shall be taken to be the value determined under this section as the rateable value which would have been shown for them in that valuation roll if the change had been given effect to in that roll;
- (c) if no value was shown for the lands and heritages in the valuation roll in force on 31st March 1978, their rateable value shall be taken to be the value determined under this section as the value that would have been so shown if, at the time of the valuation for the purposes of that roll, the premises in respect of which the licence is to be granted had been in existence and all relevant circumstances had been the same as at the time when the value of the lands and heritages is determined under this section.

- (3) Any determination under this section shall be made by the Commissioners after consultation with the assessor appointed under the Local Government (Scotland) Act 1973 for the valuation area concerned; but the person to whom the licence is to be or has been granted may, by notice in writing given to the Commissioners not later than four weeks after the date on which the determination is notified to him, require the determination to be referred to the arbitration of a referee appointed by the Lord

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President of the Court of Session, the decision of which referee shall be final and conclusive.

- (4) A person appointed as a referee under subsection (3) above shall not be an officer of any government department.
- (5) If the amount of duty chargeable is reduced in consequence of a decision of a referee appointed under this section, any amount overpaid shall be repaid.
- (6) In this section " material change of circumstances " has the meaning assigned to it by section 37(1) of the Local Government (Scotland) Act 1975.

## **8 Vehicles excise duty: Great Britain**

- (1) For section 7(2) of the Vehicles (Excise) Act 1971 there shall be substituted—
  - “(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person (' a disabled person') suffering from a physical defect or disability or by reason of its being kept for such use if—
    - (a) it is registered under this Act in the name of that person; and
    - (b) he has obtained, or is eligible for, a grant under paragraph 2 of Schedule 2 to the National Health Service Act 1977 in relation to that vehicle or is in receipt of a mobility allowance; and
    - (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection or section 7 of the Finance Act 1971 ;
 and for the purposes of this subsection a vehicle shall be deemed to be registered in the name of a disabled person in receipt of a mobility allowance if it is registered in the name of a person appointed pursuant to regulations under the Social Security Act 1975 to exercise any of his rights or powers or in the name of a person nominated for the purposes of this subsection by the disabled person or by a person so appointed.”
- (2) So much of section 13 of the Finance Act 1976 as excludes a person entitled to a mobility allowance from the exemption from duty conferred by section 7 of the Finance Act 1971 shall cease to have effect.
- (3) In section 7 of the Finance Act 1971 after paragraph (c) there shall be inserted the words “and
  - (d) no vehicle exempted from duty under section 7(2) of the Vehicles (Excise) Act 1971 is (or by virtue of that provision is deemed to be) registered in his name under that Act.”
- (4) Section 26(1)(c) of the Vehicles (Excise) Act 1971 (offences in respect of licence etc.) shall apply also to any document in the form of a licence which in pursuance of regulations made under that Act is issued in respect of a vehicle exempted from duty under the provisions mentioned in subsections (1) and (3) above ; and section 26(2) (a) of that Act (false declarations in connection with applications for a licence) shall apply also in relation to any declaration required by any such regulations to be made in respect of any vehicle so exempted.
- (5) This section shall come into force on 1st December 1978.

## **9 Vehicles excise duty: Northern Ireland**

(1) For section 7(2) of the Vehicles (Excise) Act (Northern Ireland) 1972 there shall be substituted—

“(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person (' a disabled person') suffering from a physical defect or disability or by reason of its being kept for such use if—

- (a) it is registered under this Act in the name of that person; and
- (b) he has obtained, or is eligible for, a grant under Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972 in relation to that vehicle or is in receipt of a mobility allowance ; and
- (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection or subsection (2A);

and for the purposes of this subsection a vehicle shall be deemed to be registered in the name of a disabled person in receipt of a mobility allowance if it is registered in the name of a person appointed pursuant to regulations under the Social Security (Northern Ireland) Act 1975 to exercise any of his rights or powers or in the name of a person nominated for the purposes of this subsection by the disabled person or by a person so appointed.”.

(2) So much of section 13 of the Finance Act 1976 as excludes a person entitled to a mobility allowance from the exemption from duty conferred by section 7(2A) of the said Act of 1972 shall cease to have effect.

(3) In the said section 7(2A) after paragraph (b) there shall be inserted the words “and  
(c) no vehicle exempted from duty under subsection (2) is (or by virtue of that subsection is deemed to be) registered in his name under this Act.”.

(4) Section 26(c) of the said Act of 1972 (offences in respect of licence etc.) shall apply also to any document in the form of a licence which in pursuance of regulations made under that Act is issued in respect of a vehicle exempted from duty under section 7(2) or (2A) of that Act.

(5) This section shall come into force on 1st December 1978.

## **10 Continuation of powers under Finance Act 1961 s. 9**

The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by virtue of section 13 of the Finance Act 1977, was extended until the end of August 1978) shall extend until the end of August 1979 or such later date as Parliament may hereafter determine.

## **PART II**

### **VALUE ADDED TAX**

## **11 Registration**

(1) In paragraph 1 of Schedule 1 to the Finance Act 1972 (liability to be registered)—

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- (a) in the provisions before the Table, for " £7,500 " (in both places) there shall be substituted " £10,000 " and
- (b) in the second column of the Table for " 2,625", "4,500", "6.375 " and "7,500" there shall be substituted respectively " 3,500 " , " 6,000 " , " 8,500 " and " 10,000 ";

and in section 20(1) of that Act (registration of local authorities) for "£7,500" (in both places) there shall be substituted " £10,000 ".

- (2) In paragraph 2 of the said Schedule (termination of liability to be registered) for "£6,000" (in both places) there shall be substituted " £8,500 " and for " £1,875 " there shall be substituted " £2,500 ".
- (3) After paragraph 10 of that Schedule (cancellation of registration) there shall be inserted—

“10A Where a registered person who has at any time ceased to be liable to be registered by virtue of paragraph 2 of this Schedule has before that time failed or subsequently fails to make any return or account for or pay any tax as required by or under this Act, the Commissioners may, if they think fit, cancel his registration with effect from such date as they may determine.”

- (4) In paragraph 11 of that Schedule (discretionary registration) the existing provisions shall become sub-paragraph (1) and after those provisions there shall be inserted—

“(2) Where the Commissioners refuse to act or to continue to act on a request made by a person under sub-paragraph (1)(b) above, they shall give him written notice of their decision and of the grounds on which it was made.”;

and in section 40(1) of the said Act of 1972 (appeals) after paragraph (g) there shall be inserted—

“(gg) any refusal to act or to continue to act on a request under paragraph 11(1)(b) of Schedule 1 to this Act;”.

- (5) Subsection (1) above shall be deemed to have come into force on 12th April 1978 but shall apply also for determining whether a person was liable to be registered before that day if the date from which his registration would take effect in accordance with the said Schedule 1 is after 11th April 1978.
- (6) Subsection (2) above shall be deemed to have come into force on 1st July 1978.

## 12 Bad debt relief

- (1) Where—

- (a) a person has supplied goods or services for a consideration in money and has accounted for and paid tax on that supply; and
- (b) the person liable to pay any outstanding amount of the consideration has become insolvent,

then, subject to subsection (2) and to regulations under subsection (3) below, the first-mentioned person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of tax chargeable by reference to the outstanding amount.

- (2) A person shall not be entitled to a refund under this section unless—

- (a) he has proved in the insolvency and the amount for which he has proved is the outstanding amount of the consideration less the amount of his claim;



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- (b) the value of the supply does not exceed its open market value; and
  - (c) in the case of a supply of goods, the property in the goods has passed to the person to whom they were supplied.
- (3) Regulations under this section may—
- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
  - (b) require a claim to be evidenced and quantified by reference to such records and other documents preserved for such period, not exceeding three years from the making of the claim, as may be so specified;
  - (c) make provision for determining what amount (if any) is the outstanding amount of the consideration in particular cases such as those involving part payment or mutual debts;
  - (d) require the repayment of a refund under this section where any requirement of the regulations is not complied with or where the claimant subsequently proves for an amount which, taken with the amount for which he has previously proved, exceeds the amount mentioned in subsection (2)(a) above; and
  - (e) make different provision for different circumstances.
- (4) For the purposes of this section—
- (a) an individual becomes insolvent if—
    - (i) in England, Wales, Northern Ireland or the Isle of Man, he is adjudged bankrupt or the court makes an order for the administration in bankruptcy of his estate; or
    - (ii) in Scotland, an award of sequestration of his estates is made or he signs a trust deed for behoof of his creditors or a judicial factor is appointed under section 163 of the Bankruptcy (Scotland) Act 1913 to divide his insolvent estate among his creditors; and
  - (b) a company becomes insolvent if, in the United Kingdom or the Isle of Man, it is the subject of a creditors' voluntary winding up or the court makes an order for its winding up and the circumstances are such that it is unable to pay its debts;
- and as respects insolvencies in Scotland this section shall have effect as if for references to proving in the insolvency there were substituted references to taking such steps as may be specified by regulations made under this section.
- (5) In section 40(1) of the Finance Act 1972 (appeal to VAT tribunal) after paragraph (k) there shall be inserted—
- “(l) a claim for a refund under section 12 of the Finance Act 1978.”
- (6) This section applies where the person liable to pay the outstanding amount of the consideration becomes insolvent after 1st October 1978.

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## PART III

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### CHAPTER I

##### GENERAL

### 13 Charge of income tax for 1978-79

Income tax for the year 1978-79 shall be charged at the basic rate of 33 per cent.; and—

- (a) in respect of so much of an individual's total income as does not exceed £750 at the rate of 25 per cent.;
- (b) in respect of so much of an individual's total income as exceeds £8,000 at such higher rates as are specified in the Table below; and
- (c) in respect of so much of the investment income included in an individual's total income as exceeds £1,700 at the additional rates of 10 per cent. for the first £550 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, paragraph (c) above shall have effect with the substitution for the references to £1,700 and £550 of references to £2,500 and £500 respectively.

TABLE

<i>Part of excess over £8,000</i>	<i>Higher rate</i>
The first £1,000	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.
The next £1,500	55 per cent.
The next £1,500	60 per cent.
The next £2,000	65 per cent.
The next £2,500	70 per cent.
The next £5,500	75 per cent.
The remainder	83 per cent.

### 14 Lower rate income tax

- (1) In paragraph (a) of subsection (1) of section 32 of the Finance Act 1971 (income tax charged at basic and other rates) for the words " income not falling within paragraph (b) below " there shall be substituted the words " income not falling within paragraph (aa) or (b) below and after that paragraph there shall be inserted—

“(aa) in respect of so much of an individual's total income as does not exceed such amount as Parliament may determine, at such lower rate or rates as Parliament may determine ; and”.

(2) After subsection (1) of that section there shall be inserted—

“(1A) In the case of a husband whose total income includes relevant earned income of his wife—

- (a) the income chargeable in accordance with paragraph (aa) of subsection (1) of this section shall be—
  - (i) so much of his total income, other than relevant earned income of his wife, as does not exceed the amount referred to in that paragraph; and
  - (ii) so much of the relevant earned income of his wife as does not exceed that amount; and
- (b) if there are two or more such rates as are referred to in that paragraph, those rates shall be applied separately to the income mentioned in sub-paragraph (i) and the income mentioned in sub-paragraph (ii) above, and any provision charging income tax in accordance with that paragraph shall have effect accordingly.

(1B) For the purposes of subsection (1A) of this section earned income of the wife has the same meaning as for the purposes of subsection (2) of section 8 of the Taxes Act and relevant earned income of the wife means so much of her earned income as exceeds the relief available in respect of it under that subsection.

(1C) Where income tax at the basic rate has been borne on income chargeable at a lower rate any necessary repayment of tax shall be made on the making of a claim.

(1D) Except where the context otherwise requires, references in the Income Tax Acts to a rate or rates lower or higher than the basic rate are references to any such rate or rates as are mentioned in paragraph (aa) or (b) of subsection (1) of this section respectively.”

(3) The enactments mentioned in Schedule 2 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this section.

## **15 Charge of corporation tax for financial year 1977**

Corporation tax shall be charged for the financial year 1977 at the rate of 52 per cent.

## **16 Rate of advance corporation tax for financial year 1978**

The rate of advance corporation tax for the financial year 1978 shall be thirty-three sixths.

## **17 Corporation tax: other rates and fractions**

(1) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of an authorised unit trust or investment trust shall, as from 1st April 1977, be twenty-one sixths instead of the fraction specified in section 27(1) of the Finance Act 1976.

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- (2) The small companies rate for the financial year 1977 shall be 42 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the said Act of 1972 (marginal relief for small companies) shall be one-seventh.
- (3) For the financial year 1977 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £40,000 of a reference to £50,000 and with the substitution for any reference to £65,000 of a reference to £85,000.
- (4) Where by virtue of subsection (3) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting periods, and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

## **18 Relief for interest: limit for 1978-79**

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) the references to £25,000 shall have effect for the year 1978-79 as well as for previous years of assessment.

## **19 Alteration of personal reliefs**

- (1) In section 8 of the Taxes Act (personal reliefs)—
  - (a) in subsection (1)(a) (married) for "£1,455" there shall be substituted " £1,535 ";
  - (b) in subsection (1)(b) (single) and (2) (wife's earned income relief) for " £945 " there shall be substituted " £985 ";
  - (c) in subsection (1A) (age allowance) for " £1,975 " and "£1,250" there shall be substituted " £2,075 " and "£1,300 " respectively;
  - (d) in subsection (1B) (income limit for age allowance) for " £3,500 " there shall be substituted " £4,000 ".
- (2) In section 12 of that Act (allowance for female housekeeper)—
  - (a) the word " female", wherever it occurs, shall be omitted;
  - (b) in subsection (1)(ii) after the word " above " there shall be inserted the words " or the relative is a man who has claimed and been allowed that higher relief ".
- (3) In section 13(a) of that Act (allowance where claimant's mother or other female relative takes charge of his brother or sister)—
  - (a) for the words " either his mother, being a widow or a person living apart from her husband, or some other female relative " there shall be substituted the words " a relative ";
  - (b) the words " mother or other " shall be omitted.
- (4) In section 14(2) and (3) of that Act (additional relief for widows and others in respect of children) for "£510" there shall be substituted " £550 ".
- (5) In section 17 of that Act (allowance for services of daughter) for the word " daughter " there shall be substituted the words " son or daughter " and the like amendment shall be made in sections 18(5) and 39(1)(d) of that Act (which contain references to the allowance under section 17).

- (6) In section 18 of that Act (relief for blind persons)—
- (a) in subsection (1)(a) and (b) for the words "throughout the year a registered blind person " there shall be substituted the words " a registered blind person for the whole or part of the year ";
  - (b) in subsection (2)(b) for the words " throughout the year both he and his wife were registered blind persons " there shall be substituted the words " he was a registered blind person for the whole or part of the year and his wife was also a registered blind person for the whole or part of the year ";
  - (c) subsections (3) and (4) shall be omitted.

## **20 Child tax allowances and benefits in respect of children**

- (1) Except in the case of a child to whom section 25 or 26 of the Finance Act 1977 applies, the appropriate amount to be deducted from the claimant's total income under subsection (1) of section 10 of the Taxes Act (children) for the year 1978-79 shall, instead of being determined in accordance with subsection (3) of that section, be determined in accordance with subsection (2) below.
- (2) The appropriate amount for the child shall vary according to the age of the child at the commencement of the year of assessment, and, subject to subsection (5) of the said section 10—
- (a) for a child shown by the claimant to have been then over the age of sixteen, shall be £165;
  - (b) for a child not so shown, but shown by the claimant to have been then over the age of eleven, shall be £135;
  - (c) in any other case, shall be £100.
- (3) For the year 1978-79 and subsequent years of assessment subsection (5) of the said section 10 shall have effect with the substitution for " £350 " (in both places) and " £235 " of " £500 " and " £385 " respectively.
- (4) Section 23(3) of the said Act of 1977 (£52 of certain benefits in respect of children to be exempt from income tax for the year 1977-78) shall have effect also in relation to the year 1978-79 but with the substitution for " £52 " of " £80 ".
- (5) Section 25 of the said Act of 1977 (tax allowances in the year 1977-78 for children living abroad) shall have effect also in relation to years of assessment after that year.

## **21 Maintenance payments**

In section 15(1) of the Finance Act 1974 (the first £1,500 of any amounts paid as maintenance payments not to be investment income) the words " the first £1,500 of " shall be omitted.

## **22 Tax repayments to wives**

- (1) Where in any year of assessment tax has been deducted under section 204 of the Taxes Act (pay as you earn) from the earned income of a wife and, apart from this section, a repayment of tax for that year would fall to be made to her husband in consequence of an assessment under Schedule E, so much of the repayment as is attributable to the tax so deducted shall be made to her and not to him.

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- (2) The amount of a repayment attributable to tax deducted as mentioned in subsection (1) above is the excess (if any) of the total net tax so deducted in the year of assessment over the tax chargeable on the wife's relevant earned income included in her husband's total income for that year after allowing—
- (a) any relief for that year under section 19 of the Taxes Act in respect of any payment made by her of the kind mentioned in paragraph 14A of Schedule 4 to the Finance Act 1976 (retirement benefits schemes); and
  - (b) any relief for that year to which her husband is entitled under any other provision of the Income Tax Acts to the extent to which it cannot be allowed because his income, exclusive of her earned income, is insufficient;
- but that amount shall not exceed the aggregate of the amounts repayable for that year in respect of the total net tax deducted in that year under the said section 204 from the income of the wife and the income of her husband.
- (3) Where in consequence of an assessment under Schedule E any amount is repayable under this section to the wife of the person on whom the assessment is made the inspector shall notify both of them of his determination of that amount and, subject to subsection (4) below, an appeal shall lie against the determination as if it were a decision on a claim.
- (4) Any appeal under subsection (3) above shall be to the General Commissioners for the division in which the spouses reside or, if they reside in different divisions, for the division in which one of them resides, as the Board may direct, or if neither resides in Great Britain to the Special Commissioners; and on any such appeal by one of the spouses the other shall have the same rights as an appellant, including any right to require the statement of a case for the opinion of the court.
- (5) Where in a case to which this section applies the amount repaid to a wife or her husband exceeds the amount properly due to that person the excess shall be recoverable from that person as if it were unpaid tax.
- (6) The Board may make regulations—
- (a) modifying subsection (2) above in relation to such cases as may be specified in the regulations ;
  - (b) modifying section 47 of the Finance (No. 2) Act 1975 (repayment supplement) in relation to cases in which a repayment falls to be made under this section;
- and any such regulations shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (7) This section does not apply to any repayment for a year of assessment—
- (a) for which the husband is chargeable to income tax at a rate or rates higher than the basic rate ; or
  - (b) for which any earned income of the wife has been assessed otherwise than under Schedule E.
- (8) For the purposes of this section earned income of a wife has the same meaning as for the purposes of subsection (2) of section 8 of the Taxes Act and relevant earned income of a wife means so much of her earned income as exceeds the relief available in respect of it under that subsection.
- (9) References in this section to the total net tax deducted in any year under section 204 of the Taxes Act are references to the total income tax deducted during that year by

virtue of regulations made under that section less any income tax repaid by virtue of any such regulations.

(10) This section applies to any repayment made after the passing of this Act.

### **23 Benefits in kind: threshold from 1979-80**

(1) In section 69(1)(b) and (3)(a) of the Finance Act 1976 (definition of director's or higher-paid employment for purposes of tax on benefits in kind) for " £7,500 " there shall be substituted " £8,500 ".

(2) This section applies for the year 1979-80 and subsequent years of assessment.

### **24 Payments for loss of employment etc.**

(1) In section 188(3) of the Taxes Act and paragraph 3 of Schedule 8 to that Act (tax on excess over £5,000 of payments for loss of employment etc.) for " £5,000 ", wherever it occurs, there shall be substituted " £10,000 ".

(2) In paragraph 4 of the said Schedule 8 (lump sum received or receivable under superannuation scheme or fund to be deducted in calculating relief) the existing provisions shall become sub-paragraph (1) and at the end there shall be inserted—

“(2) In sub-paragraph (1)(c) above the reference to a lump sum receivable by the holder includes a reference to a lump sum that would be receivable by him if he had exercised or refrained from exercising (with any necessary consent) any option or other right conferred on him by the rules of the scheme or fund.”

(3) Subsection (1) above has effect in relation to any payment which by virtue of section 187(4) of the Taxes Act is treated as income received on or after 6th April 1978 ; and where under the proviso to section 188(3) of that Act the sum there mentioned falls to be deducted from one or more payments treated as income received before, and one or more payments treated as income received on or after, that date only £5,000 of that sum shall be deducted from the first-mentioned payment or payments.

(4) Subsection (2) above has effect in relation to any payment which by virtue of the said section 187(4) is treated as income received on or after 17th May 1978.

### **25 Life policies etc.**

The enactments mentioned in Schedule 3 to this Act (which relate to relief in respect of premiums payable under life policies etc.) shall have effect subject to the amendments made by that Schedule.

### **26 Retirement annuities**

(1) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve an annuity contract under section 226 of the Taxes Act (approval of retirement annuity contracts) notwithstanding that the contract provides that the individual by whom it is made may require a sum representing the value of his accrued rights thereunder to be paid by the person with whom it is made to such other person as he may specify, that sum to be applied as the premium or other consideration under

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an annuity contract made between the individual and that other person and approved by the Board under that section.

- (2) References in subsection (1) above to the individual by whom the contract is made include references to any widow, widower or dependant having accrued rights under the contract.
- (3) Where in pursuance of any such provision as is mentioned in subsection (1) above of an annuity contract approved under section 226 of the Taxes Act, or of a corresponding provision of a contract approved under section 226A(1)(a) of that Act (contracts for dependants), a sum representing the value of accrued rights under one contract ("the original contract") is paid by way of premium or other consideration under another contract ("the substituted contract"), any annuity payable under the substituted contract shall be treated as earned income of the annuitant to the same extent that an annuity payable under the original contract would have been so treated.
- (4) In section 230(7) of the Taxes Act (purchased life annuities, other than retirement annuities), there shall be added at the end of paragraph (b) the words " to any annuity payable under a substituted contract within the meaning of section 26(3) of the Finance Act 1978, or "
- (5) In section 323(4) of the Taxes Act (pension business), for the words from ", being a contract" onwards in paragraph (a) there shall be substituted the words " (being a contract approved by the Board under that section), or any substituted contract within the meaning of section 26(3) of the Finance Act 1978 "

## **27 Relief for individuals carrying on trade etc. partly abroad**

- (1) The provisions of this section and Part I of Schedule 4 to this Act shall have effect for affording relief from tax for the year 1978-79 and subsequent years of assessment to an individual who in a year of assessment—
  - (a) is resident in the United Kingdom; and
  - (b) is carrying on a trade, profession or vocation in respect of which he is within the charge to income tax under Case I or Case II of Schedule D; and
  - (c) is absent from the United Kingdom on at least thirty qualifying days;
 and in that Schedule and the following provisions of this section any reference to a trade includes a reference to a profession or vocation and any reference to Case I of Schedule D includes a reference to Case II of that Schedule.
- (2) For the purposes of subsection (1) above and Part I of Schedule 4 to this Act, a qualifying day, in relation to an individual carrying on a trade, is a day of absence from the United Kingdom—
  - (a) which he devotes substantially to the activities of the trade; or
  - (b) which is one of at least seven consecutive days on which he is absent from the United Kingdom for the purposes of the trade and which (taken as a whole) he devotes substantially to the activities of the trade; or
  - (c) on which he is travelling wholly and exclusively for the purposes of the trade.
- (3) If an individual carries on more than one trade and a day of absence from the United Kingdom would be a qualifying day in relation to his carrying on two or more of those trades taken together, but not in relation to his carrying on any particular trade, it shall be treated as a qualifying day for the purposes specified in subsection (2) above.



- (4) In relation to an individual who carries on a trade as a member of a partnership to which section 153 of the Taxes Act applies (partnerships controlled abroad), a day shall not be treated as a qualifying day in relation to any trade or trades carried on by the partnership unless it would be so treated if references in paragraphs (a) to (c) of subsection (2) above to the trade carried on by the individual were restricted to the trading operations of the partnership within the United Kingdom.
- (5) An individual shall not be entitled to relief under this section in respect of absence on qualifying days in a year of assessment unless a claim for the relief is made before the expiry of the period of two years beginning at the end of that year of assessment.
- (6) For the purposes of this section an individual shall not be regarded as absent from the United Kingdom on any day unless he is absent at the end of it; nor shall an individual be regarded as absent from the United Kingdom at any time when he is on board a vessel or aircraft engaged on—
  - (a) a voyage or journey beginning and ending in the United Kingdom (but exclusive of any part of it which begins or ends outside the United Kingdom); or
  - (b) any part beginning and ending in the United Kingdom of a voyage or journey which begins or ends outside the United Kingdom.
- (7) For the purposes of this section, any area designated under section 1(7) of the Continental Shelf Act 1964 shall be treated as part of the United Kingdom.
- (8) In consequence of the provisions of this section and of Part I of Schedule 4 to this Act, the amendments in Part II of that Schedule shall have effect.

## **28 Farming and market gardening: relief for fluctuating profits**

- (1) Subject to the provisions of this section, a person who is or has been carrying on a trade of farming or market gardening in the United Kingdom may claim that subsection (2) or (3) below shall have effect in relation to his profits from that trade for any two consecutive years of assessment if his profits for either year do not exceed such part of his profits for the other year as is there specified.
- (2) If the claimant's profits for either year do not exceed seven-tenths of his profits for the other year or are nil, his profits for each year shall be adjusted so as to be equal to one-half of his profits for the two years taken together or, as the case may be, for the year for which there are profits.
- (3) If the claimant's profits for either year exceed seven-tenths but are less than three-quarters of his profits for the other year, his profits for each year shall be adjusted by adding to the profits that are lower and deducting from those that are higher an amount equal to three times the difference between them less three-quarters of those that are higher.
- (4) No claim shall be made under this section—
  - (a) in respect of any year of assessment before a year in respect of which a claim has already been made under this section; or
  - (b) in respect of a year of assessment in which the trade is (or by virtue of section 154(1) of the Taxes Act is treated as) set up and commenced or permanently discontinued.

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- (5) Any adjustment under this section shall have effect for all the purposes of the Income Tax Acts (including any further application of this section where the second of any two years of assessment is the first of a subsequent pair) except that—
- (a) subsection (2) above shall not prevent a person obtaining relief under those Acts for a loss sustained by him in any year of assessment;
  - (b) any adjustment under this section shall be disregarded for the purposes of section 118(1)(b) of the Taxes Act (adjustment of assessments on discontinuance of trade) and of computing relevant income for the purposes of Schedule 5 to the Finance Act 1976 (stock relief); and
  - (c) where, after a claim has been made under this section in respect of the profits for any two years of assessment the profits for both or either of those years are adjusted for any other reason, this section shall have effect as if the claim had not been made but without prejudice to the making of a further claim in respect of those profits as so adjusted.
- (6) This section applies to the profits of a trade carried on by a person in partnership as it applies to the profits of a sole trader except that—
- (a) the profits to which the claim relates shall be those chargeable in accordance with section 152 of the Taxes Act; and
  - (b) any claim in respect of those profits shall be made jointly by all the partners who are individuals;
- and where during the years of assessment to which the claim relates there is a change in the persons engaged in carrying on the trade but a notice is given under section 154(2) of the Taxes Act the claim shall be made jointly by all the persons who are individuals and have been engaged in carrying on the trade at any time during those years.
- Where a person who is required by this subsection to join in making a claim has died, this subsection shall have effect as if it required his personal representatives to join in making the claim.
- (7) In this section references to profits from a trade for a year of assessment are references to the profits or gains from that trade which are chargeable to income tax for that year before—
- (a) any deduction for losses sustained in any year of assessment;
  - (b) any deduction or addition for capital allowances or charges (not being allowances or charges given or made by deduction or addition in the computation of profits or gains);
  - (c) any deduction or addition for any relief or charge under Schedule 5 to the Finance Act 1976.
- (8) Any claim under this section shall be made by notice in writing given to the inspector not later than two years after the end of the second of the years of assessment to which the claim relates but any such further claim as is mentioned in subsection (5)(c) above shall not be out of time if made before the end of the year of assessment following that in which the adjustment is made.
- (9) Where a person makes a claim under this section in respect of any year of assessment, any claim by him for relief for that year under any other provision of the Income Tax Acts—
- (a) shall not be out of time if made before the end of the period in which the claim under this section is required to be made ; and
  - (b) if already made, may be revoked or amended before the end of that period;

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but no claim shall by virtue of this subsection be made, revoked or amended after the determination of the claim under this section.

- (10) There shall be made all such alterations of assessments or repayments of tax (whether in respect of such profits as are mentioned in subsection (1) above or of other income of the person concerned) as may be required in consequence of any adjustment under this section.
- (11) Nothing in this section shall be construed as applying to profits chargeable to corporation tax.
- (12) This section applies where the first of the two years mentioned in subsection (1) above is the year 1977-78 or a subsequent year of assessment.

## **29 Divers and diving supervisors**

- (1) Where the duties of an employment which are performed by a person in the United Kingdom or a designated area consist wholly or mainly—
  - (a) of taking part, as a diver, in diving operations concerned with the exploration or exploitation of the seabed, its subsoil and their natural resources; or
  - (b) of acting, in relation to any such operations, as a diving supervisor,the Income Tax Acts shall have effect as if the performance by that person of those duties constituted the carrying on by him of a trade within Case I of Schedule D; and accordingly Schedule E shall not apply to the emoluments from the employment so far as attributable to his performance of those duties.
- (2) In this section " designated area " means any area designated under section 1(7) of the Continental Shelf Act 1964.
- (3) Finance Act 1973 (information about emoluments paid or payable in respect of duties performed in connection with exploration or exploitation activities) for the words " emoluments paid or payable in respect of duties " there shall be substituted the words " emoluments or other payments paid or payable in respect of duties or services ".
- (4) This section applies for the year 1978-79 and subsequent years of assessment; and where the duties of a person's employment fall within subsection (1) above at the beginning of that year this section shall apply as if the trade mentioned in that subsection had been set up and commenced by him at the beginning of that year.

## **30 Further relief for losses in early years of trade**

- (1) Where an individual carrying on a trade sustains a loss in the trade in—
  - (a) the year of assessment in which it is first carried on by him; or
  - (b) any of the next three years of assessment,he may, by notice in writing given within two years after the year of assessment in which the loss is sustained, make a claim for relief under this section.
- (2) Subject to the provisions of this section, relief shall be given from income tax on an amount of the claimant's income equal to the amount of the loss, being income for the three years of assessment last preceding that in which the loss is sustained, taking income for an earlier year before income for a later year.
- (3) Relief shall not be given for the same loss or the same portion of a loss both under this section and under any other provision of the Income Tax Acts.

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- (4) Relief shall not be given under this section in respect of a loss sustained in any period unless it is shown that the trade was carried on throughout that period on a commercial basis and in such a way that profits in the trade (or, where the carrying on of the trade forms part of a larger undertaking, in the undertaking as a whole) could reasonably be expected to be realised in that period or within a reasonable time thereafter.
- (5) Relief shall not be given under this section in respect of a loss sustained by an individual in a trade if—
- (a) at the time when it is first carried on by him he is married to and living with another individual who has previously carried on the trade ; and
  - (b) the loss is sustained in a year of assessment later than the third year of assessment after that in which the trade was first carried on by the other individual.
- (6) For the purposes of this section an individual carries on a trade whether he does so solely or in partnership; and (except as respects the computation of profits or gains and losses) an individual continues to carry on the same trade notwithstanding a change in the persons engaged in carrying it on if he is engaged in carrying it on immediately before and immediately after the change.
- (7) Subject to subsections (8) and (9) below, the following enactments (which contain ancillary provisions relating to relief under section 168 of the Taxes Act) shall have effect as if references to that section included references to this section—
- (a) sections 168(3), (4), (5) and (7), 169 (other than subsection (10)) and 474(1) of the Taxes Act;
  - (b) section 23(2) of the Finance Act 1974 ;
  - (c) paragraph 3(1) of Schedule 2 to the Social Security Act 1975;
  - (d) section 13(2) of the Oil Taxation Act 1975 ;
  - (e) sections 36(9) and 41 of, and paragraph 6 of Schedule 5 to, the Finance Act 1976.
- (8) In its application by virtue of subsection (7) above, section 169 of the Taxes Act shall have effect with the following modifications—
- (a) in subsection (3) for the words from " are those for the year of assessment" onwards there shall be substituted the words " are those for the year of loss, relief shall not be given by reference to those allowances in respect of an amount greater than the amount non-effective in that year ";
  - (b) in subsection (6) for the words " in the case of allowances for the following year, in taxing the trade for that following year" there shall be substituted the words " in the case of allowances for any later year, in taxing the trade for that later year ";
  - (c) in subsection (8) for the words " the year for which the claim is made" there shall be substituted the words " the year of loss ".
- (9) In its application by virtue of subsection (7) above paragraph 6 of Schedule 5 to the Finance Act 1976 shall have effect with the following modifications—
- (a) in sub-paragraph (4) for the words from " is that for the year of assessment" onwards there shall be substituted the words " is that for the year of loss, effect shall not be given to that relief in respect of an amount greater than the amount unused in that year ";
  - (b) in sub-paragraph (7) for the words " the year for which the claim is made "there shall be substituted the words " the year of loss ".

- (10) This section applies, with the necessary modifications, in relation to a profession or vocation as it applies in relation to a trade.
- (11) This section applies where the year in which the loss is sustained is the year 1978-79 or a later year of assessment.

### **31 Dealings in commodity futures: withdrawal of loss relief**

- (1) Relief shall not be given to any person under section 168 or 177(2) of the Taxes Act or section 30 above (set-off of trading losses against general income) in respect of a loss sustained in a trade of dealing in commodity futures if—
  - (a) the loss was sustained in a trade carried on in partnership and that person or one or more of the other partners was a company; and
  - (b) a scheme has been effected or arrangements have been made (whether by the partnership agreement or otherwise) such that the sole or main benefit that might be expected to accrue to that person from his interest in the partnership was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (2) Where relief has been given in a case to which this section applies it shall be withdrawn by the making of an assessment under Case VI of Schedule D.
- (3) This section applies whether the loss was sustained before or after the passing of this Act but not where the scheme was effected or the arrangements were made wholly before 6th April 1976.

### **32 Sale of land with right to repurchase: restriction of relief**

- (1) Sections 83 and 134 of the Taxes Act (which give a person relief from tax where he has paid a premium or certain other sums in respect of land) shall have effect with the following amendments, being amendments excluding from the relief cases falling within section 82 of that Act (under which the sum paid is the purchase price of land bought on terms providing for its reconveyance).
- (2) In section 83—
  - (a) in subsection (1)(a) for "81 or 82" there shall be substituted " or 81 ";
  - (b) in subsections (1), (2) and (3) the words "estate or interest" (wherever they occur) shall be omitted;
  - (c) subsections (4)(b)(iii) and (6) shall be omitted.
- (3) In section 134—
  - (a) in subsection (1)(a) for "81 or 82" there shall be substituted " or 81 ";
  - (b) subsection (1)(iii), together with the word " and" immediately preceding it, shall be omitted;
  - (c) in subsection (2) the words " estate or interest" shall be omitted;
  - (d) subsection (7) shall be omitted and in subsections (1) and (2) for " (7) " there shall be substituted " (6) ".
- (4) Subsection (2) above applies where the amount chargeable on the superior interest has become or would have become chargeable to tax under section 82 after 2nd December 1976; and subsection (3) above applies where the amount chargeable has become or would have become chargeable to tax under that section after that date.

### **33 Deduction rate for sub-contractors in the construction industry**

Section 69(4) of the Finance (No. 2) Act 1975 (which requires deductions to be made from payments to certain subcontractors in the construction industry) shall have effect in relation to payments made on or after 6th November 1978 with the substitution for the words " 34 per cent. " of the words " 33 per cent. ".

### **34 Exemption for community land transactions**

- (1) In computing the profits or losses for corporation tax purposes of—
  - (a) an authority within the meaning of section 1 of the Community Land Act 1975 other than a local authority;
  - (b) a joint board established under section 2 of that Act; or
  - (c) a body corporate established under section 50 of that Act,the items included and the transactions recorded in any accounts or records kept by the authority, joint board or body corporate under section 43 of that Act shall be disregarded.
- (2) This section shall be deemed to have come into force on 6th April 1976.

### **35 Close companies: relevant income**

- (1) In paragraph 9(3) of Schedule 16 to the Finance Act 1972 (apportionment of income of close companies: relevant maximum and minimum amounts for calculating relevant income of trading company) for " £15,000 " and " £5,000 ", in both places, there shall be substituted respectively " £75,000 " and " £25,000 ".
- (2) In paragraph 9(4) of that Schedule (associated company to be disregarded for purposes of paragraph 9(3)) for the words " which has not carried on any trade or business at any time in that accounting period " there shall be substituted the words " which was not a trading company, or has not carried on any trade, at any time in that accounting period ".
- (3) In paragraph 10(3)(b) of that Schedule (calculation of distributable investment income) for " £500 " there shall be substituted " £1,000 ".
- (4) This section has effect for any accounting period ending after 26th October 1977.

### **36 Close companies: acquisition of trades**

- (1) Part II of Schedule 16 to the Finance Act 1972 (provisions for determining relevant income etc. of close companies) shall have effect subject to the amendments in Schedule 5 to this Act, being amendments to allow account to be taken, in certain cases, of (he requirements of a company for the acquisition of a trade or of an interest in a trading company or in a company which is a member of a trading group.
- (2) The amendments in Schedule 5 to this Act have effect with respect to accounting periods ending on or after 11th April 1978, irrespective of whether the acquisition takes place before or after that date.

### **37 Capital allowances: long leases**

- (1) Subject to the provisions of this section, where expenditure has been incurred on the construction of a building or structure and a long lease of that building or structure is granted out of an interest therein which is, within the meaning of Chapter I of Part I of the Capital Allowances Act 1968, the relevant interest in relation to that expenditure, that Chapter shall, if the lessor and lessee so elect, have effect as if—
  - (a) the grant of the lease were a sale of the relevant interest by the lessor to the lessee at the time when the lease takes effect;
  - (b) any capital sum paid by the lessee in consideration for the grant of the lease were the purchase price on the sale; and
  - (c) the interest out of which the lease is granted had at that time ceased to be, and the interest granted by the lease had at that time become, the relevant interest in relation to that expenditure.
- (2) Any election under this section shall have effect in relation to all the expenditure in relation to which the interest out of which the lease is granted is the relevant interest and which relates to the building or structure or (if more than one) the buildings or structures which are the subject of the lease.
- (3) Any election under this section shall be by notice in writing to the inspector given within two years after the date on which the lease takes effect; and all such adjustments shall be made, whether by discharge or repayment of tax or by further assessments, as may be required for giving effect to the election.
- (4) In this section " long lease " means a lease the duration of which (ascertained according to section 84(1), (2) and (3) of the Taxes Act) exceeds fifty years; and any question whether a lease is a long lease shall be determined without regard to section 13(3) of the said Act of 1968 (options for renewal).
- (5) Section 11(3) of the said Act of 1968 (under which the creation of a lease does not affect the continuance of a relevant interest) shall have effect subject to subsection (1) (c) above.
- (6) This section does not apply where—
  - (a) the lessor and lessee are connected with each other within the terms of section 533 of the Taxes Act; or
  - (b) it appears that the sole or main benefit which may be expected to accrue to the lessor from the grant of the lease and the making of an election is the obtaining of a balancing allowance under section 3 of the said Act of 1968;but paragraph (a) above shall not prevent the application of this section where the lessor is a body discharging statutory functions and the lessee a company of which it has control.
- (7) The Tax Acts shall have effect as if this section were contained in Chapter I of Part I of the said Act of 1968.
- (8) This section applies where the time when the lease takes effect is on or after 15th February 1978.

### **38 Capital allowances: hotels**

- (1) Chapter I of Part I of the Capital Allowances Act 1968 shall apply in relation to a qualifying hotel as if it were an industrial building or structure; but the provisions

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of that Chapter shall have effect in relation to any such hotel with the modifications specified in Schedule 6 to this Act.

- (2) A qualifying hotel is a hotel the accommodation in which is in a building or buildings of a permanent nature and which complies with the following requirements—
- (a) that it is open for at least four months in the season; and
  - (b) that during the time when it is open in the season—
    - (i) it has at least ten letting bedrooms;
    - (ii) the sleeping accommodation offered at the hotel consists wholly or mainly of letting bedrooms; and
    - (iii) the services provided for guests normally include the provision of breakfast and an evening meal, the making of beds and the cleaning of rooms.
- (3) In subsection (2) above " the season " means April, May, June, July, August, September and October; and for the purposes of that subsection a letting bedroom is a private bedroom available for letting to the public generally and not normally in the same occupation for more than one month.
- (4) Subject to subsection (5) below, any question whether a hotel complies with the requirements in subsection (2)(a) and (b) above at any time in a person's chargeable period or its basis period shall be determined—
- (a) if the hotel has been in use for the purposes of the trade carried on by that person or by such a lessee as is mentioned in section 1(3) of the said Act of 1968 throughout the twelve months ending with the last day of that chargeable period or its basis period, by reference to those twelve months;
  - (b) if the hotel was first used as aforesaid on a date after the beginning of those twelve months, by reference to the twelve months beginning with that date;
- but a hotel shall not by virtue of this subsection be treated as complying with those requirements at any time in a chargeable period or its basis period after it has ceased altogether to be used.
- (5) Where, during the twelve months mentioned in paragraph (a) of subsection (4) above, a hotel had fewer than ten letting-bedrooms until a date which was too late for it to qualify by reference to those twelve months, it may instead qualify under paragraph (b) of that subsection by reference to the twelve months beginning with that date as if it had then first been used.
- (6) For the purposes of this section—
- (a) there shall be treated as included in a qualifying hotel any building (whether or not on the same site as any other part of the hotel) which is provided by the person carrying on the hotel for the welfare of workers employed in the hotel and is in use for that purpose; and
  - (b) where a qualifying hotel is carried on by an individual, whether alone or in partnership, there shall be treated as excluded from the hotel any accommodation which, during the time when the hotel is open in the season, is normally used as a dwelling by that person or by any member of his family or household.
- (7) The Tax Acts shall have effect as if this section and Schedule 6 to this Act were contained in Chapter I of Part I of the said Act of 1968.



- (8) This section applies in relation to expenditure incurred after 11th April 1978; and expenditure shall not be treated for the purposes of this subsection as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) or 5(1) of the said Act of 1968.

### **39 Capital allowances: agricultural and forestry buildings and works**

- (1) In subsection (1) of section 68 of the Capital Allowances Act 1968 (writing-down allowances for agricultural and forestry buildings and works) for the words from "writing-down allowances shall be made to him" onwards there shall be substituted the words "there shall be made to him—
- (a) for the chargeable period related to the incurring of that expenditure, an initial allowance of an amount equal to one-fifth of that expenditure; and
  - (b) during a writing-down period of eight years beginning with that period, writing-down allowances of an aggregate amount equal to four-fifths of that expenditure."

- (2) After subsection (3) of that section there shall be inserted—

“(3A) A person in making a claim by virtue of this section as it applies for income tax purposes in respect of the chargeable period mentioned in paragraph (a) of subsection (1) above may require the initial allowance to be reduced to a specified amount, and a company may by notice in writing given to the inspector not later than two years after the end of that period disclaim the initial allowance or require it to be so reduced; and

- (a) where the initial allowance is not claimed or, in the case of a company, is disclaimed, the period and amount mentioned in paragraph (b) of that subsection shall be ten years and the whole amount of the expenditure; and
- (b) where the initial allowance is reduced, that period and amount shall be a fraction of the period of ten years and of the whole amount of the expenditure equal to the fraction of the whole amount of the expenditure that remains after deducting the part covered by the initial allowance.”

- (3) In subsection (4) of that section for the words "an allowance" there shall be substituted the words "a writing-down allowance".

- (4) In section 74 of the said Act of 1968 after subsection (5) there shall be inserted—

“(6) All such assessments and adjustments of assessments shall be made as are necessary to give effect to any notice given by a company under section 68(3A) of this Act.”

- (5) This section applies in relation to expenditure incurred after 11th April 1978.

### **40 Capital allowances: sports grounds**

- (1) If a person carrying on a trade has since the passing of the Safety of Sports Grounds Act 1975 incurred expenditure in respect of a sports stadium used for the purposes of the trade, then, if—
- (a) at the time when the expenditure was incurred the stadium was of the description specified in subsection (1) of section 1 of that Act but no

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designation order under that section had come into operation in respect of the stadium ; and

- (b) the expenditure was incurred in taking steps which the local authority for the area in which the stadium is situated certify would have fallen within subsection (1)(a) or (b) of section 49 of the Finance (No. 2) Act 1975 (relief for safety expenditure at a designated sports stadium) if such an order had then been in operation and a safety certificate had then been issued or applied for, subsection (1) of the said section 49 shall have effect in relation to the expenditure as it has effect in relation to the expenditure mentioned in that subsection.
- (2) All such adjustments shall be made by discharge or repayment of tax as may be required for giving effect to the relief available under this section for expenditure incurred before the passing of this Act.
- (3) Any disclaimer or claim under section 41(3) of the Finance Act 1971 in respect of the relief available under this section for expenditure incurred before the passing of this Act, and any claim for relief (or additional relief) under any other provision of the Tax Acts which is made in consequence of the relief available under this section for such expenditure, shall not be out of time if made within twelve months after the passing of this Act.
- (4) Any provision of regulations made under section 6(1)(b) of the Safety of Sports Grounds Act 1975 (power of local authorities to charge fees) shall, with the necessary modifications, apply to the issue of a certificate for the purposes of this section as it applies to the issue of a safety certificate.
- (5) In this section " sports stadium ", " safety certificate " and " local authority " have the same meaning as in the said Act of 1975.
- (6) The Tax Acts shall have effect as if this section were contained in Chapter I of Part III of the Finance Act 1971.

#### **41 Date for payment of tax for 1977-78**

- (1) Where income tax under Schedule A, Schedule D or Schedule E was charged for the year 1977-78 by an assessment in the case of which the amount of tax charged was adjusted, after the issue of the notice of assessment and before the passing of this Act, so as to give effect to any of the provisions of the Finance (Income Tax Reliefs) Act 1977, any tax charged by the assessment which became due and payable—
- (a) in the case of tax under Schedule A or Schedule D, before the expiration of a period of thirty days beginning with the date of notification of the adjustment; or
- (b) in the case of tax under Schedule E, before the expiration of a period of fourteen days beginning with the date of the collector's application for payment next following notification of the adjustment,
- shall be treated as having become due and payable at the expiration of that period.
- (2) This section does not apply where the adjustment was made on the determination of an appeal, whether by the Commissioners or by agreement under section 54(1) of the Taxes Management Act 1970.

#### **42 Deduction of tax from payments of interest in 1978-79**

Section 522 of the Taxes Act (effect of reduction in basic rate on deduction of tax from payments of interest) shall apply as if a resolution having statutory effect under the Provisional Collection of Taxes Act 1968 and providing for the charging of income tax as specified in section 13 above had been passed immediately before the passing of this Act; and the proviso to paragraph (b) of the said section 522 shall apply to any over-deduction to be made good in consequence of this section as if the reference to the passing of the Act imposing the tax were a reference to a date one month after the passing of this Act.

#### **43 Repayment of tax paid under Police Regulations**

- (1) The Board shall repay to police authorities any tax paid by those authorities by reason of the regulations mentioned in subsection (2) below (which required police authorities to discharge any tax liability of members of police forces arising in consequence of the provision of free accommodation); and no person other than a police authority shall be entitled to any repayment or credit in respect of tax paid as aforesaid unless he has made an application in that behalf to the Board or an inspector before the coming into force of this section.
- (2) The regulations referred to above are—
  - (a) Regulation 30A of the Police Regulations 1952 ;
  - (b) Regulation 40A of the Police (Scotland) Regulations 1956;
  - (c) any regulation subsequently in force and corresponding to either of those mentioned above.
- (3) Subsection (1) above shall also apply to tax paid by the Ministry of Home Affairs for Northern Ireland or the Police Authority for Northern Ireland by reason of Article 8A of the Royal Ulster Constabulary Allowances (Rent and Compensatory Grant) Order 1963 or of any corresponding provision subsequently in force, but any tax so paid by the Ministry shall be repaid to the Authority.
- (4) This section shall be deemed to have come into force on 7th July 1978.

## **CHAPTER II**

### **CAPITAL GAINS**

#### **44 Relief for gains less than $\frac{1}{2}$ £9,500**

- (1) An individual shall not be chargeable to capital gains tax for a year of assessment if his taxable amount for that year does not exceed £1,000.
- (2) If an individual's taxable amount for a year of assessment exceeds £1,000 but does not exceed £5,000, the amount of capital gains tax to which he is chargeable for that year shall be 15 per cent. of the excess over £1,000.
- (3) If an individual's taxable amount for a year of assessment exceeds £5,000, the amount of capital gains tax to which he is chargeable for that year shall not exceed £600 plus one-half of the excess over £5,000.

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- (4) For the purposes of this section an individual's taxable amount for a year of assessment is the amount on which he is chargeable under section 20(4) of the Finance Act 1965 for that year but—
- (a) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment does not exceed £1,000, no deduction from that amount shall be made for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies; and
  - (b) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment exceeds £1,000, the deduction from that amount for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies shall not be greater than the excess.
- (5) Where in a year of assessment—
- (a) the amount of chargeable gains accruing to an individual does not exceed £1,000; and
  - (b) the aggregate amount or value of the consideration for all the disposals of assets made by him (other than disposals gains accruing on which are not chargeable gains) does not exceed £5,000,
- a statement to the effect of paragraphs (a) and (b) above shall, unless the inspector otherwise requires, be sufficient compliance with any notice under section 8 of the Taxes Management Act 1970 requiring the individual to make a return of the chargeable gains accruing to him in that year.
- (6) Schedule 7 to this Act shall have effect as respects the application of this section to husbands and wives, personal representatives and trustees.
- (7) The following provisions, namely—
- (a) section 21 of the said Act of 1965 (alternative charge to tax); and
  - (b) section 57 of the Finance Act 1971 (exemption for small disposals),
- shall cease to have effect.
- (8) For the percentages specified in—
- (a) section 112(3)(b) and (c) of the Finance Act 1972 (unit trusts: reduction of tax liability); and
  - (b) section 113 of that Act (unit trusts; reduced rate of tax),
- there shall be substituted " 10 per cent. ".
- (9) Subsections (1) to (6), (7)(b) and (8)(b) above apply for the year 1977-78 and subsequent years of assessment, subsection (7)(a) above applies for the year 1978-79 and subsequent years of assessment and subsection (8)(a) above applies to gains accruing on disposals after 5th April 1979.

#### **45 Chattel exemption**

- (1) In subsections (1), (3) and (5)(b) and (c) of section 30 of the Finance Act 1965 (chattels sold for £1,000 or less) for the words " one thousand pounds" there shall be substituted " £2,000 ".
- (2) For subsection (2) of that section there shall be substituted—

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- “(2) Where the amount or value of the consideration for the disposal of an asset which is tangible movable property exceeds £2,000, there shall be excluded from any chargeable gain accruing on the disposal so much of it as exceeds five-thirds of the difference between—
- (a) the amount or value of the consideration; and
  - (b) £2,000.”
- (3) In subsection (4) of that section for the word " tax " there shall be substituted the words " chargeable gains ".
- (4) In subsection (5)(b) of that section for the words " the limitation on the amount of tax in subsection (2) of this section shall be to half the difference " there shall be substituted the words " the part of any chargeable gain that is excluded from it under subsection (2) of this section shall be so much of the gain as exceeds five-thirds of the difference ".
- (5) In sections 12(2)(b) and 25(7) of the Taxes Management Act 1970 (information about chargeable gains) for " £1,000 " there shall be substituted " £2,000 ".
- (6) This section applies for the year 1978-79 and subsequent years of assessment; and subsections (2) to (4) above apply also for the year 1977-78 but as if for any reference in the substituted subsection (2) to £2,000 there were substituted a reference to £1,000.

#### **46 Relief for gifts of business assets**

- (1) If, after 11th April 1978, an individual (in this section referred to as "the transferor") makes a disposal, otherwise than under a bargain at arm's length, to a person resident or ordinarily resident in the United Kingdom (in this section referred to as " the transferee ") of—
- (a) an asset which is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by the transferor or by a company which is his family company, or
  - (b) shares or securities of a trading company which is the transferor's family company,
- then, subject to subsection (2) below, the provisions of subsection (3) below shall apply in relation to the disposal if a claim for relief under this section is made by the transferor and the transferee.
- (2) Subsection (3) below does not apply in relation to a disposal if,—
- (a) in the case of a disposal of an asset, any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under section 34 of the Finance Act 1965 (transfer of business on retirement); or
  - (b) in the case of a disposal of shares or securities, the proportion determined under subsection (3)(b) of that section of any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under that section.
- (3) Where a claim for relief is made under this section in respect of a disposal—
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
  - (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset or, as the case may be, the shares or securities,
- shall each be reduced by an amount equal to the held-over gain on the disposal.

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- (4) Part I of Schedule 8 to this Act shall have effect for extending the relief provided for by virtue of subsections (1) to (3) above in the case of agricultural property and for applying it in relation to settled property, and, in consequence of the provisions of this section and of that Part, section 55 of the Finance (No. 2) Act 1975 (relief from tax on chargeable gains in respect of agricultural property, etc.) shall not apply in relation to a disposal of an asset after 11th April 1978.
- (5) Subject to Part II of Schedule 8 to this Act (which provides for reductions in the held-over gain in certain cases) and subsection (6) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from subsection (3) above and (in appropriate cases) section 34 of the Finance Act 1965, and in subsection (6) below that chargeable gain is referred to as the unrelieved gain on the disposal.
- (6) In any case where—
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of section 22(4) of the Finance Act 1965) for a disposal in respect of which a claim for relief is made under this section, and
  - (b) that actual consideration exceeds the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act,
- the held-over gain on the disposal shall be the amount by which the unrelieved gain on the disposal exceeds the excess referred to in paragraph (b) above.
- (7) Subject to subsection (8) below, in this section and Schedule 8 to this Act—
- (a) " family company " and " trading company " have the same meaning as in section 34 of the Finance Act 1965 ; and
  - (b) " trade ", " profession " and " vocation " have the same meaning as in the Income Tax Acts.
- (8) In this section and Schedule 8 to this Act and in determining whether a company is a trading company for the purposes of this section and that Schedule, the expression " trade " shall be taken to include the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits.

#### **47 Replacement of business assets**

- (1) For subsection (9) of section 33 of the Finance Act 1965 (replacement of business assets: relief where person carries on two trades) there shall be substituted the following subsection—
- “(9) This section shall apply in relation to a person who, either successively or at the same time, carries on two or more trades as if both or all of them were a single trade.”
- (2) After the said subsection (9) there shall be inserted the following subsection—
- “(9A) In relation to a case where—
- (a) the person disposing of, or of his interest in, the old assets and acquiring the new assets, or an interest in them, is an individual, and
  - (b) the trade or trades in question are carried on not by that individual but by a company which, both at the time of the disposal and at the

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time of the acquisition referred to in paragraph (a) above, is his family company, within the meaning of section 34 below,  
any reference in the preceding provisions of this section to the person carrying on the trade (or the two or more trades) includes a reference to that individual.”

- (3) This section applies where the acquisition of, or of the interest in, the new assets takes place after 11th April 1978.

#### **48 Transfer of business on retirement**

- (1) For subsection (1) of section 34 of the Finance Act 1965 (relief for capital gains tax purposes on gains accruing on the transfer of a business on retirement) there shall be substituted the following subsections—

“(1) If an individual who has attained the age of 60 years—  
(a) disposes by way of sale or gift of the whole or part of a business, or  
(b) disposes by way of sale or gift of shares or securities of a company,  
and throughout a period of at least one year ending with the disposal the relevant conditions have been fulfilled, relief shall be given under this section in respect of gains accruing to him on the disposal.

- (1A) For the purposes of subsection (1) above the relevant conditions are fulfilled at any time if at that time,—

- (a) in the case of a disposal falling within paragraph (a) of that subsection, the business in question is owned either by the individual or by a company with respect to which the following conditions are at that time fulfilled, namely,—  
(i) it is a trading company ;  
(ii) it is the individual's family company ; and  
(iii) he is a full-time working director of it; and  
(b) in the case of a disposal falling within paragraph (b) of that subsection, either the conditions in sub-paragraphs (i) to (iii) of paragraph (a) above are fulfilled with respect to the company in question or the individual owns the business which, at the time of the disposal, is owned by the company;

and in relation to a particular disposal the period, up to a maximum of 10 years, which ends with the disposal and throughout which the relevant conditions are fulfilled is in this section referred to as ' the qualifying period'.

- (1B) The amount available for relief under this section shall be—

- (a) in the case of an individual who has attained the age of 65 years, the relevant percentage of £50,000; and  
(b) in the case of an individual who has not attained that age, the relevant percentage of the aggregate of £10,000 for every year by which his age exceeds 60 and a corresponding part of £10,000 for any odd part of a year ;

and for the purpose of this subsection ' the relevant percentage ' means a percentage determined according to the length of the qualifying period on a scale rising arithmetically from 10 per cent. where that period is precisely one year to 100 per cent. where it is ten years.”

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- (2) Subsection (3) of that section (which relates to relief in the case of a transfer of shares or securities in a family trading company) shall be amended as follows:—
- (a) in paragraph (b) (which, on a disposal of shares or securities, specifies the proportion of the gains by reference to which relief is allowed) for the words " the value of the company's assets (including cash)" there shall be substituted the words " the value of the company's chargeable assets "; and
  - (b) at the end of the subsection there shall be added the words " and for the purposes of paragraph (b) above every asset is a chargeable asset except one, on the disposal of which by the company at the time of the disposal of the shares or securities, no chargeable gain would accrue ".
- (3) In subsection (4) of that section (application of relief) for the words " subsection (1) above " there shall be substituted the words " this section " and the words " within that subsection " shall be omitted.
- (4) In subsection (6) of that section, in paragraph (b) of the definition of " family company " for the words " seventy-five per cent. " there shall be substituted the words " fifty-one per cent. " and for the words " ten per cent." there shall be substituted the words " five per cent. ".
- (5) This section applies with respect to any disposal which takes place after 11th April 1978.

#### **49 Relief in respect of loans to traders**

- (1) In this section " a qualifying loan " means a loan in the case of which—
- (a) the money lent is used by the borrower wholly for the purposes of a trade carried on by him, not being a trade which consists of or includes the lending of money; and
  - (b) the borrower is resident in the United Kingdom; and
  - (c) the borrower's debt is not a debt on a security as defined in paragraph 5 of Schedule 7 to the Finance Act 1965;
- and for the purposes of paragraph (a) above money used by the borrower for setting up a trade which is subsequently carried on by him shall be treated as used for the purposes of that trade.
- (2) In subsection (1) above references to a trade include references to a profession or vocation; and where money lent to a company is lent by it to another company in the same group, being a trading company, that subsection shall apply to the money lent to the first-mentioned company as if it had used it for any purpose for which it is used by the other company while a member of the group.
- (3) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of the principal of the loan has become irrecoverable; and
  - (b) the claimant has not assigned his right to recover that amount; and
  - (c) the claimant and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time,
- Part III of the said Act of 1965 shall have effect as if an allowable loss equal to that amount had accrued to the claimant when the claim was made.



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- (4) If, on a claim by a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of, or of interest in respect of, the principal of the loan has become irrecoverable from the borrower; and
  - (b) the claimant has made a payment under the guarantee (whether to the lender or a co-guarantor) in respect of that amount; and
  - (c) the claimant has not assigned any right to recover that amount which has accrued to him (whether by operation of law or otherwise) in consequence of his having made the payment; and
  - (d) the lender and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time and the claimant and the borrower were not each other's spouses, and the claimant and the lender were not companies in the same group, when the guarantee was given or at any subsequent time,

the said Part III shall have effect as if an allowable loss had accrued to the claimant when the payment was made; and the loss shall be equal to the payment made by him in respect of the amount mentioned in paragraph (a) above less any contribution payable to him by any co-guarantor in respect of the payment so made.

- (5) Where an allowable loss has been treated under subsection (3) or (4) above as accruing to any person and the whole or any part of the outstanding amount mentioned in subsection (3)(a) or, as the case may be, subsection (4)(a) is at any time recovered by him, the said Part III shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (6) For the purposes of subsection (5) above, a person shall be treated as recovering an amount if he (or any other person by his direction) receives any money or money's worth in satisfaction of his right to recover that amount or in consideration of his assignment of the right to recover it; and where a person assigns such a right otherwise than by way of a bargain made at arm's length he shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.
- (7) No amount shall be treated under this section as giving rise to an allowable loss or chargeable gain in the case of any person if it falls to be taken into account in computing his income for the purposes of income tax or corporation tax.
- (8) Where an allowable loss has been treated as accruing to a person under subsection (4) above by virtue of a payment made by him at any time under a guarantee—
- (a) no chargeable gain shall accrue to him otherwise than under subsection (5) above; and
  - (b) no allowable loss shall accrue to him under the said Part III, on his disposal of any rights that have accrued to him (whether by operation of law or otherwise) in consequence of his having made any payment under the guarantee at or after that time.
- (9) References in this section to an amount having become irrecoverable do not include references to cases where the amount has become irrecoverable in consequence of the terms of the loan, of any arrangements of which the loan forms part, or of any act or omission by the lender or, in a case within subsection (4) above, the guarantor.
- (10) In this section " spouses " means spouses who are living together (construed in accordance with section 45(3) of the said Act of 1965), "trading company" has the

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meaning given by paragraph 11 of Schedule 16 to the Finance Act 1972 and " group " shall be construed in accordance with section 272 of the Taxes Act.

- (11) Subsection (3) above applies where the loan is made after 11th April 1978 and subsection (4) above applies where the guarantee is given after that date.

## **50 Relief for private residences**

- (1) In section 29 of the Finance Act 1965 (relief for private residences) after subsection (4) there shall be inserted—

“(4A) If at any time during an individual's period of ownership of a dwelling-house or part of a dwelling-house he—

- (a) resides in living accommodation which is for him job-related within the meaning of paragraph 4A of Schedule 1 to the Finance Act 1974 ; and
- (b) intends in due course to occupy the dwelling house or part of a dwelling-house as his only or main residence,

this section shall apply as if the dwelling-house or part of a dwelling-house were at that time occupied by him as a residence.”

- (2) The new subsection (4A) set out above applies where the time referred to in that subsection is after the passing of this Act.

## **51 Part disposals of land**

- (1) In paragraph 10(3)(a) and (b) of Schedule 19 to the Finance Act 1969 (roll-over relief for gain or part disposal of land where consideration does not exceed £2,500) for " £2,500 " there shall be substituted " £10,000 ".

- (2) This section applies with respect to any disposal after 5th April 1978.

## **52 Alteration of dispositions taking effect on death**

- (1) For section 24(11) of the Finance Act 1965 (deeds of family arrangement, etc.) there shall be substituted—

“(11) Subject to subsections (12) and (13) of this section, where within the period of two years after a person's death any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied, or the benefit conferred by any of those dispositions is disclaimed, by an instrument in writing made by the persons or any of the persons who benefit or would benefit under the dispositions—

- (a) the variation or disclaimer shall not constitute a disposal for the purposes of this Part of this Act; and
- (b) this section shall apply as if the variation had been effected by the deceased or, as the case may be, the disclaimed benefit had never been conferred.

- (12) Subsection (11) of this section does not apply to a variation unless the person or persons making the instrument so elect by written notice given to the Board

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within six months after the date of the instrument or such longer time as the Board may allow.

- (13) Subsection (11) of this section does not apply to a variation or disclaimer made for any consideration in money or money's worth other than consideration consisting of the making of a variation or disclaimer in respect of another of the dispositions.
- (14) Subsection (11) of this section applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.”
- (2) This section applies in relation to any variation or disclaimer made after the passing of this Act.

### CHAPTER III

#### PROFIT SHARING SCHEMES

##### **53 Approved profit sharing schemes: appropriated shares**

- (1) The provisions of this section apply where, after 5th April 1979, the trustees of a profit sharing scheme which has been approved in accordance with Part I of Schedule 9 to this Act appropriate shares—
- (a) which have previously been acquired by the trustees, and
  - (b) as to which the conditions in Part II of that Schedule are fulfilled,
- to an individual who participates in the scheme.
- (2) In this Chapter references to an approved scheme are references to a scheme approved as mentioned in subsection (1) above, and in relation to such a scheme—
- (a) any reference to a participant is a reference to an individual to whom the trustees of the scheme have appropriated shares; and
  - (b) subject to section 57 below, any reference to a participant's shares is a reference to the shares which have been appropriated to him by the trustees of an approved scheme.
- (3) Notwithstanding that, by virtue of such an appropriation of shares as is mentioned in subsection (1) above, the beneficial interest in the shares passes to the participant to whom they are appropriated—
- (a) the value of the shares at the time of the appropriation shall be treated as not being income of his chargeable to tax under Schedule E; and
  - (b) he shall not be chargeable to income tax under that Schedule by virtue of section 79(4) of the Finance Act 1972 (share incentive schemes) in respect of an increase in the market value of the shares or by virtue of section 67 of the Finance Act 1976 (employee shareholdings) in any case where the shares are appropriated to him at an under value within the meaning of that section.
- (4) Any reference in this Chapter to the initial market value of any of a participant's shares is a reference to the market value of those shares determined,—
- (a) except where paragraph (b) below applies, on the date on which the shares were appropriated to him; and

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- (b) if the Board and the trustees of the scheme agree in writing, on or by reference to such earlier date or dates as may be provided for in the agreement.
- (5) Notwithstanding anything in the approved scheme concerned or in the trust instrument or in section 54 below, for the purposes of capital gains tax a participant shall be treated as absolutely entitled to his shares as against the trustees.
- (6) Where the trustees of an approved scheme acquire any shares as to which the conditions in Part II of Schedule 9 to this Act are fulfilled and, within the period of eighteen months beginning with the date of their acquisition, those shares are appropriated in accordance with the scheme—
  - (a) section 16 of the Finance Act 1973 (additional rate tax on certain income accumulated under a trust) shall not apply to income consisting of dividends on those shares received by the trustees ; and
  - (b) any gain accruing to the trustees on the appropriation of those shares shall not be a chargeable gain;

and, for the purpose of determining whether any shares are appropriated within that period of eighteen months, shares which were acquired at an earlier time shall be taken to be appropriated before shares of the same class which were acquired at a later time.
- (7) The Board may by notice in writing require any person to furnish to them, within such time as the Board may direct (but not being less than thirty days), such information as the Board think necessary for the purposes of their functions under this Chapter, including, in particular, information to enable the Board—
  - (a) to determine whether to approve a scheme or withdraw an approval already given; and
  - (b) to determine the liability to tax, including capital gains tax, of any participant in an approved scheme.
- (8) In the Table in section 98 of the Taxes Management Act 1970 (failure to make returns, furnish information etc.) the following shall be added in the first column—

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“Section 53(7) of the Finance Act 1978.”

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#### **54 The period of retention, the release date and the appropriate percentage**

- (1) No scheme shall be approved as mentioned in subsection (1) of section 53 above unless the Board are satisfied that, whether under the terms of the scheme or otherwise, every participant in the scheme is bound in contract with the company concerned—
  - (a) to permit his shares to remain in the hands of the trustees throughout the period of retention; and
  - (b) not to assign, charge or otherwise dispose of his beneficial interest in his shares during that period; and
  - (c) if he directs the trustees to transfer the ownership of his shares to him at any time before the release date, to pay to the trustees before the transfer takes place a sum equal to income tax at the basic rate on the appropriate percentage of the locked-in value of the shares at the time of the direction ; and
  - (d) not to direct the trustees to dispose of his shares at any time before the release date in any other way except by sale for the best consideration in money that can reasonably be obtained at the time of the sale.

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- (2) Any obligation imposed on a participant by virtue of subsection (1) above shall not prevent the participant from—
- (a) directing the trustees to accept an offer for any of his shares (in this paragraph referred to as " the original shares "), if the acceptance or agreement will result in a new holding, as defined in paragraph 4 of Schedule 7 to the Finance Act 1965 (roll-over relief for capital gains tax purposes in cases of reconstructions, amalgamations, etc.), being equated with the original shares for the purposes of capital gains tax; or
  - (b) directing the trustees to agree to a transaction affecting his shares or such of them as are of a particular class, if the transaction would be entered into pursuant to a compromise, arrangement or scheme applicable to or affecting—
    - (i) all the ordinary share capital of the company in question or, as the case may be, all the shares of the class in question ; or
    - (ii) all the shares, or shares of the class in question, which are held by a class of shareholders identified otherwise than by reference to their employment or their participation in an approved scheme; or
  - (c) directing the trustees to accept an offer of cash, with or without other assets, for his shares if the offer forms part of a general offer which is made to holders of shares of the same class as his or of shares in the same company and which is made in the first instance on a condition such that if it is satisfied the person making the offer will have control of that company, within the meaning of section 302 of the Taxes Act; or
  - (d) agreeing, after the expiry of the period of retention, to sell the beneficial interest in his shares to the trustees for the same consideration as, in accordance with subsection (1)(d) above, would be required to be obtained for the shares themselves.
- (3) If, in breach of his obligation under paragraph (b) of subsection (1) above, a participant assigns, charges or otherwise disposes of the beneficial interest in any of his shares, then, as respects those shares, he shall be treated for the purposes of this Chapter as if, at the time they were appropriated to him, he was ineligible to participate in the scheme; and section 58 below shall apply accordingly.
- (4) In this Chapter " the period of retention ", in relation to any of a participant's shares, means the period beginning on the date on which they are appropriated to him and ending on the fifth anniversary of that date or, if it is earlier,—
- (a) the date on which the participant ceases to be an employee or director of a relevant company by reason of injury or disability or on account of his being dismissed by reason of redundancy, within the meaning of the Redundancy Payments Act 1965 or the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 ; or
  - (b) the date on which the participant reaches pensionable age, as defined in Schedule 20 to the Social Security Act 1975; or
  - (c) the date of the participant's death.
- (5) In subsection (4)(a) above, " relevant company " means the company concerned or, if the scheme in question is a group scheme, a participating company; and in the application of subsection (4)(a) above to a participant in a group scheme, the participant shall not be treated as ceasing to be an employee or director of a relevant company until such time as he is no longer an employee or director of any of the participating companies.

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- (6) In this Chapter " the release date ", in relation to any of a participant's shares, means the tenth anniversary of the date on which the shares were appropriated to him.
- (7) Subject to section 58(4) below, for the purposes of provisions of this Chapter charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of his shares, any reference to " the appropriate percentage " in relation to those shares shall be determined according to the time of that event, as follows:—
- (a) if the event occurs during the period of retention of the shares, the appropriate percentage is 100 per cent.;
  - (b) if the event occurs after the expiry of the period of retention and before the seventh anniversary of the date on which the shares were appropriated to the participant, the appropriate percentage is 50 per cent.; and
  - (c) if the event occurs on or after the seventh anniversary of that date and before the tenth anniversary of it, the appropriate percentage is 25 per cent.

## **55 Disposal of scheme shares**

- (1) If the trustees dispose of any of a participant's shares at any time before the release date or, if it is earlier, the date of the participant's death, then, subject to subsections (3) and (4) below, the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on the appropriate percentage of the locked-in value of the shares at the time of the disposal.
- (2) Subject to sections 57 and 58(6) below, any reference in this Chapter to the locked-in value of any of a participant's shares at any time shall be construed as follows:—
  - (a) if prior to that time the participant has become chargeable to income tax by virtue of section 56 below on a percentage of the amount or value of any capital receipt (within the meaning of that section) which is referable to those shares, the locked-in value of the shares is the amount by which their initial market value exceeds the amount or value of that capital receipt or, if there has been more than one such receipt, the aggregate of them; and
  - (b) in any other case, the locked-in value of the shares is their initial market value.
- (3) Subject to subsection (4) below if, on a disposal of shares falling within subsection (1) above, the proceeds of the disposal are less than the locked-in value of the shares at the time of the disposal, subsection (1) above shall have effect as if that locked-in value were reduced to an amount equal to the proceeds of the disposal.
- (4) If, at any time prior to the disposal of any of a participant's shares, a payment was made to the trustees to enable them to exercise rights arising under a rights issue, then, subject to subsection (5) below, subsections (1) and (3) above shall have effect as if the proceeds of the disposal were reduced by an amount equal to that proportion of that payment or, if there was more than one, of the aggregate of those payments which, immediately before the disposal, the market value of the shares disposed of bore to the market value of all the participant's shares held by the trustees at that time.
- (5) For the purposes of subsection (4) above—
  - (a) no account shall be taken of any payment to the trustees if or to the extent that it consists of the proceeds of a disposal of rights arising under a rights issue; and
  - (b) in relation to a particular disposal the amount of the payment or, as the case may be, of the aggregate of the payments referred to in that subsection shall

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be taken to be reduced by an amount equal to the total of the reduction (if any) previously made under that subsection in relation to earlier disposals ;  
and any reference in subsection (4) or paragraph (a) above to the rights arising under a rights issue is a reference to rights conferred in respect of a participant's shares, being rights to be allotted, on payment, other shares in the same company.

(6) Where the disposal referred to in subsection (1) above is made from a holding of shares which were appropriated to the participant at different times, then, in determining for the purposes of this Chapter—

- (a) the initial market value and the locked-in value of each of those shares, and
- (b) the percentage which is the appropriate percentage in relation to each of those shares,

the disposal shall be treated as being of shares which were appropriated earlier before those which were appropriated later.

(7) If at any time the participant's beneficial interest in any of his shares is disposed of, the shares in question shall be treated for the purposes of this Chapter as having been disposed of at that time by the trustees for (subject to subsection (8) below) the like consideration as was obtained for the disposal of the beneficial interest; and for the purpose of this subsection there is no disposal of the participant's beneficial interest if and at the time when—

- (a) in England and Wales or Northern Ireland that interest becomes vested in any person on the insolvency of the participant or otherwise by operation of law, or
- (b) in Scotland, that interest becomes vested in a judicial factor, in a trustee on the participant's sequestrated estate or in a trustee for the benefit of the participant's creditors.

(8) If—

- (a) a disposal of shares falling within subsection (1) above is a transfer to which section 54(1)(c) above applies, or
- (b) the Board is of opinion that any other disposal falling within that subsection is not at arm's length and accordingly direct that this subsection shall apply, or
- (c) a disposal of shares falling within that subsection is one which is treated as taking place by virtue of subsection (7) above and takes place within the period of retention,

then for the purposes of this Chapter the proceeds of the disposal shall be taken to be equal to the market value of the shares at the time of the disposal.

(9) In subsection (5) above " shares ", in the context of shares allotted or to be allotted on a rights issue, includes securities and rights of any description.

## **56 Capital receipts in respect of scheme shares**

(1) Subject to the provisions of this section if, in respect of or by reference to any of a participant's shares, the trustees become entitled, before the release date, to receive any money or money's worth (in this section referred to as a " capital receipt"), the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the entitlement arises on the appropriate percentage (determined as at the time when the trustees become so entitled) of the amount or value of the receipt.

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- (2) Money or money's worth is not a capital receipt for the purposes of this section if or, as the case may be, to the extent that—
- (a) income in the hands of the recipient for the purposes of income tax; or
  - (b) it consists of the proceeds of a disposal falling within section 55 above ; or
  - (c) it consists of new shares within the meaning of section 57 below.
- (3) If, pursuant to a direction given by or on behalf of the participant or any person in whom the beneficial interest in the participant's shares is for the time being vested, the trustees—
- (a) dispose of some of the rights arising under a rights issue, as defined in section 55(5) above, and
  - (b) use the proceeds of that disposal to exercise other such rights,
- the money or money's worth which constitutes the proceeds of that disposal is not a capital receipt for the purposes of this section.
- (4) If, apart from this subsection, the amount or value of a capital receipt would exceed the sum which, immediately before the entitlement to the receipt arose, was the locked-in value of the shares to which the receipt is referable, subsection (1) above shall have effect as if the amount or value of the receipt were equal to that locked-in value.
- (5) Subsection (1) above does not apply in relation to a receipt if the entitlement to it arises after the death of the participant to whose shares it is referable.

## **57 Company reconstructions, amalgamations etc.**

- (1) This section applies where there occurs in relation to any of a participant's shares (in this section referred to as " the original holding ") a transaction (in this section referred to as a " company reconstruction ") which results in a new holding, as defined in paragraph 4 of Schedule 7 to the Finance Act 1965 (roll-over relief for capital gains tax purposes in cases of reconstructions, amalgamations, etc.), being equated with the original holding for the purposes of capital gains tax.
- (2) Where an issue of shares of any of the following descriptions (in respect of which a charge to income tax arises) is made as part of a company reconstruction, those shares shall be treated for the purposes of this section as not forming part of the new holding, that is to say,—
- (a) redeemable shares or securities issued as mentioned in section 233(2)(c) of the Taxes Act (issues not wholly for new consideration);
  - (b) share capital issued in circumstances such that section 234(1) of the Taxes Act applies (bonus issue following repayment of share capital); and
  - (c) share capital to which section 34 of the Finance (No. 2) Act 1975 applies (stock dividends).
- (3) In this section—
- (a) " new shares " means shares comprised in the new holding which were issued in respect of, or otherwise represent, shares comprised in the original holding; and
  - (b) " the corresponding shares ", in relation to any new shares, means those shares in respect of which the new shares are issued or which the new shares otherwise represent.



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- (4) Subject to the following provisions of this section, references in this Chapter to a participant's shares shall be construed, after the time of the company reconstruction, as being or, as the case may be, as including references to any new shares, and for the purposes of this Chapter—
- (a) a company reconstruction shall be treated as not involving a disposal of shares comprised in the original holding;
  - (b) the date on which any new shares are to be treated as having been appropriated to the participant shall be that on which the corresponding shares were appropriated; and
  - (c) the conditions in Part II of Schedule 9 to this Act shall be treated as fulfilled with respect to any new shares if they were (or were treated as) fulfilled with respect to the corresponding shares.
- (5) In relation to shares comprised in the new holding, subsection (2) of section 55 above shall apply as if the references in that subsection to the initial market value of the shares were references to their locked-in value immediately after the company reconstruction, which shall be determined as follows:—
- (a) ascertain the aggregate amount of the locked-in value immediately before the reconstruction of those shares comprised in the original holding which had at that time the same locked-in value; and
  - (b) distribute that amount *pro rata* among—
    - (i) such of those shares as remain in the new holding, and
    - (ii) any new shares in relation to which those shares are the corresponding shares, according to their market value immediately after the reconstruction;and paragraph (a) of that subsection shall apply only to capital receipts after the date of the reconstruction.
- (6) For the purposes of this Chapter if, as part of a company reconstruction, trustees become entitled to a capital receipt, within the meaning of section 56 above, their entitlement to the capital receipt shall be taken to arise before the new holding comes into being and, for the purposes of subsection (5) above, before the date on which the locked-in value of any shares comprised in the original holding falls to be ascertained.
- (7) In the context of a new holding, any reference in this section to shares includes securities and rights of any description which form part of the new holding for the purposes of Part III of the Finance Act 1965.

## **58 Excess or unauthorised shares**

- (1) If the total of the initial market values of all the shares which are appropriated to an individual in any one year of assessment (whether under a single approved scheme or under two or more such schemes) exceeds £500, subsections (4) to (7) below shall apply to the excess shares, that is to say, any share which caused that limit to be exceeded and any share appropriated after that limit was exceeded.
- (2) For the purposes of subsection (1) above, if a number of shares is appropriated to an individual at the same time under two or more approved schemes, the same proportion of the shares appropriated at that time under each scheme shall be regarded as being appropriated before the limit of £500 is exceeded.

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- (3) If the trustees of an approved scheme appropriate shares to an individual at a time when he is ineligible to participate in the scheme by virtue of Part III of Schedule 9 to this Act, the following provisions of this section shall apply in relation to those shares, and in those provisions those shares are referred to as " unauthorised shares ".
- (4) For the purposes of any provision of this Chapter charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of his shares—
  - (a) the appropriate percentage in relation to excess or unauthorised shares shall in every case be 100 per cent; and
  - (b) without prejudice to section 55(6) above, the event shall be treated as relating to shares which are not excess or unauthorised shares before shares which are.
- (5) Excess or unauthorised shares which have not been disposed of before the release date or, if it is earlier, the date of the death of the participant whose shares they are shall be treated for the purposes of this Chapter as having been disposed of by the trustees immediately before the release date or, as the case may require, the date of the participant's death, for a consideration equal to their market value at that time.
- (6) The locked-in value at any time of any excess or unauthorised shares shall be their market value at that time.
- (7) Where there has been a company reconstruction to which section 57 above applies, a new share (within the meaning of that section) shall be treated as an excess or unauthorised share if the corresponding share (within the meaning of that section) or, if there was more than one corresponding share, each of them was an excess or unauthorised share.

## **59 P.A.Y.E. deduction of tax**

- (1) Subject to subsections (3) and (4) below, where the trustees of an approved scheme receive a sum of money which constitutes (or forms part of)—
  - (a) the proceeds of a disposal of shares falling within section 55(1) above, or
  - (b) a capital receipt, within the meaning of section 56 above,
 the trustees shall pay out of that sum of money to the company specified in subsection (2) below an amount equal to that on which income tax is payable in accordance with the section in question; and the company shall then pay over that amount to the participant but in so doing shall make a P.A.Y.E. deduction.
- (2) The company to which the payment mentioned in subsection (1) above is to be made is the company—
  - (a) of which the participant is an employee or director at the time the trustees receive the sum of money referred to in that subsection, and
  - (b) whose employees are at that time eligible (subject to the terms of the scheme and to Schedule 9 to this Act) to be participants in the approved scheme concerned,
 and if there is more than one company which falls within paragraphs (a) and (b) above, such one of those companies as the Board may direct.
- (3) Where the trustees of an approved scheme receive a sum of money to which subsection (1) above applies but—

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- (a) there is no company which falls within paragraphs (a) and (b) of subsection (2) above, or
  - (b) the Board is of opinion that it is impracticable for the company which falls within those paragraphs (or, as the case may be, any of them) to make a P.A.Y.E. deduction and accordingly direct that this subsection shall apply,
- then, in paying over to the participant the proceeds of the disposal or the capital receipt, the trustees shall make a P.A.Y.E. deduction in respect of an amount equal to that on which income tax is payable as mentioned in subsection (1) above as if the participant were a former employee of the trustees.
- (4) Where the trustees of an approved scheme receive a sum of money to which subsection (1) above applies and the Board direct that this subsection shall apply—
    - (a) the trustees shall make the payment mentioned in that subsection to the company specified in the Board's direction; and
    - (b) that company shall pay over that amount to the participant but in so doing shall make a P.A.Y.E. deduction, and for that purpose if the participant is not an employee of that company he shall be treated as a former employee;but no such direction shall be given except with the consent of the trustees, the company or companies (if any) specified in subsection (2) above and the company specified in the direction.
  - (5) Where in accordance with this section any person is required to make a P.A.Y.E. deduction in respect of any amount, that amount shall be treated for the purposes of section 204 of the Taxes Act (pay as you earn) and any regulations made under that section as an amount of income payable to the recipient and assessable to income tax under Schedule E, and accordingly such deduction shall be made as is required by those regulations.
  - (6) Where, in connection with a transfer of a participant's shares to which paragraph (c) of subsection (1) of section 54 above applies, the trustees receive such a sum as is referred to in that paragraph, that sum shall be treated for the purposes of the Income Tax Acts—
    - (a) as a sum deducted by the trustees pursuant to a requirement to make a P.A.Y.E. deduction under subsection (3) above; and
    - (b) as referable to the income tax to which, as a result of the transfer, the participant is chargeable by virtue of section 55 above.
  - (7) Unless the Board otherwise direct, in the application of this section to a sum of money which constitutes (or forms part of) the proceeds of a disposal of, or a capital receipt referable to, excess or unauthorised shares, within the meaning of section 58 above, the trustees shall determine the amount of the payment mentioned in subsection (1) above or, as the case may be, the amount of the P.A.Y.E. deduction to be made under subsection (3) above as if the shares were not excess shares.

## **60 Schedule D deduction of payments to trustees**

- (1) Any sum expended by the company concerned or, in the case of a group scheme, by a participating company in making a payment to the trustees of an approved scheme shall be included—
  - (a) in the sums to be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by that company, or

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- (b) if that company is an investment company within the meaning of section 304 of the Taxes Act or a company in the case of which that section applies by virtue of section 305 of that Act, in the sums to be deducted as expenses of management in computing the profits of the company for the purposes of corporation tax,
- if, and only if, one of the conditions in subsection (2) below is fulfilled.
- (2) The conditions referred to in subsection (1) above are—
- (a) that before the expiry of the relevant period the sum in question is applied by the trustees in the acquisition of shares for appropriation to individuals who are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment; and
- (b) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.
- (3) For the purposes of subsection (2)(a) above, " the relevant period " means the period of nine months beginning on the day following the end of the period of account in which the sum in question is charged as an expense of the company incurring the expenditure or such longer period as the Board may allow by notice in writing given to that company.
- (4) For the purposes of this section, the trustees of an approved scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.

## **61 Interpretation and construction**

- (1) In this Chapter—
- " the appropriate percentage ", in relation to any shares, shall be construed in accordance with section 54(7) above;
- " approved scheme " shall be construed in accordance with section 53(2) above ;
- " the company concerned " has the meaning assigned to it by paragraph 1(1) of Schedule 9 to this Act;
- " group scheme " and, in relation to such a scheme, " participating company " have the meaning assigned by paragraph 1(2) of that Schedule;
- " initial market value ", in relation to any shares, shall be construed in accordance with section 53(4) above;
- " locked-in value ", in relation to any shares, shall be construed in accordance with section 55(2) above;
- " market value ", in relation to any shares, means their market value as determined in accordance with Part III of the Finance Act 1965 (capital gains tax);
- " participant " shall be construed in accordance with section 53(2)(a) above ;
- " the period of retention " has the meaning assigned to it by section 54(4) above ;
- " the release date " has the meaning assigned to it by section 54(6) above;
- " shares " includes stock;
- " the trust instrument ", in relation to an approved scheme, means the instrument referred to in paragraph 1(3)(c) of Schedule 9 to this Act; and

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" the trustees", in relation to an approved scheme or a participant's shares, means the body of persons for the establishment of which the scheme must provide as mentioned in paragraph 1(3) of Schedule 9 to this Act.

- (2) Any provision of this Chapter with respect to—
- (a) the order in which any of a participant's shares are to be treated as disposed of for the purposes of this Chapter, or
  - (b) the shares in relation to which an event is to be treated as occurring for any such purpose,

shall have effect notwithstanding any direction given to the trustees with respect to shares of a particular description or to shares appropriated to the participant at a particular time.

- (3) For the purposes of capital gains tax—
- (a) no deduction shall be made from the consideration for the disposal of any shares by reason only that an amount determined under this Chapter is chargeable to income tax;
  - (b) any charge to income tax by virtue of section 56 above shall be disregarded in determining whether a distribution is a capital distribution within the meaning of paragraph 3 of Schedule 7 to the Finance Act 1965; and
  - (c) nothing in any such provision as is referred to in subsection (2) above shall affect the rules applicable to the computation of a gain accruing on a part disposal of a holding of shares or other securities which were acquired at different times.

## PART IV

### CAPITAL TRANSFER TAX

#### **62 Reduction of tax**

- (1) For the Tables in section 37(3) of the Finance Act 1975 (rates of tax) there shall be substituted the Tables in Schedule 10 to this Act.
- (2) Subsection (1) above applies to any chargeable transfer made after 26th October 1977.
- (3) Where a person who has made a chargeable transfer on or before the said 26th October dies after that date and within three years of the transfer, additional tax shall be chargeable by reason of his death only if, and to the extent that, it would have been so chargeable if the first of the new Tables had applied to that transfer.
- (4) Where the rate of tax applicable to a capital distribution made after the said 26th October falls to be determined under sub-paragraph (2) of paragraph 7 of Schedule 5 to the said Act of 1975 by reference to a relevant transfer made on or before that date, the amount of tax referred to in paragraph (a) of that sub-paragraph shall be calculated as if the second of the new Tables had applied to that transfer.
- (5) Where the value of any trees or underwood has been left out of account under Schedule 9 to the said Act of 1975 in determining the value transferred by the chargeable transfer made on a death on or before the said 26th October and tax is chargeable under paragraph 2 of that Schedule on a disposal of the trees or underwood after that date,

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the rate or rates mentioned in paragraph 3 of that Schedule shall be determined as if the first of the new Tables had applied to that transfer.

- (6) Where tax is chargeable under section 78 of the Finance Act 1976 (works of art etc.) by reason of a chargeable event occurring after the said 26th October and the rate or rates at which it is charged fall to be determined under the provisions of section 79(1)(b)(ii) or 81(4)(b) of that Act by reference to a death which occurred, or a settlement which ceased to exist, on or before that date, those provisions shall have effect as if the new Tables had been in force at the time of the death or when the settlement ceased to exist.
- (7) Any question whether any, and if so what, tax is repayable or ceases to be payable by virtue of subsection (1)(a) of section 87 of the said Act of 1976 (mutual transfers) shall, where—
- (a) the donor's transfer was on or before the said 26th October; and
  - (b) the donee's transfer is after that date,
- be determined as if the new Tables had applied to the donor's transfer; but this subsection shall not be construed as affecting the amount of tax which, under subsection (3) of that section, falls to be taken into account in calculating the cancelled value.
- (8) In subsection (2) above the reference to a chargeable transfer made after the said 26th October does not include a reference to any chargeable transfer which by virtue of section 114(2) of the said Act of 1976 (transfers reported late) is treated as made after that date but was in fact made on or before it.

### **63 Exemption limit for transfers to non-domiciled spouses**

- (1) In paragraph 1(2) and (3) of Schedule 6 to the Finance Act 1975 (exemption limit for transfers to non-domiciled spouse) for "£15,000" there shall be substituted " £25,000 ".
- (2) This section applies to any transfer of value made after 26th October 1977.

### **64 Further relief for business property**

- (1) Schedule 10 to the Finance Act 1976 (relief for business property) shall be amended as follows.
- (2) In sub-paragraph (1) of paragraph 2 for the words " 30 per cent." there shall be substituted the words " the appropriate percentage " and after that sub-paragraph there shall be inserted—
- “(1A) The appropriate percentage is—
- (a) in the case of property falling within paragraph 3(1)(a) or (b) below, 50 per cent.;
  - (b) in the case of property falling within paragraph 3(1)(bb) below, 20 per cent.;
  - (c) in the case of property falling within paragraph 3(1)(c) below, 30 per cent.”
- (3) In paragraph 3(1) after paragraph (b) there shall be inserted—
- “(bb) shares in a company which do not fall within paragraph (b) above and are not quoted on a recognised stock exchange; and”.
- (4) After paragraph 3(1) there shall be inserted—

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“(1A) Shares in or securities of a company do not fall within sub-paragraph (1) (b) above if—

- (a) they would not have been sufficient, without other property, to give the transferor control of the company immediately before the transfer; and
- (b) their value is taken by virtue of paragraph 9A of Schedule 10 to the Finance Act 1975 to be less than the value previously determined.”

(5) At the end of paragraph 4 there shall be inserted—

“(5) Sub-paragraph (1)(b) above does not apply to shares falling within paragraph 3(1)(bb) above; but where such shares owned by the transferor immediately before the transfer would under any of the provisions of paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965 be identified with other shares previously owned by him his period of ownership of the first-mentioned shares shall be treated for the purposes of sub-paragraph (1)(a) above as including his period of ownership of the other shares.”

(6) In paragraph 1 for the words " the amount transferred " there shall be substituted the words " the value transferred " ; and in that paragraph (and section 73(b) of the said Act of 1976) the words " made" and " treated as made" shall be omitted.

(7) Subsection (6) above shall be deemed always to have had effect and the other provisions of this section shall apply where the transfer of value is made after 26th October 1977.

## **65 Further relief for woodlands**

(1) In paragraph 3 of Schedule 9 to the Finance Act 1975 (basis and rate of tax chargeable on disposal where value of trees or underwood has been left out of account under that Schedule) the existing provisions shall become sub-paragraph (1) and at the end there shall be inserted—

“(2) Where, if the value of the trees or underwood had not been left out of account in determining the value transferred on the death of the person in question—

- (a) it would have been taken into account in determining the value of any relevant business property for the purposes of relief under Schedule 10 to the Finance Act 1976 in relation to the transfer of value made on his death; or
- (b) it would have been so taken into account if that Schedule had then been in force,

the amount on which tax is chargeable under this paragraph shall be reduced by 50 per cent.”

(2) This section applies to disposals after 26th October 1977.

## **66 Definition of control of company**

(1) In sub-paragraph (7) of paragraph 13 of Schedule 4 to the Finance Act 1975 (under which a person is treated as controlling a company if he controls a majority of the votes capable of being exercised on all questions, or on any particular question, affecting

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the company) the words " or on any particular question " shall be omitted but after paragraph (b) there shall be inserted "and

(c) where a company has shares or securities of any class giving powers of voting limited to either or both of the following—

(i) the question of winding up the company ;

(ii) any question primarily affecting shares or securities of that class,

the reference in the preceding provisions of this sub-paragraph to all questions affecting the company as a whole shall be read as a reference to all such questions except any in relation to which those powers are capable of being exercised."

(2) Subsection (1) above applies both for the purposes of the said paragraph 13 (payment of tax by instalments) and for the purposes of the provisions to which the said sub-paragraph (7) applies by virtue of—

(a) paragraph 3(7) or 4(b) or (bb) of Schedule 8 to the said Act of 1975 (relief for agricultural property);

(b) paragraph 13(2) of Schedule 10 to the Finance Act 1976 (relief for business property); or

(c) section 49(6) of the Finance Act 1977 (excluded property).

(3) This section does not affect the operation of the said paragraph 13 or of the provisions mentioned in subsection (2) above in relation to any transfer of value made before 20th April 1978.

## **67 Employee trusts**

(1) Subject to the provisions of this section, a transfer of value made by an individual who is beneficially entitled to shares in a company is an exempt transfer to the extent that the value transferred is attributable to shares in or securities of the company which become comprised in a settlement if the trusts of the settlement are of the description specified in paragraph 17(1) of Schedule 5 to the Finance Act 1975 and the persons for whose benefit the trusts permit the settled property to be applied include all or most of the persons employed by or holding office with the company.

(2) Subsection (1) above does not apply unless at the date of the transfer, or at a subsequent date not more than one year thereafter, both the following conditions are satisfied, that is to say—

(a) the trustees—

(i) hold more than one half of the ordinary shares in the company; and

(ii) have powers of voting on all questions affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised thereon; and

(b) there are no provisions in any agreement or instrument affecting the company's constitution or management or its shares or securities whereby the condition in paragraph (a) above can cease to be satisfied without the consent of the trustees.

(3) Where the company has shares or securities of any class giving powers of voting limited to either or both of the following—

(a) the question of winding up the company ;

(b) any question primarily affecting shares or securities of that class,



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the reference in subsection (2)(a)(ii) above to all questions affecting the company as a whole shall be read as a reference to all such questions except any in relation to which those powers are capable of being exercised.

- (4) Subject to subsection (5) below, subsection (1) above does not apply if the trusts permit any of the settled property to be applied at any time (whether during any such period as is referred to in the said paragraph 17(1) or later) for the benefit of—
- (a) a person who is a participator in the company mentioned in subsection (1) above; or
  - (b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for section 90 of the Finance Act 1976 would have been a transfer of value; or
  - (c) any other person who has been a participator in the company mentioned in subsection (1) above or in any such company as is mentioned in paragraph (b) above at any time after, or during the ten years before, the transfer of value mentioned in subsection (1) above; or
  - (d) any person who is connected with any person within paragraph (a), (b) or (c) above.
- (5) The participators in a company who are referred to in subsection (4) above do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital; and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets;
- and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident.
- (6) Subsection (5) of section 90 of the said Act of 1976 (interpretation) shall have effect in relation to this section as it has effect in relation to that section.
- (7) The enactments mentioned in Schedule 11 to this Act (which contain other provisions about employee trusts) shall have effect with the amendments there specified, being amendments consequential on the provisions of this section and Chapter III of Part III above and amendments bringing those enactments into conformity with those provisions.
- (8) Subsections (1) to (6) above apply in relation to transfers of value made on or after 11th April 1978.

## **68 Alteration of dispositions taking effect on death**

- (1) Subject to the provisions of this section, where within the period of two years after a person's death any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property comprised in his estate immediately before his death are varied, or the benefit conferred by any of those dispositions is disclaimed, by an instrument in writing made by the persons or any of the persons who benefit or would benefit under the dispositions—
- (a) the variation or disclaimer shall not be a transfer of value; and

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- (b) Part III of the Finance Act 1975 shall apply as if the variation had been effected by the deceased or, as the case may be, the disclaimed benefit had never been conferred.
- (2) Subsection (1) above does not apply to a variation unless an election to that effect is made by written notice given to the Board within six months after the date of the instrument, or such longer time as the Board may allow, by—
  - (a) the person or persons making the instrument; and
  - (b) where the variation results in additional tax being payable, the personal representatives;
 but personal representatives may decline to join in an election only if no, or no sufficient, assets are held by them in that capacity for discharging the additional tax.
- (3) Subsection (1) above does not apply to a variation or disclaimer made for any consideration in money or money's worth other than consideration consisting of the making, in respect of another of the dispositions, of a variation or disclaimer to which that subsection applies.
- (4) Where a variation to which subsection (1) above applies results in property being held in trust for a person for a period which ends not more than two years after the death, Part III of the said Act of 1975 shall apply as if the disposition of the property that takes effect at the end of the period had had effect from the beginning of the period; but this subsection shall not affect the application of that Part in relation to any distribution or application of property occurring before that disposition takes effect.
- (5) For the purposes of subsection (1) above the property comprised in a person's estate includes any excluded property but not any property to which he is treated as entitled by virtue of paragraph 3(1) of Schedule 5 to the said Act of 1975; and that subsection applies whether or not the administration of the estate is complete or the property concerned has been distributed in accordance with the original dispositions.
- (6) In paragraph 25(4) of Schedule 4 to the said Act of 1975 (effect of certificates of discharge) after the words " shall not affect any further tax " there shall be inserted the words " that may afterwards be shown to be payable by virtue of section 47 of this Act or section 68 of the Finance Act 1978 or ".
- (7) Subsections (1) to (5) above apply to a variation or disclaimer made on or after 11th April 1978 and as respects any such variation or disclaimer supersede section 47(1) and (2) of the said Act of 1975; and subsection (6) above applies where the further tax is shown to be payable on or after that date.

## **69 Sales of interests under settlements**

- (1) In section 22(2) of the Finance Act 1975 and paragraph 4(5) of Schedule 5 to that Act (exemptions where settled property reverts to settlor unless the settlor had acquired a reversionary interest for a consideration in money or money's worth) for the words " unless the settlor had acquired " there shall be substituted the words " unless the settlor or his spouse had acquired ".
- (2) In paragraph 6 of the said Schedule 5 (charge on capital distributions of settled property) after paragraph (6A) there shall be inserted—
  - “(6B) Neither sub-paragraph (6) nor sub-paragraph (6A) above applies where, at or before the time when the payment is made to the person concerned or that person becomes entitled to the interest, as the case may be, an interest

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- under the settlement is or has been acquired for a consideration in money or money's worth by—
- (a) that person; or
  - (b) that person's spouse; or
  - (c) where that person is the settlor's widow or widower, the settlor.”
- (3) At the end of paragraph 14(5) of the said Schedule 5 (transitional relief available only if beneficiary is an individual who is domiciled in the United Kingdom at the time the capital distribution is made) there shall be inserted the words " and who has not at or before that time acquired an interest under the settlement for a consideration in money or money's worth directly or indirectly from a person not so domiciled. "
- (4) In sub-paragraph (4A) of paragraph 15 of Schedule 6 to that Act (restrictions on exemptions from tax) for the words " paragraphs 1 and 10 to 13 above do not apply " there shall be substituted the words " paragraph 1 above does not apply " and the words " or body " (in both places) shall be omitted.
- (5) After the said sub-paragraph (4A) there shall be inserted—
- “(4B) Paragraphs 10 to 13 above do not apply in relation to any property if—
- (a) immediately before the time when it becomes the property of the exempt body it is comprised in a settlement; and
  - (b) at or before that time, an interest under the settlement is or has been acquired for a consideration in money or money's worth by that or another exempt body.
- In this sub-paragraph " exempt body " means a charity, political party or other body within the said paragraphs 10 to 13 and for the purposes of this sub-paragraph there shall be disregarded any acquisition from a charity, political party or body within paragraphs 10 to 12.”
- (6) For the purposes of section 22(2) and (3) of the said Act of 1975, paragraphs 4(5) and (6), 6(6B) and 14(5) of the said Schedule 5 and paragraph 15 (4A) and (4B) of the said Schedule 6, a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that interest or of other property.
- (7) Where a person becomes entitled to an interest in possession in settled property as a result of a disposition for a consideration in money or money's worth, any question whether and to what extent the giving of the consideration is a transfer of value or chargeable transfer shall be determined without regard to paragraph 3(1) of the said Schedule 5.
- (8) Subsections (1) to (5) above apply where the acquisition of the interest is after 11th April 1978, subsection (6) above applies where the person concerned becomes entitled to the interest after that date and subsection (7) above applies where the person concerned becomes entitled to the interest after 13th June 1978.

## **70 Charge on termination of discretionary trust**

- (1) In paragraph 6 of Schedule 5 to the Finance Act 1975 (charge on capital distributions of settled property) after sub-paragraph (2) there shall be inserted—

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“(2A) Where the whole or any part of the property comprised in a settlement ceases to be comprised in that settlement (otherwise than by virtue of any payment or transfer of assets made by the trustees) at a time when no interest in possession subsists in the property or that part, then, if

- (a) sub-paragraph (2) above does not apply; but
- (b) a person at that time becomes entitled to (or immediately thereafter has) an interest in the property or part which would be an interest in possession if held beneficially by an individual,

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 that part of it.”

- (2) In sub-paragraph (5) of the said paragraph 6 after the words " sub-paragraph (2)" there shall be inserted the words " or (2A) ".
- (3) In paragraph 11(8) of the said Schedule 5 for the words " paragraph 6(2) or (3)" there shall be substituted the words " paragraph 6(2), (2A) or (3) ".
- (4) At the end of paragraphs 10(2), 11(1A), 12(2) and 13(1A) of Schedule 6 to the said Act of 1975 (exceptions from charge where settled property is given to a charity etc.) there shall be added the words " and paragraph 6(2A) of that Schedule shall not apply. "
- (5) In section 47(1A) of the said Act of 1975 (exclusion of charge in case of property settled by will on discretionary trusts) for the words " paragraphs 6(2) or 15(3)" and " paragraphs 6(2) and 15(3)" there shall be substituted respectively the words " paragraph 6(2), (2A) or 15(3) " and "paragraphs 6(2), (2A) and 15(3) ".
- (6) This section shall be deemed to have come into force on 11th April 1978.

## **71 Protective trusts**

- (1) In paragraph 18 of Schedule 5 to the Finance Act 1975 (protective trusts) for sub-paragraphs (2) and (3) there shall be substituted—

“(2) For the purposes of capital transfer tax—

- (a) there shall be disregarded the failure or determination, before the end of the trust period, of trusts to the like effect as those specified in paragraph (i) of the said section 33(1); and
- (b) the principal beneficiary shall be treated as beneficially entitled to an interest in possession in any property which is for the time being held on trusts to the like effect as those specified in paragraph (ii) of the said section 33(1).”

- (2) This section shall be deemed to have come into force on 11th April 1978 and applies if the failure or determination of the trusts is after that date; but no capital distribution shall be treated as made by virtue of paragraph 15(3) of the said Schedule 5 by reason only of the coming into force of this section.

## **72 Government securities in foreign ownership**

- (1) In paragraph 3 of Schedule 7 to the Finance Act 1975 (certain government securities to be excluded property if person beneficially entitled is domiciled and ordinarily resident abroad) after sub-paragraph (2) there shall be inserted—

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“(2A) Where, by the same disposition, property has ceased to be comprised in one settlement and has become comprised in another, sub-paragraph (2) above shall, in its application to the second settlement, be construed as requiring the matters there stated to be shown both in relation to the property comprised in that settlement and in relation to the property that was comprised in the first settlement.

(2B) Paragraph 24(5) of Schedule 5 to this Act shall apply for the purposes of sub-paragraphs (1)(b) and (2) above as it applies for the purposes of that Schedule.”

(2) This section shall be deemed to have come into force on 20th April 1978 and the new sub-paragraph (2A) set out above applies where the disposition mentioned in that sub-paragraph is on or after that date.

### **73 Life policies and deferred annuity contracts**

(1) In paragraph 11 of Schedule 10 to the Finance Act 1975 (valuation of life policies and deferred annuity contracts in connection with transfer of value), for sub-paragraph (2) there shall be substituted—

“(2) Sub-paragraph (1) above does not apply in the case of the transfer of value which a person makes on his death or of any other transfer of value which does not result in the policy or contract ceasing to be part of the transferor's estate.”

(2) This section applies where the transfer of value is made on or after 11th April 1978.

### **74 Increase in value of settled property by omission to exercise a right**

(1) In section 20(7) of the Finance Act 1975 (omission to exercise right to count as disposition if it increases the value of another person's estate) after the words " of another person's estate " there shall be inserted the words " or of settled property in which no interest in possession (within the meaning of Schedule 5 to this Act) subsists "

(2) This section applies where the disposition under the said section 20(7) is on or after 11th April 1978.

## **PART V**

### **MISCELLANEOUS AND SUPPLEMENTARY**

### **75 National insurance surcharge**

(1) In section 1(1) of the National Insurance Surcharge Act 1976 (surcharge of 2 per cent. on secondary Class 1 contributions) for the words " 2 per cent. " there shall be substituted the words 3 ½ per cent. "

(2) This section has effect in relation to any contribution in respect of earnings which are paid on or after 2nd October 1978.

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**76 Development land tax**

Section 13 of the Development Land Tax Act 1976 shall have effect and shall be deemed always to have had effect as if the date in subsection (1) of that section were 31st March 1980.

**77 Disclosure of information to tax authorities in other member States**

- (1) No obligation as to secrecy imposed by statute or otherwise shall preclude the Commissioners of Inland Revenue or an authorised officer of those Commissioners from disclosing to the competent authorities of another member State any information required to be so disclosed by virtue of the Directive of the Council of the European Communities dated 19th December 1977 No. [77/799/EEC](#).
- (2) Neither the Commissioners nor an authorised officer shall disclose any information in pursuance of the said Directive unless satisfied that the competent authorities of the other State are bound by, or have undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the United Kingdom.
- (3) Nothing in this section shall permit the Commissioners of Inland Revenue or an authorised officer of those Commissioners to authorise the use of information disclosed by virtue of the said Directive other than for the purposes of taxation or to facilitate legal proceedings for failure to observe the tax laws of the receiving State.

**78 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 55 of the Finance Act 1975, 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 £3,000 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 £3,000 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.

**79 Pre-consolidation amendments**

The enactments specified in Schedule 12 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the customs and excise Acts.

**80 Short title, interpretation, construction and repeals**

- (1) This Act may be cited as the Finance Act 1978.
- (2) In this Act " the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) In this Act—
  - (a) Part I (except sections 8 and 9) shall be construed as one with the Customs and Excise Act 1952;
  - (b) Part II shall be construed as one with Part I of the Finance Act 1972;
  - (c) Part III, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax shall be construed as one with the Corporation Tax Acts and so far as it relates to capital gains tax, shall be construed as one with Part III of the Finance Act 1965;
  - (d) Part IV shall be construed as one with Part III of the Finance Act 1975.
- (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 (which include spent enactments) 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 6.

#### AMENDMENTS OF CUSTOMS DUTIES (DUMPING AND SUBSIDIES ACT) 1969

- 1        In section 1 (charge of anti-dumping duties) in subsection (5) (description of goods chargeable with duty: limitation by reference to persons by whom goods are produced) after the word " produced " there shall be inserted the words " or supplied " and after the word " production " there shall be inserted the words " or supply ".
- 2        In section 2 (relief where margin of dumping lower than duty) in subsection (4) (period within which application for relief is to be made) for the words " six months " there shall be substituted the words " three months ".
- 3        In section 3 (ascertainment of export price from country of origin) in subsection (1) (rules where goods are wholly produced in country of origin) for the words from " if " to " shall" there shall be substituted the words " shall, subject to section 5 (3) below ".
- 4        (1) In section 4 (ascertainment of fair market price in country of origin) in subsection (1) (rules where goods are wholly produced in country of origin) for the words from " if " to " shall" there shall be substituted the words " shall, subject to section 5 (3) below ".
- (2) In subsection (3) of that section (cases in which the ordinary rule for the ascertainment of the fair market price does not apply) after the word "can" there shall be inserted the word " appropriately ".
- (3) In subsection (4) of that section (ascertainment of fair market price where goods are subject to a government trading monopoly) for the words from " either " to the end of the subsection there shall be substituted the words " with subsection (2) above, the fair market price shall be determined by the Secretary of State—
  - (a) in accordance with subsection (3) above, or
  - (b) by reference to such other price as he considers appropriate (making any necessary adjustments to ensure comparability),
 according as the Secretary of State considers appropriate."
- 5        (1) In section 5 (meaning of country of origin) in subsection (1) for the words from " in relation " to the end of the subsection there shall be substituted the words " shall be determined in accordance with the rules on the common definition of the concept of origin which are for the time being applicable in accordance with any Community instrument for the purposes of the uniform application of the Common Customs Tariff ".
- (2) Subsection (2) of that section shall be omitted.
- (3) In subsection (3) of that section—
  - (a) for the words " under subsection (2)" there shall be substituted the words " in accordance with subsection (1) ";
  - (b) after the word " then " there shall be inserted the words " for the purpose of determining in accordance with section 3 or section 4 above ";
 and



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- (c) the words from " shall be determined " to " except that " shall be omitted.
- 6 In section 6 (determination of export price and fair market price in country of exportation) for the words " in the case of goods wholly produced in one country " there shall be substituted the words " in a case where section 5 (3) above does not apply ".
- 7 In section 10 (additional provisions as to duties and reliefs) subsections (2) and (5) shall be omitted.
- 8 Section 11 (drawback on exportation) and section 12 (other reliefs relating to exportations) shall be omitted.
- 9 In section 13 (construction of references to production of goods, etc.) in subsection (1) the words "growing or" shall be omitted.
- 10 In section 14 (power to require information from importers) subsections (1) and (3) shall be omitted.

## SCHEDULE 2

Section 14.

### LOWER RATE INCOME TAX

- 1 In section 30(3) of the Taxes Act for the words " were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 2 In section 34(1)(iii) of the Taxes Act after the words " shall be treated " there shall be inserted the words " as income which is not chargeable at a rate lower than the basic rate and ".
- 3 In section 36(1) of the Taxes Act for the words "were chargeable at the basic rate to the exclusion of any other rate " there shall be substituted the words " not chargeable at a lower rate were chargeable at the basic rate to the exclusion of any higher or additional rate ".
- 4 In section 287(1)(c) of the Taxes Act for the words from " notwithstanding " to " total income " there shall be substituted the words " the income included by virtue of paragraph (a) above in his total income shall be treated as income which is not chargeable at a rate lower than the basic rate and, notwithstanding that paragraph, ".
- 5 In section 343(3) of the Taxes Act—
- (a) in paragraph (c) for the words before " those amounts " there shall be substituted the words " any amounts paid or credited in respect of any such dividends or interest shall be treated as income which is not chargeable at a rate lower than the basic rate and, in computing the total income of an individual entitled thereto, "; and
  - (b) in paragraph (i) of the proviso after the words " the basic rate " there shall be inserted the words " or any lower rate ".
- 6 In section 399(4)(c) of the Taxes Act after the words "shall be treated " there shall be inserted the words " as income which is not chargeable at a rate lower than the basic rate and ".

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- 7 In section 400(3) of the Taxes Act after the words " the basic rate " there shall be inserted the words " or any lower rate ".
- 8 In section 403(1) of the Taxes Act for the words "were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 9 In section 422(2) of the Taxes Act after the words " the basic rate ", where first occurring, there shall be inserted the words " or any lower rate " and after the words " total income " there shall be inserted the words " not chargeable at a lower rate ".
- 10 In section 424(c) of the Taxes Act for the words " to the exclusion of any other rate " there shall be substituted the words " not chargeable at a lower rate to the exclusion of any higher or additional rate ".
- 11 In section 430(1) of the Taxes Act for the words "were chargeable at the basic rate to the exclusion of any other rate " there shall be substituted the words " not chargeable at a lower rate were chargeable at the basic rate to the exclusion of any higher or additional rate ".
- 12 In section 457(1) of the Taxes Act for the words "were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 13 In section 458(1) of the Taxes Act for the words "were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 14 In paragraph 2(2) of Schedule 7 to the Finance Act 1971 for the words " were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 15 In section 87 of the Finance Act 1972—
- (a) in subsection (5)(c) after the words " shall be treated " there shall be inserted the words " as income which is not chargeable at a rate lower than the basic rate and "; and
  - (b) in subsection (6) for the words " were charged at the basic rate to the exclusion of any other rate " there shall be substituted the words " not charged at a lower rate were charged at the basic rate to the exclusion of any higher or additional rate ".
- 16 In Schedule 16 to the Finance Act 1972—
- (a) in paragraph 5(2) (d) after the words " shall be treated" there shall be inserted the words " as income which is not chargeable at a rate lower than the basic rate and "; and
  - (b) in paragraph 5(6A) for the words " were chargeable at the basic rate to the exclusion of any other rate " there shall be substituted the words " not chargeable at a lower rate were chargeable at the basic rate to the exclusion of any higher or additional rate ".
- 17 In section 44 of the Finance Act 1973 for the words " were chargeable at the basic rate to the exclusion of any other rate " there shall be substituted the words " not

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chargeable at a lower rate were chargeable at the basic rate to the exclusion of any higher or additional rate ".

18 In paragraph 19(1A) of Schedule 2 to the Finance Act 1975 for the words " were chargeable at the basic rate to the exclusion of any other rate " there shall be substituted the words " not chargeable at a lower rate were chargeable at the basic rate to the exclusion of any higher or additional rate ".

19 In section 34(4)(c) of the Finance (No. 2) Act 1975 after the words " shall be treated" there shall be inserted the words " as income which is not chargeable at a rate lower than the basic rate and ".

### SCHEDULE 3

Section 25.

#### LIFE POLICIES ETC

##### *Preliminary*

1 In this Schedule references to any paragraphs not otherwise identified are references to paragraphs of Schedule 4 to the Finance Act 1976 (premium relief for the year 1979-80 and subsequent years of assessment).

##### *Time of payment*

2 The said Schedule 4 shall have effect as if any premium or part of a premium which is paid otherwise than in the year of assessment in which it becomes due and payable were paid in that year.

##### *Contracts for deferred annuities*

3 In paragraph 1 (preliminary) for the words from " and " onwards there shall be substituted the words " ' Schedule 1' means Schedule 1 to that Act and, unless the context otherwise requires, ' contract' means a contract for a deferred annuity ".

##### *Personal accident insurance*

4 After paragraph 2 there shall be inserted—

“2A (1) A policy which evidences a contract of insurance to which sub-paragraph (2) below applies shall not be a qualifying policy within the meaning of Schedule 1 unless it also evidences a contract falling within subsection (2)(a) of section 83 of the Insurance Companies Act 1974.

(2) This sub-paragraph applies to contracts of insurance against risks of persons dying as a result of an accident or an accident of a specified class, not being contracts falling within subsection (2)(b) of the said section 83.”

##### *Non-resident members of armed forces, etc.*

5 After paragraph 5 there shall be inserted—

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- “5A Paragraphs 4(2) and 5 above shall apply in relation to an individual who is not resident in the United Kingdom but is—
- (a) a member of the armed forces of the Crown;
  - (b) the wife of such a member; or
  - (c) a woman serving in any of the capacities mentioned in section 366 (3),
- as if the individual were so resident.”

*Limit on deductions*

- 6 Paragraph 6 (limit on deductions authorised under paragraph 5) shall be omitted.

*Payments to friendly societies and industrial assurance companies*

- 7 (1) In paragraph 13 (1) (premiums to which the paragraph applies) after the words " a policy is issued " there shall be inserted the words " or a contract is made " and after the word " policy ", in the third place where it occurs, there shall be inserted the words " or contract ".
- (2) In paragraph 13 (4) (increases made in pursuance of regulations to be disregarded) for the words from " section 332 " to " Finance Act 1975 " there shall be substituted—
- “(a) section 100 of the Stamp Act 1891 and the heading " Policy of Life Insurance " in Schedule 1 to that Act;
  - (b) section 332 of and paragraph 4 of Schedule 1 to the Taxes Act;
  - (c) section 7 (6) of the Finance Act 1975 ; and
  - (d) paragraph 11 (3) above;”.

*Relief in respect of certain payments*

- 8 (1) In paragraph 14 (notices excluding the application of paragraph 5) after the word " policy " there shall be inserted the words " or contract ".
- (2) The provisions of that paragraph as so amended shall become sub-paragraph (1) and after those provisions there shall be inserted—
- “(2) Where the application of paragraph 5 above is so excluded in relation to any payments, the relief (if any) to which the person by whom the payments are made is entitled under section 19 shall be given to him under paragraph 15 below.”

- 9 —After paragraph 14 there shall be inserted—

- “14A Where a person is entitled to relief under section 19 in respect of—
- (a) a payment to which section 220(1) applies;
  - (b) a payment to which section 23 of the Finance Act 1970 applies;
- or
- (c) a payment made pursuant to a retirement benefits scheme or fund in the case of which payments made by the employer are exempted from the operation of section 220(1) by section 221(1) (b) or (c), (2) or (4) or would be so exempted if the employer were a body corporate,

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paragraph 5 above shall not apply but the like relief shall be given to him under paragraph 15 below.”

#### *Regulations*

- 10 In paragraph 16(2) (regulations for carrying Schedule into effect) the provisions of paragraph (a) shall become paragraph (ab) and for the words from the beginning to " may provide " there shall be substituted the words

“Regulations under this paragraph shall be made by statutory instrument and, without prejudice to the generality of sub-paragraph (1) above, may provide—

- (a) for the furnishing of such information by persons by whom premiums are payable as may be necessary for determining whether they are entitled to make deductions under paragraph 5 above and for excluding the operation of that paragraph in relation to payments made by persons who fail to comply with the regulations;
- (aa) for rounding to a multiple of one new penny or one new half-penny as appears to the Board appropriate any payment which, after a deduction authorised under paragraph 5 above, is not such a multiple;”.

#### *Part payments to friendly societies*

- 11 (1) Where—
- (a) a person is entitled to relief under section 19 of the Taxes Act in respect of part only of a payment made to a registered friendly society; and
  - (b) the insurance or contract was made by the society in the course of tax exempt life or endowment business (as defined in section 337(3) of that Act),
- Schedule 4 to the Finance Act 1976 shall not apply with respect to that relief but there shall be deducted from his total income an amount equal to one-half of that part of the payment.
- (2) This paragraph applies for the year 1979-80 and subsequent years of assessment.

#### *Part payments to trade unions*

- 12 (1) Where a person makes a payment to a trade union (as denned in section 2(1) of the Trade Union Act 1913), and part of that payment is attributable to the provision of superannuation, life insurance or funeral benefits, he shall be entitled to relief under section 19 of the Taxes Act in respect of that part of the payment.
- (2) Where a person is entitled to any such relief as aforesaid in respect of part of a payment made to a trade union, the said Schedule 4 shall not apply with respect to that relief but there shall be deducted from his total income an amount equal to one-half of that part of the payment.
- (3) This paragraph applies for the year 1979-80 and subsequent years of assessment.

#### *Certification of qualifying policies*

- 13 (1) Paragraph 11 of Schedule 1 to the Taxes Act (certification of qualifying policies) shall be amended as follows—

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- (a) in sub-paragraph (1) the words "Subject to sub-paragraph (3) below " shall be omitted and for the words " within three months of the date of issue " there shall be substituted the words " within three months of receipt of a request in writing by the policy holder ";
  - (b) in sub-paragraph (2) for the words " the said sub-paragraph (3)" there shall be substituted the words " sub-paragraph (3) below " and for the words " within three months of the making of the variation" there shall be substituted the words " within three months of receipt of a request in writing by the policy holder ";
  - (c) in sub-paragraph (3) the words from the beginning to " receipt of the request; and " shall be omitted.
- (2) This paragraph applies where the qualifying policy is issued or varied after 5th April 1979.

## SCHEDULE 4

Section 27.

### SCHEDULE D: RELIEF FOR ABSENCE ON BUSINESS ABROAD

#### PART I

##### COMPUTATION OF THE RELIEF

- 1 In any year of assessment the relief to which an individual carrying on a trade is entitled on a claim made under section 27 of this Act shall be determined by reference to such proportion of his relevant income from the trade for that year as, in accordance with paragraph 3 below, is attributable to the days in that year which are qualifying days in relation to his carrying on of that trade.
- 2 (1) Subject to sub-paragraph (2) below, any reference in this Schedule to an individual's relevant income from a trade is a reference to the income from that trade in respect of which he is chargeable to income tax under Case I of Schedule D; and any reference to his relevant income from a trade for a particular year of assessment is a reference to the income in respect of which he is so chargeable for that year.
- (2) In relation to any year of assessment, the references in sub-paragraph (1) above to the income from a trade in respect of which an individual is chargeable to income tax are references to the income from that trade—
- (a) after making any deduction in respect of an allowance which, under section 70 of the Capital Allowances Act 1968, falls to be made as a deduction in charging the profits or gains of that trade;
  - (b) after making any addition in respect of any charge which, by virtue of section 70(6) of that Act, falls to be made for purposes of income tax on those profits or gains;
  - (c) after making any deduction or set-off in respect of an allowance, the amount of which falls to be given by way of discharge or repayment of tax under section 71 of that Act and which arises from activities of that trade;
  - (d) after allowing for any deduction or addition falling to be made by virtue of any provision of Schedule 5 to the Finance Act 1976 (relief for increase in

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- value of trading stock and work in progress) in respect of any relief or charge attributable to that trade; and
- (e) before taking account of any set-off or reduction of income by virtue of any of sections 168, 171 and 174 of the Taxes Act or section 30 of this Act in respect of losses.
- 3 (1) For the purposes of this Schedule, for any year of assessment in which there are qualifying days in relation to an individual carrying on a trade, the proportion of the individual's relevant income from the trade for that year which is attributable to those qualifying days is the proportion which the number of those days bears to 365 or, if the individual was not carrying on the trade throughout that year of assessment, to the number of days in the part of that year in which he was carrying on the trade.
- (2) A day which would not be a qualifying day apart from subsection (3) of section 27 of this Act shall be treated for the purposes of this Schedule as divided equally between the two or more trades referred to in that subsection, so that in relation to each of those trades the day counts as a fraction of a qualifying day.
- 4 (1) Where for any year of assessment an individual is entitled to relief as mentioned in paragraph 1 above, a sum equal to one-quarter of that proportion of his relevant income from the trade which is referred to in that paragraph shall be deducted from or set off against the amount of the profits or gains on which he is chargeable to income tax for that year under Case I of Schedule D in respect of that trade.
- (2) The deduction or set-off to be made by virtue of sub-paragraph (1) above shall be made—
- (a) after taking account of any such deduction, addition or set-off as falls within paragraphs (a) to (d) of sub-paragraph (2) of paragraph 2 above; and
- (b) before taking account of any such set-off or reduction of income as is referred to in paragraph (e) of that sub-paragraph.
- 5 (1) The provisions of this paragraph apply where a claim for any year of assessment made under section 27 of this Act relates (in whole or in part) to a trade carried on by an individual as a member of a partnership.
- (2) With respect to the trade carried on by the individual in partnership, any reference in paragraphs 1, 3 and 4 above to his relevant income from the trade shall be construed as a reference to his share of the profits of the partnership from the trade.
- (3) For the purposes of this Schedule, an individual's share of the profits of a partnership from a trade for any year of assessment means, subject to sub-paragraph (4) below, the share which is attributed to him for income tax purposes of the profits of the partnership from that trade which are chargeable to income tax under Case I of Schedule D for that year.
- (4) Paragraphs (a) to (e) of sub-paragraph (2) of paragraph 2 above shall apply with respect to the reference in sub-paragraph (3) above to the share attributed to an individual for income tax purposes of the profits of a partnership from a trade as they apply with respect to the references in sub-paragraph (1) of that paragraph to the income from a trade in respect of which an individual is chargeable to income tax.
- 6 Where, by virtue of section 154 of the Taxes Act (change in persons carrying on a trade), a trade is treated as having been discontinued for the purposes of computing tax, it shall also be so treated for the purposes of this Schedule.

## PART II

### CONSEQUENTIAL PROVISIONS

- 7 At the end of paragraph (c) of sub-paragraph (2) of paragraph 31 of Schedule 5 to the Finance Act 1976 (which excludes certain deductions etc. in computing "relevant income" for the purposes of the provisions of that Act relating to relief for increases in the value of trading stock and work in progress) there shall be added the words "and
- (d) no account shall be taken of any deduction falling to be made by virtue of section 27 of and Schedule 4 to the Finance Act 1978."
- 8 In sub-paragraph (2) of paragraph 3 of Schedule 2 to the Social Security Act 1975 and the Social Security (Northern Ireland) Act 1975 (which excludes certain reliefs in computing the profits or gains in respect of which Class 4 contributions are payable under that Act) after paragraph (c) there shall be inserted the following paragraph:—
- “(cc) section 27 of and Schedule 4 to the Finance Act 1978 (relief for absence on business abroad)”.

## SCHEDULE 5

Section 36.

### RELEVANT INCOME OF CLOSE COMPANIES—AMENDMENTS OF FINANCE ACT 1972, SCHEDULE 16, PART II

- 1 At the end of paragraph 8 of Schedule 16 to the Finance Act 1972 (determination of relevant income for the purpose of apportioning the income of close company among participators) there shall be added the following sub-paragraphs:—
- “(3) In arriving at the relevant income for any accounting period of a company which is a trading company or a member of a trading group, regard shall be had not only to the current requirements of the company's business and to such requirements necessary or advisable for the maintenance or development of that business as fall within sub-paragraph (2)(a) above, but also to any other requirements necessary or advisable for the acquisition of a trade or of a controlling interest in a trading company or in a company which is a member of a trading group by virtue of paragraph 11(2)(a) below; but for this purpose paragraph 12A below shall apply.
- (4) For the purposes of sub-paragraph (3) above, the acquisition of a controlling interest in a company means the acquisition, whether on a single occasion or otherwise, of such ordinary share capital of that company as enables the acquiring company to exercise the greater part of the voting power in that company.
- (5) For the purposes of sub-paragraph (3) above the requirements of a company's business which are necessary or advisable for such an acquisition as is mentioned in that sub-paragraph include such requirements as are necessary or advisable for—
- (a) the redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred in or towards payment for that acquisition, or issued or incurred for the purpose of raising money to be applied in or towards payment therefor, or



- (b) meeting any obligations of the company in respect of that acquisition,

so far as any sum so expended or applied, or intended to be expended or applied, does not fall to be treated for the purposes of this Schedule as a distribution by the company.”

- 2 After paragraph 12 of Schedule 16 to the Finance Act 1972 there shall be inserted the following paragraph—

“12A (1) Paragraph 8(3) above shall not apply to—

- (a) the acquisition of a trade, or of an asset to be used in a trade, or of an interest in any such asset, which at the date of the acquisition or at any time within one year previously was owned by an associated company of the acquiring company; or
- (b) the intended acquisition of a trade, or of such an asset or interest as is referred to in paragraph (a) above, which, at the end of the accounting period for which the acquiring company's relevant income is to be ascertained, is owned by a company which is then an associated company of the acquiring company;

and where the trade, asset or interest was, or is, in part owned as mentioned above, paragraph 8(3) above shall not apply with respect to that part.

(2) Paragraph 8(3) above shall not apply to—

- (a) the acquisition of shares which at the date of the acquisition or at any time within one year previously were owned by an associated company of the acquiring company or by a person who then had control of the acquiring company; or
- (b) the intended acquisition of shares which at the end of the accounting period for which the acquiring company's relevant income is to be ascertained are owned by a company which is then an associated company of the acquiring company or by a person who has control of the acquiring company ;

and where shares were, or are, in part owned as mentioned above, paragraph 8(3) above shall not apply with respect to that part.

(3) Paragraph 8(3) above shall not apply to—

- (a) the acquisition of shares in a company which immediately before the acquisition or at any time within one year previously was an associated company of the acquiring company; or
- (b) the intended acquisition of shares in a company which, at the end of the accounting period for which the acquiring company's relevant income is to be ascertained, is an associated company of the acquiring company.

(4) Section 302(1) of the Taxes Act (definition of an associated company for the purposes of close companies legislation)—

- (a) shall not apply for the purposes of paragraph (a) of sub-paragraphs (1), (2) and (3) above ; and
- (b) shall apply for the purposes of paragraph (b) of each of those sub-paragraphs with the omission of the words " or at any time within one year previously ".

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- (5) For the purposes of paragraph (a) of sub-paragraphs (1), (2) and (3) above, another company is an associated company of the acquiring company if—
- (a) the acquiring company controlled that other company or that other company controlled the acquiring company either at the date of the acquisition of the trade, asset or interest or at any time within one year previously; or
  - (b) a person who had control of the acquiring company at that date also controlled that other company either at that date or at any time within one year previously.
- (6) In ascertaining for the purposes of sub-paragraphs (2) and (5) above or for the purposes of section 302(1) of the Taxes Act as it applies for the purposes of paragraph (b) of sub-paragraphs (1), (2) and (3) above, whether any person has control of a company—
- (a) there shall be left out of account for the purposes of section 302(2)(c) of the Taxes Act (under which a person may have control of a company by reason of his rights in the event of winding up) the rights of another company as loan creditor in respect of a debt incurred or redeemable loan capital issued in connection with the acquisition from that company of any trade, any asset to be used in a trade, or any interest in any such asset;
  - (b) paragraph (a) of subsection (3) of section 303 of the Taxes Act (definition of " associate ") shall have effect as if the reference to a partner of a participator were omitted;
  - (c) that paragraph and paragraph (b) of that subsection shall have effect as if the expression " relative " did not have the meaning assigned to it by subsection (4) of that section but meant husband or wife or, in the case of a director of the company, husband or wife or any child or remoter issue who is an infant; and
  - (d) paragraph (c) of the said subsection (3) (persons who are " associates " by virtue of their interests in trusts, etc.) shall have effect as if the reference to any other person interested were a reference (and a reference only) to the trustees or to the personal representatives as defined in section 432(4) of the Taxes Act.
- (7) For the purposes of this paragraph the time of acquisition of a trade, asset or interest, or shares, acquired under a contract shall be—
- (a) the time at which the contract is made, or
  - (b) if the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the condition is satisfied,
- and not, if different, the time at which the trade, asset, interest or shares is or are conveyed or transferred.
- (8) For the purposes of sub-paragraph (3) of paragraph 8 above there shall be regarded as income available for distribution and not as having been applied, or as being applicable, to such requirements of a company's business as may be necessary or advisable for such an acquisition as is mentioned in that sub-paragraph any sum expended or applied, or intended to be expended or applied, as mentioned in paragraph (a)(iv) or paragraph (b) of sub-paragraph (1) of paragraph 12 above; and sub-

paragraphs (2) and (3) of that paragraph shall apply for the purposes of this sub-paragraph as they apply for the purposes of that paragraph.”

## SCHEDULE 6

Section 38.

### CAPITAL ALLOWANCES: HOTELS

#### *Initial allowances*

- 1 In section 1(2) of the Capital Allowances Act 1968 for the reference to one-half of the capital expenditure there shall be substituted a reference to one-fifth of that expenditure.

#### *Writing-down allowances*

- 2 Section 2(3) of the said Act of 1968 shall apply to any sale (whether or not the building is then a qualifying hotel) which is an event to which section 3(1) of that Act applies.

#### *Balancing allowances and balancing charges*

- 3 Subsection (1) of section 3 of the said Act of 1968 shall apply on the occurrence of any such event as is there mentioned not only while the building is a qualifying hotel but also after it has ceased to be one; but where two or more such events occur during a period when the building is not a qualifying hotel that subsection shall not apply on the occurrence of any of those events except the first.

- 4 Where, after a building has ceased to be a qualifying hotel otherwise than on the occurrence of an event to which subsection (1) of the said section 3 applies, a period of two years elapses in which it is not a qualifying hotel and without the occurrence of any such event, that section and the other provisions of Chapter I of Part I of the said Act of 1968 shall have effect as if—

- (a) the relevant interest in the building had been sold at the end of that period; and
- (b) the net proceeds of the sale were equal to the price which that interest would then have fetched if sold in the open market.

- 5 The proviso to subsection (4) of the said section 3 shall apply to any sale (whether or not the building is then a qualifying hotel) which is an event to which subsection (1) of that section applies.

- 6 Where a balancing allowance or balancing charge falls to be made in the case of a building which has ceased to be a qualifying hotel and the circumstances are such as are mentioned in paragraph (a) or (b) of subsection (2) of section 12 of the said Act of 1968, the allowance or charge shall be made as provided in that subsection.

#### *Temporary disuse*

- 7 Paragraph 4 above has effect subject to section 12(1) of the said Act of 1968; but a building shall not by virtue of that section be deemed to continue to be a qualifying hotel for more than two years after the end of the chargeable period or its basis period in which it falls temporarily out of use.

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*Eligible expenditure*

- 8       References in Chapter I of Part I of the said Act of 1968 to expenditure on the construction of a building or structure shall not include references to expenditure incurred in taking any such steps as are mentioned in section 17 of the Finance Act 1974 or section 15 of the Finance Act 1975 (expenditure on fire safety).

*Definitions*

- 9       None of the provisions of section 7 of the said Act of 1968 except subsections (4) and (9) shall be construed as applying to a qualifying hotel.

SCHEDULE 7

Section 44.

RELIEF FOR GAINS LESS THAN £9,500

*Preliminary*

- 1       In this Schedule references to any subsections not otherwise identified are references to subsections of section 44 of this Act.

*Husband and wife*

- 2       (1) For any year of assessment during which a married woman is living with her husband subsections (1) to (4) shall apply to them as if the amounts of £1,000, £5,000 and £600 were divided between them—
- (a) in proportion to their respective taxable amounts for that year (disregarding for this purpose paragraphs (a) and (b) of subsection (4)) ; or
  - (b) where the aggregate of those amounts does not exceed £1,000 and allowable losses accruing to either of them in a previous year are carried forward from that year, in such other proportion as they may agree.
- (2) Sub-paragraph (1) above shall also apply for any year of assessment during a part of which (being a part beginning with 6th April) a married woman is living with her husband but—
- (a) her taxable amount for that year shall not include chargeable gains or allowable losses accruing to her in the remainder of the year ; and
  - (b) subsections (1) to (4) shall apply to her (without the modification in sub-paragraph (1) above) for the remainder of the year as if it were a separate year of assessment.
- 3       (1) For any year of assessment during which or during a part of which (being a part beginning with 6th April) the individual is a married man whose wife is living with him and in relation to whom paragraph 3(1) of Schedule 10 to the Finance Act 1965 applies subsection (5) shall apply as if—
- (a) the chargeable gains accruing to him in the year included those accruing to her in the year or the part of the year; and
  - (b) all the disposals of assets made by her in the year or the part of the year were made by him.

- (2) Subsection (5) shall not apply for any year of assessment during which or during a part of which (being a part beginning with 6th April)—
- (a) the individual is a married man whose wife is living with him but in relation to whom the said paragraph 3(1) does not apply; or
  - (b) the individual is a married woman living with her husband.

*Personal representatives*

- 4 For the year of assessment in which an individual dies and for the two next following years of assessment, subsections (1) to (5) shall apply to his personal representatives as they apply to an individual.

*Trustees*

- 5 (1) For any year of assessment during the whole or part of which settled property is held on trusts which secure that, during the lifetime of a mentally disabled person or a person in receipt of attendance allowance, any of the property which is applied, and any income arising from the property, is applied only or mainly for the benefit of that person, subsections (1) to (5) shall apply to the trustees of the settlement as they apply to an individual.
- (2) 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 and " attendance allowance " means an allowance under section 35 of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975.
- 6 (1) For any year of assessment during the whole or part of which any property is settled property, not being a year of assessment for which paragraph 5(1) above applies, subsections (1) to (5) shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.
- (2) In subsections (1), (4) and (5) for " £1,000 " there shall be substituted " £500 ".
- (3) For subsections (2) and (3) there shall be substituted—
- “(2) If an individual's taxable amount for a year of assessment exceeds £500 the amount of capital gains tax to which he is chargeable for that year shall not exceed one-half of the excess.”
- (4) In subsection (5) for "£5,000" there shall be substituted " £2,500 ".
- (5) This paragraph applies where the settlement was made before 7th June 1978.

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## SCHEDULE 8

Section 46.

## RELIEF FOR GIFTS OF BUSINESS ASSETS

## PART I

## AGRICULTURAL PROPERTY AND SETTLED PROPERTY

*Agricultural property*

- 1 (1) This paragraph applies where—
- (a) after 11th April 1978 there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of Schedule 8 to the Finance Act 1975 (capital transfer tax relief for agricultural property), and
  - (b) apart from this paragraph, the disposal would not fall within paragraph (a) of subsection (1) of section 46 of this Act (in this Part of this Schedule referred to as "the principal section") by reason only that the agricultural property is not used for the purposes of a trade carried on as mentioned in that paragraph.
- (2) Where this paragraph applies, subsection (1) of the principal section shall apply in relation to the disposal if the circumstances are such that a reduction in respect of the asset—
- (a) is made under Schedule 8 to the Finance Act 1975 in relation to a chargeable transfer taking place on the occasion of the disposal; or
  - (b) would be so made if there were a chargeable transfer on that occasion and a claim were duly made under that Schedule.

*Settled property*

- 2 (1) If, after 11th April 1978, a trustee is deemed, by virtue of subsection (3) or subsection (4) of section 25 of the Finance Act 1965 (settled property) to have disposed of, and immediately reacquired—
- (a) an asset which is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by the trustee or by a relevant beneficiary, or
  - (b) shares or securities of a trading company as to which not less than 25 per cent. of the voting rights are exercisable by the trustee at the time of the disposal and reacquisition,
- subsection (3) of the principal section shall apply in relation to the disposal if a claim for relief under that section is made by the trustee.
- (2) Where subsection (3) of the principal section applies by virtue of sub-paragraph (1) above—
- (a) a reference to the trustee shall be substituted for the reference in paragraph (a) of that subsection to the transferor and for the reference in paragraph (b) thereof to the transferee; and
  - (b) subsection (6) of that section shall not apply.
- (3) In paragraph (a) of sub-paragraph (1) above, "relevant beneficiary " means—

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- (a) where the disposal is deemed to occur by virtue of subsection (3) of section 25 of the Finance Act 1965, a beneficiary who had an interest in possession in the settled property immediately before the disposal; and
  - (b) where the disposal is deemed to occur by virtue of subsection (4) of that section on the termination of a life interest in possession, the beneficiary whose interest it was.
- (4) Paragraph 1 above shall apply in relation to paragraph (a) of sub-paragraph (1) above as it applies in relation to paragraph (a) of subsection (1) of the principal section and references in paragraph 1 above to subsection (1) of the principal section shall be construed accordingly.

## PART II

### REDUCTIONS IN HELD-OVER GAIN

#### *Application and interpretation*

- 3 (1) The provisions of this Part of this Schedule apply in cases where a claim for relief is made under section 46 of this Act.
- (2) In this Part of this Schedule—
- (a) " the principal provision " means subsection (1) of section 46 of this Act or, as the case may require, sub-paragraph (1) of paragraph 2 above;
  - (b) " shares " includes securities;
  - (c) " the transferor " and " the transferee " have the same meaning as in section 46 of this Act, except that, in a case where paragraph 2 above applies, each of those expressions refers to the trustee mentioned in that paragraph ; and
  - (d) " unrelieved gain ", in relation to a disposal, has the same meaning as in section 46(6) of this Act.
- (3) Any reference in this Part of this Schedule to a disposal of an asset is a reference to a disposal which falls within paragraph (a) of the principal provision and any reference to a disposal of shares is a reference to a disposal which falls within paragraph (b) of that provision.
- (4) In relation to a disposal of an asset or of shares, any reference in the following provisions of this Part of this Schedule to the held-over gain is a reference to the held-over gain on that disposal as determined under subsection (5) or, as the case may be, subsection (6) of section 46 of this Act (taking account, where paragraph 2 above applies, of sub-paragraph (2)(b) of that paragraph).

#### *Reductions peculiar to disposals of assets*

- 4 If, in the case of a disposal of an asset, the asset was not used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision throughout the period of its ownership by the transferor, the amount of the held-over gain shall be reduced by multiplying it by the fraction of which the denominator is the number of days in that period of ownership and the numerator is the number of days in that period during which the asset was so used.
- 5 If, in the case of a disposal of an asset, the asset is a building or structure and, over the period of its ownership by the transferor or any substantial part of that period,

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part of the building or structure was, and part was not, used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision, there shall be determined the fraction of the unrelieved gain on the disposal which it is just and reasonable to apportion to the part of the asset which was so used, and the amount of the held-over gain (as reduced, if appropriate, under paragraph 4 above) shall be reduced by multiplying it by that fraction.

*Reduction peculiar to disposal of shares*

- 6 (1) If, in the case of a disposal of shares, the chargeable assets of the company whose shares are disposed of include assets which are not business assets, the amount of the held-over gain shall be reduced by multiplying it by the fraction of which the denominator is the market value of the whole of the company's chargeable assets on the date of the disposal and the numerator is the market value of the company's chargeable business assets on that date.
- (2) For the purposes of this paragraph—
- (a) an asset is a business asset in relation to a company if it is or is an interest in an asset used for the purposes of a trade, profession or vocation carried on by the company; and
  - (b) an asset is a chargeable asset in relation to a company at any time if, on a disposal of it at that time, a chargeable gain would accrue to the company.

*Reduction where gain partly relieved by retirement relief*

- 7 (1) If, in the case of a disposal of an asset,—
- (a) the disposal is of a chargeable business asset and is comprised in a disposal of the whole or part of a business in respect of gains accruing on which the transferor is entitled to relief under section 34 of the Finance Act 1965 (transfer of business on retirement), and
  - (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under the preceding provisions of this Part of this Schedule) would exceed the amount of the chargeable gain which, apart from section 46 of this Act, would accrue on the disposal,
- the amount of that held-over gain shall be reduced by the amount of the excess.
- (2) In sub-paragraph (1) above "chargeable business asset" has the same meaning as in section 34 of the Finance Act 1965.
- (3) If, in the case of a disposal of shares,—
- (a) the disposal is or forms part of a disposal of shares in respect of the gains accruing on which the transferor is entitled to relief under section 34 of the Finance Act 1965, and
  - (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under paragraph 6 above) would exceed an amount equal to the relevant proportion of the chargeable gain which, apart from section 46 of this Act, would accrue on the disposal,
- the amount of that held-over gain shall be reduced by the amount of the excess.
- (4) In sub-paragraph (3) above "the relevant proportion", in relation to a disposal falling within paragraph (a) of that sub-paragraph, means the proportion determined under subsection (3)(b) of section 34 of the Finance Act 1965 in relation to the aggregate sum of the gains which accrue on that disposal.



## SCHEDULE 9

Section 53.

### PROFIT SHARING SCHEMES

#### PART I

##### APPROVAL OF SCHEMES

- 1 (1) On the application of a body corporate (in this Schedule referred to as " the company concerned ") which has established a profit sharing scheme which complies with sub-paragraphs (3) and (4) below, the Board, subject to section 54 of this Act, shall approve the scheme—
    - (a) if they are satisfied as mentioned in paragraph 2 below; and
    - (b) unless it appears to them that there are features of the scheme which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of interests in snares.
  - (2) Where the company concerned has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control; and in this Schedule a scheme which is expressed so to extend is referred to as a " group scheme " and, in relation to a group scheme, the expression " participating company " means the company concerned or a company of which for the time being the company concerned has control and to which for the time being the scheme is expressed to extend.
  - (3) The scheme must provide for the establishment of a body of persons resident in the United Kingdom (in this Schedule referred to as " the trustees ")—
    - (a) who, out of moneys paid to them by the company concerned or, in the case of a group scheme, a participating company, are required by the scheme to acquire shares in respect of which the conditions in Part II of this Schedule are fulfilled; and
    - (b) who are under a duty to appropriate shares acquired by them to individuals who participate in the scheme, not being individuals who are ineligible by virtue of Part III of this Schedule; and
    - (c) whose functions with respect to shares held by them are regulated by a trust which is constituted under the law of a part of the United Kingdom and the terms of which are embodied in an instrument which complies with the provisions of Part IV of this Schedule.
  - (4) The scheme must provide that the total of the initial market values of the shares appropriated to any one participant in a year of assessment will not exceed £500.
  - (5) An application under sub-paragraph (1) above shall be made in writing and contain such particulars and be supported by such evidence as the Board may require.
- 2 (1) The Board must be satisfied that at any time every person who—
    - (a) is then a full-time employee or director of the company concerned or, in the case of a group scheme, a participating company, and
    - (b) has been such an employee or director at all times during a qualifying period, not exceeding five years, ending at that time, and
    - (c) is chargeable to tax in respect of his office or employment under Case I of Schedule E,

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will then be eligible, subject to Part III below, to participate in the scheme on similar terms.

- (2) For the purposes of sub-paragraph (1) above, the fact that the number of shares to be appropriated to the participants in a scheme varies by reference to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that the participants are not eligible to participate in the scheme on similar terms.
- 3 (1) If, at any time after the Board have approved a scheme,—
- (a) a participant is in breach of any of his obligations under paragraphs (a), (c) and (d) of subsection (1) of section 54 of this Act, or
  - (b) there is, with respect to the operation of the scheme, any contravention of any provision of Chapter III of Part III of this Act, the scheme itself or the terms of the trust referred to in paragraph 1(3)(c) above, or
  - (c) any shares of a class of which shares have been appropriated to participants receive different treatment in any respect from the other shares of that class, in particular, different treatment in respect of—
    - (i) the dividend payable,
    - (ii) repayment,
    - (iii) the restrictions attaching to the shares, or
    - (iv) any offer of substituted or additional shares, securities or rights of any description in respect of the shares, or
  - (d) the Board cease to be satisfied as mentioned in paragraph 2 above,
- the Board may, subject to sub-paragraph (3) below, withdraw the approval with effect from that time or from such later time as the Board may specify.
- (2) If, at any time after the Board have approved a scheme, an alteration is made in the scheme or the terms of the trust referred to in paragraph 1(3)(c) above, the approval shall not have effect after the date of the alteration unless the Board have approved the alteration.
- (3) It shall not be a ground for withdrawal of approval of a scheme that shares which have been newly issued receive, in respect of dividends payable with respect to a period beginning before the date on which the shares were issued, treatment which is less favourable than that accorded to shares issued before that date.
- 4 If the company concerned is aggrieved by—
- (a) the failure of the Board to approve a scheme,
  - (b) the failure of the Board to approve an alteration as mentioned in paragraph 3(2) above, or
  - (c) the withdrawal of approval,
- the company may, by notice in writing given to the Board within thirty days from the date on which it is notified of the Board's decision, require the matter to be determined by the Special Commissioners who shall hear and determine the matter in like manner as an appeal.

## PART II

### CONDITIONS AS TO THE SHARES

- 5 The shares must form part of the ordinary share capital of—

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- (a) the company concerned; or
  - (b) a company which has control of the company concerned ; or
  - (c) a company which either is or has control of a company which—
    - (i) is a member of a consortium owning either the company concerned or a company having control of that company; and
    - (ii) beneficially owns not less than three-twentieths of the ordinary share capital of the company so owned.
- 6 The shares must be either—
- (a) shares of a class quoted on a recognised stock exchange; or
  - (b) shares in a company which is not under the control of another company.
- 7 The shares must be—
- (a) fully paid up; and
  - (b) not redeemable; and
  - (c) not subject to any restrictions other than restrictions which attach to all shares of the same class.
- 8 Except where the shares are in a company whose ordinary share capital, at the time of the acquisition of the shares by the trustees, consists of shares of one class only, the majority of the issued shares of the same class must be held by persons other than—
- (a) persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the company concerned or any other company and not in pursuance of an offer to the public; and
  - (b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares in pursuance of such a right or opportunity as is mentioned in paragraph (a) above.

### **PART III**

#### INDIVIDUALS INELIGIBLE TO PARTICIPATE

- 9 An individual shall not be eligible to have shares appropriated to him under the scheme at any time unless he is at that time or was within the preceding eighteen months a director or employee of the company concerned or, if the scheme is a group scheme, a participating company.
- 10 An individual shall not be eligible to have shares appropriated to him under the scheme at any time if in that year of assessment shares have been appropriated to him under another approved scheme established by the company concerned or by—
- (a) a company which controls or is controlled by that company or which is controlled by a company which also controls that company, or
  - (b) a company which is a member of a consortium owning that company or which is owned in part by that company as a member of a consortium.
- 11 (1) An individual shall not be eligible to have shares appropriated to him under the scheme at any time if at that time he has, or at any time within the preceding twelve months he had, a material interest in a close company which is—
- (a) the company whose shares are to be appropriated; or

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- (b) a company which has control of that company or is a member of a consortium which owns that company.
- (2) Sub-paragraph (1) above shall apply in relation to a company which would be a close company but for—
- (a) paragraph (a) of subsection (1) of section 282 of the Taxes Act (exclusion of companies not resident in the United Kingdom); or
  - (b) section 283 of the Taxes Act (exclusion of certain companies with quoted shares).
- (3) For the purpose of this paragraph—
- (a) "close company" has the meaning assigned to it by section 282 of the Taxes Act; and
  - (b) subsection (6) of section 285 of the Taxes Act (interest paid to directors and directors' associates) shall have effect, with the substitution of a reference to 25 per cent for any reference therein to 5 per cent. for the purpose of determining whether a person has or had a material interest in a company.

## PART IV

### PROVISIONS AS TO THE TRUST INSTRUMENT

- 12 The trust instrument shall provide that, as soon as practicable after any shares have been appropriated to a participant, the trustees will give him notice in writing of the appropriation—
- (a) specifying the number and description of those shares ; and
  - (b) stating their initial market value.
- 13 (1) The trust instrument must contain a provision prohibiting the trustees from disposing of any shares, except as mentioned in section 54(2)(a) of this Act, during the period of retention (whether by transfer to the participant or otherwise).
- (2) The trust instrument must contain a provision prohibiting the trustees from disposing of any shares after the end of the period of retention except—
- (a) pursuant to a direction given by or on behalf of the participant or any person in whom the beneficial interest in his shares is for the time being vested ; and
  - (b) by a transaction which would not involve a breach of the participant's obligation under paragraph (c) or paragraph (d) of subsection (1) of section 54 of this Act.
- 14 The trust instrument must contain a provision requiring the trustees—
- (a) subject to their obligations under section 59 of this Act and to any such direction as is referred to in section 56(3) of this Act, to pay over to the participant any money or money's worth received by them in respect of, or by reference to, any of his shares, other than money's worth consisting of new shares within the meaning of section 57 of this Act; and
  - (b) to deal only pursuant to a direction given by or on behalf of the participant (or any such person as is referred to in paragraph 13(2)(a) above) with any right conferred in respect of any of his shares to be allotted other shares, securities or rights of any description.
- 15 The trust instrument must impose an obligation on the trustees—

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- (a) to maintain such records as may be necessary to enable the trustees to carry out their obligations under section 59 of this Act; and
- (b) where the participant becomes liable to income tax under Schedule E by reason of the occurrence of any event, to inform him of any facts relevant to determining that liability.

## PART V

### INTERPRETATION

- 16 In this Schedule " control" shall be construed in accordance with section 534 of the Taxes Act.
- 17 For the purposes of this Schedule a company is a member of a consortium owning another company if it is one of not more than five companies which between them beneficially own not less than three-quarters of the other company's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

## SCHEDULE 10

Section 62.

### RATES OF CAPITAL TRANSFER TAX

#### FIRST TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	25,000	Nil
25,000	30,000	10
30,000	35,000	15
35,000	40,000	20
40,000	50,000	25
50,000	60,000	30
60,000	70,000	35
70,000	90,000	40
90,000	110,000	45
110,000	130,000	50
130,000	160,000	55
160,000	510,000	60
510,000	1,010,000	65
1,010,000	2,010,000	70

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Portion of value	Rate of tax
2,010,000	—

SECONDTABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	25,000	Nil
25,000	30,000	5
30,000	35,000	7 ½
35,000	40,000	10
40,000	50,000	12 ½
50,000	60,000	15
60,000	70,000	17 ½
70,000	90,000	20
90,000	110,000	22 ½
110,000	130,000	27 ½
130,000	160,000	35
160,000	210,000	42 ½
210,000	260,000	50
260,000	310,000	55
310,000	510,000	60
510,000	1,010,000	65
1,010,000	2,010,000	70
2,010,000	—	75

SCHEDULE 11

Section 67.

EMPLOYEE TRUSTS

*The Finance Act 1975*

1 (1) In paragraph 17(4) of Schedule 5 to the Finance Act 1975 for paragraph (b) there shall be substituted—

“(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 either—

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- (i) is beneficially entitled to, or to rights entitling him to acquire, not less than 5 per cent. of, or of any class of the shares comprised in, its issued share capital; or
- (ii) would, on a winding-up of the company, be entitled to not less than 5 per cent. of its assets ;”

and after paragraph (b) there shall be inserted the words " but if the trusts are those of a profit sharing scheme approved under the Finance Act 1978, paragraph (b) of this sub-paragraph does not preclude the application of sub-paragraph (3)(c) above in relation to any appropriation of shares in pursuance of the scheme. "

- (2) This amendment applies in relation to any payment out of the settled property made on or after 11th April 1978.

#### *The Finance Act 1976*

- 2 (1) In section 56 of the Finance Act 1976 for subsection (1) there shall be substituted—

“(1) Where—

- (a) a close company within the meaning of section 90 below disposes of an asset to trustees in circumstances such that the disposal is a disposition which by virtue of that section is not a transfer of value for the purposes of capital transfer tax; or
- (b) an individual disposes of an asset to trustees in circumstances such that the disposal is an exempt transfer by virtue of section 67 of the Finance Act 1978,

Part III of the Finance Act 1965 (capital gains tax) shall have effect in relation to the disposal in accordance with subsections (2) and (3) below.”

- (2) In, subsection (6) of that section for the words from " any participator who " to " assets " there shall be substituted the words “any participator who—
  - (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital; and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets ;”

and at the end there shall be inserted the words " or, if the trusts are those of a profit sharing scheme approved under the Finance Act 1978, of any power to appropriate shares in pursuance of the scheme. "

- (3) These amendments apply in relation to any disposal made on or after 11th April 1978.

- 3 (1) In section 90 of the said Act of 1976, subsection (2) shall be omitted and in subsection (3) for the words " subsections (1) and (2) above do not apply " there shall be substituted the words " subsection (1) above does not apply ".

- (2) In subsection (4) of that section for the words from " any participator who " to " assets " there shall be substituted the words “any participator who—
  - (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital; and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets ;”

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and at the end there shall be inserted the words or, if the trusts are those of a profit sharing scheme approved under the Finance Act 1978, of any power to appropriate shares in pursuance of the scheme. "

- (3) These amendments apply in relation to any disposition made on or after 11th April 1978.

## SCHEDULE 12

Section 79.

### CUSTOMS AND EXCISE CONSOLIDATION AMENDMENTS

#### *Alcoholic liquors*

- 1 (1) Part IV of the Customs and Excise Act 1952 (in this Schedule referred to as " the 1952 Act") shall be amended in accordance with the following provisions of this paragraph.
- (2) For the words " duty ", " duties " or " duty-paid ", wherever occurring, there shall be substituted the words " excise duty ", " excise duties " or " excise duty-paid " respectively.
- (3) Sub-paragraph (2) above does not apply where the word " duty " or " duties " occurs in the expression " excise duty ", " duty of excise ", " excise duties ", " duties of excise ", " customs duty", "duties of customs" or "duty-free" or to sections 167 to 170 but—
- (a) in section 115(2) (returns), for the words " customs or excise duties" there shall be substituted the words " excise duties ";
  - (b) in section 137(3) (declarations), for the words " duties of customs" there shall be substituted the words " excise duty ";
  - (c) in section 144(1) (fortifying wine), for the words " duty-free spirits " there shall be substituted the words " spirits which are free of excise duty ";
  - (d) in section 161(4) (selling spirits), for the words "duty of customs or excise " there shall be substituted the words " excise duty ";
  - (e) in sections 162(1) and 164(1) (misdescribing spirits), for the words " either the customs duty or the excise duty " there shall be substituted the words " the excise duty "; and
  - (f) in section 165(b) (deemed spirits), after the word " being " there shall be inserted the word " imported " and for the words " customs duty " there shall be substituted the words " excise duty ".
- (4) In sections 103(1) and (4), 137(1) and 138 after the word " drawback " there shall be inserted the words " of excise duty ".
- (5) In section 140(2) (wine and made-wine regulations) after the word " person " there shall be inserted the words " contravenes or ".
- (6) In sections 171(1) and 172(1) (gravity and strengths), the words " this Act" shall be substituted for the words " the customs and excise Acts " and the same words shall be substituted for the words " the said Acts " in sections 171(3) and 172(4).
- 2 In section 1(5) of the Finance Act 1964 (unfit spirituous goods), for the words " the customs Acts " there shall be substituted the words " the charge of excise duty on spirits ".



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- 3 In section 14(5) of the Finance (No. 2) Act 1975 (wine), after the words " grapes or " there shall be inserted the word " of ".
- 4 In section 15(6) of the Finance (No. 2) Act 1975 (made-wine), after the words " black beer " there shall be inserted the words " (as denned in section 2(5) of the Finance Act 1964) ".
- 5 In section 2(6) of the Finance Act 1976 (cider regulations), after the word " person " there shall be inserted the words " contravenes or ".

*Matches and mechanical lighters*

- 6 (1) In section 220 of the 1952 Act (matches), the words " excise duty" shall be substituted for the word " duty " in subsection (1)(c) and for the words " duty of customs or excise " in subsection (3).
- (2) In section 221 of the 1952 Act (mechanical fighters)—
- (a) the words " excise duty " shall be substituted for the word " duty " in subsection (1) and for the words "duty of customs or excise " in subsections (2) and (4); and
  - (b) the words " and the component parts of any such mechanical lighters " and " or component parts thereof" in subsection (2) shall be omitted.
- (3) In section 222 of the 1952 Act (lighters), there shall be omitted, in subsection (1)(a), the words from " (other " to " flint)", in subsection (2), the words "Subject to the next following subsection" and subsection (3).

*Tobacco products*

- 7 (1) In section 7 of the Finance Act 1963, in subsection (2), for the word " tobacco " in the definition there shall be substituted the words " tobacco products "and, in subsection (4), after the word " aircraft " there shall be inserted the words " hovercraft (within the meaning of the Hovercraft Act 1968) " and for the words " tobacco is " there shall be substituted the words " tobacco products are ".
- (2) In section 6(4) of the Finance Act 1976, the words " the order " shall be substituted for the words " an order ".

*Hydrocarbon oil*

- 8 In sections 1(1), 2(3) and 21(3) of the Hydrocarbon Oil (Customs & Excise) Act 1971 (interpretation, etc.), the words " this Act and the Act of 1952 " shall be substituted for the words " the customs and excise Acts ", in section 3(1) the words " the Act of 1952 " shall be substituted for the words " the excise Acts " and in paragraph 2(1) of Schedule 5 the words "this Act or the Act of 1952" shall be substituted for the words " the customs or excise Acts ".

*Collection and management of, and certain reliefs from, duties*

- 9 In section 37(1) of the 1952 Act (Channel Island goods) the proviso shall be omitted and the words " duty of customs " preceding the proviso shall be construed as not including any duty other than a duty of customs.

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- 10 In section 43 of the 1952 Act (antiques, etc.), for the words preceding paragraph (a) there shall be substituted the words " The Commissioners may allow the delivery without payment of duty on importation ".
- 11 In section 80(1) of the 1952 Act (warehoused goods) in paragraph (c), after the word " goods " there shall be inserted the words " manufactured or produced in the United Kingdom ".
- 12 In section 85(1) of the 1952 Act (deficiency in warehoused goods), for the words " this Act," there shall be substituted the words " the customs and excise Acts ".
- 13 In section 259(1) of the 1952 Act (composite goods), for the words " a duty of customs " and " duty " there shall be substituted the words " excise duty " and in section 5 of and Schedule 2 to the Finance Act 1957 the following amendments shall be made—
- (a) in section 5, for the words " customs duties " there shall be substituted the words " excise duties and for the words " customs and excise " there shall be substituted the word " excise ";
  - (b) in Schedule 2, for the words " duty of customs " in paragraph 1(1) and the words " duty of customs or excise " in paragraph 4(1) there shall be substituted the words " duty of excise " and for the words " customs duties " in paragraph 3 there shall be substituted the words " excise duties ";
  - (c) the following provisions in Schedule 2 shall be omitted, namely, in paragraph 1(2) the words from " and for the purposes " to the end, paragraph 1(3), paragraph 2 and paragraph 4(2)(b).
- 14 In section 263 of the 1952 Act (lost or destroyed goods relief), in subsection (1), for the word " shall " there shall be substituted the word " may ".
- 15 In section 272(1) of the 1952 Act (duty-free goods for Her Majesty's ships), for the words " customs or excise duty " there shall be substituted the words " excise duty " .
- This paragraph shall come into operation on such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.
- 16 In section 285(2)(b) of the 1952 Act (imprisonment in default), for the words " such a non-payment or default as aforesaid " there shall be substituted the words " non-payment of that penalty or default of a sufficient distress to satisfy the amount of that penalty ".
- 17 In section 287 of the 1952 Act (application of penalties), for the words from " customs or excise Acts " to " those Acts " there shall be substituted the words " customs and excise Acts, after paying any such compensation or costs as are mentioned in section 114 of the Magistrates' Courts Act 1952 to persons other than the Commissioners ".
- 18 After section 306 of the 1952 Act there shall be inserted the following section—

**“306A Directions.**

Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent directions thereunder.”

*Terminology*

- 19 (1) In section 307(1) of the 1952 Act the following amendments shall be made, namely—

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- (a) for the definition of " customs Acts " and "excise Acts" there shall be substituted the following definition—
    - “" the customs and excise Acts " means this Act and any other enactment for the time being in force relating to customs or excise ;”
  - (b) the definitions of " excise trade " and " excise trader " shall be omitted but there shall be inserted in the appropriate places in alphabetical order the following definitions—
    - “" excise licence trade " means a trade or business for the carrying on of which an excise licence is required;
    - " revenue trader " means any person carrying on a trade or business subject to any of the revenue trade provisions of the customs and excise Acts, whether or not that trade or business is an excise licence trade, and includes a registered club;
    - " the revenue trade provisions of the customs and excise Acts " means—
      - (a) the provisions of the customs and excise Acts relating to the protection, security, collection or management of the revenues derived from the duties of excise on goods produced or manufactured in the United Kingdom;
      - (b) the provisions of the customs and excise Acts relating to any activity or facility for the carrying on or provision of which an excise licence is required; and
      - (c) the provisions of the Betting and Gaming Duties Act 1972 (so far as not included in paragraph (b) above);”
  - (c) the following definition shall be inserted in the appropriate place in alphabetical order—
    - “" prohibited or restricted goods " means goods of a class or description of which the importation, exportation or carriage coastwise is for the time being prohibited or restricted under or by virtue of any enactment;”
  - (d) for the definition of " holiday " there shall be substituted the following definition—
    - “" holiday ", in relation to any part of the United Kingdom, means any day that is a bank holiday in that part of the United Kingdom under the Banking and Financial Dealings Act 1971, Christmas Day, Good Friday and the day appointed for the purposes of customs and excise for the celebration of Her Majesty's birthday.”
- (2) Subject to sub-paragraphs (3) and (5) below, any reference in any enactment or instrument to the customs Acts or excise Acts shall be construed as a reference to the customs and excise Acts (as denned in sub-paragraph (1) above).
- (3) In the following provisions of Part IX of the 1952 Act, namely sections 244(1), 245(2), 246, 247(1) and 248(1), for the words " the excise Acts" there shall be substituted the words " the revenue trade provisions of the customs and excise Acts ".
- (4) In section 34 the reference in subsection (1) to the 1952 Act or any enactments relating to customs and the reference in subsection (4) to any such enactments shall be construed as a reference to the customs and excise Acts (as denned in sub-paragraph (1) above).

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- (5) In section 73 of the 1952 Act, for the words " the customs Acts " there shall be substituted the words " any provision of the customs and excise Acts relating to imported goods or prohibited or restricted goods " and in section 79(1) of that Act, for the words from " this Act" onwards there shall be substituted the words " the customs and excise Acts ".
- (6) Any reference in any enactment or instrument to an excise trade or an excise trader shall be construed as a reference to an excise licence trade or a revenue trader (as defined in sub-paragraph (1) above).
- (7) The following provisions relating to customs clearance or charge shall be amended as provided in this sub-paragraph, that is to say—
- (a) in sections 17(1), 22(1) and 310(1)(a) of the 1952 Act and in section 11(10) of the Finance Act 1966, for the words " from customs charge" there shall be substituted the words " out of charge " and in the definition of " importer " in section 307(1) of the 1952 Act the word "customs" shall be omitted;
  - (b) in section 25(1) of the 1952 Act for the words " customs clearance is given therefrom " there shall be substituted the words " clearance outwards is given ";
  - (c) in section 294(5) of the 1952 Act for the words " customs charge" there shall be substituted the words " customs and excise charge "; and
  - (d) in section 6(4) of the Import Duties Act 1958, for the words " customs control" there shall be substituted the words " customs and excise control ".
- (8) In any enactment or instrument, for the expressions " customs airport" and " customs station", there shall be substituted the expressions " customs and excise airport " and " customs and excise station ".

#### *Miscellaneous*

- 20 In section 309(3) of the 1952 Act (Isle of Man) for the words " there shall be payable " there shall be substituted the words " a like duty of excise shall be payable " and the words from " such part" to the end shall be omitted.
- 21 It is hereby declared that in section 17(1) of the Finance Act 1972 (application of the 1952 Act etc. to V.A.T.) the reference to the 1952 Act includes a reference to any enactments replacing or re-enacting Parts V and VI of that Act and the reference to enactments relating to customs generally is a reference to enactments relating generally to customs or excise duties on imported goods.
- 22 It is hereby declared that in section 6(5) of the European Communities Act 1972 (application of the 1952 Act etc. to agricultural levies), the reference to the 1952 Act does not include a reference to Part IV or sections 219 to 222 of that Act and the reference to statutory provisions relating to customs generally is a reference to statutory provisions relating generally to customs or excise duties on imported goods.
- 23 It is hereby declared that the references in section 8(3) of the Finance (No. 2) Act 1975 to the customs Acts and excise Acts is a reference to—
- (a) the 1952 Act (including the amendments made to section 257 of that Act by section 9 of the Finance Act 1977); and
  - (b) any other enactment which relates to customs or excise and which was in force at the end of 1975;

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- but the said section 8(3) shall not apply for the interpretation of the words "customs" or "excise" in any amendments made by the foregoing provisions of this Schedule.
- 24 (1) Sections 27, 28(2), (7) and (8), 31(5), (6), (8), (9) and (11), 32(1) and 61 of the Criminal Law Act 1977 shall extend to Northern Ireland for the purpose of any pecuniary or other penalties which may be imposed under the relevant provisions of the customs and excise Acts and so shall so much of Schedule 5 as excludes offences under the 1952 Act from the operation of the said section 28(2).
- (2) In the application of section 27 of the Criminal Law Act 1977 to Northern Ireland by virtue of sub-paragraph (1) above—
- (a) the reference in subsection (1) of that section to section 108 of the Magistrates' Courts Act 1952 shall be construed as a reference to section 64 of the Magistrates' Courts Act (Northern Ireland) 1964; and
- (b) the references in subsections (1) and (3) of that section to a magistrates' court shall be construed as references to a court of summary jurisdiction.
- (3) In sub-paragraph (1) above "the relevant provisions of the customs and excise Acts" means the 1952 Act, section 10 of the Import Duties Act 1958, section 11 of the Finance Act 1966 and the Hydrocarbon Oil (Customs & Excise) Act 1971.
- (4) The repeal in section 283(2)(a) of the 1952 Act effected by section 65(5) of and Schedule 13 to the Criminal Law Act 1977 shall also extend to Northern Ireland but not in relation to offences under sections 45(1), 56(2) or 304 of the 1952 Act committed as mentioned in section 26(3) of the Misuse of Drugs Act 1971.
- 25 In section 5 of the Import Duties Act 1958 (reliefs from import duties) after subsection (1) there shall be inserted the following subsection:—
- “(1A) In this section and in section 6 below 'import duty' includes duty charged under the Customs Duties (Dumping and Subsidies) Act 1969 and under section 6(1) of the Finance Act 1978.”
- 26 In section 13(4) of the Import Duties Act 1958 and in section 15(2) of the Customs Duties (Dumping and Subsidies) Act 1969 (beginning of 28 day period for orders), for the words "twenty-eight days after", there shall be substituted the words "the period of 28 days beginning with".

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## SCHEDULE 13

Section 80.

## REPEALS

## PART I

## CUSTOMS AND EXCISE

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 5. c. 32.	The Finance Act 1919.	Section Section 38(1).
15 & 16 Geo. 6 & 1 Eliz. 2. c. 44.	The Customs and Excise Act 1952.	In section 37(1), the proviso. Section 70.  In section 221(2), the words " and the component parts of any such mechanical lighters " and the words "or component parts thereof".  In section 222, in subsection (1)(a), the words from "(other " to " flint)", in subsection (2) the words " Subject to the next following subsection " and subsection (3).  In section 248(2), the words " manufacturer of glucose or saccharin ".  In section 249(5), the words " manufacturers of glucose or saccharin ".  In section 307(1), the definitions of " excise trade ", " excise trader ", " tobacco " and " tobacco refuse " and, in the definition of " importer ", the word " customs ".  Section 308(1) and (2).  In section 309, in subsection (3), the words from " such part" to the end

1. The repeals in the Customs Duties (Dumping and Subsidies) Act 1969 take effect subject to section 6(7) of this Act.
2. The repeals in the Finance Act 1972 and the Finance Act 1976 take effect on 1st December 1978.

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Chapter	Short Title	Extent of Repeal
1 & 2 Eliz. 2. c. 34.	The Finance Act 1953.	and, in subsection (5), the words " customs or ". Section 311. Schedule 8.
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957.	In section 3(3) the words from " other " to " domestic use ".
6 & 7 Eliz. 2 c. 6.	The Import Duties Act 1958.	In Schedule 2, in paragraph 1(2) the words from " and for the purposes" to the end, paragraph 1(3), paragraph 2 and paragraph 4(2)(b).
1964 c. 92.	The Finance (No. 2) Act 1964.	In section 5(1), the words from " which " to the end.
1966 c. 18.	The Finance Act 1966.	Sections 3 to 6. Schedules 1 and 2.
1969 c. 16.	The Customs Duties (Dumping and Subsidies) Act 1969.	Section 7.
1971 c. 12.	The Hydrocarbon Oil (Customs & Excise) Act 1971.	In section 5, subsection (2) and in subsection (3) the words from " shall be determined " to " except that". Section 10(2) and (5). Sections 11 and 12. In section 13(1) the words " growing or ". Section 14(1) and (3).
1972 c. 41.	The Finance Act 1972.	In paragraph 4 of Schedule 1, the words from " or, in Northern Ireland" to the end.
1972 c. 68.	The European Communities Act 1972.	Section 128(1). In Part I of Schedule 3 the entry relating to the Customs Duties (Dumping and Subsidies) Act 1969. In Schedule 4, paragraph 2(4).
1976 c. 40.	The Finance Act 1976.	Section 13.

1. The repeals in the Customs Duties (Dumping and Subsidies) Act 1969 take effect subject to section 6(7) of this Act.
2. The repeals in the Finance Act 1972 and the Finance Act 1976 take effect on 1st December 1978.

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Chapter	Short Title	Extent of Repeal
1977 c. 36.	The Finance Act 1977.	Section 13.
	1. The repeals in the Customs Duties (Dumping and Subsidies) Act 1969 take effect subject to section 6(7) of this Act.	
	2. The repeals in the Finance Act 1972 and the Finance Act 1976 take effect on 1st December 1978.	

## PART II

### VALUE ADDED TAX

Chapter	Short Title	Extent of Repeal
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 19(2).
1977 c. 36.	The Finance Act 1977.	Section 15.

## PART III

### INCOME TAX

Chapter	Short Title	Extent of Repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 12 the word "female" wherever it occurs. In section 13(a) the words "mother or other". Section 18(3) and (4). In section 83, in subsections (1), (2) and (3) the words "estate or interest" (wherever they occur), subsection (4)(b) (iii) and subsection (6). In section 134, subsection (1) (iii) (together with the word "and" immediately preceding it), in subsection (2) the words "estate or interest" and subsection (7). In Schedule 1, in paragraph 11, in sub-paragraph (1)
	1. The repeals in sections 83 and 134 of the Income and Corporation Taxes Act 1970 take effect as mentioned in section 32(4) of this Act.	
	2. The repeal in Schedule 1 to the said Act of 1970 applies where the qualifying policy is issued or varied after 5th April 1979.	
	3. The repeals in Schedule 4 to the Finance Act 1976 and in section 35(3) of the Finance Act 1977 have effect for the year 1979-80 and subsequent years of assessment.	
	4. The repeals in section 22 of the Finance Act 1977 do not affect the construction of the remainder of that section.	



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Chapter	Short Title	Extent of Repeal
1974 c. 30.	The Finance Act 1974.	the words " Subject to sub-paragraph (3) below " and in sub-paragraph (3) the words from the beginning to " receipt of the request; and".
1976 c. 40.	The Finance Act 1976.	In section 15(1) the words "the first £1,500 of".
1977 c. 36	The Finance Act 1977.	In Schedule 4, paragraph 6. Section 21. In section 22, in subsection (1), paragraphs (a), (b) and (d) and in paragraph (c) the words from " for" (where it first occurs) to " respectively, and ", and in subsection (3) the words from the beginning to " ; and " Section 24. Section 26(5). Section 28. In section 35(3) the words after the semi-colon.
1977 c. 53.	The Finance (Income Tax Reliefs) Act 1977.	Section 1.

1. The repeals in sections 83 and 134 of the Income and Corporation Taxes Act 1970 take effect as mentioned in section 32(4) of this Act.
2. The repeal in Schedule 1 to the said Act of 1970 applies where the qualifying policy is issued or varied after 5th April 1979.
3. The repeals in Schedule 4 to the Finance Act 1976 and in section 35(3) of the Finance Act 1977 have effect for the year 1979-80 and subsequent years of assessment.
4. The repeals in section 22 of the Finance Act 1977 do not affect the construction of the remainder of that section.

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## PART IV

### CAPITAL GAINS

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	In section 20(3), the words " Subject, in the case of an individual, to the next following section ". Section 21. In Schedule 10, in paragraph 13 the words " section 21 of this Act or ".
1966 c. 18.	The Finance Act 1966.	In Schedule 10, paragraph 2(3).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 265(3)(b). In Schedule 15, in paragraph 11, in Part II of the Table the entry relating to section 21(2) of the Finance Act 1965.
1971 c. 68.	The Finance Act 1971.	Section 57. Schedule 11.
1972 c. 41.	The Finance Act 1972.	In section 112(3)(c), the words " (or would have been chargeable apart from section 21 of the Finance Act 1965) ". In section 119(2)(a), the words "but not for the purposes of section 57 of the Finance Act 1971 (exemption or relief for small disposals) ".
1974 c. 30.	The Finance Act 1974.	Section 34.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 55.
1976 c. 40.	The Finance Act 1976.	Section 51. Section 52(2) and (4).

1. The repeals in the Finance Act 1971, in section 119(2)(a) of the Finance Act 1972 and in the Finance Act 1976 (except section 52(2)) and the repeal of section 44(2) of the Finance Act 1977 have effect for the year 1977-78 and subsequent years of assessment
2. The repeals in the Finance Act 1966, the Finance Act 1974 and the Finance (No. 2) Act 1975 have effect in relation to disposals after 11th April 1978.
3. The repeal of section 44(1) of the Finance Act 1977 does not affect gains accruing on disposals before 6th April 1979.
4. The other repeals mentioned above have effect for the year 1978-79 and subsequent years of assessment.

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Chapter	Short Title	Extent of Repeal
1977 c. 36.	The Finance Act 1977.	In section 56(2)(a), the words "(but not for the purposes of section 57 of the Finance Act 1971)". Section 44.
<ol style="list-style-type: none"> <li>1. The repeals in the Finance Act 1971, in section 119(2)(a) of the Finance Act 1972 and in the Finance Act 1976 (except section 52(2)) and the repeal of section 44(2) of the Finance Act 1977 have effect for the year 1977-78 and subsequent years of assessment.</li> <li>2. The repeals in the Finance Act 1966, the Finance Act 1974 and the Finance (No. 2) Act 1975 have effect in relation to disposals after 11th April 1978.</li> <li>3. The repeal of section 44(1) of the Finance Act 1977 does not affect gains accruing on disposals before 6th April 1979.</li> <li>4. The other repeals mentioned above have effect for the year 1978-79 and subsequent years of assessment.</li> </ol>		

## PART V

### CAPITAL TRANSFER TAX

Chapter	Short Title	Extent of Repeal
1975 c. 7.	The Finance Act 1975.	Section 47 (1), (2) and (5). In Schedule 4, in paragraph 13(7) the words " or on any particular question ". In Schedule 6, in paragraph 15 (4A) the words " or body " (in both places).
1976 c. 40.	The Finance Act 1976.	In section 73(b) the words " made" and " treated as made " In section 90, subsection (2), in subsection (3)(a) the words " or, as the case may be, the company whose shares are disposed of" and in subsection (3)(c) the words " or, as the case may be, the disposition of its shares ". In Schedule 10, in paragraph 1 the words " made" and
<ol style="list-style-type: none"> <li>1. The repeal of subsections (1) and (2) of section 47 of the Finance Act 1975 does not affect any variation or disclaimer made before 11th April 1978, and the repeal of subsection (5) of that section does not affect any deed or instrument made as provided by that subsection.</li> <li>2. The repeal in paragraph 13(7) of Schedule 4 to that Act has effect subject to section 66(3) of this Act.</li> <li>3. The repeal in Schedule 6 to that Act applies where the acquisition of the interest is after 11th April 1978.</li> <li>4. The repeals in section 90 of the Finance Act 1976 do not affect dispositions made before 11th April 1978.</li> </ol>		

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

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Chapter	Short Title	Extent of Repeal
<ol style="list-style-type: none"> <li>1. The repeal of subsections (1) and (2) of section 47 of the Finance Act 1975 does not affect any variation or disclaimer made before 11th April 1978, and the repeal of subsection (5) of that section does not affect any deed or instrument made as provided by that subsection.</li> <li>2. The repeal in paragraph 13(7) of Schedule 4 to that Act has effect subject to section 66(3) of this Act.</li> <li>3. The repeal in Schedule 6 to that Act applies where the acquisition of the interest is after 11th April 1978.</li> <li>4. The repeals in section 90 of the Finance Act 1976 do not affect dispositions made before 11th April 1978.</li> </ol>		<p>" treated as made ", in paragraph 3(1)(b) the word " and " and paragraph 9.</p> <p>In Schedule 14, paragraph 19.</p>