Finance Act 2003

2003 CHAPTER 14

PART 1

EXCISE DUTIES

Tobacco products duty

1 Rates of tobacco products duty

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

"TABLE

1. Cigarettes	An amount equal to 22 per cent of the retail price plus £96.88 per thousand cigarettes.
2. Cigars	£141.10 per kilogram.
3. Hand-rolling tobacco	£101.42 per kilogram.
4. Other smoking tobacco and chewing tobacco	£62.03 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 9th April 2003.

Alcoholic liquor duties

2 Rate of duty on beer

(1) In section 36(1AA)(a) of the Alcoholic Liquor Duties Act 1979 (c. 4) (rate of duty on beer), for "£11.89" substitute "£12.22".

(2) This section shall be deemed to have come into force at midnight on 13th April 2003.

3 Rates of duty on wine and made-wine

(1) For Part 1 of the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (rates of duty on wine and made-wine) substitute—

"**PART 1**

WINE AND MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT

Description of wine or made-wine	*Rates of duty per hectolitre* £
Wine or made-wine of a strength not exceeding 4 per cent	48.91
Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent	67.25
Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not sparkling	158.69
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent	166.70
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent or of a strength exceeding 8.5 per cent but not exceeding 15 per cent	220.54
Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent	211.58"

(2) This section shall be deemed to have come into force at midnight on 13th April 2003.

Hydrocarbon oil duties

4 Rates of hydrocarbon oil duties

(1) In section 6(1A) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (rates of duty)—

(a) in paragraph (a) (ultra low sulphur petrol) for "£0.4582" substitute "£0.4710",

(b) in paragraph (b) (other light oil) for "£0.5468" substitute "£0.5620",

(c) in paragraph (c) (ultra low sulphur diesel) for "£0.4582" substitute "£0.4710", and

(d) in paragraph (d) (other heavy oil) for "£0.5182" substitute "£0.5327".

(2) In section 6AA(3) of that Act (biodiesel duty) for "£0.2582" substitute "£0.2710".

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for "£0.0586" substitute "£0.0601".

(4) This section shall come into force on 1st October 2003.

5 Rebates on hydrocarbon oil duties

(1) In section 11(1) of the Hydrocarbon Oil Duties Act 1979 (rebate on heavy oil)—

(a) in paragraph (a) (fuel oil) for "£0.0274" substitute "£0.0382",

(b) in paragraph (b) (gas oil: general) for "£0.0313" substitute "£0.0422", and

(c) in paragraph (ba) (ultra low sulphur diesel) for "£0.0313" substitute "£0.0422".

(2) In section 14(1) of that Act (furnace fuel) for "£0.0274" substitute "£0.0382".

(3) This section shall be deemed to have come into force at 6 o'clock in the evening of 9th April 2003.

Betting and gaming duties

6 General betting duty and pool betting duty: relief for losses

(1) Part 1 of the Betting and Gaming Duties Act 1981 (c. 63) (betting duties) is amended as follows.

(2) In section 5 (net stake receipts) at the end of subsection (3) (negative net stake receipts to be disregarded) insert "except as provided for by section 5AA".

(3) After that section insert—

"**5AA Relief for losses**

(1) This section applies where the amount of a person's net stake receipts for an accounting period in respect of a class of bets (calculated in accordance with section 5(1)) is a negative amount.

(2) That amount shall be carried forward to the following accounting period and, to the extent that it does not exceed it, deducted from the amount of the person's net stake receipts in respect of the same class of bets for that period.

(3) If the amount of those net stake receipts for that following accounting period—

(a) is not a positive amount, or

(b) is less than the amount carried forward,

the amount carried forward or, as the case may be, the balance of it shall be treated for the purposes of this section as if it were a negative amount of net stake receipts for that period in respect of the same class of bets.".

(4) Omit section 5A (multiple bets) (which becomes unnecessary as a result of the amendment made by subsection (3) above).

(5) After section 7 (duty charged on net pool betting receipts) insert—

"**7ZA Relief for losses**

(1) This section applies where the amount of a person's net pool betting receipts for an accounting period is a negative amount.

(2) That amount shall be carried forward to the following accounting period and, to the extent that it does not exceed it, deducted from the amount of the person's net pool betting receipts for that period.

(3) If the amount of the net pool betting receipts for that following accounting period—

(a) is not a positive amount, or

(b) is less than the amount carried forward,

the amount carried forward or, as the case may be, the balance of it shall be treated for the purposes of this section as if it were a negative amount of net pool betting receipts for that period.".

(6) The amendments made by this section apply in relation to any accounting period beginning on or after 1st September 2003 for which the net stake receipts in respect of a particular class of bets, or (as the case may be) the net pool betting receipts, is a negative amount.

7 General betting duty: betting exchanges

(1) Part 1 of the Betting and Gaming Duties Act 1981 (c. 63) (betting duties) is amended as follows.

(2) After section 5AA (inserted by section 6 above) insert—

"**5AB Betting exchanges**

(1) This section applies where—

(a) one person makes a bet with another person using facilities provided by a third person in the course of a business, and

(b) that business is one that does not involve the provision of premises for use by persons making or taking bets.

(2) General betting duty shall be charged on the amounts ("commission charges") that the parties to the bet are charged, whether by deduction from winnings or otherwise, for using those facilities.

(3) No deductions shall be allowed from commission charges.

(4) The amount of duty charged under this section in respect of bets determined in an accounting period shall be 15 per cent of the commission charges relating to those bets.

(5) For the purposes of this section, and section 5B(4) so far as relating to this section, a person who arranges for facilities relating to a bet to be provided by another person shall be treated as providing them himself (and the other person shall not).".

(3) In section 5B (liability to pay)—

(a) for subsection (1) substitute—

"(1) All general betting duty chargeable in respect of—

(a) bets made in an accounting period, or

(b) in the case of duty chargeable under section 5AB, bets determined in an accounting period,

shall become due at the end of that period.";

(b) in subsection (4), after "section 4(1) to (3)" insert "or 5AB".

(4) In section 5C (bet-brokers)—

(a) in paragraph (a) of subsection (1) (application of section) after "in the course of a business" insert ", other than a betting-exchange business,";

(b) at the end of that subsection insert—

"In paragraph (a) "betting-exchange business" means a business such as is mentioned in section 5AB(1).";

(c) omit subsections (2) (bet treated as made between bettor and bet-broker) and (3) (subsection (2) not to apply to off-course bets where bet-taker is a bookmaker);

(d) in subsection (4) omit the words "In the case of a bet which is excluded from subsection (2) by virtue of subsection (3),".

(5) The amendments made by this section apply in relation to any accounting period beginning on or after 1st June 2003.

(6) Those amendments do not apply in relation to a bet (a "straddling bet") that is—

(a) made, using facilities provided by a person ("the broker"), in an accounting period of the broker beginning before 1st June 2003, but

(b) not determined until an accounting period of the broker beginning on or after that date.

(7) Any winnings paid in respect of a straddling bet to which section 5AB of the Betting and Gaming Duties Act 1981 (c. 63) would apply but for subsection (6) above shall be treated for the purposes of that Act as paid in the broker's accounting period in which the bet was made ("the earlier accounting period").

(8) Subsection (7) shall not have effect to reduce the general betting duty payable by the broker for the earlier accounting period; but the amount of the reduction that would (but for this subsection) have been made for that period shall be set against any liability of the broker to general betting duty for accounting periods in the following three years, taking earlier periods before later ones until the amount is exhausted.

8 General betting duty: restriction of exemption for on-course bets

(1) In section 12(4) of the Betting and Gaming Duties Act 1981 (general betting duty: supplementary provisions), in the definition of "on-course bet" for "a meeting" substitute "a horse or dog race meeting".

(2) This section applies to bets made on or after 1st September 2003.

9 Bingo duty

(1) For sections 17 to 20 of the Betting and Gaming Duties Act 1981 (bingo duty) substitute—

"**17 Bingo duty**

(1) A duty of excise, to be known as bingo duty, shall be charged—

(a) on the playing of bingo in the United Kingdom, and

(b) at the rate of 15 per cent of a person's bingo promotion profits for an accounting period.

(2) Subsection (1) is subject to the exemptions specified in Part 1 of Schedule 3 to this Act.

(3) The amount of a person's bingo promotion profits for an accounting period is—

(a) the amount of the person's bingo receipts for the period (calculated in accordance with section 19), minus

(b) the amount of his expenditure on bingo winnings for the period (calculated in accordance with section 20).

(4) Bingo duty charged in respect of a person's bingo promotion profits shall be paid by him.

(5) Where the amount that would be charged in respect of a person's bingo promotion profits for an accounting period is less than £1, no duty shall be charged.

18 Accounting period

(1) For the purposes of section 17 an accounting period ends, and another begins, at the end of the last Sunday in each calendar month.

(2) But regulations under paragraph 9 of Schedule 3 to this Act may make provision in place of subsection (1) for the purposes of the application of section 17 to specified persons or in specified circumstances.

(3) Regulations made by virtue of subsection (2) may make transitional provision.

19 Bingo receipts

(1) A person has bingo receipts for an accounting period if payments fall due in the period in respect of entitlement to participate in bingo promoted by him.

(2) The amount of the person's bingo receipts for the accounting period is the aggregate of those payments.

(3) For the purposes of subsections (1) and (2)—

(a) an amount in respect of entitlement to participate in a game of bingo is to be treated as falling due in the accounting period in which the game is played,

(b) where a payment relates to a supply of services on which value added tax is chargeable, the amount of value added tax chargeable shall be

disregarded (irrespective of whether or not that amount is paid by way of value added tax),

(c) it is immaterial whether an amount falls due to be paid to the promoter or to another person,

(d) it is immaterial whether an amount is described as a fee for participation, as a stake, or partly as one and partly as the other, and

(e) where a sum is paid partly in respect of entitlement to participate in a game of bingo and partly in respect of another matter—

(i) such part of the sum as is applied to, or properly attributable to, entitlement to participate in the game shall be treated as an amount falling due in respect of entitlement to participate in the game, and

(ii) the remainder shall be disregarded.

20 Expenditure on bingo winnings

(1) A person's expenditure on bingo winnings for an accounting period is the aggregate of the values of prizes provided by him in that period by way of winnings at bingo promoted by him.

(2) Where a prize is obtained by the promoter from a person not connected with him, the cost to the promoter shall be treated as the value of the prize for the purpose of subsection (1).

(3) Where a prize is a voucher which—

(a) may be used in place of money as whole or partial payment for benefits of a specified kind obtained from a specified person,

(b) specifies an amount as the sum or maximum sum in place of which the voucher may be used, and

(c) does not fall within subsection (2),

the specified amount is the value of the voucher for the purpose of subsection (1).

(4) Where a prize is a voucher (whether or not it falls within subsection (2)) it shall be treated as having no value for the purpose of subsection (1) if—

(a) it does not satisfy subsection (3)(a) and (b), or

(b) its use as described in subsection (3)(a) is subject to a specified restriction, condition or limitation which may make the value of the voucher to the recipient significantly less than the amount mentioned in subsection (3)(b).

(5) In the case of a prize which—

(a) is neither money nor a voucher, and

(b) does not fall within subsection (2),

the value of the prize for the purpose of subsection (1) is—

(i) the amount which the prize would cost the promoter if obtained from a person not connected with him, or

(ii) where no amount can reasonably be determined in accordance with sub-paragraph (i), nil.

(6) For the purpose of this section—

(a) a reference to connection between two persons shall be construed in accordance with section 839 of the Income and Corporation Taxes Act 1988 (connected persons), and

(b) an amount paid by way of value added tax on the acquisition of a thing shall be treated as part of its cost (irrespective of whether or not the amount is taken into account for the purpose of a credit or refund).

20A Combined bingo

(1) A game of bingo is "combined bingo" if—

(a) it is multiple bingo within the meaning of section 1 of the Gaming (Bingo) Act 1985, or

(b) it is played in more than one place and promoted by more than one person.

(2) Payments made in respect of entitlement to participate in combined bingo shall be treated for the purposes of section 19(1) as bingo receipts only of the first promoter to whom (or at whose direction) they are paid.

(3) Where money representing stakes hazarded at combined bingo is paid in an accounting period by one promoter of the bingo ("the first promoter") to another ("the second promoter")—

(a) the money shall not be treated as a bingo receipt of the second promoter for the purposes of section 19(1),

(b) the payment shall be treated as expenditure of the first promoter on bingo winnings for the accounting period for the purposes of section 20(1), and

(c) no subsequent payment of all or part of the money shall be treated as expenditure on bingo winnings for the purposes of section 20(1) (whether paid by the second promoter to another person, by the first promoter having received it from the second promoter, or otherwise).

(4) Subsections (2) and (3) shall apply only where the combined bingo is played entirely in the United Kingdom.

20B Carrying losses forward

(1) Where the calculation of a person's bingo promotion profits for an accounting period results in a negative amount ("the loss")—

(a) no bingo duty shall be chargeable in respect of that accounting period, and

(b) for the purpose of section 17(3), the amount of the person's expenditure on bingo winnings for the next accounting period shall be increased by the amount of the loss.

(2) Subsection (1) applies to an accounting period whether or not the loss results wholly or partly from the previous application of that subsection.

20C Supplementary

(1) Part 2 of Schedule 3 to this Act (bingo duty: supplementary) shall have effect.

(2) In sections 17 to 20B above, this section and Schedule 3—

"bingo" includes any version of that game, whatever name it is called,

"licensed bingo" means bingo played at premises licensed under—

(a) the Gaming Act 1968, or

(b) Chapter II of Part III of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985,

"prize" means anything won at bingo, and

"United Kingdom" includes the territorial sea of the United Kingdom.

(3) For the purposes of those provisions, except in relation to combined bingo, the promoter of a game of bingo is—

(a) in the case of licensed bingo, the holder of the licence, and

(b) in the case of non-licensed bingo, the person who provides the facilities for the game.

(4) For the purposes of those provisions in relation to combined bingo a person promotes a game of bingo if he is wholly or partly responsible for organising it or for providing facilities for it.

(5) In those provisions a reference to entitlement to participate in a game of bingo includes a reference to an opportunity to participate in a game of bingo in respect of which a charge is made (whether by way of a fee for participation, a stake, or both).

(6) In proceedings relating to bingo duty under the customs and excise Acts an averment in any process that a particular game is a version of bingo shall, until the contrary is proved, be sufficient evidence that it is.".

(2) In paragraph 1 of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) (bingo duty: exemptions: domestic bingo) for "Bingo duty shall not be charged in respect of" substitute "In calculating liability to bingo duty no account shall be taken of".

(3) For paragraph 2 of Schedule 3 to the Betting and Gaming Duties Act 1981 (bingo duty: exemptions: small-scale bingo) substitute—

"Small-scale bingo

2 (1) This paragraph applies where entitlement to participate in non-licensed bingo depends on a person's being—

(a) a member of a group or organisation,

(b) a guest of a member of a group or organisation, or

(c) a guest of a group or organisation.

(2) Payments in respect of entitlement to participate in the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 19.

(3) Winnings at the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 20.

2A (1) In the case of non-licensed bingo to which paragraph 2 does not apply—

(a) payments in respect of entitlement to participate in the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 19 (subject to sub-paragraphs (2) to (5) below), and

(b) winnings at the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 20 (subject to sub-paragraphs (2) to (5) below).

(2) If on a day winnings at non-licensed bingo promoted by a person exceed £500, sub-paragraph (1) shall not apply in relation to the person in respect of the accounting period in which that day falls and the next two accounting periods.

(3) If stakes exceeding in aggregate £500 are hazarded on a day at non-licensed bingo promoted by a person, sub-paragraph (1) shall not apply in relation to the person in respect of the accounting period in which that day falls and the next two accounting periods.

(4) If in an accounting period winnings at non-licensed bingo promoted by a person exceed £7,500, sub-paragraph (1) shall not apply in relation to the person in respect of that accounting period and the next two accounting periods.

(5) If stakes exceeding in aggregate £7,500 are hazarded in an accounting period at non-licensed bingo promoted by a person, sub-paragraph (1) shall not apply in relation to the person in respect of that accounting period and the next two accounting periods.

(6) For the purposes of this paragraph winnings at bingo shall be valued in accordance with section 20(2) to (6).".

(4) After paragraph 2A of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) insert—

"Non-profit-making bingo

2B In calculating liability to bingo duty no account shall be taken of bingo to which there apply (without any exception or modification by virtue of regulations) both—

(a) section 3 of the Gaming Act 1968 or Article 56 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (prohibition on charging for participation), and

(b) section 4 of that Act or Article 57 of that Order (prohibition of levy on stakes or winnings).".

(5) In paragraph 5(1) of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) (bingo duty: exemptions: commercial amusements) for "Bingo duty shall not be charged in respect of" substitute "In calculating liability to bingo duty no account shall be taken of".

(6) In paragraph 6 of Schedule 3 to that Act (bingo duty: exemptions: machine bingo) for "Bingo duty shall not be charged in respect of" substitute "In calculating liability to bingo duty no account shall be taken of".

(7) In paragraph 10(1) of Schedule 3 to that Act (notification and registration of bingo-promoters) for "which will, or may, be chargeable with bingo duty" substitute "in connection with which bingo duty may be chargeable".

(8) The following paragraphs of Schedule 3 to that Act shall cease to have effect—

(a) paragraph 11 (announcement of prizes),

(b) paragraph 12 (records), and

(c) paragraph 15 (disputes).

(9) In paragraph 16(2) of Schedule 3 to that Act (enforcement)—

(a) for "(being bingo which is or may be chargeable with bingo duty)" substitute "(being bingo in connection with which bingo duty may be chargeable)", and

(b) paragraph (b) (and the word "or" immediately before it) shall cease to have effect.

(10) This section shall have effect in relation to bingo played on or after 27th October 2003 (with which day the first accounting period for the purposes of section 17 of the Betting and Gaming Duties Act 1981 shall begin).

10 Amusement machines not operated by coins or tokens

(1) In section 21 of the Betting and Gaming Duties Act 1981 (amusement machine licences), for subsections (3B) to (3D) (meaning of "fifty-penny machine") substitute—

"(3B) For the purposes of this section an amusement machine is a "fifty-penny machine" if, and only if—

(a) where it is a machine on which a game can be played solo, the cost for each time the game is played on it solo—

(i) does not exceed 50p, or

(ii) where the machine provides differing numbers of games in different circumstances, cannot exceed 50p;

and

(b) where it is a machine on which a game can be played by more than one person at a time, the cost per player for each time the game is played on it simultaneously by more than one player—

(i) does not exceed 50p, or

(ii) where the machine provides differing numbers of games in different circumstances, cannot exceed 50p.".

(2) In section 25(1) of that Act (definition of "amusement machine"), in paragraph (c) for "coin or token" substitute "coin, token or other thing".

(3) In section 26(2) of that Act (interpretation), for the definitions of "two-penny machine", "five-penny machine" and "ten-penny machine" substitute—

""two-penny machine" means an amusement machine in relation to which the cost for each time a game is played on it—

(a) does not exceed 2p, or

(b) where the machine provides differing numbers of games in different circumstances, cannot exceed 2p,

and "five-penny machine" and "ten-penny machine" have a corresponding meaning;".

(4) In the following provisions of the Value Added Tax Act 1994 (c. 23)—

(a) the definition of "gaming machine" in section 23(4), and

(b) Note (3) (definition of "gaming machine") to Group 4 of Schedule 9,

for "coin or token" substitute "coin, token or other thing".

11 Amusement machines: use of currencies other than sterling

(1) In section 26 of the Betting and Gaming Duties Act 1981 (c. 63) (interpretation etc), omit the definition of "coin" in subsection (2).

(2) After that section insert—

"**26A Amounts in currencies other than sterling**

(1) Any reference in this Part of this Act to a amount in sterling, in the context of—

(a) the cost of playing a game, or

(b) the amount of the prize for a game,

includes a reference to the equivalent amount in another currency.

(2) The equivalent amount in another currency, in relation to any day, shall be determined by reference to the London closing exchange rate for the previous day.

(3) For the purposes of determining what duty is payable on an amusement machine licence in a case where this section applies, the equivalent in another currency of an amount in sterling shall be taken to be its equivalent on the day on which the application for the licence is received by the Commissioners, or the due date in the case of a default licence.

(4) In subsection (3) above—

"default licence" means a licence granted under paragraph 3(1) of Schedule 4A to this Act;

"due date" has the meaning given by paragraph 2(4) of that Schedule.".

(3) This section does not apply in relation to any amusement machine licence granted before the day on which this Act is passed or to anything done under such a licence.

12 Responsibility for unlicensed amusement machines

(1) In section 24(5) of the Betting and Gaming Duties Act 1981 (c. 63) (penalty for unlicensed amusement machines), for paragraph (c) (liability of person responsible for, inter alia, issuing or exchanging coins etc for amusement machine) substitute—

"(c) is a person responsible for controlling the use of any amusement machine on the premises, or".

(2) In Schedule 4A to that Act (unlicensed amusement machines), for paragraph (c) of paragraph 7(3) (which makes similar provision) substitute—

"(c) responsible for controlling the use of any amusement machine on the premises, or".

13 Rates of gaming duty

(1) For the Table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

"TABLE

Part of gross gaming yield	*Rate*
The first £502,500	2.5 per cent.
The next £1,115,500	12.5 per cent.
The next £1,115,500	20 per cent.
The next £1,953,000	30 per cent.
The remainder	40 per cent."

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2003.

Vehicle excise duty

14 Vehicle excise duty: rates

(1) In paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (the general rate)—

(a) in sub-paragraph (2) (general rate of duty except in case of vehicle with engine with cylinder capacity not exceeding 1,549 cubic centimetres) for "£160" substitute "£165";

(b) in sub-paragraph (2A) (general rate of duty in case of vehicle with engine with cylinder capacity not exceeding 1,549 cubic centimetres) for "£105" substitute "£110".

(2) For the Table in paragraph 1B of that Schedule (rates of duty applicable to light passenger vehicles registered on or after 1st March 2001 on basis of certificate specifying CO_2 emissions figure) substitute—

"CO_2 emissions figure		*Rate*		
(1)	*(2)*	*(3)*	*(4)*	*(5)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard Rate*	*Premium rate*
g/km	g/km	£	£	£
—	100	55	65	75
100	120	65	75	85
120	150	95	105	115
150	165	115	125	135

"CO_2 emissions figure		*Rate*		
(1)	*(2)*	*(3)*	*(4)*	*(5)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard Rate*	*Premium rate*
g/km	g/km	£	£	£
165	185	135	145	155
185	—	155	160	165"

(3) In paragraph 1J of that Schedule (rates of duty applicable to light goods vehicles first registered on or after 1st March 2001)—

(a) in paragraph (a) (vehicle which is not a lower-emission van) for "£160" substitute "£165";

(b) in paragraph (b) (vehicle which is a lower-emission van) for "£105" substitute "£110".

(4) This section applies to any licence taken out on or after 17th April 2003 for a period beginning on or after 1st May 2003.

15 Disclosure for exemptions: Northern Ireland

In section 22ZA of the Vehicle Excise and Registration Act 1994 (c. 22) (nil licences for vehicles for disabled persons: disclosure of information) in subsection (1)(a) (which provides that the section applies to certain information held by the Secretary of State or a person providing services to him) in sub-paragraphs (i) and (ii), after "the Secretary of State" insert "or a Northern Ireland department".

16 Duty at higher rate: exception for tractive units

(1) After section 15 of the Vehicle Excise and Registration Act 1994 insert—

"**15A Exception for tractive units from charge at higher rate**

(1) Where—

(a) a vehicle licence has been taken out for a tractive unit, and

(b) the licence was taken out at a rate of vehicle excise duty applicable to a tractive unit which is to be used with semi-trailers with a minimum number of axles,

duty at a higher rate does not become chargeable under section 15 by reason only that while the licence is in force the tractive unit is used with a semi-trailer with fewer axles than that minimum number, if the condition in subsection (2) is satisfied.

(2) The condition is that the rate of duty at which the licence was taken out is equal to or exceeds the rate which would have been applicable if the revenue weight of the tractive unit had been a weight equal to the actual laden weight, at the time of the use, of the articulated vehicle consisting of the tractive unit and the semi-trailer.".

(2) Section 16 of that Act (which makes provision, in the case of tractive units, for exemptions from the charge to vehicle excise duty at a higher rate on a basis different from that set out in new section 15A) shall cease to have effect.

(3) This section has effect in relation to the use of a tractive unit on or after 9th April 2003.

PART 2

VALUE ADDED TAX

17 Requirement of evidence or security

(1) The Value Added Tax Act 1994 (c. 23) is amended as follows.

(2) In section 24(6)(a) (regulations about input tax etc: requirement of documentary evidence) after "documents" insert "or other information".

(3) In paragraph 4 of Schedule 11 (power to require security and production of documents) for sub-paragraph (1) substitute—

"(1) The Commissioners may, as a condition of allowing or repaying input tax to any person, require the production of such evidence relating to VAT as they may specify.

(1A) If they think it necessary for the protection of the revenue, the Commissioners may require, as a condition of making any VAT credit, the giving of such security for the amount of the payment as appears to them appropriate.".

(4) For sub-paragraph (2) of that paragraph substitute—

"(2) If they think it necessary for the protection of the revenue, the Commissioners may require a taxable person, as a condition of his supplying or being supplied with goods or services under a taxable supply, to give security, or further security, for the payment of any VAT that is or may become due from—

(a) the taxable person, or

(b) any person by or to whom relevant goods or services are supplied.

(3) In sub-paragraph (2) above "relevant goods or services" means goods or services supplied by or to the taxable person.

(4) Security under sub-paragraph (2) above shall be of such amount, and shall be given in such manner, as the Commissioners may determine.

(5) The powers conferred on the Commissioners by sub-paragraph (2) above are without prejudice to their powers under section 48(7).".

(5) In section 72(11) (penalty for supplying goods in contravention of paragraph 4(2) of Schedule 11) after "supplies" insert "or is supplied with".

(6) In section 83(l) (right of appeal against requirement of security under paragraph 4(2) of Schedule 11 etc) for "paragraph 4(2)" substitute "paragraph 4(1A) or (2)".

(7) In section 84 (further provisions relating to appeals) after subsection (4D) insert—

"(4E) Where an appeal is brought against a requirement imposed under paragraph 4(2)(b) of Schedule 11 that a person give security, the tribunal shall allow the appeal unless the Commissioners satisfy the tribunal that—

(a) there has been an evasion of, or an attempt to evade, VAT in relation to goods or services supplied to or by that person, or

(b) it is likely, or without the requirement for security it is likely, that VAT in relation to such goods or services will be evaded.

(4F) A reference in subsection (4E) above to evading VAT includes a reference to obtaining a VAT credit that is not due or a VAT credit in excess of what is due.".

(8) This section shall be deemed to have come into force on 10th April 2003.

18 Joint and several liability for unpaid VAT of another trader

(1) In Part 4 of the Value Added Tax Act 1994 (c. 23) (administration, collection and enforcement), after section 77 insert—

"Liability for unpaid VAT of another

77A Joint and several liability of traders in supply chain where tax unpaid

(1) This section applies to goods of any of the following descriptions—

(a) telephones and any other equipment, including parts and accessories, made or adapted for use in connection with telephones or telecommunication;

(b) computers and any other equipment, including parts, accessories and software, made or adapted for use in connection with computers or computer systems.

(2) Where—

(a) a taxable supply of goods to which this section applies has been made to a taxable person, and

(b) at the time of the supply the person knew or had reasonable grounds to suspect that some or all of the VAT payable in respect of that supply, or on any previous or subsequent supply of those goods, would go unpaid,

the Commissioners may serve on him a notice specifying the amount of the VAT so payable that is unpaid, and stating the effect of the notice.

(3) The effect of a notice under this section is that—

(a) the person served with the notice, and

(b) the person liable, apart from this section, for the amount specified in the notice,

are jointly and severally liable to the Commissioners for that amount.

(4) For the purposes of subsection (2) above the amount of VAT that is payable in respect of a supply is the lesser of—

(a) the amount chargeable on the supply, and

(b) the amount shown as due on the supplier's return for the prescribed accounting period in question (if he has made one) together with any

amount assessed as due from him for that period (subject to any appeal by him).

(5) The reference in subsection (4)(b) above to assessing an amount as due from a person includes a reference to the case where, because it is impracticable to do so, the amount is not notified to him.

(6) For the purposes of subsection (2) above, a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in paragraph (b) of that subsection if the price payable by him for the goods in question—

(a) was less than the lowest price that might reasonably be expected to be payable for them on the open market, or

(b) was less than the price payable on any previous supply of those goods.

(7) The presumption provided for by subsection (6) above is rebuttable on proof that the low price payable for the goods was due to circumstances unconnected with failure to pay VAT.

(8) Subsection (6) above is without prejudice to any other way of establishing reasonable grounds for suspicion.

(9) The Treasury may by order amend subsection (1) above; and any such order may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.

(10) For the purposes of this section—

(a) "goods" includes services;

(b) an amount of VAT counts as unpaid only to the extent that it exceeds the amount of any refund due.".

(2) In section 83 of that Act (appeals) after paragraph (r) insert—

"(ra) any liability arising by virtue of section 77A;".

(3) In section 84(3) of that Act (appeals not to be entertained unless the VAT has been paid or deposited, except where that would cause hardship) for "or (q)" substitute ", (q) or (ra)".

(4) This section shall be deemed to have come into force on 10th April 2003 except subsection (3) which applies in relation to any appeal notice of which is given on or after the day on which this Act is passed.

19 Face-value vouchers

Schedule 1 to this Act (VAT: face-value vouchers) has effect.

20 Supplies arising from prior grant of fee simple

(1) In section 96 of the Value Added Tax Act 1994 (c. 23) (interpretative provisions), after subsection (10A) (time for determining status of supplies arising from prior grant of interest etc) insert—

"(10B) Notwithstanding subsection (10A) above—

(a) item 1 of Group 1 of Schedule 9 does not make exempt any supply that arises for the purposes of this Act from the prior grant of a fee simple falling within paragraph (a) of that item; and

(b) that paragraph does not prevent the exemption of a supply that arises for the purposes of this Act from the prior grant of a fee simple not falling within that paragraph.".

(2) This section applies in relation to any supply that arises for the purposes of the Value Added Tax Act 1994 (c. 23) from the prior grant of a fee simple made on or after 9th April 2003.

21 Business gifts

(1) In Schedule 4 to the Value Added Tax Act 1994 (matters to be treated as supply of goods or services), paragraph 5 (business gifts etc) is amended as follows.

(2) In sub-paragraph (2) (cases where sub-paragraph (1) does not apply), for paragraph (a) substitute—

"(a) a business gift the cost of which, together with the cost of any other business gifts made to the same person in the same year, was not more than £50.".

(3) After that sub-paragraph insert—

"(2ZA) In sub-paragraph (2) above—

"business gift" means a gift of goods that is made in the course or furtherance of the business in question;

"cost", in relation to a gift of goods, means the cost to the donor of acquiring or, as the case may be, producing the goods;

"the same year", in relation to a gift, means any period of twelve months that includes the day on which the gift is made.".

(4) This section applies in relation to gifts made on or after 1st October 2003.

22 Non-business use of business property

(1) In paragraph 5 of Schedule 4 to the Value Added Tax Act 1994 (matters to be treated as supply of goods or services), after sub-paragraph (4) (non-business use of business asset treated as supply of services) insert—

"(4A) Notwithstanding paragraph 9(1) below, sub-paragraph (4) above does not apply to—

(a) any interest in land,

(b) any building or part of a building,

(c) any civil engineering work or part of such a work, or

(d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise).".

(2) This section shall be deemed to have come into force on 9th April 2003.

(3) This section does not apply in relation to any asset in respect of which the person in question or any of his predecessors became entitled before that date to a credit or repayment as mentioned in paragraph 5(5)(a) or 5(5)(b) of Schedule 4 to the Value Added Tax Act 1994 (c. 23).

(4) In subsection (3)—

(a) "the person in question" means the person carrying on the business referred to in sub-paragraph (4) of paragraph 5 of that Schedule;

(b) "predecessor" has the same meaning as in that paragraph;

(c) the reference to an "asset" is to anything falling within any of paragraphs (a) to (d) of the sub-paragraph (4A) inserted into that paragraph by subsection (1).

23 Supply of electronic services in member States: special accounting scheme

(1) Schedule 2 to this Act (scheme enabling persons who supply certain electronic services in any member State, but who are not established in a member State, to account for and pay VAT in the United Kingdom on those supplies) has effect.

(2) The amendments made by that Schedule have effect in relation to qualifying supplies made on or after 1st July 2003.

PART 3

TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

Preliminary

24 Introductory

(1) This Part makes provision for and in connection with the imposition of liability to a penalty where a person—

(a) engages in any conduct for the purpose of evading any relevant tax or duty, or

(b) engages in any conduct by which he contravenes a duty, obligation, requirement or condition imposed by or under legislation relating to any relevant tax or duty.

(2) For the purposes of this Part "relevant tax or duty" means any of the following—

(a) customs duty;

(b) Community export duty;

(c) Community import duty;

(d) import VAT;

(e) customs duty of a preferential tariff country.

(3) In this Part—

"appeal tribunal" means a VAT and duties tribunal;

"the Commissioners" means the Commissioners of Customs and Excise;

"the Community Customs Code" means Council Regulation 2913/92/EEC establishing the Community Customs Code;

"Community export duty" means any of the duties, charges or levies which are export duties within the meaning of the Community Customs Code (as at 9th April 2003, see the definition of "export duties" in Article 4(11) of that Code);

"Community import duty" means any of the duties, charges or levies which are import duties within the meaning of the Community Customs Code (as at

9th April 2003, see the definition of "import duties" in Article 4(10) of that Code);

"contravene" includes fail to comply with;

"customs duty of a preferential tariff country" includes a reference to any charge imposed by a preferential tariff country and having an equivalent effect to customs duty payable on the importation of goods into the territory of that country;

"demand notice" means a demand notice within the meaning of section 30;

"import VAT" means value added tax chargeable by virtue of section 1(1)(c) of the Value Added Tax Act 1994 (c. 23) (importation of goods from places outside the member States);

"notice" means notice in writing;

"preferential tariff country" means a country outside the European Community which is, or is a member of a group of countries which is, party to an agreement falling within Article 20(3)(d) of the Community Customs Code (preferential tariff agreements with the Community);

"prescribed" means specified in, or determined in accordance with, regulations made by the Treasury;

"relevant rule", in relation to any relevant tax or duty, has the meaning given by subsection (8) of section 26 (as read with subsection (9) of that section);

"representative", in relation to any person, means—

(a) his personal representative,

(b) his trustee in bankruptcy or interim or permanent trustee,

(c) any receiver or liquidator appointed in relation to that person or any of his property,

or any other person acting in a representative capacity in relation to that person.

(4) References in this Part to the Community Customs Code are references to that Code as from time to time amended, whether before or after the coming into force of this Part.

(5) The Treasury may by order amend this Part for the purpose of replacing any reference to, or to a provision of,—

(a) the Community Customs Code, or

(b) any instrument referred to in this Part by virtue of an order under this subsection,

with a reference to, or (as the case may be) to a provision of, a different instrument.

(6) A statutory instrument containing an order under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(7) Except for this subsection and section 41 (which accordingly come into force on the passing of this Act), this Part comes into force on such day as the Treasury may by order appoint.

The penalties

25 Penalty for evasion

(1) In any case where—

(a) a person engages in any conduct for the purpose of evading any relevant tax or duty, and

(b) his conduct involves dishonesty (whether or not such as to give rise to any criminal liability),

that person is liable to a penalty of an amount equal to the amount of the tax or duty evaded or, as the case may be, sought to be evaded.

(2) Subsection (1) is subject to the following provisions of this Part.

(3) Nothing in this section applies in relation to any customs duty of a preferential tariff country.

(4) Any reference in this section to a person's "evading" any relevant tax or duty includes a reference to his obtaining or securing, without his being entitled to it,—

(a) any repayment, rebate or drawback of any relevant tax or duty,

(b) any relief or exemption from, or any allowance against, any relevant tax or duty, or

(c) any deferral or other postponement of his liability to pay any relevant tax or duty or of the discharge by payment of any such liability,

and also includes a reference to his evading the cancellation of any entitlement to, or the withdrawal of, any such repayment, rebate, drawback, relief, exemption or allowance.

(5) In relation to any such evasion of any relevant tax or duty as is mentioned in subsection (4), the reference in subsection (1) to the amount of the tax or duty evaded or sought to be evaded is a reference to the amount of—

(a) the repayment, rebate or drawback,

(b) the relief, exemption or allowance, or

(c) the payment which, or the liability to make which, is deferred or otherwise postponed,

as the case may be.

(6) Where, by reason of conduct falling within subsection (1) in the case of any relevant tax or duty, a person—

(a) is convicted of an offence,

(b) is given, and has not had withdrawn, a demand notice in respect of a penalty to which he is liable under section 26, or

(c) is liable to a penalty imposed upon him under any other provision of the law relating to that relevant tax or duty,

that conduct does not also give rise to liability to a penalty under this section in respect of that relevant tax or duty.

26 Penalty for contravention of relevant rule

(1) If, in the case of any relevant tax or duty, a person of a prescribed description engages in any conduct by which he contravenes—

(a) a prescribed relevant rule, or

(b) a relevant rule of a prescribed description,

he is liable to a penalty under this section of a prescribed amount.

(2) Subsection (1) is subject to the following provisions of this Part.

(3) The power conferred by subsection (1) to prescribe a description of person includes power to prescribe any person (without further qualification) as such a description.

(4) Different penalties may be prescribed under subsection (1) for different cases or different circumstances.

(5) Any amount prescribed under subsection (1) as the amount of a penalty must not be more than £2,500.

(6) The Treasury may by order amend subsection (5) by substituting a different amount for the amount for the time being specified in that subsection.

(7) A statutory instrument containing an order under subsection (6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(8) In this Part "relevant rule", in relation to any relevant tax or duty, means any duty, obligation, requirement or condition imposed by or under any of the following—

(a) the Customs and Excise Management Act 1979 (c. 2), as it applies in relation to the relevant tax or duty;

(b) any other Act, or any statutory instrument, as it applies in relation to the relevant tax or duty;

(c) in the case of customs duty, Community export duty or Community import duty, Community customs rules;

(d) in the case of import VAT, Community customs rules as they apply in relation to import VAT;

(e) any directly applicable Community legislation relating to the relevant tax or duty;

(f) any relevant international rules applying in relation to the relevant tax or duty.

(9) In subsection (8)—

"Community customs rules" means customs rules, as defined in Article 1 of the Community Customs Code;

"relevant international rules" means international agreements so far as applying in relation to a relevant tax or duty and having effect as part of the law of any part of the United Kingdom by virtue of—

(a) any Act or statutory instrument, or

(b) any directly applicable Community legislation.

27 Exceptions from section 26

(1) A person is not liable to a penalty under section 26 if he satisfies—

(a) the Commissioners, or

(b) on appeal, an appeal tribunal,

that there is a reasonable excuse for his conduct.

(2) For the purposes of subsection (1) none of the following is a reasonable excuse—

(a) an insufficiency of funds available to any person for paying any relevant tax or duty or any penalty due;

(b) that reliance was placed by any person on another to perform any task;

(c) that the contravention is attributable, in whole or in part, to the conduct of a person on whom reliance to perform any task was so placed.

(3) Where, by reason of conduct falling within subsection (1) of section 26 in the case of any relevant tax or duty, a person—

(a) is prosecuted for an offence,

(b) is given, and has not had withdrawn, a demand notice in respect of a penalty to which he is liable under section 25, or

(c) is liable to a penalty imposed upon him under any other provision of the law relating to that relevant tax or duty,

that conduct does not also give rise to liability to a penalty under section 26 in respect of that relevant tax or duty.

(4) A person is not liable to a penalty under section 26 in respect of any conduct, so far as relating to import VAT, if in respect of that conduct—

(a) he is liable to a penalty under any of sections 62 to 69A of the Value Added Tax Act 1994 (c. 23) (penalty for contravention of statutory requirements as to VAT), or

(b) he would be so liable but for section 62(4), 63(11), 64(6), 67(9), 69(9) or 69A(7) of that Act (conduct resulting in conviction, different penalty etc).

28 Liability of directors etc where body corporate liable to penalty for evasion

(1) Where it appears to the Commissioners—

(a) that a body corporate is liable to a penalty under section 25, and

(b) that the conduct giving rise to the penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a "relevant officer"),

the Commissioners may give a notice under this section to the body corporate (or its representative) and to the relevant officer (or his representative).

(2) A notice under this section must state—

(a) the amount of the penalty referred to in subsection (1)(a) (the "basic penalty"), and

(b) that the Commissioners propose, in accordance with this section, to recover from the relevant officer such portion (which may be the whole) of the basic penalty as is specified in the notice.

(3) If a notice is given under this section, this Part shall apply in relation to the relevant officer as if he were personally liable under section 25 to a penalty which corresponds to that portion of the basic penalty specified in the notice.

(4) If a notice is given under this section—

(a) the amount which may be recovered from the body corporate under this Part is limited to so much (if any) of the basic penalty as is not recoverable from the relevant officer by virtue of subsection (3), and

(b) the body corporate is to be treated as discharged from liability for so much of the basic penalty as is so recoverable from the relevant officer.

(5) In this section "managing officer", in relation to a body corporate, means—

(a) a manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in any such capacity or as a director.

(6) Where the affairs of a body corporate are managed by its members, this section applies in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

Reduction of amount of penalty

29 Reduction of penalty under section 25 or 26

(1) Where a person is liable to a penalty under section 25 or 26—

(a) the Commissioners (whether originally or on review) or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; and

(b) the Commissioners on a review, or an appeal tribunal on an appeal, relating to a penalty reduced by the Commissioners under this subsection may cancel the whole or any part of the reduction previously made by the Commissioners.

(2) In exercising their powers under subsection (1), neither the Commissioners nor an appeal tribunal are entitled to take into account any of the matters specified in subsection (3).

(3) Those matters are—

(a) the insufficiency of the funds available to any person for paying any relevant tax or duty or the amount of the penalty,

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of any relevant tax or duty,

(c) the fact that the person liable to the penalty, or a person acting on his behalf, has acted in good faith.

Demand notices

30 Demands for penalties

(1) Where a person is liable to a penalty under this Part, the Commissioners may give to that person or his representative a notice in writing (a "demand notice") demanding payment of the amount due by way of penalty.

(2) An amount demanded as due from a person or his representative in accordance with subsection (1) is recoverable as if it were an amount due from the person or, as the case may be, the representative as an amount of customs duty.

This subsection is subject to—

(a) any appeal under section 36 (appeals to tribunal); and

(b) subsection (3).

(3) An amount so demanded is not recoverable if or to the extent that—

(a) the demand has subsequently been withdrawn; or

(b) the amount has been reduced under section 29.

31 Time limits for demands for penalties

(1) A demand notice may not be given—

(a) in the case of a penalty under section 25, more than 20 years after the conduct giving rise to the liability to the penalty ceased, or

(b) in the case of a penalty under section 26, more than 3 years after the conduct giving rise to the liability to the penalty ceased.

(2) A demand notice may not be given more than 2 years after there has come to the knowledge of the Commissioners evidence of facts sufficient in the opinion of the Commissioners to justify the giving of the demand notice.

(3) A demand notice—

(a) may be given in respect of a penalty to which a person was liable under section 25 or 26 immediately before his death, but

(b) in the case of a penalty to which the deceased was so liable under section 25, may not be given more than 3 years after his death.

32 No prosecution after demand notice for penalty under section 26

Where a demand notice is given demanding payment of an amount due by way of penalty under section 26 in respect of any conduct of a person, no proceedings may be brought against that person for any offence constituted by that conduct (whether or not the demand notice is subsequently withdrawn).

Reviews

33 Right to review of certain decisions

(1) If, in the case of any relevant tax or duty, the Commissioners give a person or his representative a notice informing him—

(a) that they have decided that the person has engaged in conduct by which he contravenes a relevant rule, and

(b) that the person is, in consequence, liable to a penalty under section 26, but

(c) that they do not propose to give a demand notice in respect of the penalty,

the person or his representative may give a notice to the Commissioners requiring them to review the decision mentioned in paragraph (a).

(2) Where the Commissioners give a demand notice to a person or his representative, the person or his representative may by notice require the Commissioners to review—

(a) their decision that the person is liable to a penalty under section 25 or 26, or

(b) their decision as to the amount of the liability.

(3) Where the Commissioners give a notice under section 28 to a body corporate and to a relevant officer—

(a) subsection (2) does not apply to any demand notice given in respect of the liability of either of them to a penalty under this Part in respect of the conduct in question, but

(b) subsections (4) and (5) have effect instead in relation to any such demand notice.

(4) Where the Commissioners give a demand notice to the relevant officer or his representative for a penalty which corresponds to the portion of the basic penalty specified in the notice under section 28, the relevant officer or his representative may by notice require the Commissioners to review—

(a) their decision that the conduct of the body corporate referred to in section 28(1)(b) is, in whole or in part, attributable to the relevant officer's dishonesty, or

(b) their decision as to the portion of the basic penalty which the Commissioners are seeking to recover from the relevant officer or his representative.

(5) Where the Commissioners give a demand notice to the body corporate or its representative for so much of the basic penalty as is not recoverable from the relevant officer by virtue of section 28(3), the body corporate or its representative may by notice require the Commissioners to review—

(a) their decision that the body corporate is liable to a penalty under section 25, or

(b) their decision as to amount of the basic penalty as if it were the amount specified in the demand notice.

(6) A person may not under this section require a review of a decision under section 35 (decision on review).

34 Time limit and right to further review

(1) The Commissioners are not required under section 33 to review any decision unless the notice requiring the review is given before the end of the permitted period.

(2) For the purposes of this section the "permitted period" is the period of 45 days beginning with the day on which the relevant notice is given.

(3) For the purposes of subsection (2) the "relevant notice" is—

(a) in the case of a review by virtue of subsection (1) of section 33, the notice mentioned in that subsection; or

(b) in any other case, the demand notice in question.

(4) Nothing in subsection (1) prevents the Commissioners from agreeing on request to review a decision in a case where the notice required by that subsection is not given within the permitted period.

(5) A person may give notice under section 33 requiring a decision to be reviewed a second or subsequent time only if—

(a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider any particular facts or matters; and

(b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review of the decision, except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

35 Powers of Commissioners on a review

(1) Where the Commissioners—

(a) are required in accordance with section 33 to review a decision, or

(b) agree to do so on such a request as is mentioned in section 34(4),

the following provisions of this section apply.

(2) On any such review, the Commissioners may—

(a) confirm the decision,

(b) withdraw the decision, or

(c) vary the decision.

(3) Where the Commissioners withdraw or vary the decision, they may also take such further steps (if any) in consequence of the withdrawal or variation as they may consider appropriate.

(4) If the Commissioners do not within the permitted period give notice of their determination on the review to the person who required the review or his representative, they shall be taken for the purposes of this Part to have confirmed the decision.

(5) For the purposes of subsection (4), the "permitted period" is the period of 45 days beginning with the day on which the review—

(a) is required by the person or his representative in accordance with section 33, or

(b) is agreed to by the Commissioners as mentioned in section 34(4).

Appeals

36 Appeals to a tribunal

(1) Where the Commissioners—

(a) are required in accordance with section 33 to review a decision, or

(b) agree to do so on such a request as is mentioned in section 34(4),

an appeal lies to an appeal tribunal against any decision by the Commissioners on the review (including any confirmation under section 35(4)).

(2) An appeal lies under this section only if the appellant is one of the following persons—

(a) the person who required the review in question,

(b) where the person who required the review in question did so as representative of another person, that other person, or

(c) a representative of a person falling within paragraph (a) or (b).

(3) The powers of an appeal tribunal on an appeal under this section include—

(a) power to quash or vary a decision; and

(b) power to substitute the tribunal's own decision for any decision so quashed.

(4) On an appeal under this section—

(a) the burden of proof as to the matters mentioned in section 25(1) or 26(1) lies on the Commissioners; but

(b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.

37 Appeal tribunals

(1) Sections 85 and 87 of the Value Added Tax Act 1994 (c. 23) (settling of appeals by agreement and enforcement of decisions of tribunal) have effect as if—

(a) any reference to section 83 of that Act included a reference to section 36 above, and

(b) any reference to VAT included a reference to any relevant tax or duty.

(2) The provision that may be made by rules under paragraph 9 of Schedule 12 to the Value Added Tax Act 1994 (rules of procedure for tribunals) includes provision for costs awarded against an appellant on an appeal by virtue of this Part to be recoverable as if the amount awarded were an amount of customs duty which the appellant is required to pay.

Evidence

38 Admissibility of certain statements and documents

(1) Statements made or documents produced by or on behalf of a person are not inadmissible in—

(a) any criminal proceedings against that person in respect of any offence in connection with or in relation to any relevant tax or duty, or

(b) any proceedings against that person for the recovery of any sum due from him in connection with or in relation to any relevant tax or duty,

by reason only that any of the matters specified in subsection (2) has been drawn to his attention and that he was, or may have been, induced by that matter having been brought to his attention to make the statements or produce the documents.

(2) The matters mentioned in subsection (1) are—

(a) that the Commissioners have power, in relation to any relevant tax or duty, to demand by means of a written notice an amount by way of a civil penalty, instead of instituting criminal proceedings;

(b) that it is the Commissioners' practice, without being able to give an undertaking as to whether they will make such a demand in any case, to be influenced in determining whether to make such a demand by the fact (where it is the case) that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for an investigation;

(c) that the Commissioners or, on appeal, an appeal tribunal have power to reduce a penalty under section 25, as provided in subsection (1) of section 29; and

(d) that, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation.

(3) References in this section to a relevant tax or duty do not include a reference to customs duty of a preferential tariff country.

Miscellaneous and supplementary

39 Service of notices

Any notice to be given to any person for the purposes of this Part may be given by sending it by post in a letter addressed to that person or his representative at the last or usual residence or place of business of that person or representative.

40 Penalties not to be deducted for income tax or corporation tax purposes

In section 827 of the Taxes Act 1988 (no deduction for penalties etc) after subsection (1E) insert—

"(1F) Where a person is liable to make a payment by way of a penalty under section 25 or 26 of the Finance Act 2003 (evasion of, or contravention of relevant rule relating to, certain taxes and duties under the management of the Commissioners of Customs and Excise etc) the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.".

41 Regulations and orders

(1) Any power conferred on the Treasury by this Part to make regulations or an order includes power—

(a) to make different provision for different cases, and

(b) to make incidental, consequential, supplemental or transitional provision or savings.

(2) Any power conferred on the Treasury by this Part to make regulations or an order shall be exercisable by statutory instrument.

(3) Any statutory instrument containing regulations under this Part shall be subject to annulment in pursuance of a resolution of the House of Commons.

PART 4

STAMP DUTY LAND TAX

Introduction

42 The tax

(1) A tax (to be known as "stamp duty land tax") shall be charged in accordance with this Part on land transactions.

(2) The tax is chargeable—

(a) whether or not there is any instrument effecting the transaction,

(b) if there is such an instrument, whether or not it is executed in the United Kingdom, and

(c) whether or not any party to the transaction is present, or resident, in the United Kingdom.

(3) The tax is under the care and management of the Commissioners of Inland Revenue (referred to in this Part as "the Board").

Land transactions

43 Land transactions

(1) In this Part a "land transaction" means any acquisition of a chargeable interest.

As to the meaning of "chargeable interest" see section 48.

(2) Except as otherwise provided, this Part applies however the acquisition is effected, whether by act of the parties, by order of a court or other authority, by or under any statutory provision or by operation of law.

(3) For the purposes of this Part—

(a) the creation of a chargeable interest is—

(i) an acquisition by the person becoming entitled to the interest created, and

(ii) a disposal by the person whose interest or right is subject to the interest created;

(b) the surrender or release of a chargeable interest is—

(i) an acquisition of that interest by any person whose interest or right is benefitted or enlarged by the transaction, and

(ii) a disposal by the person ceasing to be entitled to that interest; and

(c) the variation of a chargeable interest is—

(i) an acquisition of a chargeable interest by the person benefitting from the variation, and

(ii) a disposal of a chargeable interest by the person whose interest is subject to or limited by the variation.

(4) References in this Part to the "purchaser" and "vendor", in relation to a land transaction, are to the person acquiring and the person disposing of the subject-matter of the transaction.

These expressions apply even if there is no consideration given for the transaction.

(5) A person is not treated as a purchaser unless he has given consideration for, or is a party to, the transaction.

(6) References in this Part to the subject-matter of a land transaction are to the chargeable interest acquired (the "main subject-matter"), together with any interest or right appurtenant or pertaining to it that is acquired with it.

44 Contract and conveyance

(1) This section applies where a contract for a land transaction is entered into under which the transaction is to be completed by a conveyance.

(2) A person is not regarded as entering into a land transaction by reason of entering into the contract, but the following provisions have effect.

(3) If the transaction is completed without previously having been substantially performed, the contract and the transaction effected on completion are treated as parts of a single land transaction.

In this case the effective date of the transaction is the date of completion.

(4) If the contract is substantially performed without having been completed, the contract is treated as if it were itself the transaction provided for in the contract.

In this case the effective date of the transaction is when the contract is substantially performed.

(5) A contract is "substantially performed" when—

(a) the purchaser takes possession of the whole, or substantially the whole, of the subject-matter of the contract, or

(b) a substantial amount of the consideration is paid or provided.

(6) For the purposes of subsection (5)(a)—

(a) a purchaser takes possession if he receives, or becomes entitled to receive, rents and profits, and

(b) it is immaterial whether the purchaser takes possession under the contract or under a licence or lease of a temporary character.

(7) For the purposes of subsection (5)(b) a substantial amount of the consideration is paid or provided—

(a) if none of the consideration is rent, where the whole or substantially the whole of the consideration is paid or provided;

(b) if the only consideration is rent, when the first payment of rent is made;

(c) if the consideration includes both rent and other consideration, when—

(i) the whole or substantially the whole of the consideration other than rent is paid or provided, or

(ii) the first payment of rent is made.

(8) Where subsection (4) applies and the contract is subsequently completed by a conveyance—

(a) both the contract and the transaction effected on completion are notifiable transactions, and

(b) tax is chargeable on the latter transaction to the extent (if any) that the amount of tax chargeable on it is greater than the amount of tax chargeable on the contract.

(9) Where subsection (4) applies and the contract is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that subsection shall (to that extent) be repaid by the Inland Revenue.

Repayment must be claimed by amendment of the land transaction return made in respect of the contract.

(10) In this section—

(a) references to completion are to completion of the land transaction proposed, between the same parties, in substantial conformity with the contract; and

(b) "contract" includes any agreement and "conveyance" includes any instrument.

45 Contract and conveyance: effect of transfer of rights

(1) This section applies where—

(a) a contract for a land transaction ("the original contract") is entered into under which the transaction is to be completed by a conveyance, and

(b) there is an assignment, subsale or other transaction (relating to the whole or part of the subject-matter of the original contract) as a result of which a person other than the original purchaser becomes entitled to call for a conveyance to him.

References in the following provisions of this section to a transfer of rights are to any such assignment, subsale or other transaction.

(2) The transferee is not regarded as entering into a land transaction by reason of the transfer of rights, but section 44 (contract and conveyance) has effect in accordance with the following provisions of this section.

(3) That section applies as if there were a contract for a land transaction (a "secondary contract") under which—

(a) the transferee is the purchaser, and

(b) the consideration for the transaction is—

(i) so much of the consideration under the original contract as is referable to the subject-matter of the transfer of rights and is to be given (directly or indirectly) by the transferee or a person connected with him, and

(ii) the consideration given for the transfer of rights.

The substantial performance or completion of the original contract at the same time as, and in connection with, the substantial performance or completion of the secondary contract shall be disregarded.

(4) Where there are successive transfers of rights, subsection (3) has effect in relation to each of them.

The substantial performance or completion of the secondary contract arising from an earlier transfer of rights at the same time as, and in connection with, the substantial performance or completion of the secondary contract arising from a subsequent transfer of rights shall be disregarded.

(5) Where a transfer of rights relates to part only of the subject-matter of the original contract, subsection (8)(b) of section 44 (restriction of charge to tax on subsequent conveyance) has effect as if the reference to the amount of tax chargeable on that contract were a reference to an appropriate proportion of that amount.

(6) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (3)(b)(i).

(7) In this section "contract" includes any agreement and "conveyance" includes any instrument.

46 Options and rights of pre-emption

(1) The acquisition of—

(a) an option binding the grantor to enter into a land transaction, or

(b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,

is a land transaction distinct from any land transaction resulting from the exercise of the option or right.

They may be "linked transactions" (see section 108).

(2) The reference in subsection (1)(a) to an option binding the grantor to enter into a land transaction includes an option requiring the grantor either to enter into a land transaction or to discharge his obligations under the option in some other way.

(3) The effective date of the transaction in the case of the acquisition of an option or right such as is mentioned in subsection (1) is when the option or right is acquired (as opposed to when it becomes exercisable).

(4) Nothing in this section applies to so much of an option or right of pre-emption as constitutes or forms part of a land transaction apart from this section.

47 Exchanges

(1) Where a land transaction is entered into by the purchaser (alone or jointly) wholly or partly in consideration of another land transaction being entered into by him (alone or jointly) as vendor, this Part applies in relation to each transaction as if each were distinct and separate from the other.

(2) A transaction is treated for the purposes of this Part as entered into by the purchaser wholly or partly in consideration of another land transaction being entered into by him as vendor in any case where an obligation to give consideration for a land transaction that a person enters into as purchaser is met wholly or partly by way of that person entering into another transaction as vendor.

(3) As to the amount of the chargeable consideration in the case of exchanges and similar transactions, see—

paragraphs 5 and 6 of Schedule 4 (exchanges, partition etc), and

section 58 (relief for certain exchanges of residential property).

Chargeable interests, chargeable transactions and chargeable consideration

48 Chargeable interests

(1) In this Part "chargeable interest" means—

(a) an estate, interest, right or power in or over land in the United Kingdom, or

(b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power,

other than an exempt interest.

(2) The following are exempt interests—

(a) any security interest;

(b) a licence to use or occupy land;

(c) in England and Wales or Northern Ireland—

(i) a tenancy at will;

(ii) an advowson, franchise or manor.

(3) In subsection (2)—

(a) "security interest" means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation; and

(b) "franchise" means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls.

(4) In the application of this Part in Scotland the reference in subsection (3)(a) to a rentcharge shall be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).

(5) The Treasury may by regulations provide that any other description of interest or right in relation to land in the United Kingdom is an exempt interest.

(6) The regulations may contain such supplementary, incidental and transitional provision as appears to the Treasury to be appropriate.

49 Chargeable transactions

(1) A land transaction is a chargeable transaction if it is not a transaction that is exempt from charge.

(2) Schedule 3 provides for certain transactions to be exempt from charge.

Other transactions are exempt from charge under other provisions of this Part.

50 Chargeable consideration

(1) Schedule 4 makes provision as to the chargeable consideration for a transaction.

(2) The Treasury may by regulations amend or repeal the provisions of this Part relating to chargeable consideration and make such other provision as appears to them appropriate with respect to—

(a) what is to count as chargeable consideration, or

(b) the determination of the amount of chargeable consideration.

(3) The regulations may make different provision in relation to different descriptions of transaction or consideration and different circumstances.

51 Contingent, uncertain or unascertained consideration

(1) Where the whole or part of the chargeable consideration for a transaction is contingent, the amount or value of the consideration shall be determined for the purposes of this Part on the assumption that the outcome of the contingency will be such that the consideration is payable or, as the case may be, does not cease to be payable.

(2) Where the whole or part of the chargeable consideration for a transaction is uncertain or unascertained, its amount or value shall be determined for the purposes of this Part on the basis of a reasonable estimate.

(3) In this Part—

"contingent", in relation to consideration, means—

(a) that it is to be paid or provided only if some uncertain future event occurs, or

(b) that it is to cease to be paid or provided if some uncertain future event occurs; and

"uncertain", in relation to consideration, means that its amount or value depends on uncertain future events.

(4) This section has effect subject to—

section 80 (adjustment where contingency ceases or consideration is ascertained), and

section 90 (application to defer payment in case of contingent or uncertain consideration).

52 Annuities etc: chargeable consideration limited to twelve years' payments

(1) This section applies to so much of the chargeable consideration for a land transaction as consists of an annuity payable—

(a) for life, or

(b) in perpetuity, or

(c) for an indefinite period, or

(d) for a definite period exceeding twelve years.

(2) For the purposes of this Part the consideration to be taken into account is limited to twelve years' annual payments.

(3) Where the amount payable varies, or may vary, from year to year, the twelve highest annual payments shall be taken.

No account shall be taken for the purposes of this Schedule of any provision for adjustment of the amount payable in line with the retail price index.

(4) References in this section to annual payments are to payments in respect of each successive period of twelve months beginning with the effective date of the transaction.

(5) For the purposes of this section the amount or value of any payment shall be determined (if necessary) in accordance with section 51 (contingent, uncertain or unascertained consideration).

(6) References in this section to an annuity include any consideration (other than rent) that falls to be paid or provided periodically.

References to payment shall be read accordingly.

(7) Where this section applies—

(a) section 80 (adjustment where contingency ceases or consideration is ascertained) does not apply, and

(b) no application may be made under section 90 (application to defer payment in case of contingent or uncertain consideration).

53 Deemed market value where transaction involves connected company

(1) Where the purchaser is a company and—

(a) the vendor is connected with the purchaser, or

(b) some or all of the consideration for the transaction consists of the issue or transfer of shares in a company with which the vendor is connected,

the chargeable consideration for the transaction shall be taken to be not less than the market value of the subject matter of the transaction as at the effective date of the transaction.

(2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this section.

(3) In this section—

"company" means any body corporate;

"shares" includes stock and the reference to shares in a company includes a reference to securities issued by a company.

(4) Where this section applies paragraph 1 of Schedule 3 (exemption of transactions for which there is no chargeable consideration) does not apply.

But this section has effect subject to any other provision affording exemption or relief from stamp duty land tax.

(5) This section is subject to the exceptions provided for in section 54.

54 Exceptions from deemed market value rule

(1) Section 53 (chargeable consideration: transaction with connected company) does not apply in the following cases.

In the following provisions "the company" means the company that is the purchaser in relation to the transaction in question.

(2) Case 1 is where immediately after the transaction the company holds the property as trustee in the course of a business carried on by it that consists of or includes the management of trusts.

(3) Case 2 is where—

(a) immediately after the transaction the company holds the property as trustee, and

(b) the vendor is connected with the company only because of section 839(3) of the Taxes Act 1988.

(4) Case 3 is where—

(a) the vendor is a company and the transaction is, or is part of, a distribution of the assets of that company (whether or not in connection with its winding up), and

(b) it is not the case that—

(i) the subject-matter of the transaction, or

(ii) an interest from which that interest is derived,

has, within the period of three years immediately preceding the effective date of the transaction, been the subject of a transaction in respect of which group relief was claimed by the vendor.

Amount of tax chargeable

55 Amount of tax chargeable: general

(1) The amount of tax chargeable in respect of a chargeable transaction is a percentage of the chargeable consideration for the transaction.

(2) That percentage is determined by reference to whether the relevant land—

(a) consists entirely of residential property (in which case Table A below applies), or

(b) consists of or includes land that is not residential property (in which case Table B below applies),

and, in either case, by reference to the amount of the relevant consideration.

TABLE A: RESIDENTIAL

Relevant consideration	*Percentage*
Not more than £60,000	0%
More than £60,000 but not more than £250,000	1%
More than £250,000 but not more than £500,000	3%
More than £500,000	4%

TABLE B: NON-RESIDENTIAL OR MIXED

Relevant consideration	*Percentage*
Not more than £150,000	0%
More than £150,000 but not more than £250,000	1%
More than £250,000 but not more than £500,000	3%
More than £500,000	4%

(3) For the purposes of subsection (2)—

(a) the relevant land is the land an interest in which is the main subject-matter of the transaction, and

(b) the relevant consideration is the chargeable consideration for the transaction,

subject as follows.

(4) If the transaction in question is one of a number of linked transactions—

(a) the relevant land is any land an interest in which is the main subject-matter of any of those transactions, and

(b) the relevant consideration is the total of the chargeable consideration for all those transactions.

(5) This section has effect subject to—

section 74 (collective enfranchisement by leaseholders), and

section 75 (crofting community right to buy),

(which provide for the rate of tax to be determined by reference to a fraction of the relevant consideration).

(6) In the case of a transaction for which the whole or part of the chargeable consideration is rent this section has effect subject to section 56 and Schedule 5 (amount of tax chargeable: rent).

(7) References in this Part to the "rate of tax" are to the percentage determined under this section.

56 Amount of tax chargeable: rent

Schedule 5 provides for the calculation of the tax chargeable where the chargeable consideration for a transaction consists of or includes rent.

Reliefs

57 Disadvantaged areas relief

(1) Schedule 6 provides for relief in the case of transactions relating to land in a disadvantaged area.

(2) In that Schedule—

Part 1 defines "disadvantaged area",

Part 2 relates to transactions where the land to which the transaction relates is wholly situated in a disadvantaged area,

Part 3 relates to transactions where the land to which the transaction relates is partly situated in a disadvantaged area, and

Part 4 contains supplementary provisions.

58 Relief for certain exchanges of residential property

(1) Where a dwelling ("the old dwelling") is acquired from an individual (whether alone or with other individuals) by a house-building company or a company connected with a house-building company, the chargeable consideration for the acquisition is taken to be nil if—

(a) the individual (whether alone or with other individuals) acquires from the house-building company a new dwelling,

(b) the individual—

(i) occupied the old dwelling as his only or main residence immediately before its acquisition, and

(ii) intends to occupy the new dwelling as his only or main residence,

(c) each acquisition is entered into in consideration of the other, and

(d) the area of land acquired by the house-building company or the connected company does not exceed the permitted area.

(2) Where the conditions in subsection (1)(a) to (c) are met but the area of land acquired by the house-building company or the connected company exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

(3) "Dwelling" includes land occupied and enjoyed with the dwelling as its garden or grounds.

(4) A building or part of a building is a "new dwelling" if—

(a) it has been constructed for use as a single dwelling and has not previously been occupied, or

(b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.

(5) A "house-building company" means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.

Section 839 of the Taxes Act 1988 (connected persons) applies for the purpose of determining whether a company is connected with a house-building company.

(6) The "permitted area", in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—

(a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or

(b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.

(7) Where subsection (6)(b) applies, the permitted area is taken to consist of that part of the old dwelling that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

(8) In this section—

(a) references to the acquisition of the new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;

(b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;

(c) references to the market value of a dwelling, or of an area of land, are to the market value of the major interest in the dwelling, or of that interest so far as it relates to the area in question.

59 Relocation relief

(1) Where a dwelling is acquired from an employee (whether alone or with other individuals) by the employer or a relocation company, the acquisition is exempt from charge if—

(a) the individual occupied the dwelling as his only or main residence at some time in the period of one year ending with the date of the acquisition,

(b) the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,

(c) the consideration for the acquisition does not exceed the market value of the dwelling, and

(d) the area of land acquired does not exceed the permitted area.

(2) Where the conditions in subsection (1)(a) to (c) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.

(3) "Relocation of employment" means a change of the individual's place of employment due to—

(a) his becoming an employee of the employer,

(b) an alteration of the duties of his employment with the employer, or

(c) an alteration of the place where he normally performs those duties.

(4) A change of residence is one "resulting from" relocation of employment if—

(a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and

(b) the individual's former residence is not within a reasonable daily travelling distance of that place.

The employee's "new place of employment" means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.

(5) "Relocation company" means—

(a) a company carrying on a business consisting of or including provision of the service of acquiring dwellings in connection with a change of residence resulting from relocation of employment, or

(b) a company connected with such a company.

Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of paragraph (b).

(6) "Dwelling" includes land occupied and enjoyed with the dwelling as its garden or grounds.

(7) The "permitted area", in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—

(a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or

(b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.

(8) Where subsection (7)(b) applies, the permitted area is taken to consist of that part of the dwelling that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

(9) In this section—

(a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;

(b) references to the market value of the dwelling, or of an area of land, are to the market value of the major interest in the dwelling, or of that interest so far as it relates to the area in question;

(c) references to an employee include a prospective employee (and references to the employer are to be construed accordingly).

60 Compulsory purchase facilitating development

(1) A compulsory purchase facilitating development is exempt from charge.

(2) In this section "compulsory purchase facilitating development" means—

(a) in relation to England and Wales or Scotland, the acquisition by a person of a chargeable interest in respect of which that person has made a compulsory purchase order for the purpose of facilitating development by another person;

(b) in relation to Northern Ireland, the acquisition by a person of a chargeable interest by means of a vesting order made for the purpose of facilitating development by a person other than the person who acquires the interest.

(3) For the purposes of subsection (2)(a) it does not matter how the acquisition is effected (so that provision applies where the acquisition is effected by agreement).

(4) In subsection (2)(b) a "vesting order" means an order made under any statutory provision to authorise the acquisition of land otherwise than by agreement.

(5) In this section "development"—

(a) in relation to England and Wales, has the same meaning as in the Town and Country Planning Act 1990 (c. 8) (see section 55 of that Act);

(b) in relation to Scotland, has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 26 of that Act); and

(c) in relation to Northern Ireland, has the same meaning as in the Planning (Northern Ireland) Order 1991 (1991/1220 (N.I. 11)) (see Article 11 of that Order).

61 Compliance with planning obligations

(1) A land transaction that is entered into in order to comply with a planning obligation or a modification of a planning obligation is exempt from charge if—

(a) the planning obligation or modification is enforceable against the vendor,

(b) the purchaser is a public authority, and

(c) the transaction takes place within the period of five years beginning with the date on which the planning obligation was entered into or modified.

(2) In this section—

(a) in relation to England and Wales—

"planning obligation" means either of the following—

(a) a planning obligation within the meaning of section 106 of the Town and Country Planning Act 1990 that is entered into in accordance with subsection (9) of that section, or

(b) a planning obligation within the meaning of section 299A of that Act that is entered into in accordance with subsection (2) of that section; and

"modification" of a planning obligation means modification as mentioned in section 106A(1) of that Act;

(b) in relation to Scotland, "planning obligation" means an agreement made under section 75 or section 246 of the Town and Country Planning (Scotland) Act 1997;

(c) in relation to Northern Ireland—

"planning obligation" means a planning agreement within the meaning of Article 40 of the Planning (Northern Ireland) Order 1991 that is entered into accordance with paragraph (10) of that Article, and

"modification" of a planning obligation means modification as mentioned in Article 40A(1) of that Order.

(3) The following are public authorities for the purposes of subsection (1)(b)—

Government
A Minister of the Crown or government department
The Scottish Ministers
A Northern Ireland department

The National Assembly for Wales

Local government: England

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)

The council of a London borough

The Common Council of the City of London

The Greater London Authority

Transport for London

The Council of the Isles of Scilly

Local government: Wales

A county or county borough council constituted under section 21 of the Local Government Act 1972

Local government: Scotland

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

Local government: Northern Ireland

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

Health: England and Wales

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)

A Special Health Authority established under section 11 of that Act

A Primary Care Trust established under section 16A of that Act

A Local Health Board established under section 16BA of that Act

A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

Health: Scotland

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

Health: Northern Ireland

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

Other planning authorities

Any other authority that—

(a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or

(b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8).

Prescribed persons

A person prescribed for the purposes of this section by Treasury order

62 Group relief and reconstruction or acquisition relief

(1) Schedule 7 provides for relief from stamp duty land tax.

(2) In that Schedule—

Part 1 makes provision for group relief,

Part 2 makes provision for reconstruction and acquisition reliefs.

(3) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

63 Demutualisation of insurance company

(1) A land transaction is exempt from charge if it is entered into for the purposes of or in connection with a qualifying transfer of the whole or part of the business of a mutual insurance company ("the mutual") to a company that has share capital ("the acquiring company").

(2) A transfer is a qualifying transfer if—

(a) it is a transfer of business consisting of the effecting or carrying out of contracts of insurance and takes place under an insurance business transfer scheme, or

(b) it is a transfer of business of a general insurance company carried on through a permanent establishment in the United Kingdom and takes place in accordance with authorisation granted outside the United Kingdom for the purposes of—

(i) Article 14 of the life assurance Directive, or

(ii) Article 12 of the 3rd non-life insurance Directive,

and, in either case, the requirements of subsections (3) and (4) are met in relation to the shares of a company ("the issuing company") which is either the acquiring company or a company of which the acquiring company is a wholly-owned subsidiary.

(3) Shares in the issuing company must be offered, under the scheme, to at least 90% of the persons who are members of the mutual immediately before the transfer.

(4) Under the scheme all of the shares in the issuing company that will be in issue immediately after the transfer has been made, other than shares that are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—

(a) members of the mutual,

(b) persons who are entitled to become members of the mutual, or

(c) employees, former employees or pensioners of—

(i) the mutual, or

(ii) a wholly-owned subsidiary of the mutual.

(5) The Treasury may by regulations—

(a) amend subsection (3) by substituting a lower percentage for the percentage mentioned there;

(b) provide that any or all of the references in subsections (3) and (4) to members shall be construed as references to members of a class specified in the regulations.

Regulations under paragraph (b) may make different provision for different cases.

(6) For the purposes of this section a company is the wholly-owned subsidiary of another company ("the parent") if the company has no members except the parent and the parent's wholly-owned subsidiaries or persons acting on behalf of the parent or the parent's wholly-owned subsidiaries.

(7) In this section—

"contract of insurance" has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

"employee", in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;

"general insurance company" means a company that has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8), or paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to effect or carry out contracts of insurance;

"insurance company" means a company that carries on the business of effecting or carrying out contracts of insurance;

"insurance business transfer scheme" has the same meaning as in Part 7 of the Financial Services and Markets Act 2000;

"the life assurance Directive" means the Council Directive of 5th November 2002 concerning life assurance (No.2002/83/EC);

"mutual insurance company" means an insurance company carrying on business without having any share capital;

"the 3rd non-life insurance Directive" means the Council Directive of 18th June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance and amending Directives 73/239/EEC and 88/357/EEC (No. 92/49/EEC);

"pensioner", in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.

64 Demutualisation of building society

A land transaction effected by section 97(6) or (7) of the Building Societies Act 1986 (c. 53) (transfer of building society's business to a commercial company) is exempt from charge.

65 Incorporation of limited liability partnership

(1) A transaction by which a chargeable interest is transferred by a person ("the transferor") to a limited liability partnership in connection with its incorporation is exempt from charge if the following three conditions are met.

(2) The first condition is that the effective date of the transaction is not more than one year after the date of incorporation of the limited liability partnership.

(3) The second condition is that at the relevant time the transferor—

(a) is a partner in a partnership comprised of all the persons who are or are to be members of the limited liability partnership (and no-one else), or

(b) holds the interest transferred as nominee or bare trustee for one or more of the partners in such a partnership.

(4) The third condition is that—

(a) the proportions of the interest transferred to which the persons mentioned in subsection (3)(a) are entitled immediately after the transfer are the same as those to which they were entitled at the relevant time, or

(b) none of the differences in those proportions has arisen as part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to any duty or tax.

(5) In this section "the relevant time" means—

(a) where the transferor acquired the interest after the incorporation of the limited liability partnership, immediately after he acquired it, and

(b) in any other case, immediately before its incorporation.

(6) In this section "limited liability partnership" means a limited liability partnership formed under the Limited Liability Partnerships Act 2000 (c. 12) or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c. 12 (N. I.)).

66 Transfers involving public bodies

(1) A land transaction entered into on, or in consequence of, or in connection with, a reorganisation effected by or under a statutory provision is exempt from charge if the purchaser and vendor are both public bodies.

(2) The Treasury may by order provide that a land transaction that is not entered into as mentioned in subsection (1) is exempt from charge if—

(a) the transaction is effected by or under a prescribed statutory provision, and

(b) either the purchaser or the vendor is a public body.

In this subsection "prescribed" means prescribed in an order made under this subsection.

(3) A "reorganisation" means changes involving—

(a) the establishment, reform or abolition of one or more public bodies,

(b) the creation, alteration or abolition of functions to be discharged or discharged by one or more public bodies, or

(c) the transfer of functions from one public body to another.

(4) The following are public bodies for the purposes of this section—

Government, Parliament etc

A Minister of the Crown

The Scottish Ministers

A Northern Ireland department

The National Assembly for Wales

The Corporate Officer of the House of Lords

The Corporate Officer of the House of Commons

The Scottish Parliamentary Corporate Body

The Northern Ireland Assembly Commission

Local government: England

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)

The council of a London borough

The Greater London Authority

The Common Council of the City of London

The Council of the Isles of Scilly

Local government: Wales

A county or county borough council constituted under section 21 of the Local Government Act 1972

Local government: Scotland

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

Local government: Northern Ireland

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

Health: England and Wales

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)

A Special Health Authority established under section 11 of that Act

A Primary Care Trust established under section 16A of that Act

A Local Health Board established under section 16BA of that Act

A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

Health: Scotland

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

Health: Northern Ireland

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

Other planning authorities

Any other authority that—

(a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or

(b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8)

Statutory bodies

A body (other than a company) that is established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision

Prescribed persons

A person prescribed for the purposes of this section by Treasury order

(5) In this section references to a public body include—

(a) a company in which all the shares are owned by such a body, and

(b) a wholly-owned subsidiary of such a company.

67 Transfer in consequence of reorganisation of parliamentary constituencies

(1) Where—

(a) an Order in Council is made under the Parliamentary Constituencies Act 1986 (c. 56) (orders specifying new parliamentary constituencies), and

(b) an existing local constituency association transfers a chargeable interest to—

(i) a new association that is a successor to the existing association, or

(ii) a related body that as soon as practicable transfers the interest or right to a new association that is a successor to the existing association,

the transfer, or where paragraph (b)(ii) applies each of the transfers, is exempt from charge.

(2) In relation to any such order as is mentioned in subsection (1)(a)—

(a) "the date of the change" means the date on which the order comes into operation;

(b) "former parliamentary constituency" means an area that, for the purposes of parliamentary elections, was a constituency immediately before that date but is no longer such a constituency after that date;

(c) "new parliamentary constituency" means an area that, for the purposes of parliamentary elections, is such a constituency after that date but was not such a constituency immediately before that date.

(3) In relation to the date of the change—

(a) "existing local constituency association" means a local constituency association whose area was the same, or substantially the same, as the area of a former parliamentary constituency or two or more such constituencies, and

(b) "new association" means a local constituency association whose area is the same, or substantially the same, as that of a new parliamentary constituency or two or more such constituencies.

(4) In this section—

(a) "local constituency association" means an unincorporated association (whether described as an association, a branch or otherwise) whose primary purpose is to further the aims of a political party in an area that at any time is or was the same or substantially the same as the area of a parliamentary constituency or two or more parliamentary constituencies, and

(b) "related body", in relation to such an association, means a body (whether corporate or unincorporated) that is an organ of the political party concerned.

(5) For the purposes of this section a new association is a successor to an existing association if any part of the existing association's area is comprised in the new association's area.

68 Charities relief

(1) Schedule 8 provides for relief from stamp duty land tax for acquisitions by charities.

(2) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

69 Acquisition by bodies established for national purposes

A land transaction is exempt from charge if the purchaser is any of the following—

(a) the Historic Buildings and Monuments Commission for England;

(b) the National Endowment for Science, Technology and the Arts;

(c) the Trustees of the British Museum;

(d) the Trustees of the National Heritage Memorial Fund;

(e) the Trustees of the Natural History Museum.

70 Right to buy transactions, shared ownership leases etc

Schedule 9 makes provision for relief in the case of right to buy transactions, shared ownership leases and certain related transactions.

71 Certain acquisitions by registered social landlord

(1) A land transaction under which the purchaser is a registered social landlord is exempt from charge if—

(a) the registered social landlord is controlled by its tenants,

(b) the vendor is a qualifying body, or

(c) the transaction is funded with the assistance of a public subsidy.

(2) The reference in subsection (1)(a) to a registered social landlord "controlled by its tenants" is to a registered social landlord the majority of whose board members are tenants occupying properties owned or managed by it.

"Board member", in relation to a registered social landlord, means—

(a) if it is a company, a director of the company,

(b) if it is a body corporate whose affairs are managed by its members, a member,

(c) if it is body of trustees, a trustee,

(d) if it is not within paragraphs (a) to (c), a member of the committee of management or other body to which is entrusted the direction of the affairs of the registered social landlord.

(3) In subsection (1)(b) "qualifying body" means—

(a) a registered social landlord,

(b) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50),

(c) a principal council within the meaning of the Local Government Act 1972 (c. 70),

(d) the Common Council of the City of London,

(e) the Scottish Ministers,

(f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

(g) Scottish Homes,

(h) the Department for Social Development in Northern Ireland, or

(i) the Northern Ireland Housing Executive.

(4) In subsection (1)(c) "public subsidy" means any grant or other financial assistance—

(a) made or given by way of a distribution pursuant to section 25 of the National Lottery etc. Act 1993 (c. 39) (application of money by distributing bodies),

(b) under section 18 of the Housing Act 1996 (c. 52) (social housing grants),

(c) under section 126 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (financial assistance for regeneration and development),

(d) under section 2 of the Housing (Scotland) Act 1988 (c. 43) (general functions of the Scottish Ministers), or

(e) under Article 33 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).

72 Alternative property finance: land sold to financial institution and leased to individual

(1) This section applies where arrangements are entered into between an individual and a financial institution under which the institution—

(a) purchases a major interest in land ("the first transaction"),

(b) grants to the individual out of that interest a lease (if the interest acquired is freehold) or a sub-lease (if the interest acquired is leasehold) ("the second transaction"), and

(c) enters into an agreement under which the individual has a right to require the institution or its successor in title to transfer the major interest purchased by the institution under the first transaction.

(2) The first transaction is exempt from charge if the vendor is—

(a) the individual, or

(b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the individual.

(3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).

(4) A transfer to the individual that results from the exercise of the right mentioned in subsection (1)(c) ("the third transaction") is exempt from charge if—

(a) the provisions of this Part relating to the first and second transactions are complied with, and

(b) at all times between the second and third transactions—

(i) the interest purchased under the first transaction is held by a financial institution, and

(ii) the lease or sub-lease granted under the second transaction is held by the individual.

(5) The agreement mentioned in subsection (1)(c) is not to be treated—

(a) as substantially performed unless and until the third transaction is entered into (and accordingly section 44(5) does not apply), or

(b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).

(6) The requirements of subsection (1), or (4)(b)(ii), are not met if—

(a) the individual enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not an individual, or

(b) the individual enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not an individual.

(7) In this section "financial institution" means—

(a) a bank within the meaning of section 840A of the Taxes Act 1988,

(b) a building society within the meaning of the Building Societies Act 1986 (c. 53), or

(c) a wholly-owned subsidiary of a bank within paragraph (a) or a building society within paragraph (b).

For the purposes of paragraph (c) a company is a wholly-owned subsidiary of a bank or building society ("the parent") if it has no members except the parent and the parent's wholly-owned subsidiaries or persons acting on behalf of the parent or the parent's wholly-owned subsidiaries.

(8) In the application of this section to Scotland—

(a) the reference to a freehold interest is a reference to the interest of the owner, and

(b) the reference to a leasehold interest is to a tenant's right over or interest in a property subject to a lease.

Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), the reference in paragraph (a) to the interest of the

owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.

(9) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

73 Alternative property finance: land sold to financial institution and re-sold to individual

(1) This section applies where arrangements are entered into between an individual and a financial institution under which—

(a) the institution—

(i) purchases a major interest in land ("the first transaction"), and

(ii) sells that interest to the individual ("the second transaction"), and

(b) the individual grants the institution a legal mortgage over that interest.

(2) The first transaction is exempt from charge if the vendor is—

(a) the individual concerned, or

(b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in section 72(1) entered into between it and the individual.

(3) The second transaction is exempt from charge if the financial institution complies with the provisions of this Part relating to the first transaction (including the payment of any tax chargeable).

(4) This section does not apply if—

(a) the individual enters into the arrangements as trustee and any beneficiary of the trust is not an individual, or

(b) the individual enters into the arrangements as partner and any of the other partners is not an individual.

(5) In this section—

(a) "financial institution" has the same meaning as in section 72;

(b) "legal mortgage"—

(i) in relation to land in England or Wales, means a legal mortgage as defined in section 205(1)(xvi) of the Law of Property Act 1925 (c. 20);

(ii) in relation to land in Scotland, means a standard security;

(iii) in relation to land in Northern Ireland, means a mortgage by conveyance of a legal estate or by demise or sub-demise or a charge by way of legal mortgage.

(6) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

74 Collective enfranchisement by leaseholders

(1) This section applies where a chargeable transaction is entered into by an RTE company in pursuance of a right of collective enfranchisement.

(2) In that case, the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the

number of flats in respect of which the right of collective enfranchisement is being exercised.

(3) The tax chargeable is then determined by applying that rate to the chargeable consideration for the transaction.

(4) In this section—

(a) "RTE company" has the meaning given by section 4A of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28);

(b) "right of collective enfranchisement" means the right exercisable by an RTE company under—

(i) Part 1 of the Landlord and Tenant Act 1987 (c. 31), or

(ii) Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and

(c) "flat" has the same meaning as in the Act conferring the right of collective enfranchisement.

(5) References in this section to the relevant consideration have the same meaning as in section 55.

75 Crofting community right to buy

(1) This section applies where—

(a) a chargeable transaction is entered into in pursuance of the crofting community right to buy, and

(b) under that transaction two or more crofts are being bought.

(2) In that case, the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the number of crofts being bought.

(3) The tax chargeable is then determined by applying that rate to the amount of the chargeable consideration for the transaction in question.

(4) In this section "crofting community right to buy" means the right exercisable by a crofting community body under Part 3 of the Land Reform (Scotland) Act 2003 (asp 2).

(5) References in this section to the relevant consideration have the same meaning as in section 55.

Returns and other administrative matters

76 Duty to deliver land transaction return

(1) In the case of every notifiable transaction the purchaser must deliver a return (a "land transaction return") to the Inland Revenue before the end of the period of 30 days after the effective date of the transaction.

(2) The Inland Revenue may by regulations amend subsection (1) so as to require a land transaction return to be delivered before the end of such shorter period after the effective date of the transaction as may be prescribed or, if the regulations so provide, on that date.

(3) A land transaction return in respect of a chargeable transaction must—

(a) include an assessment (a "self-assessment") of the tax that, on the basis of the information contained in the return, is chargeable in respect of the transaction, and

(b) be accompanied by payment of the amount chargeable.

77 Notifiable transactions

(1) This section specifies what land transactions are notifiable.

(2) The grant of a lease is notifiable if—

(a) the lease is for a contractual term of seven years or more and is granted for chargeable consideration, or

(b) the lease is for a contractual term of less than seven years and either—

(i) the chargeable consideration consists or includes a premium in respect of which tax is chargeable at a rate of 1% or higher, or

(ii) the chargeable consideration consists of or includes rent in respect of which tax is chargeable at a rate of 1% or higher,

or, in either case, in respect of which tax would be so chargeable but for a relief.

(3) Any other acquisition of a major interest in land is notifiable unless it is exempt from charge under Schedule 3.

(4) An acquisition of a chargeable interest other than a major interest in land is notifiable if there is chargeable consideration in respect of which tax is chargeable at a rate of 1% or higher, or in respect of which tax would be so chargeable but for a relief.

78 Returns, enquiries, assessments and related matters

(1) Schedule 10 has effect with respect to land transaction returns, assessments and related matters.

(2) In that Schedule—

Part 1 contains general provisions about returns;

Part 2 imposes a duty to keep and preserve records;

Part 3 makes provision for enquiries into returns;

Part 4 provides for a Revenue determination if no return is delivered;

Part 5 provides for Revenue assessments;

Part 6 provides for relief in case of excessive assessment; and

Part 7 provides for appeals against Revenue decisions on tax.

(3) The Treasury may by regulations make such amendments of that Schedule, and such consequential amendments of any other provisions of this Part, as appear to them to be necessary or expedient from time to time.

79 Registration of land transactions etc

(1) A land transaction to which this section applies, or (as the case may be) a document effecting or evidencing a land transaction to which this section applies, shall not be registered, recorded or otherwise reflected in an entry made—

(a) in England and Wales, in the register of title maintained by the Chief Land Registrar,
(b) in Scotland, in any register maintained by the Keeper of the Registers of Scotland, or
(c) in Northern Ireland, in any register maintained by the Land Registry of Northern Ireland or in the Registry of Deeds for Northern Ireland,

unless there is produced, together with the relevant application, a certificate as to compliance with the requirements of this Part in relation to the transaction.

This does not apply where the entry is required to be made without any application or so far as the entry relates to an interest or right other than the chargeable interest acquired by the purchaser under the land transaction that gives rise to the application.

(2) This section applies to every land transaction other than—
(a) a contract for a land transaction under which the transaction is to be completed by a conveyance, or
(b) a transfer of rights (within the meaning of section 45) under such a contract.

In this subsection "contract" includes any agreement and "conveyance" includes any instrument.

(3) The certificate must be either—
(a) a certificate by the Inland Revenue (a "Revenue certificate") that a land transaction return has been delivered in respect of the transaction, or
(b) a certificate by the purchaser (a "self-certificate") that no land transaction return is required in respect of the transaction.

(4) The Inland Revenue may make provision by regulations about Revenue certificates.

The regulations may, in particular—
(a) make provision as to the conditions to be met before a certificate is issued;
(b) prescribe the form and content of the certificate;
(c) make provision about the issue of duplicate certificates if the original is lost or destroyed;
(d) provide for the issue of multiple certificates where a return is made relating to more than one transaction.

(5) Schedule 11 makes further provision about self-certificates.

In that Schedule—
Part 1 contains general provisions,
Part 2 imposes a duty to keep and preserve records, and
Part 3 makes provision for enquiries into self-certificates.

(6) The registrar (in Scotland, the Keeper of the Registers of Scotland)—
(a) shall allow the Inland Revenue to inspect any certificates or self-certificates produced to him under this section and in his possession, and
(b) may enter into arrangements for affording the Inland Revenue other information and facilities for verifying that the requirements of this Part have been complied with.

80 Adjustment where contingency ceases or consideration is ascertained

(1) Where section 51 (contingent, uncertain or unascertained consideration) applies in relation to a transaction and—

(a) in the case of contingent consideration, the contingency occurs or it becomes clear that it will not occur, or

(b) in the case of uncertain or unascertained consideration, an amount relevant to the calculation of the consideration, or any instalment of consideration, becomes ascertained,

the following provisions have effect to require or permit reconsideration of how this Part applies to the transaction (and to any transaction in relation to which it is a linked transaction).

(2) If the effect of the new information is that a transaction becomes notifiable or chargeable, or that additional tax is payable in respect of a transaction or that tax is payable where none was payable before—

(a) the purchaser must make a return to the Inland Revenue within 30 days,

(b) the return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,

(c) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the transaction, and

(d) the return must be accompanied by payment of the tax or additional tax payable.

(3) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a land transaction return.

(4) If the effect of the new information is that less tax is payable in respect of a transaction than has already been paid, the amount overpaid shall on a claim by the purchaser be repaid together with interest as from the date of payment.

81 Further return where relief withdrawn

(1) Where relief is withdrawn to any extent under—

(a) Part 1 of Schedule 7 (group relief),

(b) Part 2 of that Schedule (reconstruction or acquisition relief), or

(c) Schedule 8 (charities relief),

the purchaser must deliver a further return before the end of the period of 30 days after the date on which the disqualifying event occurred.

(2) The return must—

(a) include a self-assessment of the amount of tax chargeable, and

(b) be accompanied by payment of the tax chargeable.

(3) The provisions of Schedule 10 (returns, assessments and other matters) apply to a return under this section as they apply to a land transaction return, with the following adaptations—

(a) references to the transaction to which the return relates shall be read as references to the disqualifying event;

(b) references to the effective date of the transaction shall be read as references to the date on which the disqualifying event occurs.

(4) In this section "the disqualifying event" means—

(a) in relation to the withdrawal of group relief, the purchaser ceasing to be a member of the same group as the vendor within the meaning of Part 1 of Schedule 7;

(b) in relation to the withdrawal of reconstruction or acquisition relief, the change of control of the acquiring company mentioned in paragraph 9(1)(a) of Schedule 7 or, as the case may be, the event mentioned in paragraph 11(1)(a) or (2)(a) of that Schedule;

(c) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraph 2(3) of Schedule 8.

82 Loss or destruction of, or damage to, return etc

(1) This section applies where—

(a) a return delivered to the Inland Revenue, or

(b) any other document relating to tax made by or provided to the Inland Revenue,

has been lost or destroyed, or been so defaced or damaged as to be illegible or otherwise useless.

(2) The Inland Revenue may treat the return as not having been delivered or the document as not having been made or provided.

(3) Anything done on that basis shall be as valid and effective for all purposes as it would have been if the return had not been made or the document had not been made or provided.

(4) But if as a result a person is charged with tax and he proves to the satisfaction of the General or Special Commissioners having jurisdiction in the case that he has already paid tax in respect of the transaction in question, relief shall be given, by reducing the charge or by repayment as the case may require.

83 Formal requirements as to assessments, penalty determinations etc

(1) An assessment, determination, notice or other document required to be used in assessing, charging, collecting and levying tax or determining a penalty under this Part must be in accordance with the forms prescribed from time to time by the Board and a document in the form so prescribed and supplied or approved by the Board is valid and effective.

(2) Any such assessment, determination, notice or other document purporting to be made under this Part is not ineffective—

(a) for want of form, or

(b) by reason of any mistake, defect or omission in it,

if it is substantially in conformity with this Part and its intended effect is reasonably ascertainable by the person to whom it is directed.

(3) The validity of an assessment or determination is not affected—

(a) by any mistake in it as to—

(i) the name of a person liable, or

(ii) the amount of the tax charged, or

(b) by reason of any variance between the notice of assessment or determination and the assessment or determination itself.

84 Delivery and service of documents

(1) A notice or other document to be served under this Part on a person may be delivered to him or left at his usual or last known place of abode.

(2) A notice or other document to be given, served or delivered under this Part may be served by post.

(3) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) (general provisions as to service by post) any such notice or other document to be given or delivered to, or served on, any person by the Inland Revenue is properly addressed if it is addressed to that person—

(a) in the case of an individual, at his usual or last known place of residence or his place of business;

(b) in the case of a company—

(i) at its principal place of business,

(ii) if a liquidator has been appointed, at his address for the purposes of the liquidation, or

(iii) at any place prescribed by regulations made by the Inland Revenue.

Liability for and payment of tax

85 Liability for tax

(1) The purchaser is liable to pay the tax in respect of a chargeable transaction.

(2) As to the liability of purchasers acting jointly see—

section 103(2)(c) (joint purchasers);

Part 2 of Schedule 15 (partners); and

paragraph 5 of Schedule 16 (trustees).

86 Payment of tax

(1) Tax payable in respect of a land transaction must be paid at the same time that a land transaction return is made in respect of the transaction.

(2) Tax payable as a result of the withdrawal of relief under—

(a) Part 1 of Schedule 7 (group relief),

(b) Part 2 of that Schedule (reconstruction or acquisition relief), or

(c) Schedule 8 (charities relief),

must be paid at the same time that a return is made in respect of the withdrawal (see section 81).

(3) Tax payable as a result of the amendment of a return must be paid forthwith or, if the amendment is made before the filing date for the return, not later than that date.

(4) Tax payable in accordance with a determination or assessment by the Inland Revenue must be paid within 30 days after the determination or assessment is issued.

(5) The above provisions are subject to—

(a) section 90 (application to defer payment of tax in case of contingent or uncertain consideration), and

(b) paragraphs 39 and 40 of Schedule 10 (postponement of payment pending determination of appeal).

(6) This section does not affect the date from which interest is payable (as to which, see section 87).

87 Interest on unpaid tax

(1) Interest is payable on the amount of any unpaid tax from the end of the period of 30 days after the relevant date until the tax is paid.

(2) The Inland Revenue may by regulations amend subsection (1) so as to make interest run from the end of such shorter period after the relevant date as may be prescribed or, if the regulations so provide, from that date.

(3) For the purposes of this section "the relevant date" is—

(a) in the case of an amount payable because relief is withdrawn under—

(i) Part 1 of Schedule 7 (group relief),

(ii) Part 2 of that Schedule (reconstruction or acquisition relief), or

(iii) Schedule 8 (charities relief),

the date of the disqualifying event;

(b) in the case of a deferred payment under section 90, the date when the deferred payment is due;

(c) in any other case, the effective date of the transaction.

(4) In subsection (3)(a) "the disqualifying event" means—

(a) in relation to the withdrawal of group relief, the purchaser ceasing to be a member of the same group as the vendor (within the meaning of Part 1 of Schedule 7);

(b) in relation to the withdrawal of reconstruction or acquisition relief, the change of control of the acquiring company mentioned in paragraph 9(1)(a) of that Schedule or, as the case may be, the event mentioned in paragraph 11(1)(a) or (2)(a) of that Schedule;

(c) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraph 2(3) of Schedule 8.

(5) Subsection (3)(c) applies in a case within section 51 (contingent, uncertain or unascertained consideration) if payment is not deferred under section 90, with the result that interest on any tax payable under section 80 (adjustment where contingency ceases or consideration is ascertained) runs from the effective date of the transaction.

(6) If an amount is lodged with the Inland Revenue in respect of the tax, the amount on which interest is payable is reduced by that amount.

(7) Interest is calculated at the rate applicable under section 178 of the Finance Act 1989 (c. 26) (power of Treasury to prescribe rates of interest).

88 Interest on penalties

A penalty under this Part shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date it is determined until payment.

89 Interest on repayment of tax overpaid etc

(1) A repayment by the Inland Revenue to which this section applies shall be made with interest at the rate applicable under section 178 of the Finance Act 1989 for the period between the relevant time (as defined below) and the date when the order for repayment is issued.

(2) This section applies to—

(a) any repayment of tax, and

(b) any repayment of a penalty under this Part.

In that case the relevant time is the date on which the payment of tax or penalty was made.

(3) This section also applies to a repayment by the Inland Revenue of an amount lodged with them in respect of the tax payable in respect of a transaction.

In that case the relevant time is the date on which the amount was lodged with them.

(4) No interest is payable under this section in respect of a payment made in consequence of an order or judgment of a court having power to allow interest on the payment.

(5) Interest paid to any person under this section is not income of that person for any tax purposes.

90 Application to defer payment in case of contingent or uncertain consideration

(1) The purchaser may apply to the Inland Revenue to defer payment of tax in a case where the amount payable depends on the amount or value of chargeable consideration that—

(a) at the effective date of the transaction is contingent or uncertain, and

(b) falls to be paid or provided on one or more future dates of which at least one falls, or may fall, more than six months after the effective date of the transaction.

(2) The Inland Revenue may make provision by regulations for carrying this section into effect.

(3) The regulations may in particular—

(a) specify when an application is to be made;

(b) impose requirements as to the form and contents of an application;

(c) require the applicant to provide such information as the Inland Revenue may reasonably require for the purposes of determining whether to accept an application;

(d) specify the grounds on which an application may be refused;

(e) specify the procedure for reaching a decision on an application;

(f) make provision for postponing payment of tax when an application has been made;

(g) provide for an appeal to the General or Special Commissioners against a refusal to accept an application, and make provision in relation to such an

appeal corresponding to any provision made in relation to appeals under Part 7 of Schedule 10 (appeals against Revenue decisions on tax);

(h) provide for the effect of accepting an application;

(i) require the purchaser to make a return or further return, and to make such payments or further payments of tax as may be specified, in such circumstances as may be specified.

(4) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a land transaction return.

(5) An application under this section does not affect the purchaser's obligations as regards payment of tax in respect of chargeable consideration that has already been paid or provided or is not contingent and whose amount is ascertained or ascertainable at the time the application is made.

This applies as regards both the time of payment and the calculation of the amount payable.

(6) Regulations under this section may provide that where—

(a) a payment is made as mentioned in subsection (5), and

(b) an application under this section is accepted in respect of other chargeable consideration taken into account in calculating the amount of that payment,

section 80 (adjustment where contingency ceases or consideration is ascertained) does not apply in relation to the payment and, instead, any necessary adjustment shall be made in accordance with the regulations.

91 Collection and recovery of tax etc

(1) The provisions of Schedule 12 have effect with respect to the collection and recovery of tax.

In that Schedule—

Part 1 contains general provisions, and

Part 2 relates to court proceedings.

(2) The provisions of that Schedule have effect in relation to the collection and recovery of any unpaid amount by way of—

(a) penalty under this Part, or

(b) interest under this Part (on unpaid tax or penalty),

as if it were an amount of unpaid tax.

92 Payment by cheque

For the purposes of this Part where—

(a) payment to the Inland Revenue is made by cheque, and

(b) the cheque is paid on its first presentation to the banker on whom it is drawn,

the payment is treated as made on the day on which the cheque was received by the Inland Revenue.

Compliance

93 Information powers

(1) Schedule 13 has effect with respect to the powers of the Inland Revenue to call for documents and information for the purposes of stamp duty land tax.

(2) In that Schedule—

Part 1 confers power on an authorised officer to call for documents or information from the taxpayer;

Part 2 confers power on an authorised officer to call for documents from a third party;

Part 3 confers power on an authorised officer to call for the papers of a tax accountant;

Part 4 imposes restrictions on the powers under Parts 1 to 3;

Part 5 confers powers on the Board to call for documents or information;

Part 6 provides for an order of a judicial authority for the delivery of documents;

Part 7 provides for entry with a warrant to obtain evidence of an offence;

Part 8 relates to falsification etc of documents.

(3) A person who is required by a notice under Part 1, 2 or 3 of Schedule 13 to deliver a document or to provide information, or to make a document available for inspection, and who fails to comply with the notice is liable to a penalty not exceeding £300.

(4) If the failure continues after a penalty has been imposed under subsection (3), he is liable to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that subsection was imposed (but excluding any day for which a penalty under this subsection has already been imposed).

(5) No penalty shall be imposed under subsection (3) or (4) in respect of a failure at any time after the failure has been remedied.

(6) A person who is required by a notice under Part 1, 2 or 3 of Schedule 13 to deliver a document or to provide information, or to make a document available for inspection, and who fraudulently or negligently delivers, provides or makes available any incorrect document or information is liable to a penalty not exceeding £3,000.

94 Power to inspect premises

(1) If for the purposes of this Part the Board authorise an officer of theirs to inspect any property for the purpose of ascertaining its market value, or any other matter relevant for the purposes of this Part, the person having custody or possession of the property shall permit the officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

(2) A person who wilfully delays or obstructs an officer of the Board acting in pursuance of this section commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

95 Offence of fraudulent evasion of tax

(1) A person commits an offence if he is knowingly concerned in the fraudulent evasion of tax by him or any other person.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.

96 Penalty for assisting in preparation of incorrect return etc

A person who assists in or induces the preparation or delivery of any information, return or other document that—

(a) he knows will be, or is likely to be, used for any purpose of tax, and

(b) he knows to be incorrect,

is liable to a penalty not exceeding £3,000.

97 Power to allow further time and reasonable excuse for failure

(1) For the purposes of this Part a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Inland Revenue may allow.

(2) Where a person had a reasonable excuse for not doing anything required to be done for the purposes of this Part—

(a) he shall be deemed not to have failed to do it unless the excuse ceased, and

(b) after the excuse ceased, he shall be deemed not to have failed to do it if he did it without unreasonably delay after the excuse had ceased.

98 Admissibility of evidence not affected by offer of settlement etc

(1) Statements made or documents produced by or on behalf of a person are not inadmissible in proceedings to which this section applies by reason only that it has been drawn to his attention—

(a) that where serious tax fraud has been committed the Board may accept a money settlement and that the Board will accept such a settlement, and will not pursue a criminal prosecution, if he makes a full confession of all tax irregularities, or

(b) that the extent to which he is helpful and volunteers information is a factor that will be taken into account in determining the amount of any penalty,

and that he was or may have been induced thereby to make the statements or produce the documents.

(2) The proceedings to which this section applies are—

(a) any criminal proceedings against the person in question for any form of fraudulent conduct in connection with or in relation to tax;

(b) any proceedings against him for the recovery of any tax due from him;

(c) any proceedings for a penalty or on appeal against the determination of a penalty.

99 General provisions about penalties

(1) Schedule 14 has effect with respect to the determination of penalties under this Part and related appeals.

(2) The Board may in their discretion mitigate a penalty under this Part, or stay or compound any proceedings for the recovery of such a penalty.

They may also, after judgment, further mitigate or entirely remit the penalty.

(3) Nothing in the provisions of this Part relating to penalties affects any criminal proceedings for an offence.

Application of provisions

100 Companies

(1) In this Part "company", except as otherwise expressly provided, means any body corporate or unincorporated association, but does not include a partnership.

(2) Everything to be done by a company under this Part shall be done by the company acting through—

(a) the proper officer of the company, or

(b) another person having for the time being having the express, implied or apparent authority of the company to act on its behalf for the purpose.

Paragraph (b) does not apply where a liquidator has been appointed for the company.

(3) Service on a company of any document under or in pursuance of this Part may be effected by serving it on the proper officer.

(4) Tax due from a company that—

(a) is not a body corporate, or

(b) is incorporated under the law of a country or territory outside the United Kingdom,

may, without prejudice to any other method of recovery, be recovered from the proper officer of the company.

(5) The proper officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax and, so far as he is not so reimbursed, he is entitled to be indemnified by the company in respect of the liability imposed on him.

(6) For the purposes of this Part—

(a) the proper officer of a body corporate is the secretary, or person acting as secretary, of the company, and

(b) the proper officer of an unincorporated association, or of a body corporate that does not have a proper officer within paragraph (a), is the treasurer, or person acting as treasurer, of the company.

This subsection does not apply if a liquidator or administrator has been appointed for the company.

(7) If a liquidator or administrator has been appointed for the company, then, for the purposes of this Part—

(a) the liquidator or, as the case may be, the administrator is the proper officer, and

(b) if two or more persons are appointed to act jointly or concurrently as the administrator of the company, the proper officer is—

(i) such one of them as is specified in a notice given to the Inland Revenue by those persons for the purposes of this section, or

(ii) where the Inland Revenue is not so notified, such one or more of those persons as the Inland Revenue may designate as the proper officer for those purposes.

101 Unit trust schemes

(1) This Part (with the exception of the provisions mentioned in subsection (7) below) applies in relation to a unit trust scheme as if—

(a) the trustees were a company, and

(b) the rights of the unit holders were shares in the company.

(2) Each of the parts of an umbrella scheme is regarded for the purposes of this Part as a separate unit trust scheme and the scheme as a whole is not so regarded.

(3) An "umbrella scheme" means a unit trust scheme—

(a) that provides arrangements for separate pooling of the contributions of participants and the profits or income out of which payments are to be made for them, and

(b) under which the participants are entitled to exchange rights in one pool for rights in another.

A "part" of an umbrella scheme means such of the arrangements as relate to a separate pool.

(4) In this Part, subject to any regulations under subsection (5)—

"unit trust scheme" has the same meaning as in the Financial Services and Markets Act 2000 (c. 8), and

"unit holder" means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

(5) The Treasury may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a unit trust scheme for the purposes of this Part.

Any such regulations may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

(6) Section 469A of the Taxes Act 1988 (court common investment funds treated as authorised unit trusts) applies for the purposes of this Part as it applies for the purposes of that Act, with the substitution for references to an authorised unit trust of references to a unit trust scheme.

(7) An unit trust scheme is not to be treated as a company for the purposes of—

section 53 (deemed market value rule for transactions with connected companies), or

Schedule 7 (group relief, reconstruction relief or acquisition relief).

102 Open-ended investment companies

(1) The Treasury may by regulations make such provision as they consider appropriate for securing that the provisions of this Part have effect in relation to—

(a) open-ended investment companies of such description as may be prescribed in the regulations, and

(b) transactions involving such companies,

in a manner corresponding, subject to such modifications as the Treasury consider appropriate, to the manner in which they have effect in relation to unit trust schemes and transactions involving such trusts.

(2) The regulations may, in particular, make provision—

(a) modifying the operation of any prescribed provision in relation to open-ended investment companies so as to secure that arrangements for treating the assets of such a company as assets comprised in separate pools are given an effect corresponding to that of equivalent arrangements constituting the separate parts of an umbrella scheme;

(b) treating the separate parts of the undertaking of an open-ended investment company in relation to which such provision is made as distinct companies for the purposes of this Part.

(3) Regulations under this section may—

(a) make different provision for different cases, and

(b) contain such incidental, supplementary, consequential and transitional provision as the Treasury think fit.

(4) In this section—

"open-ended investment company" has the meaning given by section 236 of the Financial Services and Markets Act 2000 (c. 8);

"prescribed" means prescribed by regulations under this section; and

"unit trust scheme" and "umbrella scheme" have the same meaning as in section 101.

103 Joint purchasers

(1) This section applies to a land transaction where there are two or more purchasers who are or will be jointly entitled to the interest acquired.

(2) The general rules are that—

(a) any obligation of the purchaser under this Part in relation to the transaction is an obligation of the purchasers jointly but may be discharged by any of them,

(b) anything required or authorised by this Part to be done in relation to the purchaser must be done by or in relation to all of them, and

(c) any liability of the purchaser under this Part in relation to the transaction (in particular, any liability arising by virtue of the failure to fulfil an obligation within paragraph (a)), is a joint and several liability of the purchasers.

These rules are subject to the following provisions.

(3) If the transaction is a notifiable transaction, a single land transaction return is required.

(4) The declaration required by paragraph 1(1)(c) of Schedule 10 or paragraph 2(1)(c) of Schedule 11 (declaration that return or self-certificate is complete and correct) must be made by all the purchasers.

(5) If the Inland Revenue give notice of an enquiry into the return or self-certificate—

(a) the notice must be given to each of the purchasers,

(b) the powers of the Inland Revenue as to the production of documents and provision of information for the purposes of the enquiry are exercisable separately (and differently) in relation to each of the purchasers,

(c) any of the purchasers may apply for a direction that a closure notice be given (and all of them are entitled to appear and be heard on the application), and

(d) the closure notice must be given to each of the purchasers.

(6) A Revenue determination or discovery assessment relating to the transaction must be made against all the purchasers and is not effective against any of them unless notice of it is given to each of them whose identity is known to the Inland Revenue.

(7) In the case of an appeal arising from proceedings under this Part relating to the transaction—

(a) the appeal may be brought by any of the purchasers,

(b) notice of the appeal must be given to any of them by whom it is not brought,

(c) the agreement of all the purchasers is required if the appeal is to be settled by agreement,

(d) if it is not settled, any of them are entitled to appear and be heard, and

(e) the decision on the appeal binds all of them.

(8) This section has effect subject to—

the provisions of Schedule 15 relating to partnerships, and

the provisions of Schedule 16 relating to trustees.

104 Partnerships

(1) Schedule 15 has effect with respect to the application of this Part in relation to partnerships.

(2) In that Schedule—

Part 1 defines "partnership" and contains other general provisions, and

Part 2 deals with ordinary partnership transactions, and

Part 3 excludes certain transactions from stamp duty land tax.

105 Trustees

Schedule 16 has effect with respect to the application of this Part in relation to trustees.

106 Persons acting in a representative capacity etc

(1) The person having the direction, management or control of the property of an incapacitated person—

(a) is responsible for discharging any obligations under this Part, in relation to a transaction affecting that property, to which the incapacitated person would be subject if he were not incapacitated, and

(b) may retain out of money coming into his hands on behalf of the incapacitated person sums sufficient to meet any payment he is liable to make under this Part, and, so far as he is not so reimbursed, is entitled to be indemnified in respect of any such payment.

(2) The parent or guardian of a minor is responsible for discharging any obligations of the minor under this Part that are not discharged by the minor himself.

(3) The personal representatives of a person who is the purchaser under a land transaction—

(a) are responsible for discharging the obligations of the purchaser under this Part in relation to the transaction, and

(b) may deduct any payment made by them under this Part out of the assets and effects of the deceased person.

(4) A receiver appointed by a court in the United Kingdom having the direction and control of any property is responsible for discharging any obligations under this Part in relation to a transaction affecting that property as if the property were not under the direction and control of the court.

107 Crown application

(1) Subject to the following provisions of this section, this Part applies in relation to public offices and departments of the Crown.

But nothing in this Part shall require the payment by any such office or department of tax that would ultimately be borne by the Crown.

(2) A land transaction under which the purchaser is any of the following is exempt from charge:

Government
A Minister of the Crown
The Scottish Ministers
A Northern Ireland department
Parliament etc
The Corporate Officer of the House of Lords
The Corporate Officer of the House of Commons
The Scottish Parliamentary Corporate Body
The Northern Ireland Assembly Commission
The National Assembly for Wales

(3) The powers conferred by Part 7 of Schedule 13 (entry with warrant to obtain information) are not exercisable in relation to premises occupied for the purposes of the Crown.

Supplementary provisions

108 Linked transactions

(1) Transactions are "linked" for the purposes of this Part if they form part of a single scheme, arrangement or series of transactions between the same vendor and purchaser or, in either case, persons connected with them.

Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this subsection

(2) Where there are two or more linked transactions with the same effective date, the purchaser, or all of the purchasers if there is more than one, may make a single land transaction return as if all of those transactions that are notifiable were a single notifiable transaction.

(3) Where two or more purchasers make a single return in respect of linked transactions, section 103 (joint purchasers) applies as if—

(a) the transactions in question were a single transaction, and

(b) those purchasers were purchasers acting jointly.

109 General power to vary this Part by regulations

(1) The Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of this Part in its application to land transactions of any description.

(2) The power conferred by this section includes, in particular, power to alter—

(a) the descriptions of land transaction that are chargeable or notifiable;

(b) the descriptions of land transaction in respect of which tax is chargeable at any existing rate or amount.

(3) The power conferred by this section does not, except as mentioned in subsection (2)(b), include power to vary any threshold, rate or amount specified in—

(a) section 55 (amount of tax chargeable: general), or

(b) Schedule 5 (amount of tax chargeable: rent).

(4) This section has effect subject to section 110 (approval of regulations by House of Commons).

(5) Regulations under this section do not apply in relation to any transaction of which the effective date is after the end of—

(a) the period of 18 months beginning with the day on which the regulations were made, or

(b) such shorter period as may be specified in the regulations.

This does not affect the power to make further provision by regulations under this section to the same or similar effect.

(6) Regulations under this section may include such supplementary, transitional and incidental provision as appears to the Treasury to be necessary or expedient.

(7) The power conferred by this section may be exercised at any time after the passing of this Act.

110 Approval of regulations under general power

(1) An instrument containing regulations under section 109 (general power to vary this Part by regulations) must be laid before the House of Commons after being made.

(2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they shall cease to have effect at the end of that period (if they have not already ceased to have effect under subsection (3)).

(3) If on any day during that period of 28 days the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.

(4) In reckoning any such period of 28 days take no account of any time during which—

(a) Parliament is prorogued or dissolved, or

(b) the House of Commons is adjourned for more than four days.

(5) Where regulations cease to have effect under this section, their ceasing to have effect is without prejudice to anything done in reliance on them.

As to claims for repayment, see section 111.

111 Claim for repayment if regulations under general power not approved

(1) Where regulations cease to have effect under section 110, any amount paid by way of tax, or interest or penalty, that would not have been payable but for the regulations shall, on a claim, be repaid by the Inland Revenue.

(2) Section 89 (interest on repayment of tax overpaid etc) applies to a repayment under this section.

(3) A claim for repayment must be made within two years after the effective date of the transaction in question.

(4) The Inland Revenue may make provision by regulations—

(a) for varying the time limit for making a claim;

(b) as to any other conditions that must be met before repayment is made.

112 Power to amend certain provisions before implementation

(1) The Treasury may by regulations amend the following provisions of this Part—

(a) Schedule 5 (amount of tax chargeable: rent);

(b) subsection (2) of section 55 (amount of tax chargeable: general) so far as relating to the thresholds at which different rates of tax become payable.

(2) The regulations may make such consequential amendments of Schedule 6 (disadvantaged areas relief) as appear to the Treasury to be appropriate.

(3) A statutory instrument containing regulations under this section shall not be made unless a draft of the instrument has been laid before and approved by resolution of the House of Commons.

(4) The power conferred by this section is not exercisable after the implementation date.

113 Functions conferred on "the Inland Revenue"

(1) References in this Part to "the Inland Revenue" are to any officer of the Board, except as otherwise provided.

(2) Any power of the Inland Revenue to make regulations is exercisable only by the Board.

(3) In Schedule 10 (returns, assessments and other administrative matters)—

(a) functions of the Inland Revenue under these provisions are exercisable by the Board or an officer of the Board—

(i) paragraph 28 (discovery assessment),

(ii) paragraph 29 (assessment to recover excessive repayment);

(b) functions of the Inland Revenue under these provisions are functions of the Board—

(i) paragraph 33 (relief in case of double assessment),

(ii) paragraph 34 (relief in case of mistake in return).

(4) Nothing in this section affects any provision of this Part that expressly confers functions on the Board, an officer of the Board, a collector or a specific officer of the Board.

114 Orders and regulations made by the Treasury or the Inland Revenue

(1) Except as otherwise provided, any power of the Treasury or the Inland Revenue to make an order or regulations under this Part, or under any other enactments relating to stamp duty land tax (including enactments passed after this Act), is exercisable by statutory instrument.

(2) Subsection (1) does not apply in relation to the power conferred by—

paragraph 8 of Schedule 5 to this Act (tax chargeable in respect of rent: power to prescribe temporal discount rate),

section 178(5) of the Finance Act 1989 (c. 26) (power to prescribe rates of interest).

(3) Except as otherwise provided, a statutory instrument containing any order or regulations made by the Treasury or the Inland Revenue under this Part, or under any other enactments relating to stamp duty land tax (including enactments passed after this Act), shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Subsection (3) does not apply to a statutory instrument made under the power conferred by—

section 61(3) (compliance with planning obligations: power to add to list of public authorities);

paragraph 1(3) of Schedule 9 (right to buy transactions: power to add to list of relevant public sector bodies);

paragraph 2(2) of Schedule 19 (commencement and transitional provisions: power to appoint implementation date).

115 General and Special Commissioners, appeals and other proceedings

Schedule 17 makes provision about the General and Special Commissioners, appeals and other proceedings before the Commissioners and related matters.

Interpretation etc

116 Meaning of "residential property"

(1) In this Part "residential property" means—

(a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use, and

(b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land), or

(c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b);

and "non-residential property" means any property that is not residential property.

This is subject to the rule in subsection (7) in the case of a transaction involving six or more dwellings.

(2) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—

(a) residential accommodation for school pupils;

(b) residential accommodation for students, other than accommodation falling with subsection (3)(b);

(c) residential accommodation for members of the armed forces;

(d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3).

(3) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—

(a) a home or other institution providing residential accommodation for children;

(b) a hall of residence for students in further or higher education;

(c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;

(d) a hospital or hospice;

(e) a prison or similar establishment;

(f) a hotel or inn or similar establishment.

(4) Where a building is used for a purpose specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.

(5) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (2) and at least one of those specified in subsection (3)—

(a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same sub-paragraph, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use,

(b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.

(6) In this section "building" includes part of a building.

(7) Where six or more separate dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the

purposes of this Part as it applies in relation to that transaction, those dwellings are treated as not being residential property.

(8) The Treasury may by order—

(a) amend subsections (2) and (3) so as to change or clarify the cases where use of a building is, or is not to be, use of a building as a dwelling for the purposes of subsection (1);

(b) amend or repeal subsection (7) and the reference to that subsection in subsection (1).

Any such order may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

117 Meaning of "major interest" in land

(1) References in this Part to a "major interest" in land shall be construed as follows.

(2) In relation to land in England or Wales, the references are to—

(a) an estate in fee simple absolute, or

(b) a term of years absolute,

whether subsisting at law or in equity.

(3) In relation to land in Scotland, the references are to—

(a) the interest of an owner of land, or

(b) the tenant's right over or interest in a property subject to a lease.

Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.

(4) In relation to land in Northern Ireland, the references are to—

(a) any freehold estate, or

(b) any leasehold estate,

whether subsisting at law or in equity.

118 Meaning of "market value"

For the purposes of this Part "market value" shall be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (see sections 272 to 274 of that Act).

119 Meaning of "effective date" of a transaction

(1) Except as otherwise provided, the effective date of a land transaction for the purposes of this Part is the date of completion.

(2) Other provision as to the effective date of certain descriptions of land transaction is made by—

section 44(4) (contract and conveyance: contract substantially performed without having been completed), and

section 46(3) (options and rights of pre-emption).

120 Meaning of "lease" and other supplementary provisions

(1) In the application of this Part to England and Wales or Northern Ireland "lease" means—

(a) an interest or right in or over land for a term of years (whether fixed or periodic), or

(b) a tenancy at will or other interest or right in or over land terminable by notice at any time.

(2) In this Part—

(a) references to a lease for a definite term are to a lease for a fixed term, and

(b) references to a lease for an indefinite term are to—

(i) a periodic tenancy or other interest or right terminable by a period of notice,

(ii) a tenancy at will in England and Wales or Northern Ireland, or

(iii) any other interest or right terminable by notice at any time.

(3) A lease granted for a fixed term and thereafter until determined is treated for the purposes of this Part as a lease for a definite term equal to the fixed term together with such further period as must elapse before the earliest date at which the lease can be determined.

(4) In the application of this Part to Scotland references to the reversion on a lease shall be read as references to the interest of the landlord in the property subject to the lease.

(5) Where tax has been paid in respect of a land transaction ("the first transaction") that involves missives of let in Scotland that constitute a lease, and subsequent to those missives of let a lease is granted ("the second transaction") which either—

(a) is in conformity with the missives of let, or

(b) relates to substantially the same property and period as the missives of let,

the tax that would otherwise be charged in respect of the second transaction is reduced by the amount of tax paid in respect of the first transaction in respect of the missives of let.

121 Minor definitions

In this Part—

"assignment", in Scotland, means assignation;

"completion", in Scotland, means—

(a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means;

(b) in relation to any other transaction, the settlement of the transaction;

"employee" includes an office-holder and related expressions have a corresponding meaning;

"jointly entitled" means—

(a) in England and Wales, beneficially entitled as joint tenants or tenants in common,

(b) in Scotland, entitled as joint owners or owners in common,

(c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;

"land" includes—

(a) buildings and structures, and

(b) land covered by water;

"registered social landlord" means—

(a) in relation to England and Wales, a body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996 (c. 52);

(b) in relation to Scotland, a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10);

(c) in relation to Northern Ireland, a housing association registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));

"standard security" has the meaning given by the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35);

"statutory provision" means any provision made by or under an Act of Parliament, an Act of the Scottish Parliament or any Northern Ireland legislation;

"surrender", in Scotland, means renunciation;

"tax", unless the context otherwise requires, means tax under this Part.

122 Index of defined expressions

In this Part the expressions listed below are defined or otherwise explained by the provisions indicated—

acquisition relief	Schedule 7, paragraph 8(1)
assignment (in Scotland)	section 121
bare trust	Schedule 16, paragraph 1(2)
the Board (in relation to the Inland Revenue)	section 42(3)
chargeable consideration	section 50 and Schedule 4
chargeable interest	section 48(1)
chargeable transaction	section 49
charities relief	Schedule 8, paragraph 1(1)
closure notice	Schedule 10, paragraph 23(1) (in relation to a land transaction return); Schedule 11, paragraph 16(1) (in relation to a self-certificate)
company	section 100 (except as otherwise expressly provided)
completion (in Scotland)	section 121
contingent (in relation to consideration)	section 51(3)
delivery (in relation to a land transaction return)	Schedule 10, paragraph 2(2)
discovery assessment	Schedule 10, paragraph 28(1)

effective date (in relation to a land transaction)	section 119
employee	section 121
exempt interest	section 48(2) to (5)
filing date (in relation to a land transaction return)	Schedule 10, paragraph 2(1)
implementation date	Schedule 19, paragraph 2(2)
the Inland Revenue	section 113
jointly entitled	section 121
land	section 121
land transaction	section 43(1)
land transaction return	section 76(1)
lease (and related expressions)	section 120
linked transactions	section 108
main subject-matter (in relation to a land transaction)	section 43(6)
major interest (in relation to land)	section 117
market value	section 118
notice of enquiry	Schedule 10, paragraph 12(1) (in relation to a land transaction return); Schedule 11, paragraph 7(1) (in relation to a self-certificate)
notifiable (in relation to a land transaction)	section 77
partnership (and related expressions)	Schedule 15, paragraphs 1 to 4
purchaser	section 43(4)
rate of tax	section 55(7)
reconstruction relief	Schedule 7, paragraph 7(1)
registered social landlord	section 121
residential property	section 116
Revenue determination	Schedule 10, paragraph 25(1)
self-assessment	section 76(3)(a)
self-certificate	section 79(3)(b)
settlement	Schedule 16, paragraph 1(1)
standard security	section 121
statutory provision	section 121
subject-matter (in relation to a land transaction)	section 43(6)

substantial performance (in relation to a contract)	section 44(5) to (7)
surrender (in Scotland)	section 121
tax	section 121
uncertain (in relation to consideration)	section 51(3)
unit holder	section 101(4)
unit trust scheme	section 101(4)
vendor	section 43(4)

Final provisions

123 Consequential amendments

(1) Schedule 18 contains certain amendments consequential on the provisions of this Part.

(2) The Treasury may by regulations make such other amendments and repeals as appear to them appropriate in consequence of the provisions of this Part.

(3) The regulations may, in particular, make such provision as the Treasury think fit for reproducing in relation to stamp duty land tax the effect of enactments providing for exemption from stamp duty.

124 Commencement and transitional provisions

Schedule 19 makes provision for and in connection with the coming into force of the provisions of this Part.

PART 5

STAMP DUTY

125 Abolition of stamp duty except on instruments relating to stock or marketable securities

(1) Stamp duty is chargeable under Schedule 13 of the Finance Act 1999 (c. 16) only on instruments relating to stock or marketable securities.

(2) Section 12 of the Finance Act 1895 (c. 16) (collection of stamp duty in cases of property vested by Act or purchased under statutory powers) does not apply to property other than stock or marketable securities.

(3) This section shall be construed as one with the Stamp Act 1891 (c. 39).

(4) Part 1 of Schedule 20 to this Act contains provisions supplementing this section and Part 2 of that Schedule provides for consequential amendments and repeals.

(5) This section and that Schedule have effect—

(a) in relation to an instrument effecting a land transaction, if the transaction—

(i) is an SDLT transaction within the meaning of Schedule 19 to this Act (stamp duty land tax: commencement and transitional provisions), or

(ii) would be such a transaction but for an exemption or relief from stamp duty land tax;

(b) in relation to an instrument effecting a transaction other than a land transaction, if the instrument is executed on or after the implementation date for the purposes of stamp duty land tax (see paragraph 2(2) of that Schedule).

For this purpose an instrument effecting both a land transaction and a transaction other than a land transaction is treated as if it were two instruments to which paragraph (a) and paragraph (b) above respectively applied.

(6) Where in the case of an instrument effecting both a land transaction and a transaction other than a land transaction the result of applying subsection (5) is that stamp duty is chargeable on either or both of the deemed instruments, the enactments relating to stamp duty have effect as if—

(a) there were two instruments as mentioned in the closing words of that subsection,

(b) the consideration had been apportioned between them in a just and reasonable manner, and

(c) the amount found on that apportionment to be attributable to the chargeable instrument, or (as the case may be) to each of them, had been set forth distinctly in that instrument.

(7) In subsections (5) and (6) "land transaction" has the same meaning as in Part 4 of this Act.

(8) This section and Schedule 20 have effect subject to paragraph 13(2) and (3) of Schedule 15 to this Act (continued application of stamp duty in relation to certain partnership transactions).

126 Circumstances in which group relief withdrawn

(1) Section 111 of the Finance Act 2002 (c. 23) (stamp duty: withdrawal of group relief) is amended as follows.

(2) In subsection (1)(b) (circumstances in which relief withdrawn: transferee company ceasing to be member of group within two years) for "two years" substitute "three years".

(3) In subsection (1)(c) (circumstances in which relief withdrawn: transferee company holding estate or interest when it ceases to be member of group)—

(a) in the opening words—

(i) for "it ceases" substitute "the transferee company ceases", and

(ii) for "it holds" substitute "it or a relevant associated company holds";

(b) in sub-paragraph (i) for "to it" substitute "to the transferee company"; and

(c) for the closing words substitute "and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed".

(4) In subsection (3)—

(a) after "transferred" insert "to the transferee company", and

(b) for "what the transferee company holds at the time it ceases to be a member" substitute "what is held by that company or, as the case may be, that company and any relevant associated companies, at the time it or they cease to be members".

(5) After subsection (4) insert—

"(4A) In this section "relevant associated company", in relation to the transferee company, means a company that—

(a) is a member of the same group as the transferee company immediately before that company ceases to be a member of the same group as the transferor company, and

(b) ceases to be a member of the same group as the transferor company in consequence of the transferee company so ceasing.".

(6) In paragraph 4(3) of Schedule 34 to the Finance Act 2002 (c. 23) (withdrawal of group relief: supplementary provisions), in paragraph (b)—

(a) in the opening words—

(i) for "it ceases" substitute "the transferee company ceases", and

(ii) for "it holds" substitute "it or a relevant associated company (as defined in sub-paragraph (4) below) holds";

(b) in sub-paragraph (i) for "to it" substitute "to the transferee company"; and

(c) for the closing words substitute "and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed".

(7) In the closing words of that sub-paragraph, for the words from "as if" to the end substitute "as if the transferee had then ceased to be a member of the same group as the transferor company and had then held the estate or interest referred to in paragraph (b).".

(8) After that sub-paragraph insert—

"(4) In sub-paragraph (3)(b) "relevant associated company", in relation to the transferee company, means a company that is in the same group as the transferee company immediately before the transferee company ceases to be a member of the new group and which ceases to be a member of the new group in consequence of the transferee company so ceasing.".

(9) This section applies to instruments executed after 14th April 2003.

(10) But this section does not apply to an instrument giving effect to a contract made on or before 9th April 2003, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right, or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(11) This section shall be deemed to have come into force on 15th April 2003.

127 Circumstances in which relief for company acquisitions withdrawn

(1) Section 113 of the Finance Act 2002 (c. 23) (stamp duty: withdrawal of relief for company acquisitions) is amended as follows.

(2) In subsection (1)(b) (circumstances in which relief withdrawn: change of control of acquiring company within two years) for "two years" substitute "three years".

(3) In subsection (1)(c) (circumstances in which relief withdrawn: acquiring company holding estate or interest when control changes)—

(a) in the opening words, after "the acquiring company" insert "or a relevant associated company";

(b) in sub-paragraph (i) for "to it" substitute "to the acquiring company"; and

(c) for the closing words substitute "and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed".

(4) In subsection (3) for "what the acquiring company holds" substitute "what is held by that company or, as the case may be, by that company and any relevant associated companies".

(5) After subsection (3) insert—

"(3A) In this section "relevant associated company", in relation to the acquiring company, means a company—

(a) that is controlled by the acquiring company immediately before the control of that company changes, and

(b) of which control changes in consequence of the change of control of that company.".

(6) In Schedule 35 to the Finance Act 2002 (withdrawal of relief for company acquisitions: supplementary provisions), in paragraphs 3(3)(b) and 4(3)(b) (withdrawal of relief on later change of control)—

(a) in the opening words, after "the acquiring company" insert "or a relevant associated company",

(b) in sub-paragraph (i) for "to it" substitute "to the acquiring company", and

(c) for the closing words substitute "and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed".

(7) This section applies to instruments executed after 14th April 2003.

(8) But this section does not apply to an instrument giving effect to a contract made on or before 9th April 2003, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right, or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(9) This section shall be deemed to have come into force on 15th April 2003.

128 Exemption of certain leases granted by registered social landlords

(1) No stamp duty is chargeable under Part 2 of Schedule 13 to the Finance Act 1999 (c. 16) on a lease of a dwelling granted by a registered social landlord to one or more individuals in accordance with arrangements to which this section applies if the lease is for an indefinite term or is terminable by notice of a month or less.

(2) "Registered social landlord" means—

(a) in relation to England and Wales, a body registered in the register maintained under section 1(1) of the Housing Act 1996 (c. 52);

(b) in relation to Scotland, a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10);

(c) in relation to Northern Ireland, a housing association registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).

(3) This section applies to arrangements between a registered social landlord and a housing authority under which the landlord provides, for individuals nominated by the authority in pursuance of its statutory housing functions, temporary rented accommodation which the landlord itself has obtained on a short-term basis.

The reference above to accommodation obtained by the landlord "on a short-term basis" is to accommodation leased to the landlord for a term of five years or less.

(4) A "housing authority" means—

(a) in relation to England and Wales—

(i) a principal council within the meaning of the Local Government Act 1972 (c. 70), or

(ii) the Common Council of the City of London;

(b) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

(c) in relation to Northern Ireland—

(i) the Department for Social Development in Northern Ireland, or

(ii) the Northern Ireland Housing Executive.

(5) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be taken to be duly stamped unless—

(a) it is stamped with the duty to which it would be liable but for this section, or

(b) it has, in accordance with section 12 of the Stamp Act 1891 (c. 39), been stamped with a particular stamp denoting that it is not chargeable with any duty.

(6) This section shall be construed as one with the Stamp Act 1891.

(7) This section applies to instruments executed after the day on which this Act is passed.

129 Relief for certain leases granted before section 128 has effect

(1) This section applies to instruments that—

(a) are executed in the period beginning with 1 January 2000 and ending with the day on which this Act is passed, and

(b) are instruments to which section 128 (exemption of certain leases granted by registered social landlords) would have applied if that provision had been in force when the instrument was executed.

(2) If the instrument is not stamped until after the day on which this Act is passed, the law in force at the time of its execution shall be deemed for stamp duty purposes to be what it would have been if section 128 had been in force at that time.

(3) If the Commissioners are satisfied that—

(a) the instrument was stamped on or before the day on which this Act is passed,

(b) stamp duty was chargeable in respect of it, and

(c) had it been stamped after that day stamp duty would, by virtue of section 128, not have been chargeable,

they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) that would not have been payable if that section had been in force at the time the instrument was executed.

(4) Any such payment must be claimed before 1st January 2004.

(5) Entitlement to a payment is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.

(6) For the purposes of section 10 of the Exchequer and Audit Departments Act 1866 (c. 39) (Commissioners to deduct repayments from gross revenues) any amount paid under this section is a repayment.

(7) This section shall be construed as one with the Stamp Act 1891.

(8) For the purposes of this section as it applies in relation to instruments executed before the coming into force of section 57 of the Housing (Scotland) Act 2001 (asp 10), the references in section 128 to a registered social landlord shall be read in relation to Scotland as references to—

(a) a housing association registered in the register maintained under section 3(1) of the Housing Associations Act 1985 (c. 69) by Scottish Homes, or

(b) a body corporate whose objects corresponded to those of a housing association and which, pursuant to a contract with Scottish Homes, was registered in a register kept for the purpose by Scottish Homes.

130 Registered social landlords: treatment of certain leases granted between 1st January 1990 and 27 March 2000

(1) This section applies to a lease in relation to which the following conditions are met—

(a) it is a lease of a dwelling to one or more individuals;

(b) it is for an indefinite term or is terminable by notice of a month or less;

(c) it was executed on or after 1st January 1990 and before 28th March 2000;

(d) at the time it was executed the rate or average rate of the rent (whether reserved as a yearly rent or not) was £5,000 a year or less; and

(e) the landlord's interest has at any time before 26th June 2003 been held by a registered social landlord.

(2) A lease to which this section applies (whether or not presented for stamping) shall be treated—

(a) for the purposes of section 14 of the Stamp Act 1891 (c. 39) (production of instrument in evidence) as it applies in relation to proceedings begun after the day on which this Act is passed, and

(b) for the purposes of section 17 of that Act (enrolment etc of instrument) as it applies to any act done after that day,

as if it had been duly stamped in accordance with the law in force at the time when it was executed.

(3) If in the case of a lease to which this section applies the Commissioners are satisfied—

(a) that the instrument was stamped on or before the day on which this Act is passed, and

(b) that stamp duty was charged in respect of it,

they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) so charged.

(4) Any such payment must be claimed before 1st January 2004.

(5) Entitlement to a payment under subsection (3) is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.

(6) For the purposes of section 10 of the Exchequer and Audit Departments Act 1866 (c. 39) (Commissioners to deduct repayments from gross revenues) any amount paid under subsection (3) above is a repayment.

(7) This section shall be construed as one with the Stamp Act 1891.

(8) The reference in subsection (1) above to the landlord's interest being held by a "registered social landlord" is to its being held by a body that—

(a) is registered in a register maintained under—

(i) Article 124 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)),

(ii) section 3(1) of the Housing Associations Act 1985 (c. 69),

(iii) Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)),

(iv) section 1(1) of the Housing Act 1996 (c. 52), or

(v) section 57 of the Housing (Scotland) Act 2001 (asp 10), or

(b) is a body corporate whose objects correspond to those of a housing association and which, pursuant to a contract with Scottish Homes, is registered in a register kept for the purposes by Scottish Homes.

(9) Section 129 of this Act (relief for certain leases granted on or after 1st January 2000) does not apply to a lease to which this section applies.

PART 6

INCOME TAX AND CORPORATION TAX: CHARGE AND RATE BANDS

Income tax

131 Charge and rates for 2003-04

Income tax shall be charged for the year 2003-04, and for that year—

(a) the starting rate shall be 10%;

(b) the basic rate shall be 22%;

(c) the higher rate shall be 40%.

132 Indexed rate bands for 2003-04: PAYE deductions etc

For the year 2003-04, section 1(5A) of the Taxes Act 1988 (which provides that statutory inflation-linked changes to income tax rate bands for a year of assessment do not require changes to be made to PAYE deductions or repayments until 18th May in that year) shall have effect as if "14th June" were substituted for "17th May".

Corporation tax

133 Charge and main rate for financial year 2004

Corporation tax shall be charged for the financial year 2004 at the rate of 30%.

134 Small companies' rate and fraction for financial year 2003

For the financial year 2003—

(a) the small companies' rate shall be 19%, and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be 11/400ths.

135 Corporation tax starting rate and fraction for financial year 2003

For the financial year 2003—

(a) the corporation tax starting rate shall be 0%, and

(b) the fraction mentioned in section 13AA of the Taxes Act 1988 (marginal relief for small companies) shall be 19/400ths.

PART 7

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX: GENERAL

Employment income and related matters

136 Provision of services through intermediary

(1) Chapter 8 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (provision of services through an intermediary) is amended as follows.

(2) In section 49(1)(a) (services to which the Chapter applies), for "for the purposes of a business carried on by another person" substitute "for another person".

(3) In consequence of the above amendment—

(a) omit section 49(2) of that Act, and

(b) in section 56(7) of that Act—

(i) at the end of paragraph (a) insert ", and", and

(ii) omit paragraph (c) and the word "and" preceding it.

(4) This section applies in relation to services performed or due to be performed on or after 10th April 2003.

137 Exemption where homeworker's additional expenses met by employer

(1) In Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: exemptions), after section 316 insert—

"**316A Homeworker's additional household expenses**

(1) This section applies where an employer makes a payment to an employee in respect of reasonable additional household expenses which the employee incurs in carrying out duties of the employment at home under homeworking arrangements.

(2) No liability to income tax arises in respect of the payment.

(3) In this section, in relation to an employee—

"homeworking arrangements" means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home; and

"household expenses" means expenses connected with the day to day running of the employee's home.".

(2) This section applies to payments which the employer makes on or after 6th April 2003 in respect of expenses which the employee incurs on or after that date.

138 Taxable benefits: lower threshold for cars with a CO_2 emissions figure

(1) In section 139 of the Income Tax (Earnings and Pensions) Act 2003 (cash equivalent of the benefit of a car: calculation of the appropriate percentage for a year for cars with a CO_2 emissions figure) the table in subsection (4) (which specifies the lower threshold for each year for the purposes of that calculation) is amended as follows.

(2) In the entry relating to 2004-05 and subsequent tax years omit "and subsequent tax years".

(3) After that entry insert—

"2005-06 and subsequent tax years	140".

(4) In section 170(3) of that Act (power to provide by order for a lower threshold different from that specified in the table in section 139(4) to apply for tax years beginning on or after 6th April 2005) for "6th April 2005" substitute "6th April 2006".

139 Approved share plans and schemes

Schedule 21 to this Act (which contains amendments relating to share incentive plans, SAYE option schemes and CSOP schemes) has effect.

140 Employee securities and options

Schedule 22 to this Act (which makes provision about securities, and options to acquire securities, acquired by reason of employment) has effect.

141 Corporation tax relief for employee share acquisitions

Schedule 23 to this Act has effect with respect to deductions allowable for corporation tax purposes in respect of employee share acquisitions.

142 Ending of relief for contributions to QUESTS

(1) Section 67 of the Finance Act 1989 (c. 26) (tax relief for contributions to trustees of qualifying employee share ownership trust) does not apply in relation to sums expended by a company in an accounting period of the company beginning on or after 1st January 2003.

(2) In section 69 of that Act (chargeable events)—

(a) the definitions in subsections (3AC) and (3AD) (by virtue of which certain transfers of shares by trustees of an employee share ownership trust to a SIP trust are not chargeable events) have effect in relation to 26th November 2002 as they had effect in relation to 20th March 2000;

(b) in relation to shares that are relevant shares by virtue of paragraph (a) above, subsection (3AB) (deemed order of disposal of shares) has effect as if the reference there to 21st March 2000 were to 27th November 2002; and

(c) the other provisions of that section have effect accordingly.

(3) In consequence of subsection (2), in paragraph 78(2)(b) of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (reference to section 69(3AA) of the Finance Act 1989) after "21st March 2000" insert "or, by virtue of section 142(2) of the Finance Act 2003, 27th November 2002".

143 Restriction of deductions for employee benefit contributions

Schedule 24 to this Act (which makes provision restricting deductions for contributions by employers to third parties for the benefit of employees) has effect.

144 PAYE on notional payments: reimbursement period

(1) In section 222(1)(c) of the Income Tax (Earnings and Pensions) Act 2003 (period within which employee must reimburse employer for amount to be accounted for to Inland Revenue in respect of income tax on notional payment), for "30 days" substitute "90 days".

(2) This section has effect in relation to payments of income treated as made on or after 9th April 2003.

145 PAYE: regulations and notional payments

(1) In the list in subsection (2) of section 684 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (PAYE regulations)—

(a) for item 2 substitute—

Provision—

(a) for deductions to be made, if and to the extent that the payee does not object, with a view to securing that income tax payable in respect of any income of a payee for a tax year which is not PAYE income is deducted from PAYE income of the payee paid during that year; and

(b) as to the circumstances and manner in which a payee may object to the making of deductions.

Provision—

(a) for repayments or deductions to be made, if and to the extent that the payee does not object, in respect of any amounts overpaid or remaining unpaid (or treated as overpaid or remaining unpaid) on account of—

(i) income tax in respect of income for a previous tax year, or

(ii) capital gains tax in respect of chargeable gains for such a year; and

(b) as to the circumstances in which repayments or deductions may be made, and the circumstances and manner in which a payee may object to the making of repayments or deductions.";

(b) after item 4 insert —

Provision authorising the recovery from the payee rather than the payer of any amount that the Inland Revenue considers should have been deducted by the payer.";

(c) for item 8 substitute as items 7A and 8—

Provision for excluding payments of such description as may be specified from the operation of the regulations in such circumstances as may be specified.

Provision for the making of decisions by the Board or the Inland Revenue as to any matter required to be decided for the purposes of the regulations and for appeals against such decisions.".

(2) After subsection (7) of that section insert—

"(7A) Nothing in PAYE regulations may be read—

(a) as preventing the making of arrangements for the collection of tax in such manner as may be agreed by, or on behalf of, the payer and the Inland Revenue, or

(b) as requiring the payer to comply with the regulations in circumstances in which the Inland Revenue is satisfied that it is unnecessary or not appropriate for the payer to do so.

(7B) References in this section and section 685 to income tax in respect of PAYE income are references to income tax in respect of that income if reasonable assumptions are (when necessary) made about other income.

(7C) In this section and section 685—

"payer" means any person paying PAYE income and "payee" means any person in receipt of such income;

"specified" means specified in PAYE regulations.".

(3) In subsection (2) of section 685 of that Act (tax tables), for paragraph (b) substitute—

"(b) subject to an adjustment in respect of amounts required to be deducted or repaid by PAYE regulations made under item 1A or 2 in the list in section 684(2).".

(4) After subsection (3) of that section insert—

"(4) PAYE regulations may make provision, where it appears to the Inland Revenue that it is impracticable for a payer to deduct tax by reference to tax tables—

(a) for deductions to be made by the payer in accordance with other arrangements agreed as mentioned in section 684(7A)(a), or

(b) for the payee to be required to keep records and make payments and returns as if he were the payer.".

(5) In section 707 of that Act (interpretation of Chapter 5 of Part 11), in the definition of "employment", for "this section" substitute "this Chapter".

(6) In section 710 of that Act (notional payments: accounting for tax)—

(a) in subsections (1) and (4), after "must" insert ", subject to and in accordance with PAYE regulations,";

(b) in subsection (5)(b) and (c), for "accounted for" substitute "deducted or accounted for (or required to be deducted or accounted for)"; and

(c) in subsection (6), for "an amount which" substitute "an amount of tax which" and for "is paid by the employee" substitute "is deducted".

(7) Substitute "PAYE regulations"—

(a) for "the said section 203" in subsection (8) of section 59A of the Taxes Management Act 1970 (c. 9) (payments on account of income tax); and

(b) for "that section" in subsection (10) of that section and subsections (2) and (8) of section 59B of that Act (payments of income tax and capital gains tax).

146 Payroll giving: extension of 10% supplement to 5th April 2004

In section 38 of the Finance Act 2000 (c. 17) (which provides for a 10% supplement on donations under the payroll deduction scheme), in subsection (6) (which limits the

provision by reference to sums withheld by employers before 6th April 2003, and requires claims for reimbursement to be made before 6th April 2004)—

(a) for "6th April 2003" substitute "6th April 2004", and

(b) for "6th April 2004" substitute "6th April 2005".

147 Sub-contractor deductions etc: interest on late payment or repayment

(1) In section 566 of the Taxes Act 1988 (construction industry scheme: powers to make regulations) after subsection (1) insert—

"(1A) Interest required to be paid by regulations under subsection (1) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(2) In the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), in paragraph 6 of Schedule 1 (power to combine collection of national insurance contributions with tax) after sub-paragraph (4A) insert—

"(4B) Interest required to be paid, by virtue of sub-paragraph (2)(a) or (b) above, by regulations under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(3) In section 22 of the Teaching and Higher Education Act 1998 (c. 30) (student loans), after subsection (9) insert—

"(10) Interest required to be paid, by virtue of subsection (5)(d), by regulations under this section shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(4) In Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)) (student loans), after paragraph (9) insert—

"(10) Interest required to be paid, by virtue of paragraph (5)(d), by regulations under this Article shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(5) In its application to the computation of income, profits or losses for an accounting period (in the case of a company) or a year of assessment (in the case of a person who is not a company), this section has effect in relation to—

(a) accounting periods ending on or after 9th April 2003, or

(b) 2003-04 and subsequent years of assessment.

Taxation of non-resident companies and related matters

148 Meaning of "permanent establishment"

(1) For the purposes of the Tax Acts a company has a permanent establishment in a territory if, and only if—

(a) it has a fixed place of business there through which the business of the company is wholly or partly carried on, or

(b) an agent acting on behalf of the company has and habitually exercises there authority to do business on behalf of the company.

This general definition is subject to the following provisions.

(2) For this purpose a "fixed place of business" includes (without prejudice to the generality of that expression)—

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) an installation or structure for the exploration of natural resources;
(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
(h) a building site or construction or installation project.

(3) A company is not regarded as having a permanent establishment in a territory by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of his business.

(4) A company is not regarded as having a permanent establishment in a territory by reason of the fact that—

(a) a fixed place of business is maintained there for the purpose of carrying on activities for the company, or
(b) an agent carries on activities there for and on behalf of the company,

if, in relation to the business of the company as a whole, the activities carried on are only of a preparatory or auxiliary character.

(5) For this purpose "activities of a preparatory or auxiliary character" include (without prejudice to the generality of that expression)—

(a) the use of facilities for the purpose of storage, display or delivery of goods or merchandise belonging to the company;
(b) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of storage, display or delivery;
(c) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of processing by another person;
(d) purchasing goods or merchandise, or collecting information, for the company.

(6) In section 832(1) of the Taxes Act 1988 (interpretation of the Tax Acts), at the appropriate place insert—

> ""permanent establishment", in relation to a company, has the meaning given by section 148 of the Finance Act 2003;".

(7) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) (interpretation), at the appropriate place insert—

> ""permanent establishment", in relation to a company, has the meaning given by section 148 of the Finance Act 2003;".

149 Non-resident companies: basis of charge to corporation tax

(1) In section 11 of the Taxes Act 1988 (corporation tax: companies not resident in the United Kingdom), for subsections (1) and (2) (basis of taxation) substitute—

"(1) A company not resident in the United Kingdom is within the charge to corporation tax if, and only if, it carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.

(2) If it does so, it is chargeable to corporation tax, subject to any exceptions provided for by the Corporation Tax Acts, on all profits, wherever arising, that are attributable to its permanent establishment in the United Kingdom.

These profits, and these only, are the company's "chargeable profits" for the purposes of corporation tax.

(2A) The profits attributable to a permanent establishment for the purposes of corporation tax are—

(a) trading income arising directly or indirectly through or from the establishment,

(b) income from property or rights used by, or held by or for, the establishment, and

(c) chargeable gains falling within section 10B of the 1992 Act—

(i) by virtue of assets being used in or for the purposes of the trade carried on by the company through the establishment, or

(ii) by virtue of assets being used or held for the purposes of the establishment or being acquired for use by or for the purposes of the establishment.".

(2) After that section insert—

"**11AA Determination of profits attributable to permanent establishment**

(1) This section provides for determining for the purposes of corporation tax the amount of the profits attributable to a permanent establishment in the United Kingdom of a company that is not resident in the United Kingdom ("the non-resident company").

(2) There shall be attributed to the permanent establishment the profits it would have made if it were a distinct and separate enterprise, engaged in the same or similar activities under the same or similar conditions, dealing wholly independently with the non-resident company.

(3) In applying subsection (2)—

(a) it shall be assumed that the permanent establishment has the same credit rating as the non-resident company, and

(b) it shall also be assumed that the permanent establishment has such equity and loan capital as it could reasonably be expected to have in the circumstances specified in that subsection.

No deduction may be made in respect of costs in excess of those that would have been incurred on those assumptions.

(4) There shall be allowed as deductions any allowable expenses incurred for the purposes of the permanent establishment, including executive and general

administrative expenses so incurred, whether in the United Kingdom or elsewhere.

"Allowable expenses" means expenses of a kind in respect of which a deduction would be allowed for corporation tax purposes if incurred by a company resident in the United Kingdom.

(5) The Board may by regulations make provision as to the application of subsection (2) in relation to insurance companies.

The regulations may, in particular, make provision in place of subsection (3)(b) as to the basis on which, in the case of insurance companies, capital is to be attributed to a permanent establishment in the United Kingdom.

In this subsection "insurance company" has the meaning given by section 431(2).

(6) Schedule A1 to this Act contains provisions supplementing the provisions of this section.".

(3) At the beginning of the Schedules to the Taxes Act 1988 insert as Schedule A1 the Schedule set out in Schedule 25 to this Act.

(4) After section 10A of the Taxation of Chargeable Gains Act 1992 (c. 12) insert—

"**10B Non-resident company with United Kingdom permanent establishment**

(1) Subject to any exceptions provided by this Act, the chargeable profits for the purposes of corporation tax of a company not resident in the United Kingdom but carrying on a trade in the United Kingdom through a permanent establishment there include chargeable gains accruing to the company on the disposal of—

(a) assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time the gain accrued, or

(b) assets situated in the United Kingdom and used or held for the purposes of the permanent establishment at or before the time the gain accrued or acquired for use by or for the purposes of the permanent establishment.

(2) Subsection (1) does not apply unless the disposal is made at a time when the company is carrying on a trade in the United Kingdom through a permanent establishment there.

(3) This section does not apply to a company that, by virtue of Part 18 of the Taxes Act (double taxation relief arrangements), is exempt from corporation tax for the chargeable period in respect of the profits of the permanent establishment.

(4) In this section "trade" has the meaning given by section 6(4)(b) of the Taxes Act.".

(5) In section 834(1) of the Taxes Act 1988 (interpretation of the Corporation Tax Acts), at the appropriate place insert—

""chargeable profits", in relation to a company that is not resident in the United Kingdom—

(a) for corporation tax purposes generally, has the meaning given by section 11(2), and

(b) for the purposes of Chapter 4 of Part 17 (controlled foreign companies), has the meaning given by section 747(6);".

(6) This section has effect in relation to accounting periods (of the non-resident company) beginning on or after 1st January 2003, and regulations under section 11AA(5) of the Taxes Act 1988 (inserted by subsection (2) above) may be made so as to have effect from that date.

150 Non-resident companies: assessment, collection and recovery of corporation tax

(1) The enactments relating to corporation tax, so far as they make provision for or in connection with the assessment, collection and recovery of tax, or of interest on tax, have effect, in accordance with this section, as if the obligations and liabilities of a non-resident company were also obligations and liabilities of its UK representative.

(2) For this purpose a permanent establishment in the United Kingdom through which a non-resident company carries on a trade—

(a) is the UK representative of the company in relation to chargeable profits of the company attributable to that establishment,

(b) continues to be the company's UK representative in relation to those profits even after ceasing to be a permanent establishment through which the company carries on a trade, and

(c) shall be treated, if it would not otherwise be so treated, as a distinct and separate person from the non-resident company.

As to the chargeable profits attributable to a permanent establishment, see section 11(2A) of the Taxes Act 1988.

(3) Subject to the following provisions of this section—

(a) the discharge by the UK representative of a non-resident company, or by the company itself, of an obligation or liability that corresponds to one to which the other is subject discharges the corresponding obligation or liability of the other, and

(b) a non-resident company is bound, as if they were its own, by acts or omissions of its UK representative in the discharge of the obligations and liabilities imposed on the representative by this section.

(4) An obligation or liability attaching to a non-resident company—

(a) by reason of its having been given or served with a notice or other document, or

(b) by reason of its having received a request or demand,

does not also attach to its UK representative unless the notice or document, or a copy of it, has been given to or served on the representative or, as the case may be, unless the representative has been notified of the request or demand.

(5) A non-resident company is not bound by mistakes in information provided by its UK representative in pursuance of an obligation imposed on the representative by this section, unless the mistake is the result of an act or omission of the company itself, or to which the company consented or in which it connived.

(6) The UK representative of a non-resident company is not by virtue of this section liable to be proceeded against for a criminal offence unless the representative committed the offence itself, or consented to or connived in its commission.

(7) In this section—

"enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30);

"information" includes anything contained in a return, self-assessment, account, statement or report required to be provided to the Board or any officer of the Board;

"non-resident company" means a company that is not resident in the United Kingdom; and

"trade" has the meaning given by section 6(4)(b) of the Taxes Act 1988.

(8) This section has effect for accounting periods (of the non-resident company) beginning on or after 1st January 2003.

151 Non-resident companies: extent of charge to income tax

(1) The income tax chargeable for a year of assessment on the total income of a company that is not resident in the United Kingdom is limited to the sum of the following amounts—

(a) the amount of tax that, apart from this section, would be chargeable on that total income if—

(i) the amount of that income were reduced by the amount of any income to which this section applies, and

(ii) there were disregarded any relief to which that company is entitled by virtue of arrangements having effect under section 788 of the Taxes Act 1988 (double taxation relief), and

(b) the amount of tax deducted from so much of any income to which this section applies as is income the tax on which is deducted at source.

(2) The income to which this section applies is—

(a) income chargeable to tax under Case III of Schedule D or Schedule F;

(b) income chargeable to tax under Case VI of Schedule D by virtue of section 56 of the Taxes Act 1988 (transactions in deposits);

(c) income arising from a transaction carried out through a broker or investment manager in the United Kingdom acting as an agent of independent status in the ordinary course of his business; or

(d) income of such other description as the Treasury may by regulations designate for the purposes of this subsection.

Regulations under paragraph (d) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(3) In subsection (1)(b) above—

(a) the reference to tax deducted at source is to tax that is or is treated as deducted, or is treated as paid, or in respect of which there is a tax credit, and

(b) the reference to the amount of tax deducted at source is to the amount that is or is treated as deducted, or is treated as paid, or, as the case may be, to the amount of that credit.

(4) This section does not apply to the income tax chargeable for a year of assessment on income of a company as a trustee.

(5) This section applies—

(a) in relation to the year 2002-03, as regards income arising on or after 1st January 2003, and

(b) in relation to the year 2003-04 and subsequent years of assessment.

152 Non-resident companies: transactions carried out through broker, investment manager or Lloyd's agent

Schedule 26 to this Act contains provisions supplementing—

(a) section 148(3) (meaning of "permanent establishment": not to include independent agent), and

(b) section 151(2)(c) (limit on income tax chargeable on non-resident company: income arising from transactions carried out through independent agent),

as regards transactions carried out through a broker, investment manager or Lloyd's agent.

153 General replacement of references to branch or agency of company

(1) In the following provisions (which relate only to companies) for "branch or agency" or "branches or agencies", wherever occurring, substitute "permanent establishment" or "permanent establishments".

The provisions are—

(a) in the Taxes Act 1988, sections 115(4)(b), 338B(2)(d) and (4)(b), 349B(2)(b) and (7)(b)(ii), 402(3B), 403E(1)(a), (2), (4), (5) and (6), 442(1), 444BB(3)(b), 547(6A), 748A(1)(c) and (2), 790(6A)(b), 801(1A)(b), 804A(1)(a), 806L(1), (2), (4), and (5), 806M(2) to (5) and 815A(6); in Schedule 15, paragraphs 17(3)(c) and 25(2)(c); in Schedule 19AA, paragraph 5(5)(c); in Schedule 24, paragraphs 1 and 8; and in Schedule 25, paragraphs 6(2A) and (2C), 8 and 11(3);

(b) in the Taxation of Chargeable Gains Act 1992 (c. 12), sections 140(1), 140C(1)(a), 173(3)(b), 175(1A)(b), 185(4) and 213(5A);

(c) in the Finance Act 2000 (c. 17), section 107(7);

(d) in the Capital Allowances Act 2001 (c. 2), sections 560(2) and 561(1)(c);

(e) in the Finance Act 2002 (c. 23), in Schedule 22, paragraph 10(1)(b)(ii); and in Schedule 29, paragraphs 66(5) and (8)(b), 68(2)(b), 86(1)(a), 87(1)(a), 109(1)(b) and 110(1)(b).

(2) In the following provisions (which relate to companies and other persons), any reference to a branch or agency shall be read, in relation to a company, as a reference to a permanent establishment.

The provisions are—

(a) in the Taxes Act 1988, sections 606(13), 794(2)(bb), 806K(1), 814(1) and 830(4), and in Schedule 23A, paragraphs 3 and 4;

(b) in the Taxation of Chargeable Gains Act 1992, sections 25(2), (3) and (5), 80(4)(a) and (b) and (7)(b), 199(2) and (4) and 276(7);

(c) in the Finance Act 1999 (c. 16), section 85(2)(a);

(d) in the Finance Act 2002, in Schedule 26, paragraph 31(6)(a).

(3) Any reference to a branch or agency—

(a) in subordinate legislation made under an enactment contained in the Tax Acts or relating to chargeable gains, or

(b) that is to be construed as having the same meaning as in any such enactment,

shall be read, in relation to a company, as a reference to a permanent establishment.

"Subordinate legislation" here has the same meaning as in the Interpretation Act 1978 (c. 30).

(4) This section has effect in relation to accounting periods beginning on or after 1st January 2003.

154 Double taxation relief: profits attributable to overseas permanent establishment

(1) In Part 18 of the Taxes Act 1988 (double taxation relief), section 797 (limits on credit: corporation tax) is amended as follows.

(2) In subsection (1) for "subsections (2) and (3)" substitute "the following provisions of this section".

(3) In subsection (2) for "subsection (3)" substitute "subsections (2A) and (3)".

(4) After subsection (2) insert—

"(2A) The provisions of section 11AA (profits attributable to permanent establishment), and of any regulations made under that section, apply, with the necessary modifications, in determining for the purposes of this section how much of the chargeable profits of a company resident in the United Kingdom is attributable to a permanent establishment of the company outside the United Kingdom.".

(5) The amendments in this section have effect in relation to accounting periods beginning on or after 1st January 2003.

155 Consequential amendments

(1) Schedule 27 to this Act provides for amendments consequential on the provisions of sections 148 to 153.

(2) The amendments made by that Schedule have effect in relation to accounting periods beginning on or after 1st January 2003.

156 Overseas life insurance companies

(1) The enactments relating to corporation tax have effect in relation to overseas life insurance companies subject to such modifications and exceptions as the Treasury may prescribe by regulations.

(2) The power to make regulations under this section includes power to make provision in place of, and in consequence to repeal or revoke, all or any of the enactments relating to corporation tax that on the passing of this Act make provision in relation to overseas life insurance companies.

(3) Regulations under this section—

(a) may make different provision for different cases, and

(b) may make such consequential amendments of other enactments as appear to the Treasury to be necessary or expedient.

(4) Regulations under this section providing for the application to overseas life insurance companies of sections 148 to 154 of this Act, Schedules 26 and 27 to this Act or any enactment amended by those sections or Schedules may be made so as to have effect from 1st January 2003.

(5) In this section—

"enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30), and

"overseas life insurance company" means an insurance company (as defined in section 431(2) of the Taxes Act 1988) that is not resident in the United Kingdom but carrying on life assurance business (as so defined) through a permanent establishment in the United Kingdom.

Chargeable gains

157 Life insurance policies and deferred annuity contracts

(1) For section 210 of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**210 Life insurance and deferred annuities**

(1) This section has effect in relation to any policy of insurance or contract for a deferred annuity on the life of any person.

(2) A gain accruing on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity is not a chargeable gain unless subsection (3) below applies.

(3) This subsection applies if—

(a) (in the case of a disposal of the rights) the rights or any interest in the rights, or

(b) (in the case of a disposal of an interest in the rights) the rights, the interest or any interest from which the interest directly or indirectly derives (in whole or in part),

have or has at any time been acquired by any person for actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains).

(4) For the purposes of subsection (3) above —

(a) (in the case of a policy of insurance) amounts paid under the policy by way of premiums, and

(b) (in the case of a contract for a deferred annuity) amounts paid under the contract, whether by way of premiums or as lump sum consideration,

do not constitute actual consideration.

(5) And for those purposes actual consideration for—

(a) a disposal which is made by one spouse to the other or is an approved post-marriage disposal, or

(b) a disposal to which section 171(1) applies,

is to be treated as not constituting actual consideration.

(6) For the purposes of subsection (5)(a) above a disposal is an approved post-marriage disposal if—

(a) it is made in consequence of the dissolution or annulment of a marriage by one person who was a party to the marriage to the other,

(b) it is made with the approval, agreement or authority of a court (or other person or body) having jurisdiction under the law of any country or territory or pursuant to an order of such a court (or other person or body), and

(c) the rights disposed of were, or the interest disposed of was, held by the person by whom the disposal is made immediately before the marriage was dissolved or annulled.

(7) Subsection (8) below applies for the purposes of tax on chargeable gains where—

(a) (if that subsection did not apply) a loss would accrue on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity, but

(b) if sections 37 and 39 were disregarded, there would accrue on the disposal a loss of a smaller amount, a gain or neither a loss nor a gain.

(8) If (disregarding those sections) a loss of a smaller amount would accrue, that smaller amount is to be taken to be the amount of the loss accruing on the disposal; and in any other case, neither a loss nor a gain is to be taken to accrue on the disposal.

(9) But subsection (8) above does not affect the treatment for the purposes of tax on chargeable gains of the person who acquired rights, or an interest in rights, on the disposal.

(10) The occasion of—

(a) the receipt of the sum or sums assured by the policy of insurance,

(b) the transfer of investments or other assets to the owner of the policy of insurance in accordance with the policy, or

(c) the surrender of the policy of insurance,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the policy of insurance.

(11) The occasion of—

(a) the receipt of the first instalment of the annuity under the contract for a deferred annuity, or

(b) the surrender of the rights conferred by the contract for a deferred annuity,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the contract for a deferred annuity.

(12) Where there is a disposal on the occasion of the receipt of the first instalment of the annuity under the contract for a deferred annuity—

(a) in the case of a disposal of the rights conferred by the contract, the consideration for the disposal is the aggregate of the amount or value of the first instalment and the market value at the time of the disposal of the right to receive the further instalments of the annuity, and

(b) in the case of a disposal of an interest in the rights, the consideration for the disposal is such proportion of that aggregate as is just and reasonable;

and no gain accruing on any subsequent disposal of, or of any interest in, the rights is a chargeable gain (even if subsection (3) above applies).

(13) In this section "interest", in relation to rights conferred by a policy of insurance or contract for a deferred annuity, means an interest as a co-owner of the rights (whether the rights are owned jointly or in common and whether or not the interests of the co-owners are equal).".

(2) This section has effect in relation to disposals on or after 9th April 2003.

158 Application of market value rule in case of exercise of option

(1) In Chapter 3 of Part 4 of the Taxation of Chargeable Gains Act 1992 (c. 12) (miscellaneous provisions relating to options and other matters), after section 144 insert—

"**144ZA Application of market value rule in case of exercise of option**

(1) This section applies where—

(a) an option is exercised, so that by virtue of section 144(2) or (3) the grant or acquisition of the option and the transaction resulting from its exercise are treated as a single transaction, and

(b) section 17(1) ("the market value rule") applies, or would apply but for this section, in relation to—

(i) the grant of the option,

(ii) the acquisition of the option (whether directly from the grantor or not) by the person exercising it, or

(iii) the transaction resulting from its exercise.

(2) If the option binds the grantor to sell—

(a) the market value rule does not apply for determining the consideration for the sale, except, where the rule applies for determining the consideration for the option, to that extent (in accordance with section 144(2)(a));

(b) the market value rule does not apply for determining the cost to the person exercising the option of acquiring what is sold, except, where the rule applies for determining the cost of acquiring the option, to that extent (in accordance with section 144(3)(a)).

(3) If the option binds the grantor to buy—

(a) the market value rule does not apply for determining the cost of acquisition incurred by the grantor, but without prejudice to its

application (in accordance with section 144(2)(b)) where the rule applies for determining the consideration for the option;

(b) the market value rule does not apply for determining the consideration for the disposal of what is bought, but without prejudice to its application (in accordance with section 144(3)(b)) where the rule applies for determining the cost of the option.

(4) To the extent that, by virtue of this section, the market value rule does not apply for determining an amount or value, the amount or value to be taken into account is (subject to section 120) the actual amount or value.

(5) In this section "option" has the same meaning as in section 144.".

(2) This section applies in relation to the exercise of an option on or after 10th April 2003.

159 Reporting limits and annual exempt amount

(1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with Schedule 28 to this Act.

(2) In that Schedule—

Part 1 makes provision as to the cases in which a return of information about chargeable gains is required,

Part 2 contains minor and consequential amendments of the provisions relating to the annual exempt amount, and

Part 3 provides for commencement.

160 Taper relief: assets qualifying as business assets

(1) In Schedule A1 to the Taxation of Chargeable Gains Act 1992 (taper relief), paragraph 5 (conditions for assets other than shares to qualify as business assets) is amended as follows.

(2) In sub-paragraph (1) (application of paragraph), after "in the case of the disposal of any asset" insert "by an individual, the trustees of a settlement or an individual's personal representatives".

(3) For sub-paragraphs (2) to (5) substitute—

"(1A) The asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) an individual or a partnership of which an individual was at that time a member, or

(b) the trustees of a settlement or a partnership whose members at that time included—

(i) the trustees of a settlement, or

(ii) any one or more of the persons who at that time were the trustees of a settlement (so far as acting in their capacity as trustees), or

(c) the personal representatives of a deceased person or a partnership whose members at that time included—

(i) the personal representatives of a deceased person, or

(ii) any one or more of the persons who at that time were the personal representatives of a deceased person (so far as acting in their capacity as personal representatives).

(2) Where the disposal is made by an individual, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to that individual,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to that individual, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by that individual with a person carrying on a trade.

(3) Where the disposal is made by the trustees of a settlement, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the trustees of the settlement or an eligible beneficiary,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the trustees of the settlement or an eligible beneficiary, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by an eligible beneficiary with a person carrying on a trade.

(4) Where the disposal is made by an individual's personal representatives, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b).

(5) Where the disposal is made by an individual who acquired the asset as legatee (as defined in section 64), the asset shall be taken to have been a business asset at that time if at that time it was—

(a) being held by the personal representatives of the deceased, and

(b) being used, wholly or partly, for the purposes of a trade carried on by—

(i) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(ii) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(iii) a partnership whose members at that time included a company within sub-paragraph (i) or (ii).".

(4) The following amendments in Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) are consequential on those above—

(a) in paragraphs 9(1)(a) and 19(1) for "paragraph 5(2) to (5)" substitute "any provision of paragraph 5";

(b) in paragraph 15(4)(a) for "paragraph 5(2)" substitute "paragraph 5(1) and (2)".

(5) The amendments in this section apply to disposals on or after 6th April 2004 and as they so apply have effect in relation to periods of ownership on or after that date.

161 Earn-out rights to be treated as securities unless contrary election

(1) Section 138A of the Taxation of Chargeable Gains Act 1992 (c. 12) (use of earn-out rights for exchange of securities) is amended as follows.

(2) In subsection (2) (seller's right to elect for earn-out right to be treated as security of new company)—

(a) at the end of paragraph (a) insert "and"; and

(b) omit paragraph (c) (the seller's right of election) and the word "and" immediately preceding it.

(3) After subsection (2) insert—

"(2A) Subsection (2) above does not have effect if the seller elects under this section for the earn-out right not to be treated as a security of the new company.".

(4) In subsection (4) (election for corresponding treatment where old right extinguished in consideration of new right)—

(a) at the end of paragraph (c) insert "and";

(b) omit paragraph (e) (right of election of person on whom the new right is conferred) and the word "and" immediately preceding it; and

(c) in the closing words, for "that person" substitute "the person on whom the new right is conferred".

(5) After subsection (4) insert—

"(4A) Subsection (4) above does not have effect if the person on whom the new right is conferred elects under this section for it not to be treated as a security of the new company.".

(6) The amendments made by this section have effect in relation to rights conferred on or after 10th April 2003.

162 Deferred unascertainable consideration: election for treatment of loss

(1) After section 279 of the Taxation of Chargeable Gains Act 1992 insert—

"**279A Deferred unascertainable consideration: election for treatment of loss**

(1) Where—

(a) a person ("the taxpayer") makes a disposal of a right to which this section applies (see subsection (2) below),

(b) on that disposal an allowable loss ("the relevant loss") would, apart from section 279C, accrue to him in any year ("the year of the loss"), and

(c) the year of the loss is a year in which the taxpayer is within the charge to capital gains tax (see section 279B(1)),

the taxpayer may make an election under this section for the relevant loss to be treated as accruing in an earlier year in accordance with section 279C if condition 1 in subsection (3) below and condition 2 in subsection (5) below are satisfied.

(2) This section applies to a right if each of the following conditions is satisfied—

(a) the right was, in whole or in part, acquired by the taxpayer as the whole or part of the consideration for a disposal (the "original disposal") by him of another asset (the "original asset"),

(b) the original disposal was made in a year ("the year of the original disposal") earlier than the year in which the disposal mentioned in subsection (1)(a) above is made ("the year of the right's disposal"),

(c) where the right was acquired by the taxpayer as the whole or part of the consideration for two or more disposals (each of which is accordingly an "original disposal"), the condition in paragraph (b) above is satisfied with respect to each of those disposals (the "original disposals"),

(d) on the taxpayer's acquisition of the right, there was no corresponding disposal of it,

(e) the right is a right to unascertainable consideration (see section 279B(2) to (6)).

(3) Condition 1 for making an election in relation to the relevant loss is that a chargeable gain accrued to the taxpayer on any one or more of the following events—

(a) the original disposal,

(b) an earlier disposal of the original asset by the taxpayer in the year of the original disposal,

(c) a later disposal of the original asset by the taxpayer in a year earlier than the year of the right's disposal,

or would have so accrued but for paragraph 2(2)(a) of Schedule 5B or 5C (postponement of original gain).

This subsection is subject to subsection (4) below.

(4) If the right to which this section applies was acquired by the taxpayer as the whole or part of the consideration for two or more original disposals (including cases where there are two or more original assets (the "original assets"))—

(a) any reference in subsection (3) above to the original disposal is a reference to any of the original disposals,

(b) any reference in that subsection to the original asset is a reference to the asset which is the original asset in relation to that original disposal, and

(c) any reference in that subsection to the year of the original disposal shall be construed accordingly.

(5) Condition 2 for making an election in relation to the relevant loss is that there is a year (an "eligible year")—

(a) which is earlier than the year of the loss but not earlier than the year 1992-93,

(b) in which a chargeable gain falling within subsection (3) above or subsection (6) below accrued to the taxpayer, and

(c) for which, immediately before the election, there remains a relevant amount on which capital gains tax is chargeable (see subsection (7) below).

(6) A chargeable gain falling within this subsection accrues to the taxpayer in a year if—

(a) in that year a chargeable gain (the "revived gain") is treated as accruing to the taxpayer in accordance with paragraphs 4 and 5 of Schedule 5B or 5C (chargeable gain accruing to person on chargeable event), and

(b) the gain which, in determining the amount of the revived gain in accordance with those paragraphs, is the original gain consists of or represents the whole or some part of a gain that would have accrued as mentioned in subsection (3) above but for paragraph 2(2)(a) of Schedule 5B or 5C.

(7) For the purposes of subsection (5)(c) above, a year is one for which, immediately before an election, there remains a relevant amount on which capital gains tax is chargeable if, immediately before the making of that election, there remains an amount in respect of which the taxpayer is chargeable to capital gains tax for the year—

(a) after taking account of any previous elections made by the taxpayer under this section,

(b) after excluding any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b), and

(c) on the assumption that no part of the relevant loss (or of any other loss in respect of which an election under this section may be, but has not been, made) falls to be deducted in consequence of an election under this section from the chargeable gains accruing to the taxpayer in that year.

(8) In this section "year" means year of assessment.

(9) This section and sections 279B to 279D are to be construed as one.

279B Provisions supplementary to section 279A

(1) For the purposes of section 279A(1)(c) a person is within the charge to capital gains tax in any year if—

(a) he is chargeable to capital gains tax in respect of chargeable gains accruing to him in that year, or

(b) on the assumption that there accrue to him in that year any chargeable gains (excluding amounts in relation to which section 2(4)(a) applies), he would be so chargeable apart from—

(i) any deductions that fall to be made from the total amount referred to in section 2(2), and

(ii) section 3 (annual exempt amount).

(2) Subsections (3) to (6) below have effect for the purposes of section 279A(2)(e) (right to unascertainable consideration).

(3) A right is a right to unascertainable consideration if, and only if,—

(a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and

(b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (4) to (6) below.

(4) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—

(a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to the taxpayer on the disposal of an asset, or

(b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.

(5) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—

(a) the amount will be fixed by reference to the value, and the value is ascertainable, or

(b) the value will be fixed by reference to the amount, and the amount is ascertainable.

(6) A right which is by virtue of subsection (2) or (4) of section 138A (use of earn-out rights for exchange of securities) assumed in accordance with subsection (3)(a) of that section to be a security, within the definition in section 132, is not to be regarded as a right to unascertainable consideration.

(7) For the purposes of section 279A, any question as to—

(a) whether a chargeable gain or a loss is one that accrues (or would, apart from any particular provision, accrue) on a particular disposal or a disposal of any particular description, or

(b) the time at which, or year in which, any particular disposal takes place,

is to be determined without regard to section 10A(2) (chargeable gains and losses accruing during temporary non-residence to be treated as accruing in year of return).

This subsection is subject to subsection (8) below.

(8) Subsection (7) above does not affect the determination of any question—

(a) as to the year in which the chargeable gain or loss is, by virtue of section 10A(2), to be treated as accruing (apart from section 279C), or

(b) where (apart from section 279C) a loss is to be treated by virtue of section 10A(2) as accruing in a particular year, whether the loss is an allowable loss.

279C Effect of election under section 279A

(1) This section applies where an election is made under section 279A by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(2) Where this section applies, the relevant loss shall be treated for the purposes of capital gains tax as if it were a loss accruing to the taxpayer in the earliest year which is an eligible year (the "first eligible year"), instead of in the year of the loss (but subject to, and in accordance with, the following provisions of this section).

(3) The amount of the relevant loss that falls to be deducted from chargeable gains of the first eligible year in accordance with section 2(2)(a) is limited to the amount (the "first year limit") found by taking the following steps—

Step 1: take the total amount of chargeable gains accruing to the taxpayer in the first eligible year,

Step 2: exclude from that amount any amounts that fall to be disregarded in accordance with section 2(4)(a) for that year,

Step 3: deduct from the amount remaining any amounts in respect of allowable losses (other than the relevant loss or any part of it) that fall to be deducted from that amount in accordance with section 2(2) otherwise than by virtue of section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit, unless the first eligible year is a year in relation to which section 2(5)(aa) has effect, in which case the further steps in subsection (4) below must also be taken.

(4) Those further steps are—

Step 4: add to the amount found by taking steps 1 to 3 in subsection (3) above every amount which is treated by virtue of section 77 or 86 as an amount of chargeable gains accruing to the taxpayer for the first eligible year (the "attributed amounts"),

Step 5: deduct from the resulting amount any amounts (other than the relevant loss or any part of it) that fall to be deducted from the attributed

amounts in accordance with section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit in a case where section 2(5)(aa) applies in relation to the first eligible year.

(5) As respects any later year before the year of the loss, the relevant loss (so far as not previously allowed as a deduction from chargeable gains accruing in any previous year) falls to be deducted in accordance with section 2(2)(b) only if that later year is an eligible year.

(6) The amount of the relevant loss that falls to be deducted from chargeable gains of that later eligible year in accordance with section 2(2)(b) is limited to the amount (the "later year limit") in respect of which the taxpayer would be chargeable to capital gains tax for that later year—

(a) on the assumption in subsection (7) below,

(b) taking account of any previous elections under section 279A, and

(c) apart from the provisions specified in subsection (8) below.

(7) The assumption is that no part of—

(a) the relevant loss, or

(b) any loss in respect of which an election under section 279A may be, but has not been, made,

falls to be deducted, in consequence of an election under section 279A, from any chargeable gains accruing to the taxpayer in that later eligible year.

The assumption falls to be made immediately after the making of the election in respect of the relevant loss.

(8) The provisions are—

(a) section 2(5)(a)(ii) (taper relief),

(b) section 2(5)(aa)(ii) (taper relief),

(c) section 2(5)(b) (addition of certain amounts treated as amounts of chargeable gains), and

(d) section 2A (taper relief),

except that paragraphs (b) and (d) above are not to affect the operation of section 2(7) for the purposes of subsection (6) above.

(9) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to the election under section 279A made by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(10) Any reference in this section or section 279D to deduction in accordance with section 2(2)(a), section 2(2)(b) or section 2(2) includes a reference to such deduction by virtue of section 2(5)(a)(i) or (aa)(i).

279D Elections under section 279A

(1) An election under section 279A is irrevocable.

(2) Any election under that section must be made by giving a notice in accordance with this section.

(3) The notice must be given to an officer of the Board.

(4) Subsections (5) to (8) below have effect in relation to the notice given by the taxpayer in respect of the relevant loss.

(5) The notice must specify each of the following—

(a) the amount of the relevant loss;

(b) the right disposed of;

(c) the year of the right's disposal;

(d) the year of the loss (if different from the year of the right's disposal);

(e) the year in which the right was acquired;

(f) the original asset or assets.

(6) The notice must also specify each of the following—

(a) the eligible year in which the relevant loss is to be treated in accordance with section 279C(2) as accruing to the taxpayer;

(b) the first year limit (see section 279C(3) and (4));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(a) from chargeable gains accruing to the taxpayer in that year.

(7) If, in accordance with section 279C, any part of the relevant loss falls to be deducted in accordance with section 2(2)(b) from chargeable gains accruing to the taxpayer in any later eligible year, the notice must also specify—

(a) each such year;

(b) in the case of each such year, the later year limit (see section 279C(6));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(b) in each such year from chargeable gains accruing to the taxpayer in that year.

(8) The notice must be given on or before the first anniversary of the 31st January next following the year of the loss.

(9) An election under section 279A is made on the date on which the notice of the election is given.

(10) Different notices must be given in respect of different losses.

(11) Where a person makes two or more elections under section 279A on the same day, the notices must specify the order in which the elections are made.

(12) For the purposes of any provisions of sections 279A to 279C whose operation is affected by the order in which any elections under section 279A are made, elections made by a person on the same day shall be treated as made at different times and in the order specified in accordance with subsection (11) above.".

(2) Where—

(a) on the disposal of a right to which section 279A of the Taxation of Chargeable Gains Act 1992 (c. 12) applies, an allowable loss would, apart from section 279C of that Act, accrue to a person in any year of assessment,

(b) an election is made under section 279A of that Act for the loss to be treated as accruing in an earlier year in accordance with section 279C, and

(c) the right is an earn-out right, within the meaning of section 138A of that Act, which was conferred before 10th April 2003,

no election may be made under section 138A of that Act (election for earn-out right to be treated as security etc) in respect of the right, whether at the same time as the election under section 279A or subsequently.

(3) The amendment made by subsection (1) has effect in relation to allowable losses that would, apart from that amendment, accrue on or after 10th April 2003.

For this purpose, losses that would, apart from that amendment, be treated by virtue of section 10A of the Taxation of Chargeable Gains Act 1992 as accruing in the year 2003-04 shall be treated as so accruing on or after 10th April 2003.

(4) Subsection (2) shall be deemed to have come into force on 10th April 2003.

163 Transfers of value: attribution of gains to beneficiaries

(1) For section 85A of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**85A Transfers of value: attribution of gains to beneficiaries and treatment of losses**

(1) Schedule 4C to this Act has effect with respect to the attribution of gains to beneficiaries where there has been a transfer of value to which Schedule 4B applies.

(2) Sections 86A to 95 have effect subject to the provisions of Schedule 4C.

(3) No account shall be taken of any chargeable gains or allowable losses accruing by virtue of Schedule 4B in computing the trust gains for a year of assessment in accordance with sections 87 to 89, except in computing for the purposes of paragraph 7A(2) of Schedule 4C the amount on which the trustees would have been chargeable to tax under section 2(2) if they had been resident or ordinarily resident in the United Kingdom.

(4) No account shall be taken of any chargeable gains or allowable losses to which sections 87 to 89 apply in computing the gains or losses accruing by virtue of Schedule 4B.".

(2) Schedule 4C to that Act (transfers of value: attribution of gains to beneficiaries) is amended in accordance with Schedule 29 to this Act.

(3) In section 90 of that Act (transfers between settlements), for subsection (5) substitute—

"(5) This section does not apply—

(a) to a transfer to which Schedule 4B applies, or

(b) to gains to which Schedule 4C applies (that is, to "Schedule 4C gains" within the meaning of that Schedule).".

(4) The following provisions have effect with respect to the coming into force of the amendments made by this section and Schedule 29—

(a) the amendments apply where the trustees of a settlement have made a transfer to which Schedule 4B applies at any time on or after 21st March 2000;

(b) where there has been a transfer of value to which Schedule 4B applies before 9th April 2003, the transferor settlement shall be treated as having a Schedule 4C pool as from that date containing such Schedule 4C gains as would fall to be included in the pool if—

(i) a year of assessment had ended with 8th April 2003, and

(ii) the reference in paragraph 1(2)(b) of Schedule 4C as amended to the end of the year of assessment in which the transfer of value was made were to that date;

(c) where a transferor settlement ceased to exist on or after 21st March 2000 and before 9th April 2003, Schedule 4C as amended applies as if it had ceased to exist on 8th April 2003 (so that paragraph (b) above applies);

(d) so much of Schedule 4C as amended as provides—

(i) that gains treated as accruing to beneficiaries who are not chargeable to tax are treated as outstanding section 87/89 gains, or

(ii) that gains in a settlement's Schedule 4C pool are not to be treated as accruing to such beneficiaries,

applies only in relation to capital payments made on or after 9th April 2003;

(e) gains included in a settlement's Schedule 4C pool by virtue of paragraph 1(2)(b) of that Schedule as amended shall only be attributed in accordance with the provisions of that Schedule to beneficiaries who receive capital payments on or after 9th April 2003.

(5) Paragraph 8A(3) and (4) of Schedule 4C, inserted by paragraph 4 of Schedule 29 to this Act, applies only where the transfer referred to in that provision occurs on or after 9th April 2003.

(6) Expressions used in subsection (4) that are defined for the purposes of Schedule 4C to the Taxation of Chargeable Gains Act 1992 (c. 12) as amended by Schedule 29 to this Act have the same meaning as in that Schedule.

Capital allowances and related matters

164 Avoidance affecting proceeds of balancing event

(1) In Chapter 5 of Part 12 of the Capital Allowances Act 2001 (c. 2) (miscellaneous supplementary provisions), after section 570 insert—

"Anti-avoidance

570A Avoidance affecting proceeds of balancing event

(1) This section applies where an event occurs in relation to an asset (a "balancing event") as a result of which a balancing allowance would (but for this section) fall to be made to a person ("the taxpayer") under Part 3, 4, 4A, 5 or 10.

(2) The taxpayer is not entitled to any balancing allowance if, as a result of a tax avoidance scheme, the amount to be brought into account as the proceeds from the event is less than it would otherwise have been.

(3) In subsection (2) a "tax avoidance scheme" means a scheme or arrangement the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage by the taxpayer.

(4) Where this section applies to deny a balancing allowance, the residue of qualifying expenditure immediately after the balancing event is nevertheless calculated as if the balancing allowance had been made.

(5) In this section as it applies for the purposes of Part 5 (mineral extraction allowances)—

(a) the references to the proceeds from the balancing event that are to be brought into account shall be read as references to the disposal value to be brought into account, and

(b) the reference to the residue of qualifying expenditure shall be read as a reference to the unrelieved qualifying expenditure.".

(2) This section applies in relation to any balancing event (within the meaning of section 570A, inserted by subsection (1) above) occurring on or after 27th November 2002, except where the event—

(a) occurs in pursuance of a contract entered into before that date, and

(b) does not occur in consequence of the exercise on or after that date of an option, right of pre-emption or similar right.

165 Extension of first-year allowances for ICT expenditure by small enterprises

In section 45(1) of the Capital Allowances Act 2001 (c. 2) (ICT expenditure incurred by small enterprises: first-year qualifying expenditure), in paragraph (a) (under which the expenditure must be incurred on or before 31st March 2003) for "31st March 2003" substitute "31st March 2004".

166 Expenditure on software for sub-licensing

(1) Section 45 of the Capital Allowances Act 2001 (first-year allowances for ICT expenditure incurred by small enterprises) is amended as follows.

(2) In subsection (1)(d) (expenditure must not be excluded by general exclusions in section 46) at the end insert "or subsection (4) below".

(3) After subsection (3) insert—

"(4) Expenditure on an item within Class C is not first-year qualifying expenditure under this section if the person incurring it does so with a view to granting to another person a right to use or otherwise deal with any of the software in question.".

(4) This section applies in relation to expenditure incurred on or after 26th March 2003.

167 First-year allowances for expenditure on environmentally beneficial plant or machinery

Schedule 30 to this Act (first-year allowances for expenditure on environmentally beneficial plant or machinery) has effect in relation to expenditure incurred on or after 1st April 2003.

168 Relief for research and development

(1) Schedule 31 to this Act (which makes amendments relating to relief for expenditure on research and development) shall have effect.

(2) In that Schedule—

Part 1 amends Schedule 20 to the Finance Act 2000 (c. 17) (relief for small and medium-sized enterprises);

Part 2 amends Part 1 of Schedule 12 to the Finance Act 2002 (c. 23) (relief for large companies);

Part 3 amends Part 2 of that Schedule (work sub-contracted to small or medium-sized enterprise);

Part 4 inserts a new Part 2A into that Schedule (entitlement of small or medium-sized enterprise to additional relief available to large companies in respect of subsidised expenditure);

Part 5 makes supplementary amendments to Parts 3 to 6 of that Schedule; and

Part 6 amends Schedule 13 to the Finance Act 2002 (expenditure on vaccine research etc).

(3) Except as provided by subsection (4)—

(a) the amendments made by Parts 1 and 6 of Schedule 31 have effect in relation to expenditure incurred on or after the appointed day, and

(b) the amendments made by Parts 2 to 5 of that Schedule have effect in relation to expenditure incurred on or after 9th April 2003.

(4) The exceptions are that—

(a) the amendments made by paragraphs 2 and 3 in Part 1 have effect for accounting periods beginning on or after the appointed day;

(b) in the application of paragraph 5 of Schedule 20 to the Finance Act 2000 (c. 17) (staffing costs) for any purpose of Schedule 12 to the Finance Act 2002 (c. 23) by virtue of paragraph 17(b) of that Schedule (meaning of "staffing costs"), the amendments made by paragraph 5 in Part 1 of Schedule 31 to this Act (persons partly engaged directly and actively in R&D) have effect in relation to expenditure incurred on or after 9th April 2003;

(c) the amendments made by paragraph 6 in Part 1 (qualifying expenditure on externally provided workers), in their application by virtue of paragraph 19 in Part 5 (application for purposes of Schedule 12 to the Finance Act 2002 (c. 23)), have effect in relation to expenditure incurred on or after 9th April 2003;

(d) the amendments made by—

(i) paragraph 9 in Part 2,

(ii) paragraphs 12 and 13 in Part 3, and

(iii) paragraph 15 in Part 4,

have effect for accounting periods beginning on or after 9th April 2003;

(e) the amendments made by paragraph 21 in Part 6 (reduction of company's required minimum qualifying expenditure in an accounting period from £25,000 etc to £10,000 etc) have effect for accounting periods beginning on or after the appointed day.

(5) In this section the "appointed day" means such day as the Treasury may by order appoint; and different days may be so appointed for different provisions or different purposes.

169 Tonnage tax: extension of capital allowance restrictions on lessors of ships

Schedule 32 to this Act (tonnage tax: restrictions on capital allowances for lessors of ships) has effect.

Life insurance and pensions

170 Insurance companies

Schedule 33 to this Act (which makes provision about the taxation of insurance companies, including companies which have ceased to be insurance companies after a transfer of business) has effect.

171 Policies of life insurance etc: miscellaneous amendments

(1) Schedule 34 to this Act (which makes provision relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

(2) In that Schedule—

Part 1 relates to group life policies;

Part 2 relates to charitable and non-charitable trusts;

Part 3 restricts the meaning of "life annuity"; and

Part 4 makes provision for and in connection with the repeal of section 540(2) of the Taxes Act 1988 (rollover of gain on maturity into new policy).

(3) This section and that Schedule shall be deemed to have come into force on 9th April 2003.

172 Charges under life insurance policies for exceptional risk of disability

(1) In Schedule 15 to the Taxes Act 1988 (provisions for determining whether an insurance policy is a "qualifying policy")—

(a) in paragraph 12(a) (disregard of so much of premium as is charged on the grounds of exceptional risk of death), and

(b) in paragraph 12(b) (disregard of provision in policy charging, on those grounds, a sum as a debt against capital sum guaranteed on death),

after "death" insert "or disability".

(2) Accordingly, in the heading before paragraph 12 of that Schedule, for "mortality risk" substitute "risk of death or disability".

(3) In paragraph 3 of that Schedule (friendly society policies), omit paragraphs (b)(iii) and (c) of sub-paragraph (8) (which make provision corresponding to paragraph 12(a) and (b) but are unnecessary).

(4) In paragraph 18 of that Schedule (rules about substituted policies applied where policies are varied) insert after sub-paragraph (3)—

"(4) For the purposes of this paragraph there is no variation in the terms of a policy where—

(a) an amount of premium chargeable on the grounds that an exceptional risk of death or disability is involved becomes or ceases to be payable, or

(b) the policy is amended by the insertion, variation or removal of a provision under which, on those grounds, any sum may become chargeable as a debt against the capital sum guaranteed by the policy on death or disability.".

(5) In section 460 of that Act (registered friendly societies: exemption from tax in respect of life or endowment business), in subsection (3)(b) (which makes provision corresponding to paragraph 12(a) of Schedule 15) after "death" insert "or disability".

(6) The amendments made by this section shall be deemed always to have had effect; but this section shall be disregarded to the extent that it would prevent a policy from being a qualifying policy at any time before 9th April 2003.

173 Gains on policies of life insurance etc: rate of tax

(1) Schedule 35 to this Act (which makes provision for and in connection with charging certain gains on policies of life insurance etc at the lower rate) has effect.

(2) The amendments made by that Schedule have effect in relation to gains treated as arising under Chapter 2 of Part 13 of the Taxes Act 1988 on the happening of chargeable events on or after 6th April 2004.

174 Personal pension arrangements: limit on contributions

(1) In section 640A(1) of the Taxes Act 1988 (personal pension arrangements: the earnings cap), for "for the purposes of section 640 above" substitute "for the purposes of section 638 or 640 above".

(2) In determining "the permitted maximum" for the purposes of any provision of an existing approved scheme designed to meet the requirements of section 638(3) of that Act (maximum annual amount of contributions), a member's net relevant earnings for the year shall be taken to be the amount of his net relevant earnings after applying section 640A (the earnings cap).

An "existing approved scheme" means a personal pension scheme approved under Chapter 4 of Part 14 of that Act before 9th April 2003.

(3) In section 641A(1) of that Act (election for contributions to be treated as paid in previous year), for "A person who pays a contribution under approved personal pension arrangements" substitute "An individual who under approved personal pension arrangements made by him pays a contribution".

(4) This section has effect in relation to contributions paid on or after 9th April 2003.

Miscellaneous

175 Payments to adopters

(1) After section 327 of the Taxes Act 1988 insert—

"**327A Payments to adopters**

(1) The following payments shall not be treated as income for any purpose of the Income Tax Acts—

(a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);

(c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations 1991);

(d) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(e) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);

(f) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved by the Secretary of State under section 51(5) of that Act (schemes for payment of allowances to persons who have adopted, or intend to adopt, a child);

(g) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act;

(h) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(i) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted, or intends to adopt, a child;

(j) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations (Northern Ireland) 1996);

(k) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (see sections 2(6) and (7) and 4 of that Act);

(l) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

(2) The Treasury may by order amend this section for the purposes of—

(a) adding a description of payment, or

(b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.”.

(2) The amendment made by this section has effect for the year 2003-04 and subsequent years of assessment.

176 Foster carers

(1) Schedule 36 to this Act (foster carers) has effect.

(2) This section has effect in relation to the year 2003-04 and subsequent years of assessment.

177 Currency contracts and currency options

(1) This section applies in any case where at any time on or after 30th September 2002—

(a) a qualifying company becomes party to a qualifying contract which is a currency contract or currency option, or

(b) the terms of such a qualifying contract held by such a company are varied,

and the conditions in subsection (2) are, or subsequently become, satisfied.

(2) The conditions are that—

(a) in accordance with generally accepted accounting practice, the company in preparing its statutory accounts uses the exchange rate implied by the qualifying contract ("the accounting rate");

(b) there is a difference between the accounting rate and the final payment rate; and

(c) the difference between those exchange rates is more than 1 per cent of the final payment rate.

(3) In subsection (2) "the final payment rate" means the exchange rate found by reference only to the amounts which fall or would, apart from this section and the provisions specified in subsection (4), fall to be regarded for the purposes of subsection (2) or, as the case may be, (7) of section 150 of the Finance Act 1994 (c. 9) as the amounts of the currency to be received, and the currency to be paid in exchange, under the qualifying contract as mentioned in that subsection.

(4) Where this section first applies in relation to the qualifying contract in an accounting period of the company which begins before 1st October 2002 ("the relevant contract period"), the following provisions of the Finance Act 2002 (c. 23), namely—

(a) section 79(1)(b) (repeal of forex),

(b) section 80 and Schedule 24 (corporation tax: currency), and

(c) section 83 and Schedules 26 and 27 (derivative contracts),

shall be taken to have effect in the case of the company, so far as relating to that contract, in relation to that accounting period and any subsequent accounting periods.

(5) Where—

(a) the qualifying contract is a currency contract which arises from the exercise of a currency option which is or was itself a qualifying contract (or a series of such currency options), and

(b) that currency option was entered into or varied on or after 30th September 2002 (or, in the case of a series of currency options, any of them was entered into or varied on or after that date),

the provisions specified in subsection (4) shall be taken to have effect in the case of the company, so far as relating to the currency option (or, in the case of a series of currency options, each of the options entered into or varied on or after 30th September 2002), in relation to the earliest accounting period ("the relevant options period") in which the option (or any of the options) was so entered into or varied and any subsequent accounting periods.

(6) Where the provisions specified in subsection (4) have effect by virtue of this section in relation to a currency contract or currency option the following provisions of the Finance Act 2002, namely—

(a) section 81 (transitional provision), so far as relating to section 80 and Schedule 24, and

(b) Schedule 28 (derivative contracts: transitional provisions etc),

shall have effect accordingly.

(7) In the application of Schedule 28 to the Finance Act 2002 by virtue of this section, any reference to the company's commencement day is to be taken—

(a) in the case of a currency contract, as a reference to the first day of the relevant contract period; or

(b) in the case of a currency option, as a reference to the first day of the relevant options period.

(8) This section does not apply in relation to any contract entered into or varied in an accounting period beginning on or after 1st October 2002 unless the contract arises from the exercise of a currency option which was entered into or varied on or after 30th September 2002 and in an accounting period beginning on or before that date.

(9) In this section the following expressions, namely—

(a) qualifying company,

(b) qualifying contract,

(c) currency contract,

(d) currency option,

have the same meaning as in Chapter 2 of Part 4 of the Finance Act 1994 (c. 9), (disregarding for this purpose the provisions specified in subsection (4)) and references to the exercise of an option shall be construed accordingly.

(10) In this section "statutory accounts" has the meaning given by paragraph 52 of Schedule 26 to the Finance Act 2002 (c. 23).

(11) This section shall be deemed to have come into force on 30th September 2002.

178 Loan relationships: amendments

Schedule 37 to this Act (which makes amendments in relation to loan relationships) has effect.

179 Derivative contracts: transactions within groups

(1) In paragraph 28 of Schedule 26 to the Finance Act 2002 (c. 23), in sub-paragraph (3)(a) (credits and debits to be brought into account: disregard of the transaction or series of transactions except for certain purposes) after "except" insert—

"(i) for the purpose of determining the credits and debits to be brought into account in respect of exchange gains or losses and identifying the company which is to bring them into account, or

(ii)".

(2) In sub-paragraph (3)(b) of that paragraph (transferor and transferee deemed to be the same person, except for that purpose) for "that purpose" substitute "those purposes".

(3) For sub-paragraph (4) of that paragraph substitute—

"(4) References in this paragraph to one company replacing another as party to a derivative contract shall include references to a company becoming party to any derivative contract which—

(a) confers rights or imposes liabilities, or

(b) both confers rights and imposes liabilities,

where those rights or liabilities, or rights and liabilities, are equivalent to those of the other company under a derivative contract to which that other company has previously ceased to be party.".

(4) For paragraph 30 of that Schedule (amount to be brought into account on transaction within a group where transferor uses mark to market basis of accounting) substitute—

"30 (1) Paragraph 28 does not apply where the transferor company uses an authorised mark to market basis of accounting as respects the derivative contract in question, but in any such case—

(a) the amount to be brought into account by the transferor company in respect of the transaction referred to in that paragraph, or in respect of the series of transactions there referred to, taken together, must be the fair value of the derivative contract as at the date of transfer to the transferee company; and

(b) the amount to be brought into account by the transferee company in respect of the transaction referred to in that paragraph, or in respect of the series of transactions there referred to, taken together, must be the same as the amount brought into account by the transferor company in respect of that transaction or, as the case may be, that series of transactions, taken together.

(2) In this paragraph "transferor company" and "transferee company" have the same meaning as in paragraph 28.".

(5) The amendments made by this section have effect where the date of transfer to the transferee company falls on or after 9th April 2003.

180 Contributions to urban regeneration companies

(1) After section 79A of the Taxes Act 1988 (contributions to training and enterprise councils and local enterprise companies) insert—

"**79B Contributions to urban regeneration companies**

(1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a designated urban regeneration company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits of the trade, profession or vocation if it would not otherwise be so deductible.

(2) Where any such contribution is made by an investment company, any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.

(3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the urban regeneration company concerned or from any other person.

(4) In any case where—

(a) relief has been given under subsection (1) above in respect of a contribution, and

(b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) In this section "urban regeneration company" means any body of persons (whether corporate or unincorporate) which the Treasury by order designates as an urban regeneration company for the purposes of this section.

(6) The Treasury may only make an order under subsection (5) above designating a body as an urban regeneration company for the purposes of this section if they consider that each of the criteria in subsection (7) below is satisfied in the case of the body.

(7) The criteria are that—

(a) the sole or main function of the body is to co-ordinate the regeneration of a specific urban area in the United Kingdom;

(b) the body is expected to seek to perform that function by creating a plan for the development of that area and endeavouring to secure that the plan is carried into effect;

(c) in co-ordinating the regeneration of that area, the body is expected to work together with some or all of the public or local authorities which exercise functions in relation to the whole or part of that area.

(8) An order under subsection (5) above may be framed so as to take effect on a date earlier than the making of the order, but not earlier than—

(a) 1st April 2003, in the case of the first order under that subsection, or

(b) three months before the date on which the order is made, in the case of any subsequent order.

(9) Section 839 (connected persons) applies for the purposes of this section.

(10) This section applies to contributions made on or after 1st April 2003.".

(2) In section 828(4) of the Taxes Act 1988 (orders or regulations under specified provisions not to be subject to Commons negative resolution parliamentary procedure) after "section 1(6)," insert "79B(5),".

181 Repos etc

Schedule 38 to this Act (which contains amendments relating to arrangements for the sale and repurchase of securities etc) has effect.

182 Relevant discounted securities: withdrawal of relief for costs and losses, etc

Schedule 39 to this Act (relevant discounted securities: withdrawal of relief for costs and losses, and extension of definition of "strip") has effect.

183 Court common investment funds

(1) Section 469A of the Taxes Act 1988 (court common investment funds) is amended as follows.

(2) In paragraph (c) of subsection (1) (persons entitled as against the Accountant General to share in fund's investments treated as unit holders in authorised unit trust) for "the persons whose interests entitle them, as against the Accountant General, to share in the fund's investments" substitute "the persons with qualifying interests".

(3) After that subsection insert—

"(1A) For the purposes of subsection (1)(c) above, the persons with qualifying interests are—

(a) in relation to shares in the fund held by the Accountant General, the persons whose interests entitle them, as against him, to share in the fund's investments;

(b) in relation to shares in the fund held by any other person authorised by the Lord Chancellor to hold such shares on behalf of others (an "authorised person")—

(i) if there are persons whose interests entitle them, as against the authorised person, to share in the fund's investments, those persons;

(ii) if not, the authorised person;

(c) in relation to shares in the fund held by persons authorised by the Lord Chancellor to hold such shares on their own behalf, those persons.".

(4) This section has effect in relation to income arising to a common investment fund on or after 6th April 2003.

(5) In this section "common investment fund" means a common investment fund established under section 42 of the Administration of Justice Act 1982 (c. 53).

184 Intangible fixed assets: tax avoidance arrangements and related parties

(1) Schedule 29 to the Finance Act 2002 (c. 23) (gains and losses of a company from intangible fixed assets) is amended as follows.

(2) In paragraph 111 (tax avoidance arrangements to be disregarded)—

(a) in sub-paragraph (1) for the words following "in determining" substitute "whether a debit or credit is to be brought into account under this Schedule or the amount of any such debit or credit", and

(b) in sub-paragraph (2)—

(i) for "under paragraph 9" in paragraph (a), and

(ii) for "under Part 4" in paragraph (b),

substitute "under this Schedule".

(3) In paragraph 95(1) (cases in which persons are "related parties") at the end add—

"Case Four

P is a company and C is another company in the same group."

(4) The amendments in this section—

(a) have effect in relation to the debits or credits to be brought into account for accounting periods beginning on or after 20th June 2003, and

(b) in relation to the debits or credits to be brought into account for any such period shall be deemed always to have had effect.

(5) For this purpose an accounting period beginning before, and ending on or after, that date is treated as if so much of that period as falls before that date, and so much of that period as falls on or after that date, were separate accounting periods.

PART 8

OTHER TAXES

Inheritance tax

185 Gifts with reservation

(1) Section 102 of the Finance Act 1986 (c. 41) (gifts with reservation) is amended as follows.

(2) In subsection (5) (section not to apply where disposal is an exempt transfer by virtue of any of the provisions of the Inheritance Tax Act 1984 specified in the paragraphs of that subsection) at the end of paragraph (a) (section 18: transfers between spouses) insert ", except as provided by subsections (5A) and (5B) below".

(3) After subsection (5) insert—

"(5A) Subsection (5)(a) above does not prevent this section from applying if or, as the case may be, to the extent that—

(a) the property becomes settled property by virtue of the gift,

(b) by reason of the donor's spouse ("the relevant beneficiary") becoming beneficially entitled to an interest in possession in the settled property, the disposal is or, as the case may be, is to any extent an exempt transfer by virtue of section 18 of the 1984 Act in consequence of the operation of section 49 of that Act (treatment of interests in possession),

(c) at some time after the disposal, but before the death of the donor, the relevant beneficiary's interest in possession comes to an end, and

(d) on the occasion on which that interest comes to an end, the relevant beneficiary does not become beneficially entitled to the settled property or to another interest in possession in the settled property.

(5B) If or, as the case may be, to the extent that this section applies by virtue of subsection (5A) above, it has effect as if the disposal by way of gift had been made immediately after the relevant beneficiary's interest in possession came to an end.

(5C) For the purposes of subsections (5A) and (5B) above—

(a) section 51(1)(b) of the 1984 Act (disposal of interest in possession treated as coming to end of interest) applies as it applies for the purposes of Chapter 2 of Part 3 of that Act; and

(b) references to any property or to an interest in any property include references to part of any property or interest.".

(4) The amendments made by this section have effect in relation to disposals made on or after 20th June 2003.

186 Authorised unit trusts, OEICs and common investment funds

(1) The Inheritance Tax Act 1984 (c. 51) is amended as follows.

(2) In section 6 (excluded property), after subsection (1) insert—

"(1A) A holding in an authorised unit trust and a share in an open-ended investment company is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.".

(3) In section 48 (settlements: excluded property), after subsection (3) insert—

"(3A) Where property comprised in a settlement is a holding in an authorised unit trust or a share in an open-ended investment company—

(a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and

(b) section 6(1A) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property.".

(4) In section 178(1) (sale of shares etc from deceased's estate: preliminary)—

(a) in the definition of "qualifying investments", after "authorised unit trust" insert ", shares in an open-ended investment company", and

(b) for "section 1 of the Administration of Justice Act 1965" substitute "section 42 of the Administration of Justice Act 1982".

(5) Section 272 (general interpretation) is amended as follows.

(6) After the definition of "amount" insert—

""authorised unit trust" means a scheme which is a unit trust scheme for the purposes of section 469 of the Taxes Act 1988 (see subsection (7) of that section) and in the case of which an order under section 243 of the Financial Services and Markets Act 2000 is in force;".

(7) After the definition of "mortgage" insert—

""open-ended investment company" means an open-ended investment company within the meaning given by section 236 of the Financial Services and Markets Act 2000 which is incorporated in the United Kingdom;".

(8) This section has effect in relation to transfers of value or other events occurring on or after 16th October 2002.

Landfill tax

187 Rate of landfill tax

In section 42 of the Finance Act 1996 (c. 8) (amount of landfill tax), for the amount specified in subsection (1)(a), and the corresponding amount in subsection (2), substitute—

(a) "£14" in relation to taxable disposals made, or treated as made, on or after 1st April 2003 and before 1st April 2004;

(b) "£15" in relation to taxable disposals made, or treated as made, on or after 1st April 2004.

Climate change levy

188 Exemption for fuel used in recycling processes

(1) In Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy), after paragraph 18 insert—

"Exemption: supply for use in recycling processes

18A (1) A supply of a taxable commodity is exempt from the levy if the person to whom the supply is made intends to cause the commodity to be used as fuel in a prescribed recycling process falling within sub-paragraph (2).

(2) A recycling process falls within this sub-paragraph if there is another process ("the competing process") that—

(a) is not a recycling process,

(b) uses taxable commodities otherwise than as fuel,

(c) produces a product of the same kind as one produced by the recycling process,

(d) uses a greater amount of energy than the recycling process to produce a given quantity of that product, and

(e) involves a lesser charge to levy for a given quantity of that product than would, but for this paragraph, be the case for the recycling process.

(3) For the purposes of sub-paragraph (2)(b) taxable commodities are used "otherwise than as fuel" only if the supplies of those commodities to the person using them are exempted from the levy by virtue of paragraph 18.

(4) Sub-paragraphs (5) and (6) apply where the recycling process or the competing process, as well as producing a product that is of the same kind

as one produced by the other process ("the corresponding product"), also produces one or more products that are not ("different products").

(5) If the production of the different products is merely incidental to the production of the corresponding product, the different products shall be treated for the purposes of sub-paragraph (2)(d) and (e) as being of the same kind as the corresponding product.

(6) If the production of the different products is not merely incidental to the production of the corresponding product—

(a) the amounts of energy referred to in sub-paragraph (2)(d), and the amounts of the charge to levy referred to in sub-paragraph (2)(e), shall be determined on a just and reasonable apportionment;

(b) the exemption conferred by sub-paragraph (1) shall be restricted to the proportion of the supply that is the same as the proportion of the energy used by the recycling process to produce the corresponding product (as determined for the purposes of paragraph (a)).

(7) In this paragraph "prescribed" means prescribed by regulations made by the Treasury.".

(2) The following amendments to that Schedule are consequential on that made by subsection (1)—

(a) in paragraph 14(3A)(a) (use of electricity in an "exemption-retaining" way) for "and 18" substitute ", 18 and 18A";

(b) in paragraph 101(2)(a)(ii) (penalty for incorrect exemption notification) after "18" insert ", 18A";

(c) in paragraph 146(3) (regulations subject to affirmative resolution procedure) after "18(2)," insert "18A,";

(d) in paragraph 147 (interpretation), in the definition of "prescribed", after "16(3)" insert ", 18A".

189 CHP exemption to be based on current efficiency

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) In paragraph 15 (exemption for supplies to combined heat and power stations)—

(a) for paragraph (b) of sub-paragraph (4) substitute—

"(b) the "efficiency percentage" for a combined heat and power station shall be determined in accordance with regulations under paragraph 149.";

(b) omit sub-paragraph (5).

(3) In paragraph 148 (meaning of "combined heat and power station" etc)—

(a) in sub-paragraphs (2)(c) and (3)(c), for "complying with sub-paragraph (6) and (so far as applicable)" substitute "complying (so far as applicable) with";

(b) omit sub-paragraph (6) (efficiency percentage to be stated on certificate of full or partial exemption).

(4) In paragraph 149(1) (determination of efficiency percentages for combined heat and power stations) omit "the percentage that is to be stated in a certificate under paragraph 148 as".

(5) This section has effect in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint.

190 Supplies not known to be taxable when made, etc

(1) In Schedule 6 to the Finance Act 2000 (climate change levy), paragraph 24 (deemed supply: change of circumstances or intentions) is amended as follows.

(2) In the heading, for "*change of circumstances or intentions*" substitute "*change of circumstances etc*".

(3) For sub-paragraphs (1) and (2) substitute—

"(1) This paragraph applies in the following cases.

(1A) The first case is where—

(a) a supply of a taxable commodity has been made,

(b) the supply was not a taxable supply, and

(c) there is such a change in circumstances or any person's intentions that, if the changed circumstances or intentions had existed at the time the supply was made, the supply would have been a taxable supply.

(1B) The second case is where—

(a) a supply of a taxable commodity has been made,

(b) the supply was made on the basis that it was not a taxable supply, and

(c) it is later determined that the supply was (to any extent) a taxable supply.

(2) This paragraph does not apply where the reason that—

(a) the supply was not a taxable supply, or

(b) the supply was made on the basis that it was not a taxable supply,

is that it was, or was thought to be, exempt from the levy under paragraph 19 or 20A (exemption for supply of electricity produced from renewable sources or in combined heat and power stations) (but see paragraph 20 or 20B).".

(4) In sub-paragraph (3), at the beginning insert "Where this paragraph applies,".

(5) After that sub-paragraph insert—

"(3A) Where—

(a) had matters been as mentioned in sub-paragraph (1A)(c), only part of the supply would have been a taxable supply, or

(b) the determination referred to in sub-paragraph (1B)(c) is that only part of the supply was a taxable supply,

the reference in sub-paragraph (3) to the commodity shall be read as a reference to a corresponding part of it.".

(6) In sub-paragraph (5) for "sub-paragraph (1)(c)" substitute "sub-paragraph (1A)(c)".

(7) In paragraph 34(3) of that Act (time when deemed supply under paragraph 24 treated as made) at the end insert "or, as the case may be, upon the later determination".

(8) This section has effect in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint.

191 Deemed supplies

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) In paragraph 5(3) (levy chargeable on deemed supply of electricity) for "paragraph 23(3)" substitute "paragraph 20(6)(a), 20B(6)(a), 23(3) or 24".

(3) In paragraph 6 (supplies of gas)—

(a) after sub-paragraph (2) insert—

"(2A) Levy is chargeable on a supply of gas that is deemed to be made under paragraph 24.";

(b) in sub-paragraph (3) for "sub-paragraphs (1) and (2)" substitute "sub-paragraph (1), (2) or (2A)".

(4) Subsection (2) has effect in relation to supplies deemed to be made on or after 31st March 2003, and subsection (3) in relation to supplies deemed to be made on or after the day on which this Act is passed.

192 Amendments about registration, payment etc

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) In paragraph 41 (returns and payment of levy)—

(a) for paragraph (a) of sub-paragraph (1) (liability to account for levy by reference to accounting periods) substitute—

"(a) for persons liable to account for levy to do so—

(i) by reference to such periods ("accounting periods") as may be determined by or under the regulations, or

(ii) in such other way as may be so determined;";

(b) in sub-paragraph (1)(c) (liability to pay) omit "for any period";

(c) after sub-paragraph (2) insert—

"(2A) Paragraph 91(5) provides for the application of Part 7 of this Schedule (recovery and interest) in relation to cases where, by virtue of regulations under sub-paragraph (1)(a)(ii) above, a person is liable to account for levy otherwise than by reference to accounting periods.

(2B) Regulations under this paragraph may provide for the application of any provision of this Schedule in relation to such cases.".

(3) In paragraph 53 (requirement to be registered), after sub-paragraph (3) insert—

"(4) Regulations made by the Commissioners may provide that, in such cases or circumstances and subject to such conditions or requirements as may be prescribed in the regulations, the Commissioners may exempt a person from the requirement to be registered.".

(4) In paragraph 62(2)(b) (provision in regulations about bringing tax credit into account) for "levy due from him for such accounting period or periods" substitute "such levy due from him".

(5) In paragraph 78 (assessments of amounts of levy due), after sub-paragraph (1) insert—

"(1A) Where it appears to the Commissioners—

(a) that any levy for which a person is liable to account otherwise than by reference to an accounting period has become due, and

(b) that there has been a default by that person that falls within sub-paragraph (2),

they may assess the amount of that levy to the best of their judgement and notify it to him.".

(6) In paragraph 91 (interpretation etc of Part 7) at the end insert—

"(5) In relation to cases where, by virtue of regulations under paragraph 41(1)(a)(ii), a person is liable to account for levy otherwise than by reference to accounting periods, this Part of this Schedule shall have effect as if—

(a) references to levy due for "an" or "any" accounting period were references simply to levy due;

(b) references to levy due for a specified accounting period were references to the levy in question;

(c) references to an assessment for a specified accounting period were references to an assessment in respect of the levy in question;

(d) any time limit framed by reference to the end of the accounting period for which levy is due were framed by reference to the date on which payment of the levy is due;

(e) references to the making of a return for an accounting period were references to the payment of the levy in question;

(f) references to the amount shown in such a return were references to the amount of levy paid;

(g) paragraph 88(8) and (9) were omitted.".

(7) In paragraph 93(4) (criminal penalty for false return)—

(a) in paragraph (a) after "return" insert "or other notification";

(b) in paragraph (b), and in the words after that paragraph, after "return" insert "or notification".

(8) In paragraph 100(1) (civil penalty for misdeclaration)—

(a) omit "for an accounting period";

(b) in paragraph (a) after "return" insert "or other notification".

(9) In paragraph 125(1) (obligation to keep records) for "persons who are, or are required to be, registered" substitute "persons who—

(a) are registered,

(b) are required to be registered, or

(c) are exempted from the requirement to be registered by regulations under paragraph 53(4)".

(10) In paragraph 135(1)(c) (Commissioners' certificate as evidence of non-payment of levy shown as due in a return) after "return" insert "or other notification".

193 Electricity from renewable sources etc

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) In paragraph 20 (exemption under paragraph 19: averaging periods) for sub-paragraphs (6) to (8) substitute—

"(6) If the total mentioned in sub-paragraph (3)(b) exceeds that mentioned in sub-paragraph (3)(a), then—

(a) in a case where, at the time when the balancing period ends, an averaging period also ends because of sub-paragraph (2)(f) or (g), the supplier is for the purposes of this Schedule deemed to make at that time a taxable supply of a quantity of electricity equal to the excess;

(b) in any other case, a balancing debit equal to the excess is carried forward to the next balancing period.".

(3) In paragraph 20B (exemption under paragraph 20A: averaging periods) for sub-paragraphs (6) to (8) substitute—

"(6) If the total mentioned in sub-paragraph (3)(b) exceeds that mentioned in sub-paragraph (3)(a), then—

(a) in a case where, at the time when the balancing period ends, an averaging period also ends because of sub-paragraph (2)(f) or (g), the supplier is for the purposes of this Schedule deemed to make at that time a taxable supply of a quantity of electricity equal to the excess;

(b) in any other case, a balancing debit equal to the excess is carried forward to the next balancing period.".

(4) The amendment made by subsection (2) has effect where the end of the balancing period referred to in paragraph (a) of the sub-paragraph (6) substituted by that subsection falls on or after 31st March 2003.

(5) The amendment made by subsection (3) has effect where the end of the balancing period referred to in paragraph (a) of the sub-paragraph (6) substituted by that subsection falls on or after 1st April 2003.

Insurance premium tax

194 Higher rate of tax: divided companies

(1) In Schedule 6A to the Finance Act 1994 (c. 9) (insurance premium tax: premiums liable to tax at higher rate), insert after paragraph 3—

"Insurance provided by divided company

3A (1) A premium under a taxable insurance contract relating to a motor car or motor cycle also falls within paragraph 2 above if—

(a) the insurance to be provided under the contract is provided by a divided company, and

(b) any division of that company would, if it were a separate company, be a person connected with a supplier of motor cars or motor cycles.

(2) A premium under a taxable insurance contract relating to relevant goods also falls within paragraph 3 above if—

(a) the insurance to be provided under the contract is provided by a divided company, and

(b) any division of that company would, if it were a separate company, be a person connected with a supplier of relevant goods.

(3) Sub-paragraph (1) or (2) above does not apply if the insurance is provided to the insured free of charge.

(4) A premium falls within paragraph 2 above by virtue of this paragraph only to the extent that it is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom the division in question would, if it were a separate company, be connected.

(5) A premium falls within paragraph 3 above by virtue of this paragraph only to the extent that it is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom the division would, if it were a separate company, be connected.

(6) For the purposes of this paragraph—

(a) a company is a "divided company" if under the law under which the company is formed, under the company's constitution or under arrangements entered into by or in relation to the company—

(i) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and

(ii) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company;

(b) a "division" of such a company means an identifiable part of it (by whatever name known) that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable.

(7) In this paragraph "provided to the insured free of charge" has the meaning given by sub-paragraph (5) of paragraph 2 or 3 above.

In determining for this purpose whether a divided company by whom insurance is provided is a person falling within sub-paragraph (2) of paragraph 2 or 3 above, the company shall be treated as connected with

any person with whom a division of that company would be connected if it were a separate company.

(8) Other expressions defined for the purposes of paragraph 2 or 3 above have the same meaning in this paragraph.".

(2) Subsection (1) applies in relation to a premium that falls to be regarded for the purposes of Part 3 of the Finance Act 1994 (c. 9) (insurance premium tax) as received under a taxable insurance contract by an insurer on or after the day on which this Act is passed.

PART 9

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Provisions consequential on changes to company law

195 Companies acquiring their own shares

(1) This section applies for the purposes of the Taxes Acts and the Inheritance Tax Act 1984 (c. 51) where a company acquires any of its own shares (whether by purchase, the issuing of bonus shares or otherwise).

(2) The acquisition of any of those shares by the company is not to be treated as the acquisition of an asset.

(3) The company is not, by virtue of the acquisition or holding of any of those shares or its being entered in the company's register of members in respect of any of them, to be treated as a member of itself.

(4) Subject to subsection (5)—

(a) the company's issued share capital is to be treated as if it had been reduced by the nominal value of the shares acquired,

(b) such of those shares as are not cancelled on acquisition are to be treated as if they had been so cancelled, and

(c) any subsequent cancellation by the company of any of those shares is to be disregarded (and, accordingly, is not the disposal of an asset and does not give rise to an allowable loss within the meaning of the Taxation of Chargeable Gains Act 1992 (c. 12)).

(5) Where the shares are issued to the company as bonus shares, subsection (4)(a) and (b) does not apply and the shares are to be treated as if they had not been issued.

(6) Where, disregarding subsections (2) to (5)—

(a) a company holds any of its own shares, and

(b) the company issues bonus shares in respect of those shares or any class of those shares ("the existing shares"),

nothing in this section prevents the existing shares being the company's holding of shares for the purposes of the application of section 126 of the Taxation of Chargeable Gains Act 1992 (application of sections 127 to 131 of that Act (company reorganisations etc)).

(7) In subsection (6) the reference to the application of section 126 of the Taxation of Chargeable Gains Act 1992 does not include a reference to the application of that section in a modified form by virtue of any enactment relating to chargeable gains.

(8) Where a company disposes of any of its own shares to a person in circumstances where, but for subsections (2) to (5), it would be regarded as holding the shares immediately before the disposal—

(a) subsections (4)(b) and (c) and (5) cease to apply in relation to the shares disposed of ("the relevant shares"),

(b) the relevant shares are to be treated as having been issued as new shares to that person by the company at the time of the disposal (and not as having been disposed of by the company at that time),

(c) that person is to be treated as having subscribed for the relevant shares,

(d) an amount equal to the amount or value of the consideration (if any) payable for the disposal of the relevant shares is to be treated as the amount subscribed for those shares,

(e) if the amount or value of that consideration does not exceed the nominal value of those shares, the share capital of those shares is to be treated for the purposes of Part 6 of the Taxes Act 1988 as if it were an amount equal to the amount or value of that consideration, and

(f) if the amount or value of that consideration exceeds their nominal value, the relevant shares are to be treated as if they had been issued at a premium representing that excess.

(9) Where—

(a) a company purchases its own shares, and

(b) the price payable by a company for the shares is taken into account in computing the profits of the company which are chargeable to tax in accordance with the provisions of the Taxes Act 1988 applicable to Case I or II of Schedule D,

subsections (2) to (7) do not apply and subsection (8) does not apply in relation to any disposal by the company of any of the shares.

(10) Schedule 40 to this Act (which makes amendments relating to the acquisition and disposal by a company of its own shares) has effect.

(11) For the purposes of this section—

(a) a company issues "bonus shares" if it issues share capital as paid up otherwise than by the receipt of new consideration (within the meaning of section 254 of the Taxes Act 1988), and

(b) "the Taxes Acts" has the same meaning as in the Taxes Management Act 1970 (c. 9),

and in this section references to a "company" are to a company with a share capital.

(12) The preceding provisions of this section and the provisions of Schedule 40 to this Act have effect in relation to any acquisition of shares by a company on or after such day as the Treasury may by order made by statutory instrument appoint.

196 Companies in administration

Schedule 41 to this Act (provisions relating to the treatment, for tax purposes, of companies in administration) has effect.

International matters

197 Exchange of information between tax authorities of member States

(1) No obligation as to secrecy imposed by statute or otherwise precludes the Commissioners or an authorised officer of the Commissioners from disclosing to the competent authorities of another member State any information required to be so disclosed by virtue of the Mutual Assistance Directive.

(2) Neither the Commissioners nor an authorised officer shall disclose any information in pursuance of the Mutual Assistance 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 that are not less strict than those applying to it in the United Kingdom.

(3) Nothing in this section permits the Commissioners or an authorised officer of the Commissioners to authorise the use of information disclosed by virtue of the Mutual Assistance Directive otherwise than for the purposes of taxation or to facilitate legal proceedings for failure to observe the tax laws of the receiving State.

(4) In this section—

"the Commissioners" means the Commissioners of Inland Revenue or the Commissioners of Customs and Excise;

the "Mutual Assistance Directive" means Council Directive 77/799/EEC, as amended by Council Directives 79/1070/EEC and 92/12/EEC.

(5) The Treasury may by order make such provision amending the definition of the "Mutual Assistance Directive" in subsection (4) as appears to them appropriate for the purpose of giving effect to any Council Directive adopted after 16th April 2003 amending or replacing the Mutual Assistance Directive.

(6) An order under subsection (5) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) In section 48 of the Value Added Tax Act 1994 (c. 23) (VAT representatives)—

(a) in subsection (1B) (meaning of "the mutual assistance provisions") for paragraphs (a) and (b) substitute—

"(a) section 134 of the Finance Act 2002 and Schedule 39 to that Act (recovery of taxes etc due in other member States);

(b) section 197 of the Finance Act 2003 (exchange of information between tax authorities of member States);";

(b) after subsection (8) insert—

"(9) The Treasury may by order amend the definition of "the mutual assistance provisions" in subsection (1B) above.".

198 Arrangements for mutual exchange of tax information

(1) In the following provisions (which confer power to make arrangements for the exchange of information necessary for carrying out the tax laws of the UK and the territory to which the arrangements relate) for "necessary for carrying out" substitute "foreseeably relevant to the administration or enforcement of".

(2) The provisions are—

sections 788(2) and 815C(1) of the Taxes Act 1988 (income tax, capital gains tax and corporation tax), and

sections 158(1A) and 220A(1) of the Inheritance Tax Act 1984 (c. 51) (inheritance tax).

(3) Any reference in arrangements made before the passing of this Act, or in any Order in Council under which such arrangements have effect, to information necessary for the carrying out of the tax laws of the United Kingdom or the territory to which the arrangements relate shall be read as including any information foreseeably relevant to the administration or enforcement of the tax laws of the United Kingdom or, as the case may be, of that territory.

199 Savings income: Community obligations and international arrangements

(1) The Treasury may make regulations for implementing and for dealing with matters arising out of or related to—

(a) any Community obligation created with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the laws of the other member States, or

(b) any arrangements made with a territory other than a member State with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the law of the other territory.

(2) Regulations under this section may, in particular, require paying agents—

(a) to obtain and verify prescribed descriptions of information about the identity and residence of relevant payees to whom they make savings income payments, and

(b) to provide to the Inland Revenue (or an officer of the Inland Revenue) prescribed descriptions of information about relevant payees to whom they make savings income payments and about the savings income payments which they make to them.

(3) Regulations under this section may include provision for the inspection on behalf of the Inland Revenue of books, documents and other records of persons who are, or appear to an officer of the Inland Revenue to be, paying agents.

(4) Regulations under this section may include provision for notices under such regulations to be combined with notices under sections 17 and 18 of the Taxes Management Act 1970 (c. 9) (interest paid or credited by banks and others).

(5) Regulations under this section may include provision about the time at or within which, and the manner in which, any requirement imposed by such regulations is to be complied with.

(6) Regulations under this section may include provision for penalties for failure to comply with requirements imposed by such regulations (including provision applying

any provision of the Taxes Management Act 1970 about the determination of penalties or any other matter relating to penalties); and in the first column of the Table in section 98 of that Act (penalties for failure to furnish information etc), insert at the appropriate place "Regulations under section 199 of the Finance Act 2003.".

(7) In this section "paying agents" means persons of a prescribed description who make savings income payments to other persons; and the descriptions of persons who may be prescribed as paying agents include, in particular, public officers and government departments.

(8) For the purposes of this section a person makes savings income payments to another person if the person—

(a) makes payments of savings income to the other person, or

(b) secures the payment of savings income for the other person.

(9) In this section "savings income" means interest (apart from interest of a prescribed description) or other sums of a prescribed description.

(10) In this section "relevant payees" means persons of a prescribed description who are resident (within the meaning of the regulations) in a prescribed territory and persons of any such other description as may be prescribed; and the only territories which may be prescribed are the other member States and territories with which arrangements such as are mentioned in subsection (1)(b) have been made.

(11) Regulations under this section—

(a) may make different provision for different cases or descriptions of case, and

(b) may include supplementary, incidental, consequential or transitional provision.

(12) The power to make regulations under this section is exercisable by statutory instrument.

(13) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(14) In this section—

"the Inland Revenue" means the Commissioners of Inland Revenue, and

"prescribed" means prescribed by regulations under this section.

200 Controlled foreign companies: exempt activities

(1) Schedule 42 to this Act (which amends Part 2 of Schedule 25 to the Taxes Act 1988 (exempt activities)) shall have effect.

(2) The amendments made by that Schedule have effect in relation to accounting periods of a controlled foreign company beginning on or after 27th November 2002.

(3) In this section "accounting period" and "controlled foreign company" have the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988.

(4) This section shall be taken to have come into force on 27th November 2002.

201 Application of CFC provisions to Hong Kong and Macao companies

(1) In Part 2 (exempt activities) of Schedule 25 to the Taxes Act 1988 (cases where section 747(3) does not apply), in paragraph 5 insert after sub-paragraph (2)—

"(3) In the case of a controlled foreign company—

(a) which is, by virtue of section 749(5), presumed to be resident in a territory in which it is subject to a lower level of taxation,

(b) the business affairs of which are, throughout the accounting period in question, effectively managed in a special administrative region, and

(c) which is liable to tax for that period in that region,

references in the following provisions of this Part of this Schedule to the territory in which that company is resident shall be construed as references to that region.

(4) In sub-paragraph (3) above "special administrative region" means the Hong Kong or the Macao Special Administrative Region of the People's Republic of China.

(5) Where sub-paragraph (3) above applies, it applies in place of sub-paragraph (2).".

(2) This section shall be deemed to have had effect—

(a) as from 1st July 1997, so far as relating to the Hong Kong Special Administrative Region;

(b) as from 20th December 1999, so far as relating to the Macao Special Administrative Region.

Administrative matters

202 Deduction of tax from interest: recognised clearing houses etc

(1) Section 349 of the Taxes Act 1988 (payment of annual interest etc) is amended as follows.

(2) In subsection (3) (cases where obligation to make interest payments net of tax does not apply), at the end insert "or—

(j) to interest paid by a recognised clearing house or recognised investment exchange carrying on business as provider of a central counterparty clearing service, in the ordinary course of that business, on margin or other collateral deposited with it by users of the service; or

(k) to interest treated by virtue of section 730A(2)(a) or (b) (repos) as paid by a recognised clearing house or recognised investment exchange in respect of contracts made by it as provider of a central counterparty clearing service.".

(3) In subsection (6) (definitions), at the appropriate places insert—

""central counterparty clearing service" means the service provided by a clearing house or investment exchange to the parties to a transaction where there are contracts between each of the parties and the clearing house or

investment exchange (in place of, or as an alternative to, a contract directly between the parties);";

""recognised clearing house" and "recognised investment exchange" have the same meaning as in the Financial Services and Markets Act 2000 (see section 285 of that Act);".

(4) This section applies in relation to payments of interest on or after 14th April 2003.

203 Authorised unit trusts: interest distributions paid gross

(1) Chapter 3 of Part 12 of the Taxes Act 1988 (unit trust schemes) is amended as follows.

(2) In section 468L(4) (obligation to deduct tax from interest distributions to be subject to provision made by sections 468M and 468N), for "sections 468M and 468N" substitute "section 468M".

(3) For sections 468M and 468N substitute—

"**468M Cases where no obligation to deduct tax**

(1) Where an interest distribution is made for a distribution period to a unit holder, any obligation to deduct under section 349(2) does not apply to the interest distribution if—

(a) the unit holder is a company or the trustees of a unit trust scheme, or

(b) either the residence condition or the reputable intermediary condition is on the distribution date fulfilled with respect to the unit holder.

(2) Section 468O makes provision about the circumstances in which the residence condition or the reputable intermediary condition is fulfilled with respect to a unit holder.".

(4) Section 468O (residence condition) is amended as follows.

(5) In subsection (1), for "sections 468M and 468N" substitute "section 468M".

(6) After that subsection insert—

"(1A) For the purposes of section 468M, the reputable intermediary condition is fulfilled with respect to a unit holder if—

(a) the interest distribution is paid on behalf of the unit holder to a company,

(b) the company either is subject to the EC Money Laundering Directive, or to equivalent non-EC provisions, or is an associated company resident in a regulating country or territory of a company which is so subject, and

(c) the trustees of the authorised unit trust have reasonable grounds for believing that the unit holder is not ordinarily resident in the United Kingdom.

(1B) For the purposes of subsection (1A)(b) above—

(a) a company is subject to the EC Money Laundering Directive if it is a credit institution or financial institution as defined by Article 1 of Directive 91/308/EEC, as amended by Directive 2001/97/EC,

(b) a company is subject to equivalent non-EC provisions if it is required by the law of any country or territory which is not a member State to comply with requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions,

(c) a company is to be treated as another's associated company if it would be so treated for the purposes of Part 11 (see section 416), and

(d) a country or territory is a regulating country or territory if it either is a member State or imposes requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

(1C) If Directive 91/308/EEC ceases to have effect, or is further amended, the Treasury may by order make consequential amendments in subsections (1A) and (1B) above.".

(7) In the sidenote, insert at the end "and reputable intermediary condition".

(8) In section 468P(1) (residence declarations)—

(a) for "468O" substitute "468O(1)", and

(b) for "subsections (2) to (4)" substitute "subsection (2) or (3)".

(9) After section 468P insert—

"**468PA Section 468O(1A): consequences of reasonable but incorrect belief**

Where—

(a) an interest distribution is made to a unit holder by the trustees of an authorised unit trust,

(b) the trustees, in reliance on the reputable intermediary condition being fulfilled with respect to the unit holder, do not comply with the obligation under section 349(2) to make a deduction from the interest distribution,

(c) that obligation would apply but for that condition being so fulfilled, and

(d) (contrary to the belief of the trustees) the unit holder is in fact ordinarily resident in the United Kingdom,

section 350 and Schedule 16 have effect as if that obligation applied.

468PB Regulations supplementing sections 468M to 468PA

(1) The Board may by regulations make provision for giving effect to sections 468M to 468PA.

(2) The regulations may, in particular, include provision modifying the application of those sections in relation to interest distributions made to or received under a trust.

(3) The regulations may, in particular, include provision for the giving by officers of the Board of notices requiring trustees of authorised unit trusts to supply

information and make available books, documents and other records for inspection on behalf of the Board.

(4) The regulations may—

(a) make provision in relation to times before they are made,

(b) make different provision for different cases, and

(c) make such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.".

(10) Section 98 of the Taxes Management Act 1970 (c. 9) (penalties: provisions requiring information etc in response to notices) is amended as follows.

(11) In subsection (4A)(b), for "or (4D)" substitute ", (4D) or (4E)".

(12) After subsection (4D) insert—

"(4E) A payment is within this subsection if—

(a) it is an interest distribution made to a unit holder by the trustees of an authorised unit trust,

(b) the trustees, in purported reliance on the reputable intermediary condition being fulfilled with respect to the unit holder, do not comply with the obligation under section 349(2) of the principal Act to make a deduction from the interest distribution,

(c) that obligation would apply if that condition were not so fulfilled, and

(d) the trustees did not believe that the unit holder was not ordinarily resident in the United Kingdom or could not reasonably have so believed (so that that condition was not so fulfilled).

Expressions used in this subsection have the same meaning as in Chapter 3 of Part 12 of the principal Act.".

(13) In the first column of the Table, after the entry relating to regulations under section 431E(1) or 441A(3) of the principal Act, insert—

"section 468P(6);

regulations under section 468PB(3);".

(14) This section has effect in relation to interest distributions made on or after 16th October 2002.

204 Mandatory electronic payment by large employers

(1) The Commissioners of Inland Revenue ("the Commissioners") may make regulations requiring large employers, subject to such exceptions as may be specified, to use electronic means for the making of specified payments under legislation relating to any tax under the care and management of the Commissioners.

(2) In subsection (1) "large employer" means a person paying PAYE income to 250 or more recipients.

Regulations under this section may make provision as to the date or period by reference to which this is to be determined and the circumstances in which a person is to be treated as paying PAYE income to a recipient.

(3) Regulations under this section may make provision—

(a) as to conditions that must be complied with in connection with the use of electronic means for the making of any payment;
(b) for treating a payment as not having been made unless conditions imposed by any of the regulations are satisfied;
(c) for determining the time when payment is to be taken to have been made.

(4) Regulations under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—
(a) whether any use of electronic means for making a payment is to be taken as having resulted in the payment being made;
(b) the time of the making of any payment for the making of which electronic means have been used;
(c) any other matter for which provision may be made by regulations under this section.

(5) Regulations under this section may—
(a) allow any authorisation or requirement for which the regulations may provide to be given or imposed by means of a specific or general direction given by the Commissioners;
(b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the Inland Revenue are satisfied as to specified matters.

(6) Regulations under this section may contain provision—
(a) requiring the Inland Revenue to notify persons appearing to them to be, or to have become, a person required to use electronic means for the making of any payments in accordance with the regulations;
(b) enabling a person so notified to have the question whether he is such a person determined in the same way as an appeal.

(7) Regulations under this section may confer power on the Commissioners to give specific or general directions—
(a) suspending, for any period during which the use of electronic means for the making of payments is impossible or impractical, any requirements imposed by the regulations relating to the use of such means;
(b) substituting alternative requirements for the suspended ones;
(c) making any provision that is necessary in consequence of the imposition of the substituted requirements.

(8) The power to make provision by regulations under this section includes power—
(a) to provide for a contravention of, or any failure to comply with, the regulations (a "default") to attract a surcharge of a specified amount;
(b) to provide that specified enactments relating to penalties imposed for the purposes of any taxation matter within the care and management of the Commissioners (including enactments relating to assessments, review and appeal) apply, with or without modifications, in relation to surcharges under the regulations.

(9) The regulations may specify the surcharge for each default as—
(a) a specified percentage, depending on the circumstances but not exceeding 10%, of the amount of the payment to which the default relates, or

(b) a specified percentage, depending on the circumstances but not exceeding 0.83%, of the total amount of tax due for the accounting period, year of assessment or other specified period of twelve months during which the default occurred;

but, in either case, they may specify £30 if it is more.

(10) Regulations under this section may—

(a) make different provision for different cases;

(b) make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any of the regulations as the Commissioners think fit.

(11) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(12) In this section—

"the Inland Revenue" means—

(a) the Commissioners,

(b) any officer of the Commissioners, or

(c) any other person who for the purposes of electronic means of payment is acting under the authority of the Commissioners;

"legislation" means any enactment, Community legislation or subordinate legislation;

"specified" means specified by or under regulations under this section;

"subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).

205 Use of electronic means of payment under other provisions

(1) Any power to make subordinate legislation for or in connection with the making of payments conferred in relation to a taxation matter on—

(a) the Commissioners of Inland Revenue, or

(b) the Treasury,

includes power to make any such provision in relation to the making of those payments as could be made in exercise of the power conferred by section 204.

(2) Provision as to means of payment made in exercise of the powers conferred by section 204 or subsection (1) above has effect notwithstanding so much of any enactment or subordinate legislation as would otherwise allow payment to be made by any other means.

(3) Expressions used in this section and section 204 have the same meaning in this section as in that section.

(4) Nothing in this section shall be read as restricting the generality of the power conferred by section 204.

206 Admissibility of evidence not affected by offer of settlement etc

(1) In section 105(1) of the Taxes Management Act 1970 (c. 9) (evidence in cases of fraudulent conduct), for paragraphs (a) and (b) and the word "that" preceding them substitute—

"(a) that where serious tax fraud has been committed the Board may accept a money settlement and that the Board will accept such a settlement, and will not pursue a criminal prosecution, if he makes a full confession of all tax irregularities, or

(b) that the extent to which he is helpful and volunteers information is a factor that will be taken into account in determining the amount of any penalty,".

(2) For the heading to that section substitute "**Admissibility of evidence not affected by offer of settlement etc**".

(3) In paragraph 3(1) of Schedule 18 to the Finance Act 1999 (c. 16) (which makes corresponding provision in relation to stamp duty), for paragraphs (a) and (b) substitute—

"(a) that where serious stamp duty fraud has been committed the Board may accept a money settlement and that the Board will accept such a settlement, and will not pursue a criminal prosecution, if he makes a full confession of all stamp duty irregularities, or

(b) that the extent to which he is helpful and volunteers information is a factor that will be taken into account in determining the amount of any penalty,".

(4) For the heading before that paragraph substitute "*Admissibility of evidence not affected by offer of settlement etc*".

(5) The above amendments have effect in relation to statements made, or documents produced, after the passing of this Act.

207 Consequential claims etc

(1) In Part 4 of the Taxes Management Act 1970 (assessment and claims), after section 43B insert—

"**43C Consequential claims etc**

(1) Where—

(a) a return is amended under section 28A(2)(b), 28B(2)(b) or 28B(4), and

(b) the amendment is made for the purpose of making good to the Crown any loss of tax attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf,

sections 36(3) and 43(2) apply in relation to the amendment as they apply in relation to any assessment under section 29.

(2) Where—

(a) a return is amended under section 28A(2)(b), 28B(2)(b) or 28B(4), and

(b) the amendment is not made for the purpose mentioned in subsection (1)(b) above,

sections 43(2), 43A and 43B apply in relation to the amendment as they apply in relation to any assessment under section 29.

(3) References to an assessment in sections 36(3), 43(2), 43A and 43B, as they apply by virtue of subsection (1) or (2) above, shall accordingly be read as references to the amendment of the return.

(4) Where it is necessary to make any adjustment by way of an assessment on any person—

(a) in order to give effect to a consequential claim, or

(b) as a result of allowing a consequential claim,

the assessment is not out of time if it is made within one year of the final determination of the claim.

For this purpose a claim is not taken to be finally determined until it, or the amount to which it relates, can no longer be varied, on appeal or otherwise.

(5) In subsection (4) above "consequential claim" means any claim, supplementary claim, election, application or notice that may be made or given under section 36(3), 43(2) or 43A (as it applies by virtue of subsection (1) or (2) above or otherwise).".

(2) In section 43A of that Act (further assessments: claims etc), in subsection (2A) (elections to which extension of time limit does not apply) for the words from "an election under" to the end substitute "an election under—

(a) section 257BA of the principal Act (election as to transfer of married couple's allowance),

(b) Schedule 13B to that Act (elections as to transfer of children's tax credit), or

(c) section 35(5) of the Taxation of Chargeable Gains Act 1992 (election for assets to be re-based to 1982).".

(3) So far as it applies in relation to an amendment of a return, this section applies only where the notice of the amendment is issued after the day on which this Act is passed.

National Savings

208 Ordinary accounts and investment accounts

(1) The National Savings Bank Act 1971 (c. 29) is amended as follows.

(2) In section 3 (ordinary and investment deposits), after subsection (1) insert—

"(1A) But subsection (1) is subject to any provision made in relation to ordinary accounts or ordinary deposits by regulations under section 2 of this Act made by virtue of section 8(3) of this Act.".

(3) Section 6 (interest on investment deposits) is amended as follows.

(4) In subsection (2), for "Director of Savings may from time to time determine with the consent of the Treasury" substitute "Treasury may from time to time determine".

(5) After that subsection insert—

"(2ZA) The Treasury may determine that a rate of interest payable on investment deposits, or investment deposits of a particular description, is to be a rate

produced by the operation of a formula involving the movement of an index or indices or any other factor.".

(6) In subsection (3), after "description" insert "(other than one occasioned by the operation of a formula)".

(7) After that subsection insert—

"(4) In the case of an alteration in a rate of interest not affecting deposits received before it is made, any notice of the alteration required to be given by subsection (3) above may be given after the alteration is made.".

(8) Section 8 (regulations as to particular matters) is amended as follows.

(9) In subsection (1), after paragraph (b) insert—

"(ba) for the issuing of cards for use in making investment deposits or in withdrawing cash from investment accounts (or both) and regulating the use of such cards;".

(10) After subsection (2) insert—

"(3) Regulations under section 2 of this Act may also make provision—

(a) prohibiting the opening of ordinary accounts after a prescribed date;

(b) prohibiting the opening of investment accounts of a prescribed description after a date prescribed in relation to that description of accounts;

(c) prohibiting the making of ordinary deposits after a prescribed date;

(d) prohibiting the making of deposits in investment accounts of a prescribed description after a date prescribed in relation to that description of accounts;

(e) requiring the withdrawal of all of the money deposited in any dormant account of a prescribed description if any of the money deposited in it is withdrawn after a date prescribed in relation to that description of account;

(f) for the transfer to investment accounts of a prescribed description of deposits in dormant accounts of a prescribed description;

(g) for the transfer to a special Director's account of deposits in dormant accounts of a prescribed description or in accounts to which deposits have been transferred pursuant to provision made by virtue of paragraph (f) above.

(4) In subsection (3) above—

"dormant account" means an account in which deposits may not be made because of provision made by virtue of paragraph (c) or (d) of that subsection; and

"special Director's account" means an investment account in the name of the Director of Savings in which deposits are held on behalf of the persons entitled to them.".

(11) After section 9 insert—

"**9A Investment account terms and conditions**

(1) Any provision which may be made in relation to investment deposits by regulations under section 2 of this Act may, in the case of deposits in investment accounts of any description first made available after the passing of the Finance Act 2003, be included instead in the terms and conditions of the accounts.

(2) Any provision included in the terms and conditions of investment accounts under subsection (1) above has effect subject to regulations under section 2 of this Act and orders under section 4 of this Act.

(3) In this section "terms and conditions" means terms and conditions set by the Treasury and published by Director of Savings in a manner approved by the Treasury.".

209 Abolition of accounting requirements relating to investment deposits

In section 120 of the Finance Act 1980 (c. 48) (investment deposits with National Savings Bank: accounting provisions etc), omit subsections (4) and (5) (which require the Director of Savings to keep an account of investment deposits etc and transmit annual statements to the Comptroller and Auditor General for examination etc).

Other financial matters

210 Payments for service of national debt

(1) Section 15 of the National Loans Act 1968 (c. 13) (payments for service of national debt) is amended as follows.

(2) In subsection (1) (payments to be made out of Consolidated Fund into National Loans Fund), for "charges on the National Loans Fund for the service of national debt over" substitute "payments out of the National Loans Fund—

(a) which represent interest on liabilities of the National Loans Fund, or

(b) which, in the opinion of the Treasury, ought to be treated in the same way as payments which represent such interest,

over".

(3) Omit subsection (3) (which defines "charges on the National Loans Fund for the service of national debt").

(4) In paragraph 13 of Schedule 5A to that Act (Debt Management Account: payments to be made out of National Loans Fund into Debt Management Account), omit sub-paragraph (2) (payments to be treated as charges on the National Loans Fund for the service of national debt).

211 Definition of liabilities and assets of National Loans Fund

In section 19(4) of the National Loans Act 1968 (c. 13) (which defines as the liabilities of the National Loans Fund the nominal amount of the debt outstanding to it and as its assets its balance and loans etc outstanding to it), for the words from "of the National

Loans Fund" onwards substitute "and assets of the National Loans Fund shall be as determined by the Treasury.".

212 Accounts of Consolidated Fund and National Loans Fund

(1) Section 21 of the National Loans Act 1968 (accounts of Consolidated Fund and National Loans Fund) is amended as follows.

(2) In subsection (1) (annual accounts of payments in and out), for the words from "in such form" onwards substitute "an account relating to the Consolidated Fund, and an account relating to the National Loans Fund, in such form and containing such information as the Treasury consider appropriate.".

(3) Omit subsection (3) (statements of additional information regarding transactions, assets and liabilities of Consolidated Fund and National Loans Fund).

(4) Subsection (2) has effect for the financial year ending with 31st March 2004 and subsequent financial years.

(5) Subsection (3) has effect for such financial year as the Treasury may by order made by statutory instrument appoint and subsequent financial years.

213 Debt Management Account: abolition of borrowing cap

In Schedule 5A to the National Loans Act 1968 (Debt Management Account), omit paragraph 8 (borrowings otherwise than from National Loans Fund not to exceed total standing to credit of that Account in that Fund and at Bank of England).

214 Payments in error from or to National Loans Fund

In paragraph 11 of Schedule 5A to the National Loans Act 1968 (c. 13) (payments between National Loans Fund and Debt Management Account in respect of difference between assets and liabilities of that Account), insert at the end—

"(4) If any amount paid under sub-paragraph (1A) or (3) above should not have been paid, the Treasury may repay the whole or any part of it.".

Supplementary

215 Interpretation

In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988 (c. 1).

216 Repeals

(1) The enactments mentioned in Schedule 43 to this Act (which include provisions that are spent or of no practical utility) are repealed to the extent specified.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

217 Short title

This Act may be cited as the Finance Act 2003.