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SCHEDULES.

SCHEDULE 18

SUPPLEMENTARY PROVISIONS ABOUT CLOSE COMPANIES.

PART II

PROVISIONS SPECIALLY RELATED TO SHORTFALLS IN OR APPORTIONMENT OF DISTRIBUTIONS.

Cessation of trade and liquidations.

- 12 (1) Where a close company ceases to carry on the trade, or the business of holding investments, in which its activities wholly or mainly consisted, then, subject to sub-paragraph (2) below but notwithstanding any other provision limiting the required standard of distributions, the required standard for any accounting period in which that event occurs, or which ends in or with the twelve months ending with that event, shall be calculated on the whole, instead of sixty per cent., of the estate or trading income (if any) taken into account and without any deduction in respect of the requirements of the business.
- (2) Where sub-paragraph (1) above applies to an accounting period and the company shows that the company could not make distributions up to the required standard without prejudice to the claims of creditors (excluding those mentioned in sub-paragraph (3) below), then for purposes of section 77 of this Act so much of the shortfall as the company shows could not be avoided without prejudice to those claims shall be disregarded.

Where this sub-paragraph applies a reference to it shall be substituted in section 78(3) of this Act for the reference to section 77(4).

- (3) The creditors excluded for the purpose referred to in sub-paragraph (2) above are all participators and associates of participators, and all creditors in respect of debts originally created in favour of or due to a person who was then a participator or associate of a participator:

Provided that a creditor is not to be excluded in respect of any debt which either—

- (a) arose in the ordinary course of the company's trade or the company's business of holding investments and also in the ordinary course of a trade or profession of the creditor or, as the case may be, of the participator or associate who was the original creditor ; or
- (b) is a debt for remuneration chargeable to income tax under Schedule E; or
- (c) is a debt for any rent or other payment due for the use of tangible property or of copyright in a literary, dramatic, musical or artistic work within the meaning of the Copyright Act 1956 (or any corresponding right under the law of a country to which that Act does not extend), and not representing more than a reasonable commercial consideration for that use.