



# Finance Act 1968

## 1968 CHAPTER 44

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [26th July 1968]

Most Gracious Sovereign

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

### PART I

#### CUSTOMS AND EXCISE

#### 1 Spirits, wine, British wine and tobacco

- (1) For the following provisions of the Finance Act 1964, as amended by section 1(2) of the Finance Act 1967, setting out rates of customs and excise duties, namely—
  - (a) Table 1 in Schedule 1 (spirits other than imported perfumed spirits);
  - (b) Schedule 3 (wine);
  - (c) Schedule 4 (British wine),there shall be substituted the provisions set out in Schedules 1, 2 and 3 respectively to this Act.
- (2) In section 1(2) of the Finance Act 1965 (which increased each of the rates of customs and excise duty and of drawback in respect of tobacco set out in Schedule 5 to the

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Finance Act 1964 by 10s. per pound) for the reference to 10s. there shall be substituted a reference to 14s. 4d.; but this subsection shall not affect the rates of drawback payable in the case of goods in respect of which duty has been paid otherwise than at the rates having effect by virtue of this section.

- (3) Section 109(1) of the Customs and Excise Act 1952 (which provides that no spirits shall be delivered for home use unless they have been warehoused for a period of at least three years) shall not apply to imported compounded spirits of any kind specified for the purposes of this subsection in regulations made by the Commissioners; and section 5 of the Finance Act 1966 (which contains an exemption from the said section 109(1) confined to imported vodka) shall cease to have effect on the expiration of the period of one month beginning with the day on which this Act is passed.
- (4) Subsections (1) and (2) of this section shall have effect as from 20th March 1968.

## 2 Hydrocarbon oils

- (1) As from six o'clock in the evening of 19th March 1968—
- (a) section 2 of the Finance (No. 2) Act 1964 (which, as amended by section 1(3) of the Finance Act 1967, provides for a duty of customs at the rate of three shillings and sevenpence a gallon to be charged on imported hydrocarbon oils and for a duty of excise at the same rate to be charged on hydrocarbon oils produced in the United Kingdom, on petrol substitutes and on spirits used for power methylated spirits) shall have effect with the substitution for the words " three shillings and sevenpence " of the words " three shillings and elevenpence " ;
  - (b) subsection (2) of section 92 of the Finance Act 1965 (which, as amended as aforesaid, provides that the amount of a grant under subsection (1) of that section by the Minister of Transport to the operator of a bus service towards defraying customs or excise duties charged on bus fuel shall not exceed tenpence for every gallon of fuel used or estimated to have been used in operating the bus service during the period to which the grant relates) and section 1(1)(b) of the Bus Fuel Grants Act 1966 (which, as amended as aforesaid, amends the said subsection (2)) shall have effect as if for any reference therein to tenpence there were substituted a reference to one shilling and twopence; and so much of subsection (9) of the said section 92 as enables the Parliament of Northern Ireland to make laws for purposes similar to the purposes of the provisions of that section shall apply to those provisions as amended by this paragraph.
- (2) Where in the case of any hydrocarbon oils which have been delivered for home use it is shown to the satisfaction of the Commissioners—
- (a) that since they were so delivered the oils have been deposited unused in an oil warehouse ; and
  - (b) that they have been so deposited by reason of having become contaminated or by reason of their consisting of different descriptions of hydrocarbon oils which have accidentally become mixed ; and
  - (c) that at the time when they were so deposited they were, or, as the case may be, were a mixture of, oils on which the appropriate duty of customs or excise had been paid and not repaid and on which drawback had not been allowed,
- then, subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, the Commissioners may make to the occupier of that

warehouse a payment in accordance with the provisions of subsection (3) of this section.

- (3) The payment aforesaid shall be a payment of an amount appearing to the Commissioners to be equal to the duty which would have been payable if—
- (a) the oils had not become contaminated or mixed; and
  - (b) they had first been delivered for home use at the time when they were deposited in the warehouse and the duty had first become chargeable on them on that delivery.
- (4) In this section the expression " oil warehouse " means a place of security approved by the Commissioners under section 80 of the Customs and Excise Act 1952 for the deposit, keeping and securing of hydrocarbon oils, and includes a refinery.

### **3 Reduction in customs duty on goods from Republic of Ireland and abolition of customs duty on hops etc.**

- (1) As from 1st July 1968, in the case of goods of the Republic of Ireland consigned to the United Kingdom from that country—
- (a) the rates at which the duties of customs are charged on matches by section 4 of the Finance Act 1951 and on mechanical lighters by section 6 of the Finance Act 1928 shall be the same as the corresponding rates of excise duty under those sections ;
  - (b) Schedule 3 to the Finance Act 1964 (rates of customs duty on wine) shall—
    - (i) in its application to wine exceeding 32 degrees of proof spirit, have effect as if the rate specified in the third column in respect of still wine in bottle were the same as the rate so specified in respect of still wine not in bottle ;
    - (ii) in its application to wine not exceeding 32 degrees of proof spirit, have effect as if the provisions of that Schedule were the same as those of Schedule 4 to that Act (rates of excise duties on British wine) with the substitution in the latter of " Customs Duties " for " Excise Duties " and the omission of " British " wherever it occurs ;
  - (c) Table 1 in Schedule 5 to the said Act of 1964 (rates of customs duties on tobacco) shall have effect as if any rate specified in the third column (Commonwealth rates) which exceeds the corresponding rate specified in the fourth column (Convention rates) were the same as that corresponding rate.
- (2) Section 3 of the Finance Act 1957 (which charges a duty of customs on hops, hop oil and any extract, essence or other similar preparation made from hops) shall cease to have effect as from the said 1st July, but without prejudice to any right of drawback in respect of duty paid under that section before that date.

### **4 Duties relating to betting or gaming**

- (1) For the purposes of the general betting duty on bets made on or after 25th March 1968, section 12(2)(b) of the Finance Act 1966 (under which the amount of the duty is an amount equal to two and a half per cent, of the amount staked) shall have effect with the substitution for the words " two and a half per cent. " of the words " five per cent. "
- (2) For the purposes of the pool betting duty on bets made at any time by reference to any event taking place on or after 25th March 1968, section 1(2) of the Betting Duties Act 1963 (which, as amended, provides that the duty shall be an amount equal to

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twenty-five per cent, of the amount of the stake money paid) shall have effect with the substitution for the words from " equal " onwards of the words " equal to thirty-three and a third per cent, of the amount of the stake money paid."

- (3) The amount of the duty under section 13 of the Finance Act 1966 on a gaming licence in respect of any premises granted so as to expire on a date later than 30th September 1968 shall be determined with the substitution for the Table set out in subsection (2) of that section of the Table set out in Schedule 4 to this Act.
- (4) The provisions of Schedule 5 to this Act shall have effect for the purposes of the enforcement of the duties relating to betting or gaming.

## **5 Purchase tax**

Subject to any new order of the Treasury under section 2 of the Purchase Tax Act 1963, Part I of Schedule 1 to that Act (chargeable and exempt goods and rates of tax) as amended by section 1(4) of the Finance Act 1967 shall have effect—

- (a) as from 20th March 1968 with the amendments specified in Schedule 6 to this Act; and
- (b) as from 30th April 1968 with the amendment of Group 26 by the omission from paragraph (a) and the insertion at the beginning of paragraph (b) of the words " Diaries, calendars and similar articles ; and " ; and
- (c) as from 1st July 1968 with the amendment of Group 24 by the addition after paragraph (4) of the exemptions of the following paragraph:—

“(5) The following projectors namely—

- (i) cinematograph projectors suitable only for film of 16 mm. width ;
- (ii) projectors suitable only for filmstrip ;
- (iii) cassette loaded loop projectors,

and parts and accessories suitable only for use with a projector of any of those descriptions.”

## **6 Customs control of persons entering or leaving the United Kingdom**

- (1) Any person entering the United Kingdom shall, at such place and in such manner as the Commissioners may direct, declare any thing contained in his baggage or carried with him which—
  - (a) he has obtained outside the United Kingdom ; or
  - (b) being dutiable goods or chargeable goods within the meaning of the Purchase Tax Act 1963, he has obtained in the United Kingdom without payment of duty or purchase tax,

and in respect of which he is not entitled to exemption from payment of duty and purchase tax by virtue of any order under section 7 of this Act.
- (2) Any person entering or leaving the United Kingdom shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Commissioners may direct.

- (3) Any person failing to declare any thing or to produce any baggage or thing as required by this section shall be liable to a penalty of three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or £100, whichever is the greater; and any thing chargeable with any duty or tax which is found concealed or is not declared, and any thing which is being taken into or out of the United Kingdom contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.
- (4) Section 66 of the Customs and Excise Act 1952 (which is superseded by this section) shall cease to have effect; and section 67 of that Act (power to require evidence in support of information) shall have effect as if this section were contained in Part II of that Act.

**7 Power to provide, in relation to persons entering the United Kingdom, for reliefs from customs duty and purchase tax and for a simplified computation of duty and tax**

- (1) The Commissioners may by order make provision for conferring on persons entering the United Kingdom reliefs from customs duty and purchase tax; and any such relief may take the form either of an exemption from payment of duty and tax or of a provision whereby the sum payable by way of duty or tax is less than it otherwise would be.
- (2) Without prejudice to subsection (1) of this section, the Commissioners may by order make provision whereby, in such cases and to such extent as may be specified in the order, a sum calculated at a rate specified in the order is treated as the aggregate amount payable by way of customs duty and purchase tax in respect of goods imported by a person entering the United Kingdom; but any order making such provision as aforesaid shall enable the person concerned to elect that customs duty and purchase tax shall be charged on the goods in question at the rates which would be applicable apart from that provision.
- (3) An order under this section—
  - (a) may make any relief for which it provides subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies;
  - (b) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient, including provisions for the forfeiture of goods in the event of non-compliance with any condition subject to which they have been relieved from duty or tax;
  - (c) may make different provision for different cases.
- (4) The power to make orders under this section shall be exercisable by statutory instrument and shall include power to vary or revoke a previous order thereunder.
- (5) Any order under this section which removes, reduces or restricts any relief conferred by any previous order under this section shall cease to have effect at the end of the period of twenty-eight days beginning with the day on which the order is made (but without prejudice to anything previously done under the order or to the making of a new order) unless before the end of that period the order is approved by a resolution of the House of Commons; and any other order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

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In reckoning the said period of twenty-eight days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

- (6) In this section " purchase tax" means purchase tax chargeable by virtue of section 11 of the Purchase Tax Act 1963 (tax on imported goods) and references to customs duty and to purchase tax include references to any addition thereto by virtue of section 9 of the Finance Act 1961 (surcharges on revenue duties).
- (7) Nothing in any order under this section shall be construed as authorising any person to import any thing in contravention of any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment.

## **8 Vehicles excise duty: increase of rates**

- (1) For the rates of duty set out in Part II of Schedule 1, of Schedule 3, of Schedule 4 and of Schedule 5 to the Vehicles (Excise) Act 1962 as amended by section 5(1) of the Finance Act 1965 (annual rates of duty for licences other than trade licences) there shall be substituted respectively the rates of duty set out in Parts I, II, III and IV of Schedule 7 to this Act.
- (2) In section 12(5) of the said Act of 1962 as amended by section 5(2) of the said Act of 1965 (trade licences)—
  - (a) in paragraph (a) (general trade licences) for the words " forty-five pounds " and " nine pounds " there shall be substituted respectively the words " sixty pounds " and " twelve pounds ";
  - (b) in paragraph (b) (limited trade licences) for the words " nine pounds " and " two pounds " there shall be substituted respectively the words " twelve pounds " and " two pounds ten shillings ".
- (3) In relation to any hackney carriage or goods vehicle which is partly used for private purposes, the duty chargeable by virtue of Schedule 2 or Schedule 4 to the said Act of 1962, as the case may be, shall (if apart from this subsection it would be less) be equal to the duty which would be chargeable in respect of that hackney carriage or goods vehicle if Schedule 5 to that Act, and not the said Schedule 2 or 4, were applicable thereto.
- (4) For the purposes of the said Schedule 4, but without prejudice to the last foregoing subsection, a vehicle shall be treated as a farmer's goods vehicle notwithstanding that it is partly used for private purposes if, apart from that use, it would be a farmer's goods vehicle within the meaning of that Schedule.
- (5) In subsections (3) and (4) of this section " used for private purposes " means—
  - (a) as respects a hackney carriage, used otherwise than for the purpose of carrying passengers for hire or reward or of being let for hire;
  - (b) as respects a goods vehicle, used otherwise than for the conveyance of goods or burden for hire or reward or for or in connection with a trade or business (including the performance by a local or public authority of its functions).
- (6) This section applies to licences taken out after 19th March 1968.

## **9 Vehicles excise duty: trade licences for vehicle testing**

For the purpose of enabling certain persons engaged in the testing of vehicles to take out trade licences under section 12 of the Vehicles (Excise) Act 1962, that section (which at present applies only to motor traders) shall be amended as follows:—

- (a) in subsections (1) and (2) after the words " motor trader " there shall be inserted the words " or vehicle tester " ;
- (b) at the end of subsection (10) there shall be added the words " ; and ' vehicle tester' means a person, other than a motor trader, who regularly in the course of his business engages in the testing on roads of mechanically propelled vehicles belonging to other persons. "

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

- (1) The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 1(1)(b) of the Finance Act 1967, was extended until the end of August 1968) shall extend until the end of August 1969 or such later date as Parliament may hereafter determine.
- (2) In consequence of the abolition by section 12(6) of the Finance Act 1966 of bookmakers' licence duty, the said section 9 shall have effect as if for subsection (3) (b) thereof there were substituted the following:—
  - “(b) every duty of excise other than a duty payable on a licence; and”.

## **PART II**

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

## **11 Charge of income tax for 1968-69**

Income tax for the year 1968-69 shall be charged at the standard rate of 8s. 3d. in the pound, and in the case of an individual whose total income exceeds £2,000 at such higher rates in respect of the excess as Parliament may hereafter determine.

## **12 Surtax rates for 1967-68**

Income tax for the year 1967-68 shall be charged, in the case of an individual whose total income exceeded £2,000, at the same higher rates in respect of the excess as were charged for the year 1966-67.

## **13 Charge of corporation tax for financial year 1967**

Corporation tax shall be charged for the financial year 1967 at the rate of 42J per cent.

## **14 Alterations in personal reliefs**

- (1) For the year 1968-69 and subsequent years of assessment, section 13 of the Finance Act 1957 (relief for persons over 65 with small incomes), as amended by section 16(1) of the Finance Act 1967, shall be amended by substituting—
  - (a) for the references to £401 and £643 (the income limits for exemption from tax), references to £415 and £665, and

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- (b) for the reference to £180 (the excess over those limits beyond which relief by reduction of tax is excluded), a reference to £230.
- (2) Section 210(1) of the Income Tax Act 1952 (married and single relief) shall for the year 1968-69 and subsequent years of assessment have effect in relation to any claim made by a man who becomes married in the year for which the claim is made, and has not previously in that year been entitled to the higher relief specified in paragraph (a) thereof (married relief), as if the sum specified for that year in that paragraph were reduced, for each month of that year ending before the date of the marriage, by one-twelfth of the amount by which it exceeds the sum specified in paragraph (b) (single relief).
- In this subsection " month " means a month beginning with the 6th day of a month of the calendar year.
- (3) A man who becomes married during a year of assessment may by notice in writing to the inspector elect that his marriage be disregarded for the purposes of any claim for that year under section 214 or 215 of the Income Tax Act 1952 or section 17 of the Finance Act 1960 (housekeeper etc. relief), and, in that case, the marriage shall also be disregarded for the purposes of any claim for that year under section 210 of the said Act of 1952 (married and single relief).
- (4) Where for the year 1968-69 an individual is assessable to income tax in respect of payments on account of an allowance or allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, the total deductions from tax to which, apart from this section, the individual (or, if the individual is a wife assessable in respect of the payments by virtue of an application for separate assessment under section 355 of the Income Tax Act 1952, she and her husband together) would be entitled for the year under sections 210 and 212 to 219 of the said Act of 1952 (certain personal reliefs) shall be reduced, for each allowance if more than one, by an amount equal to tax at the standard rate on £36 or, if the payments in question are payments for a part only of the year, by the following amount or amounts—
- (a) so far as the payments consist of or include payments for, or for a period falling within, the first half of the year, by an amount, or a proportionate part of an amount, equal to tax at the standard rate on £15, and
- (b) so far as the payments consist of or include payments for, or for a period falling within, the second half of the year, by an amount, or a proportionate part of an amount, equal to tax at the standard rate on £21.
- (5) The allowances referred to in subsection (4) above shall be treated as including any allowance payable to an individual in the service of the Crown in lieu of an allowance under either of the enactments there specified.
- (6) The said subsection (4) shall not apply in the case of any payments if the individual assessable in respect thereof is entitled in the year—
- (a) to a widow's allowance, widowed mother's allowance, retirement pension or child's special allowance under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966, or
- (b) to an allowance under section 21 of the National Insurance (Industrial Injuries) Act 1965 or section 21 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (allowances in respect of children of deceased), or



- (c) to an allowance granted by the Minister of Social Security under a Royal Warrant, Order in Council or order administered by him to widows of members of the armed forces.
- (7) The said subsection (4) shall not affect the construction of any reference in the Income Tax Acts to the deduction allowable under any particular provision of those referred to in that subsection.
- (8) The preceding provisions of this section shall not be deemed to have required any change to be made in the amounts deducted or repaid under section 157 of the Income Tax Act 1952 (pay as you earn) before 27th April 1968.

## **15 Aggregation with income of parents of investment, etc income of unmarried infants not regularly working**

- (1) Subject to the following provisions of this section, an infant's income, so far as it is income for a year of assessment or part of a year of assessment during which he or she is unmarried and not regularly working, shall in the circumstances specified in Schedule 8 to this Act be treated in accordance with that Schedule as income of his or her parent or parents, and the supplemental provisions contained in that Schedule shall also have effect.
- (2) Subsection (1) above does not apply to—
  - (a) earned income, or
  - (b) income derived from any sum, or from assets representing any sum, paid by way of, or in satisfaction of a claim for, damages in respect of personal injury to the infant (including any disease, and any impairment of his or her physical or mental condition),but, subject to those exclusions and to subsection (3) below, the said subsection applies to all such amounts as would fall to be included in computing the infant's total income apart therefrom, and so applies notwithstanding anything in any other enactment (including, except so far as the contrary is expressly provided, any enactment passed after this Act) requiring any amount not to be treated as income of anyone other than the infant.
- (3) Section 397(3) of the Income Tax Act 1952 (settlements on children: income not exceeding £5 not to be treated as income of settlor by virtue of section 397(1) of that Act) shall cease to have effect, but neither the said section 397(1) nor subsection (1) above shall have effect in relation to an infant for any year of assessment for which his aggregate income, so far as it would fall within one or other of those provisions but for this exception, does not exceed £5.
- (4) An infant is to be treated for the purposes of this section as working regularly if, and only if, he or she is engaged in a full-time occupation, not being one entered into during an interval not exceeding fifteen months between two periods of full-time education, and intends to be regularly engaged in it or another such occupation.

In this subsection " occupation" means any office, employment, trade, profession or vocation.
- (5) Income falling by virtue of this section and the said Schedule 8 to be treated as income of an infant's parent shall not be taken into account for the purposes of section 212(4) of the Income Tax Act 1952 (reduction in child relief where child entitled in own right to income exceeding £115 per year).

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- (6) Section 21 of the Finance Act 1965 (calculation of capital gains tax by reference to liability to income tax) shall have effect as if this section, except so far as it affects the operation of section 397(1) of the Income Tax Act 1952, had not been enacted.
- (7) Any tax falling to be assessed in respect of income which is to be treated by virtue of this section and the said Schedule 8 as income of an infant's parent shall, instead of being assessed on the infant, or on the infant's trustee, guardian, curator or committee, or on the infant's executors or administrators, be assessable on the parent, or, in the appropriate cases, on the parent's trustee, guardian, curator or committee, or on the parent's executors or administrators.
- (8) This section shall have effect for the year 1969-70 and subsequent years of assessment.

## **16 Life policies, life annuity contracts and capital redemption policies**

- (1) Subject to the provisions of this section—
  - (a) relief from tax under section 219 of the Income Tax Act 1952 shall be granted in respect of the premiums payable under a policy of life insurance only if the policy is a qualifying policy within the meaning of Part I of Schedule 9 to this Act;
  - (b) Part II of that Schedule shall have effect for the purpose of imposing, in the manner and to the extent therein provided, charges to surtax and to tax under section 77 of the Finance Act 1965 (shortfall in distributions of close company) in respect of gains to be treated in accordance with that Part as arising in connection with policies of life insurance, contracts for life annuities, and capital redemption policies ; and
  - (c) section 241 of the said Act of 1952 (no surtax deduction for interest etc. on loans used to pay premiums) shall be amended as follows—
    - (i) subsection (3)(d) of that section (exemption where annual premiums do not exceed one-eighth of capital sum payable on death) shall not apply to any interest or other sum unless it is shown to the satisfaction of the Board that it is exceptional for the individual in question to apply borrowed money to or towards the payment of premiums to which that provision applies, and that no such money has been so applied by him in any of the three years of assessment immediately preceding that in which he so applies the money on or in respect of which the interest or other sum in question is payable, and
    - (ii) subsection (3)(e) of that section (exemption for interest etc. not exceeding £100 in the case of other premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year) shall have effect without the exclusion of premiums falling within the said subsection (3)(d), and, in the case of premiums payable under a qualifying policy within the meaning of Part I of the said Schedule 9, with the omission of the words from " each of which " to " one year ".
- (2) The supplementary provisions contained in Part III of the said Schedule 9 shall also have effect.
- (3) Nothing in this section or the said Schedule 9 shall apply—
  - (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any

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amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals, or

- (b) to any policy of life insurance issued in connection with a sponsored superannuation scheme as defined in section 22(10) of the Finance Act 1956, if one-half at least of the cost of the scheme is borne by the person or persons under whom the relevant offices or employments are held.

In the application of this subsection to Scotland, for the reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by *ex facie* absolute disposition or assignation).

- (4) In this section and the said Schedule 9 "life annuity" means any annuity to which section 27 of the Finance Act 1956 applies, and "capital redemption policy" means any insurance effected in the course of a capital redemption business as defined in section 431(3) of the Income Tax Act 1952.
- (5) Paragraphs (a) and (c) of subsection (1) above shall have effect for the year 1967-68 and subsequent years of assessment, but, in the case of paragraph (a), only as respects policies of life insurance issued in respect of insurances made after 19th March 1968, and, in the case of paragraph (c), only as respects interest on, and other sums payable in respect of, money borrowed after that date; and paragraph (b) of that subsection shall have effect for the year 1968-69 and subsequent years of assessment, but only as respects policies of life insurance issued as aforesaid, contracts for life annuities entered into after the said 19th March, and capital redemption policies effected after that date.
- (6) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (5) above and the said Schedule 9 as issued in respect of one made after that date if it is varied after that date so as to increase the benefits secured or to extend the term of the insurance:

Provided that a variation effected before the end of the year 1968 shall be disregarded for the purposes of this subsection if its only effect is to bring into conformity with paragraph 2 of that Schedule (qualifying conditions for endowment policies) a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase is made in the premiums payable under the policy.

## **17 Small maintenance payments**

- (1) In section 205(1)(i) of the Income Tax Act 1952 (definition of small maintenance payments) for the words from 'to be made weekly' to 'subsection (3) of this section' there shall be substituted the words 'to be made—
  - (A) weekly at a rate not exceeding £7 10s. 0d. per week, or
  - (B) monthly at a rate not exceeding £32 10s. 0d. per month'.
- (2) Subsection (1) above shall not affect payments falling due before 6th April 1969 under an order made before the coming into force of this section:

Provided that where an order so made is varied or revived at any time after the coming into force of this section, subsection (1) above shall apply in relation to payments falling due under the order after that time.

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- (3) Where a court makes an order in consequence of which payments falling due under a previous order which is not already a small maintenance order within the meaning of the said section 205 will be treated as small maintenance payments within the meaning of that section by virtue of the proviso to subsection (2) above, the court shall furnish to the Board, in such form as the Board may prescribe, particulars of those orders, the names of the persons for the time being liable to make, and entitled to, those payments and, so far as known to the court, the addresses of those persons.
- (4) The Treasury may from time to time by order increase the amount of £7 10s. 0d. and the amount of £32 10s. 0d. in the said section 205(1)(i) either as respects payments within paragraph (a) of the said subsection (1) (payments to a person who is or has been a party to a marriage), or as respects payments within paragraph (b) of that subsection (payments for children), or as respects both.
- (5) An order which increases, or further increases, the said amount of £7 10s. 0d. for a class of payments shall increase, or further increase, the amount of £32 10s. 0d. for that class of payments so that it is 52 twelfths of the weekly amount or, if that does not give a convenient round sum, such other amount as appears to the Treasury to be the nearest convenient round sum.
- (6) An order under subsection (4) above may contain provisions corresponding to subsections (2) and (3) above so as to postpone the effect of the order under this section in relation to payments under court orders made before the coming into force, for other purposes, of the order under this section.
- (7) An order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (8) Section 205(3) of the Income Tax Act 1952 and section 40(1)(c) of the Finance Act 1960 (which are superseded by this section) shall cease to have effect, so however that the repeal thereof shall not affect payments in relation to which subsection (1) of this section is excluded by subsection (2) of this section.
- (9) This section shall come into force on the passing of this Act.

## **18 Cash basis, etc.: post-cessation and other receipts;**

- (1) Where any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D has been permanently discontinued, and the profits or gains for any period before the discontinuance were computed on a conventional basis (that is to say, were computed otherwise than by reference to earnings), tax shall be charged under Case VI of Schedule D in respect of sums to which this subsection applies which are received on or after the discontinuance.

This subsection applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax) in so far as their amount or value was not brought into account in computing the profits or gains for any period before the discontinuance.

- (2) Where, in the case of any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D there has been—
  - (a) a change from a conventional basis to the earnings basis, or
  - (b) a change of conventional basis which may result in receipts dropping out of computation,

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tax shall be charged under Case VI of Schedule D in respect of sums to which this subsection applies which are received after the change, and before the trade, profession or vocation is permanently discontinued.

This subsection applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the change (not being sums otherwise chargeable to tax) in so far as their amount or value was not brought into account in computing the profits or gains for any period.

- (3) Schedule 10 to this Act shall have effect for supplementing and giving effect to this and the next following section, and in that Schedule " the principal section " means this section.
- (4) Subsection (1) above shall not apply to sums to which section 32 of the Finance Act 1960 (post-cessation receipts) applies despite the words " (not being sums otherwise chargeable to tax)" in subsection (2) of the said section 32, and shall not apply to sums to which the said section 32 would have applied but for paragraphs (a) and (b) of subsection (3) of that section (non-residents and copyright).
- (5) For the purposes of this and the next following section and the said Schedule—
  - (a) " by reference to earnings" shall be construed in accordance with section 32(5) of the Finance Act 1960, and " earnings basis " shall be construed accordingly,
  - (b) " conventional basis" has the meaning given by subsection (1) above, so that profits or gains are computed on a conventional basis if computed otherwise than by reference to earnings,
  - (c) there is a change from a conventional basis to the earnings basis at the end of a period the profits or gains of which were computed on a conventional basis if the profits or gains of the next succeeding period are computed by reference to earnings,
  - (d) if the profits or gains of two successive periods are computed on different conventional bases, a change of conventional basis occurs at the end of the earlier period.
- (6) For the said purposes any reference to the permanent discontinuance of a trade, profession or vocation includes a reference to the occurring of any event which, under any of the provisions in the Income Tax Acts or the Corporation Tax Acts, is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation; and the trade, profession or Vocation carried on before a permanent discontinuance shall not be treated for those purposes as the same as any carried on after the discontinuance.
- (7) Subsection (1) above shall not apply where the permanent discontinuance fell before 19th March 1968, but, subject to that, has effect as respects sums received at any time on or after that date, whether before or after the passing of this Act, and as respects income tax or corporation tax for years of assessment from the year 1967-68 onwards or any accounting period ending on or after 19th March 1968.
- (8) Subsection (2) above shall not apply where the change took place before 19th March 1968 and before that date—
  - (a) the decision had been taken to prepare accounts reflecting the change, or
  - (b) the trade, profession or vocation had been permanently discontinued,but, subject to that, has effect as respects sums received at any time before or after that date, and as respects income tax or corporation tax for any past or future year of assessment or accounting period.

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## **19 Cash basis, etc.: relief for individuals**

- (1) If an individual born before 6th April 1917, or the personal representative of such an individual, is chargeable to tax under the last preceding section and—
- (a) the individual was engaged in carrying on the trade, profession or vocation on 18th March 1968, and
  - (b) the profits or gains of the trade, profession or vocation were not computed by reference to earnings in the period in which the said 18th March fell, or in any subsequent period ending before or with the relevant date,
- the net amount with which he is so chargeable to tax shall be reduced by multiplying that net amount by the fraction given below.
- (2) Where subsection (2) of the last preceding section applies in relation to a change of basis taking place on a date before 19th March 1968, then in relation to tax chargeable by reference to that change of basis, that earlier date shall be substituted for the date in paragraph (a) above, and paragraph (b) above shall be omitted.
- (3) The said fraction is—
- (a) where on 5th April 1968 the individual had not attained the age of fifty-two, nineteen-twentieths,
  - (b) where on that date he had attained the age of fifty-two, but had not attained the age of fifty-three, eighteen-twentieths, and so on reducing the fraction by one-twentieth for each year he had attained, up to the age of sixty-four,
  - (c) where on that date he had attained the age of sixty-five or any greater age, five-twentieths.
- (4) In this section—
- " the net amount " with which a person is chargeable to tax under the last preceding section means the amount with which he is so chargeable after making any deduction authorised by Schedule 10 to this Act, but before giving any relief under this section,
- " relevant date "—
- (a) in relation to tax under subsection (1) of the last preceding section, means the date of the permanent discontinuance,
  - (b) in relation to tax under subsection (2) of that section, means the date of the change in basis.

## **20 Partnerships of companies and individuals**

- (1) Where one or more of the persons engaged throughout all or any part of a year of assessment in carrying on a trade to which section 73 of the Finance Act 1965 (company partnerships) applies is an individual, this section shall have effect as respects income tax which, in accordance with subsections (3) and (4) of that section, is chargeable for that year.
- (2) Notwithstanding any difference between the partners' interests during the basis period and their interests during the year of assessment, the amount of the individual's income from the partnership for the year of assessment, or the total of the amounts of the individuals' incomes from the partnership for that year, shall be deemed to be not less than the profits of the basis period reduced, where any share was apportioned to a company under subsection (2) of the said section 73, by the amount of that company's share.

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- (3) Where there are two or more individuals, and, but for subsection (2) above, the total of the amounts of the individuals' incomes from the partnership for the year would fall short of the profits of the basis period reduced as aforesaid, that amount shall be apportioned—
- (a) according to the individuals' interests during the year of assessment, disregarding any company's interest, and
  - (b) in so far as that does not determine or fully determine the apportionment, between the individuals in equal shares.
- (4) In this section—
- (a) " basis period ", in relation to a year of assessment, means any accounting period or part of an accounting period which is, or forms part of, the period on the profits or gains of which income tax for the year of assessment in question falls to be computed under Schedule D in respect of the trade, and
  - (b) references to an individual's income from the partnership are references to that income before deduction of capital allowances or charges on income.
- (5) It is hereby declared that in the said section 73 " profits " does not include chargeable gains.
- (6) This section shall be construed as one with the said section 73.

## **21 Tax consequences of dealings in know-how**

- (1) Subject to subsections (3) and (6) below, where after 19th March 1968 a person—
- (a) acquires know-how for use in a trade carried on by him, or
  - (b) acquires know-how, and thereafter sets up and commences a trade in which it is used,
- writing-down allowances in respect of his expenditure on the acquisition, so far as not otherwise deducted for the purposes of corporation tax or income tax, shall be made in taxing the trade during a writing-down period of six years beginning with the chargeable period related to the expenditure; and if during that period he ceases to carry on the trade, an allowance equal to the amount of that expenditure then unallowed shall be made in taxing the trade for the chargeable period related to the discontinuance.
- For the purposes of this subsection, a person incurring expenditure on know-how before the setting up and commencement of the trade in which it is used shall be treated as incurring it on that setting up and commencement.
- (2) Subject to the said subsection (6), where after 19th March 1968 a person disposes of know-how which has been used in a trade carried on by him, and continues to carry on the trade after the disposal, the amount or value of any consideration received by him for the disposal shall, so far as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes as a trading receipt.
- (3) Where after the said 19th March a person disposes of a trade or part of a trade and, together therewith, of know-how used therein, any consideration received by him for the know-how shall be dealt with, in relation both to him and to the person acquiring the know-how, if that person provided the consideration, and for the purposes of corporation tax, income tax and the capital gains tax, as a payment for goodwill :

Provided that this subsection shall not apply—

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- (a) to either of the persons concerned if they so elect by notice in writing given jointly to the inspector within two years of the disposal, or
- (b) to the person acquiring the know-how if the trade in question was, before the acquisition, carried on wholly outside the United Kingdom ;

and where know-how is disposed of with a trade or part of a trade, but this subsection is excluded in relation to the person acquiring it, subsection (1) above shall apply as if that person had acquired it for use in a trade previously carried on by him.

- (4) Subject to subsection (6) below, any consideration received by a person for the disposal of know-how shall, if it is neither chargeable to tax under subsection (2) above, or otherwise as a revenue or income receipt, nor dealt with in relation to him as a payment for goodwill as mentioned in subsection (3) above, be treated as a profit or gain chargeable to tax under Case VI of Schedule D:

Provided that, where the person concerned has incurred expenditure wholly and exclusively in the acquisition or disposal of the know-how, the amount which would apart from this proviso be treated as a profit or gain so chargeable shall be reduced by the amount of that expenditure; but a deduction shall not be twice made in respect of the same expenditure, whether under this proviso or otherwise.

- (5) Where subsection (4) above has effect in the case of an individual who devised the know-how in question, whether alone or jointly with any other person, the amount in respect of which he is chargeable to tax by virtue of that subsection shall be treated for all purposes as earned income.
- (6) The preceding provisions of this section, except subsection (3), shall not apply on any sale of know-how where the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them; and the said subsection (3) shall apply on any such sale with the omission of the proviso.

In this subsection, references to a body of persons include references to a partnership.

- (7) In this section " know-how " means any industrial information and techniques likely to assist in the manufacture or processing of goods or materials, or in the working of a mine, oil-well or other source of mineral deposits (including the searching for, discovery, or testing of deposits or the winning of access thereto), or in the carrying out of any agricultural, forestry or fishing operations.
- (8) Where, in connection with any disposal of know-how, a person gives an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict his or another's activities in any way, any consideration received in respect of the giving of the undertaking or its total or partial fulfilment shall be treated for the purposes of this section as consideration received for the disposal of the know-how.
- (9) Part I of the Capital Allowances Act 1968 shall have effect, and this section shall be construed, as if this section were contained in that Part, with references in that Part to property and its purchase or sale including references to know-how and its acquisition or disposal, with subsection (2) of section 75 (effect of providing for writing-down allowances during a writing-down period of a specified length) applying thereto as it applies to the provisions specified in subsection (1) of that section, and with the omission of section 78 (special provisions as to controlled sales).



## **22 Interest payable abroad**

- (1) Subject to subsection (2) below, in section 52(5) of the Finance Act 1965 (conditions in which payments of interest to non-residents are charges on income for corporation tax) paragraph (b) (under which the liability must have been incurred wholly or mainly for the purposes of activities of the trade carried on outside the United Kingdom) shall apply to interest which is payable in the currency of a territory outside the scheduled territories as if in that paragraph the words " carried on outside the United Kingdom " were omitted.
- (2) Subsection (1) above shall not apply where—
  - (a) the trade is carried on by a body of persons over whom the person entitled to the interest has control, or
  - (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade has control, or
  - (c) the person carrying on the trade and the person entitled to the interest are both bodies of persons, and some other person has control over both of them.

In this subsection the references to a body of persons include references to a partnership, and " control" has the meaning assigned to it by section 87(1) of the Capital Allowances Act 1968.

- (3) In section 138(1) of the Income Tax Act 1952 (income tax provisions comparable to the said section 52(5)(b)) for paragraph (b) (payment of interest to be secured on trading assets abroad) there shall be substituted the following paragraph—
  - “(b) that either—
    - (i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade carried on outside the United Kingdom, or
    - (ii) the interest is payable in the currency of a territory outside the scheduled territories, and”.
- (4) In this section (including the amendments made by this section) " the scheduled territories " means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.
- (5) This section shall apply for income tax purposes for the year 1968-69 and subsequent years of assessment, and for corporation tax purposes to accounting periods ending on or after 6th April 1968.

## **23 Stock dividend options**

- (1) Any share capital, other than redeemable share capital, issued by a company (whether before or after the passing of this Act) in consequence of the exercise by any person of an option conferred on him on or after 19th March 1968 to receive in respect of shares in the company either a dividend in cash or additional share capital shall be treated for the purposes of the Corporation Tax Acts as a distribution by the company, and the income tax chargeable in respect of it by virtue of section 47 of the Finance Act 1965 shall be tax on the sum on which tax would have been chargeable by virtue of that section if the person in question had accepted the cash dividend instead.
- (2) For the purposes of paragraphs 1(3) and 2(1) of Schedule 11 to the Finance Act 1965 (matters to be treated as distributions), share capital issued as mentioned in

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subsection (1) above shall not be treated as issued as paid up otherwise than by the receipt of new consideration.

(3) In applying—

- (a) paragraph 4(3) of Schedule 7 to the Finance Act 1965 (chargeable gains: reorganisation of share capital), and
- (b) paragraph 10(3) of Schedule 9 to the Finance Act 1962 (corresponding provision for tax on short-term gains),

in relation to the issue of the share capital to which subsection (1) above applies, as involving a reorganisation of the company's share capital, there shall be allowed, as consideration given for the new holding which includes that share capital, the sum referred to in subsection (1) above less income tax at the standard rate; and this subsection shall have effect notwithstanding the proviso to the said paragraph 4(3) and the proviso to the said paragraph 10(3).

- (4) For the purposes of subsection (1) above, an option to receive either a dividend in cash or additional share capital is conferred on a person not only where he is required to choose one or the other, but also where he is offered the one subject to a right, however expressed, to choose the other instead, and a person's abandonment of, or failure to exercise, such a right is to be treated for those purposes as an exercise of the option.
- (5) Part I of Schedule 11 to the said Act of 1965 shall have effect as if this section were contained in that Part.

**24 Shortfall in distributions of close company: amendment as respects time limit for dividends**

- (1) Paragraph 9(1)(a) of Schedule 18 to the Finance Act 1965 (under which, in determining for any accounting period whether there has been a shortfall in the distributions of a close company, dividends may be treated as distributions for that period only if they are paid for the period and during or within twelve months after it) shall be amended so as to read—

“(a) any dividends which are declared in respect of the period, and are paid during the period or within eighteen months after it; and”.

- (2) The preceding subsection shall not have effect as respects any accounting period ending before 20th March 1967.

**25 Dividends paid out of pre-1966-67 profits**

- (1) This section has effect as respects the calculation of the three year surplus under section 85 of the Finance Act 1965.
- (2) If the company's dividends paid in the years 1966-67, 1967-68 and 1968-69 are related to periods of accounts exceeding three years in total, the amount at which those dividends are brought into the calculation shall not exceed the amount of the company's dividends which are related to the first three years of that total period, and which were paid in the years 1966-67, 1967-68 and 1968-69, or earlier:

Provided that if any of the dividends paid in 1966-67, 1967-68 and 1968-69 are related to any period of account ending before 6th April 1965, this subsection shall apply with the substitution, for the first three years of that total period, of a period of three years beginning with the period of account in which that date falls.

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- (3) This section shall not apply to a company if before 21st June 1968 a resolution was passed or an order was made for the winding-up of the company, or any other act was done for a like purpose in the case of a winding-up otherwise than under the Companies Act 1948, and, subject to that, subsection (2) above shall apply where, under subsection (7) of the said section 85, the three year surplus is to be computed by reference to the period ending with the last accounting period of a company which is wound up, as if for references to three years there were substituted references to a period equal in length to the period beginning with the financial year 1966 and ending with its last accounting period.
- (4) Any adjustment under the preceding provisions of this section in the amount at which the dividends are brought into the calculation shall be made before taking account, under subsection (6)(a) of the said section 85, of any amount treated under section 83 of the Act as a dividend paid in the year 1966-67, and before applying Part I of Schedule 7 to the Finance Act 1966 (groups of companies) so, however, that—
- (a) this section shall not affect the proportion applicable under paragraph 1 of the said Schedule 7 in reducing a three year surplus as so adjusted,
  - (b) in paragraph 2 (increase of three year surplus of principal company where three year surplus of a subsidiary is reduced) sub-paragraph (2) (which refers to the reductions under paragraph 1) shall have effect as if the preceding provisions of this section had not been enacted,
  - (c) in applying sub-paragraph (3) of the said paragraph 2 (which attributes to the principal company its share of the excess of dividends over distributable profits of subsidiaries) the principal company's dividends shall be brought in at the adjusted amount, but a subsidiary's dividends shall be brought in at the unadjusted amount.
- (5) For the purposes of this section—
- (a) " dividend " does not include a capital dividend,
  - (b) a dividend is related to the period of account for which it is expressed to be payable and, if not expressed to be payable for any period of account, is related to the period of account in which it is paid,
  - (c) where under this section it is necessary to ascertain the dividends related to a period of three years which includes part only of a period of account, the two parts of that period of account shall be treated as separate periods of account, and the amount of the dividends related to the entire period of account shall be apportioned to the respective parts on a time basis according to the respective lengths of the parts,

and in the provisions about paragraph 2 of Schedule 7 to the Finance Act 1966 " the principal company " means the company whose three year surplus is being computed and "subsidiary" means any other member of the group mentioned in that paragraph.

## **26 Dividends paid out of pre-1966-67 profits: groups of companies**

- (1) In applying paragraph 2(3)(a) of Schedule 7 to the Finance Act 1966 (which attributes to the principal company its share of the excess of dividends over distributable profits of subsidiaries) where any subsidiary is itself a company having a notional surplus which is a three year surplus which falls to be increased under the said paragraph 2, that subsidiary's excess of dividends over distributable profits shall be the amount produced by the said paragraph 2 (3) (a) in calculating that increase, so that there is attributed to the principal company the appropriate share of the excess of dividends

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over distributable profits not only of the subsidiary, but also of some one or more other members of the group paying dividends to the subsidiary.

This subsection applies even if the subsidiary's three year surplus as so increased is then reduced or extinguished under paragraph 1 of the said Schedule 7.

- (2) In this section " the principal company " means the company whose three year surplus is being computed under the said paragraph 2 and " subsidiary " means any other member of the group mentioned in that paragraph.

## **27 Dividend stripping: time of acquisition of holding**

- (1) ' In sub-paragraph (3) of paragraph 4 of Schedule 17 to the Finance Act 1965 the words " company and that other company " shall be substituted for the words " three companies " in both places where they occur.
- (2) This section applies to a distribution made after 10th April 1968.

## **28 Prevention of double relief in respect of general annuities paid by non-resident assurance companies**

- (1) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business within the meaning of section 24 of the Finance Act 1956 shall not be entitled to treat any part of the annuities paid by it which are referable to that business (annuities, that is to say, which either are deductible in computing the profits of that business for corporation tax purposes or constitute for those purposes charges on income) as paid out of profits or gains brought into charge to income tax.

In this subsection " branch or agency " has the meaning given by section 89(2)(b) of the Finance Act 1965.

- (2) Subsection (1) above shall have effect as respects annuities deductible in computing profits or, as the case may be, constituting charges on income for corporation tax accounting periods ending before or with, as well as after, the passing of this Act.

## **29 Double taxation relief: credit for foreign tax**

- (1) Paragraphs 2 and 3 of Schedule 16 to the Finance Act 1965 (computation of income subject to foreign tax, and allowance of credit up to marginal rate of United Kingdom income tax) shall have effect in place of paragraphs 5, 6 and 8 of Schedule 16 to the Income Tax Act 1952, and shall be construed and have effect as if contained in that Schedule.
- (2) Where credit for foreign tax falls to be allowed in respect of any income of a company, then in computing the amount of the income for the purposes of corporation tax paragraph 7 of Schedule 16 to the Income Tax Act 1952 shall not apply, but instead paragraph 2 of Schedule 16 to the Finance Act 1965 shall apply as it applies for the purposes of income tax.
- (3) This section has effect as respects relief from income tax or capital gains tax for the year 1968-69 and subsequent years of assessment, and as respects relief from corporation tax for the financial year 1968 and subsequent financial years.

### **30 Double taxation relief: group investment in overseas company**

- (1) This section applies to any provision in arrangements having effect by virtue of section 347 of the Income Tax Act 1952 which—
  - (a) applies to any company which controls, directly or indirectly, not less than a stated fraction of the voting power of a company resident in a specified territory outside the United Kingdom, and
  - (b) in allowing credit against United Kingdom tax on dividends paid to any such company by the company so resident, authorises account to be taken of tax payable by the company so resident in respect of the profits out of which the dividends were paid.
- (2) Credit shall be allowed as if the provision treated the subsidiary of a company which owns, directly or indirectly, the stated fraction of the voting power of a company resident in the specified territory as if that subsidiary also owned that fraction of the voting power of the company so resident.
- (3) Credit shall not be allowable both by virtue of this section and under Schedule 17 to the Income Tax Act 1952 in the case of the same income.
- (4) For the purposes of this section a company is a subsidiary of another if the other company controls, directly or indirectly, not less than fifty per cent, of the voting power of the first company, and this section shall be construed as if it formed part of Schedule 16 to the Income Tax Act 1952.
- (5) This section has effect as respects dividends paid (in the sense of section 89(4) of the Finance Act 1965) on or after 1st April 1968.

## **PART III**

### **CAPITAL GAINS, ESTATE DUTY AND BETTERMENT LEVY**

#### *Capital gains*

### **31 Capital gains tax: exemption for small amounts**

- (1) An individual shall not be chargeable to capital gains tax for a year of assessment if his taxable amount for that year does not exceed £50.
- (2) If an individual's taxable amount for a year of assessment exceeds £50, the amount of capital gains tax to which he is chargeable for that year shall not be greater than the excess.
- (3) For the purposes of this section an individual's taxable amount for a year of assessment is the amount on which he is chargeable under section 20(4) of the Finance Act 1965 for that year (or on which he would be so chargeable but for section 21 of that Act, which affords an alternative charge by reference to income tax).
- (4) In the case of an individual dying in the year of assessment, subsection (3) shall apply with the substitution for the reference to the individual of a reference to his personal representatives, and the taxable amount shall be that on which the personal representatives are chargeable in respect of gains accruing on or before the death.

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- (5) In applying the preceding provisions of this section, and in particular in ascertaining an individual's taxable amount, it shall be assumed that paragraph 3(1) of Schedule 10 to the Finance Act 1965 (married woman: assessment and charge on the husband) applies for all years of assessment but where, by virtue of sub-paragraph (2) of the said paragraph 3, any amount is chargeable and assessable on a married woman, any relief afforded by this section shall be apportioned between the husband and the wife according to the respective amounts on which they are chargeable to capital gains tax for the year of assessment.
- (6) This section shall have effect for the year 1967-68 and subsequent years of assessment.

### **32 Quoted securities held on 6th April 1965**

- (1) This section has effect subject to the rights of election conferred by Schedule 11 to this Act.
- (2) Paragraph 2 of Schedule 7 to the Finance Act 1965 (pooling of shares) shall not apply to quoted securities held on 6th April 1965.
- (3) This section has effect as respects any disposal of quoted securities after 19th March 1968.
- (4) This section does not affect the computation of the gain accruing on a disposal on or before 19th March 1968, but if by virtue of the said paragraph 2 such a disposal was made out of quoted securities of which some were acquired before 6th April 1965, and some later, then in computing the gain accruing on any disposal after 19th March 1968 the question of what remained undisposed of on the earlier disposal shall be decided on the footing that this section had effect as respects that earlier disposal.
- (5) The rules of identification in paragraph 22(6) of Schedule 6 to the Finance Act 1965 (first in, first out, for quoted securities acquired before 6th April 1965) shall apply for the purposes of this section as they apply for the purposes of sub-paragraph (4) of the said paragraph 22.
- (6) In this section and in Schedule 11 to this Act—  
     " quoted securities " means assets to which paragraph 22 of Schedule 6 to the Finance Act 1965 applies,  
     " fixed interest security " means any security as defined by paragraph 5 of Schedule 7 to that Act,  
     " preference share " means any share the holder whereof has a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but has no other right to share in the profits of the company,  
     " year of assessment " for corporation tax, as well as for income tax, means a year beginning on 6th April.
- (7) This section and the said Schedule to this Act shall be construed as one with Part II of Schedule 6 to the Finance Act 1965, and in the said Schedule to this Act" the principal section " means this section.

### **33 Government securities issued at a discount**

- (1) In section 17 of the Finance Act 1965 subsections (7) and (8) (exemption from tax on short-term gains) shall cease to have effect.

- (2) In the case of a disposal by a company—
  - (a) section 27(3) of the said Act (which, for tax on companies' gains and long-term gains, corresponds to the said subsection (7)) shall not apply unless the disposal of the securities occurs more than twelve months after their acquisition, and
  - (b) paragraph 5(2) of Schedule 7 to that Act (corresponding to the said subsection (8)) shall not apply to a disposal of, or of part of, the new holding unless the disposal occurs more than twelve months after the acquisition of the converted securities.
- (3) The rules of identification in paragraph 8 of Schedule 9 to the Finance Act 1962 shall apply for the purposes of subsection (2) above and, where that subsection applies in relation to any disposal, paragraph 2(4) of Schedule 7 to the Finance Act 1965 (pooling of securities: exclusion of those subject to tax under Case VII of Schedule D) shall apply as if that disposal had been chargeable to income tax under Case VII of Schedule D (tax on short-term gains).
- (4) Where under Schedule 13 to the Finance Act 1965 (groups of companies) the persons disposing of and acquiring an asset are to be treated as if the consideration were of such amount that neither a gain nor a loss accrues on the disposal, the person acquiring the asset shall be treated for the purposes of subsections (2) and (3) above as acquiring it at the time when the other acquired it.
- (5) This section applies where the acquisition and the disposal take place after 19th March 1968.
- (6) In this section " company " has the same meaning as in Part IV of the Finance Act 1965.

#### **34 Other amendments of enactments relating to capital gains**

Schedule 12 to this Act (which makes further provision for amending the enactments relating to chargeable gains) and Schedule 13 to this Act (tax on short-term capital gains) shall have effect.

#### *Estate duty*

#### **35 Gifts, etc.: period of charge**

- (1) In the case of a death after 19th March 1968 " seven years " shall be substituted for " five years " in the enactments listed in paragraph 1 of Schedule 14 to this Act, except as respects a period beginning on or before 19th March 1963.
- (2) Where any property is deemed to pass on a death after 19th March 1968 by virtue of a relevant disposition or event (estate duty being chargeable on the property apart from this subsection), and the death takes place in the three last years of the seven-year period, the principal value of the property shall be reduced for estate duty purposes—
  - (a) by 15 per cent, thereof, if the death takes place in the first of those three years,
  - (b) by 30 per cent, thereof, if the death takes place in the second of those three years,
  - (c) by 60 per cent, thereof, if the death takes place in the last of those three years.

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In this subsection " the seven-year period " means the period of seven years beginning with the relevant disposition or event.

- (3) Subsection (2) above shall have effect in substitution for subsection (1) of section 64 of the Finance Act 1960, and as if contained in that section, and in subsection (3)(b) of that section " seven-year " and " seven " shall be substituted for " five-year " and " five ".
- (4) Subsection (2) above shall not have effect so as to give a lesser percentage reduction in the principal value of any property than the percentage reduction (if any) which, assuming that the deceased had died on 19th March 1968, would have fallen to be made under subsection (1) or subsection (3)(b) of the said section 64 (without the amendments made by this section) as respects the property:

Provided that this subsection shall not apply unless in the period from 19th March 1968 to the death the deceased was entirely excluded from possession and enjoyment of the property, and of any benefit to him by contract or otherwise.

- (5) The further transitional and consequential provisions of the said Schedule to this Act shall have effect in the case of a death after 19th March 1968, and in that Schedule " the principal section " means this section.

### **36 Marriage gifts**

- (1) Where the deceased made a gift in consideration of marriage, and—
- (a) the gift was an outright gift to a child or remoter descendant of the deceased, or
  - (b) the deceased was the parent or remoter ancestor of either party to the marriage, and either the gift was an outright gift to the other party to the marriage or the property comprised in the gift was settled by the gift, or
  - (c) the deceased was a party to the marriage, and either the gift was an outright gift to the other party to the marriage or the property comprised in the gift was settled by the gift,
- then—
- (i) if the principal value of the property comprised in the gift did not exceed £5,000, section 2(1)(c) of the Finance Act 1894 shall not apply to the gift, and
  - (ii) if the principal value of the property comprised in the gift exceeded £5,000, the said section 2(1)(c) shall only apply to the excess.
- (2) Where the deceased made a gift in consideration of marriage and subsection (1) above does not apply, then—
- (a) if the principal value of the property comprised in the gift did not exceed £1,000, the said section 2(1)(c) shall not apply to the gift,
  - (b) if the principal value of the property comprised in the gift exceeded £1,000, the said section 2(1)(c) shall only apply to the excess.
- (3) In the case of any one death—
- (a) the total amount of the relief conferred by subsection (1) above in respect of any one marriage shall not exceed £5,000, and
  - (b) the total amount of the relief conferred by subsection (2) above in respect of any one marriage shall not exceed £1,000,



and the reductions required to give effect to paragraph (a) or paragraph (b) above shall be made rateably according to the respective principal values of the gifts in respect of which relief may be given.

- (4) For the purposes of this section the principal value of any property shall be arrived at before making any reduction under section 64 of the Finance Act 1960 (graduation of charge).
- (5) In this section " child" includes an illegitimate child, an adopted child and a step-child, and " parent", " descendant" and " ancestor " shall be construed accordingly.
- (6) In section 59(2) of the Finance (1909-10) Act 1910 the words " which are made in consideration of marriage or" shall cease to have effect, and references to the provision so repealed in section 53 of the Finance Act 1963 or elsewhere shall be taken as references to this section.
- (7) This section has effect as respects a gift made after 19th March 1968, and in the case of a death after that date.
- (8) References in this and the next following section to section 2(1)(c) of the Finance Act 1894 are references to so much of that paragraph as makes gifts inter vivos property which is deemed to pass on the death.

### **37 Gifts forming part of normal expenditure of deceased**

- (1) Section 2(1)(c) of the Finance Act 1894 shall not apply to a gift if it is shown to the satisfaction of the Board or, on an appeal under section 10 of the Finance Act 1894, of the court entertaining the appeal that the gift was part of the normal expenditure of the deceased, that the deceased made the gift out of his income and that, after allowing for all gifts forming part of his normal expenditure, the deceased was left with sufficient income to maintain his usual standard of living.
- (2) A payment of a premium on a policy of assurance on the life of the deceased, or a gift of money or money's worth applied, directly or indirectly, in payment of such a premium, shall not for the purposes of subsection (1) above be regarded as part of the normal expenditure of the deceased if, when the insurance was made, or at any earlier or later time, an annuity was purchased on the life of the deceased, unless it is shown to the satisfaction of the Board or, on an appeal under section 10 of the Finance Act 1894, of the court entertaining the appeal, that the purchase of the annuity and the making or any variation of the insurance, or of any prior insurance for which the first-mentioned insurance was directly or indirectly substituted, were not associated operations.

In this subsection " associated operations " has the meaning given by section 59 of the Finance Act 1940.

- (3) In section 59(2) of the Finance (1909-10) Act 1910 the words from " which are proved " to " the circumstances or " (exemption for gifts forming part of normal expenditure) shall cease to have effect.
- (4) This section has effect as respects a gift made after 19th March 1968, and in the case of a death after that date.

### 38 Aggregation

- (1) For the purposes of aggregation, any property which under section 2(1)(c) of the Finance Act 1894 (gifts inter vivos and other dispositions in life-time of the deceased) passes on the death shall be property in which the deceased had an interest.
- (2) Subsection (1) above applies in particular in relation to—
  - (a) section 4 of the Finance Act 1894 (non-aggregation of property in which deceased never had an interest), and
  - (b) section 33(2) of the Finance Act 1954 (policies of assurance, etc., in which the deceased never had an interest).
- (3) If any property passes on a death under the said section 2(1)(c), and all or part of the property also passes, as non-aggregable property, on the death otherwise than under the said section 2(1)(c), estate duty shall be charged and levied on the property as if it passed solely under the said section 2(1)(c).
- (4) If part of any property passes on a death under the said section 2(1)(c), and that part is comprised in property which, or part of which, also passes, as non-aggregable property, on the death otherwise than under the said section 2(1)(c), estate duty shall be charged and levied on the part passing under the said section 2(1)(c) as if it passed solely thereunder, and shall be charged and levied separately on any other part of the property.
- (5) For the purposes of subsections (3) and (4) above—
  - (a) property passes as non-aggregable property under any estate duty provision if, on the footing that it so passes, it would be property in which the deceased never had an interest,
  - (b) the amount or value of any property or part of property shall be ascertained before any reduction under section 64 of the Finance Act 1960 (graduation of charge) and
  - (c) references to any property or part of property include references to rights or interests in the property.
- (6) This section shall apply in the case of a death after 19th March 1968.
- (7) Subject to the following subsections, this section shall not apply to property passing on the death as comprised in a gift of, or of rights under, a policy of assurance on the life of the deceased issued in respect of an insurance made before 20th March 1968.
- (8) If the aggregate value of all policies related to the death which were issued in respect of an insurance made before 20th March 1968 exceeds £25,000 the relief given by subsection (7) above shall apply only to a fraction of the said property, and that fraction shall be £25,000 divided by the said aggregate value:

Provided that the rate at which estate duty is to be charged in respect of that fraction of any property shall not be less than the rate at which it would have been charged if the relief given by subsection (7) was not restricted by this subsection.
- (9) The relief given by subsection (7) above in respect of a policy which had matured or been surrendered before 20th March 1968 shall not be reduced under subsection (8) above, and the value of all such matured or surrendered policies shall be left out of account under the said subsection (8).
- (10) If the terms of a policy are varied after 19th March 1968 in such a way that the value of the policy is greater than it would have been if no variation had been made—

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- (a) the relief given by subsection (7) above shall apply only to such part of any gift as can justly be attributed to the value the policy would have had if not varied, and
  - (b) the policy shall be brought into subsection (8) above at that value, and the fraction in that subsection shall be applied to the said part of the gift.
- (11) Where by virtue of subsection (8) or subsection (10) above, or of both of those subsections, the relief given by subsection (7) above applies only to a part of any gift, the part of the gift to which the relief does not apply shall in accordance with subsection (1) above be property in which the deceased had an interest and shall be aggregated under section 4 of the Finance Act 1894 accordingly.
- (12) The provisions of this section shall apply to a contract for a deferred annuity becoming payable on the death of the deceased as if it were a policy of assurance on the life of the deceased.
- (13) For the purposes of this section—
- (a) the value of a policy is the amount or value, as at the death, of the sums payable or other benefits arising under the policy, whether or not the policy continues on foot until the death, except that the value of a policy which has been surrendered at a time before the death is the value at that time of the consideration for the surrender;
  - (b) a policy is related to the death if it is a policy on the life of the deceased, if property comprised in a gift of, or of rights under, the policy passes on the death, and if that property would, if this section had not been enacted, have been property in which the deceased never had an interest.

### **39 Discretionary trusts**

- (1) This section has effect, in the case of a death after 19th March 1968, for all the purposes of the enactments relating to estate duty, and in particular for the purposes of section 2(1)(b) of the Finance Act 1894 (property in which the deceased or any other person had an interest ceasing on the death of the deceased).
- (2) If a discretionary trust is limited to determine on a death then, for the purposes of estate duty leviable on that death, the persons eligible under the discretionary trust to receive the whole or any part of the income of any property shall together be treated as having an interest in the property limited to cease on the death, and as having an interest in the property which is different from any interest which those persons or any of them may have otherwise than under the discretionary trust.
- (3) Subsection (2) above applies whether or not there is a discretion or power to accumulate all or any part of the income and accordingly where only one person is eligible to receive all or any part of the income, but there is such discretion or power, he shall be treated as having an interest in the property.
- (4) Subsections (2) and (3) above shall not apply to a statutory or other trust for the maintenance of a person under the age of 21 limited to determine on his attaining the age of 21, or at any earlier time, as being a trust which is also limited to determine on his death (that is to say on his death before attaining that age or before that time).
- (5) Where in accordance with the preceding provisions of this section any persons are to be treated as having an interest in property, that interest shall be an interest in possession in any period if income of the property arising in that period was or could have been

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distributed to them or any of them, and references to an interest becoming an interest in possession shall be construed accordingly.

- (6) Where in accordance with the preceding provisions of this section any persons are to be treated as having an interest in property, the value of the benefit accruing or arising from the cesser of the interest shall—
- (a) if the whole of the income of the property was or could have been given to the persons having the interest, or any of them, be the principal value of the property, and
  - (b) if less than the whole of the income of the property was or could have been given to the persons having the interest, or any of them, be the principal value of an addition to the property equal to that lesser amount of income.
- (7) References in this section to a trust limited to determine on a death include references to a trust limited to cease in the alternative on the happening of some other event or the expiration of some period, and "discretionary trust" includes a trust under which the disposition of any of the trust income is at the discretion of the trustees or of any other person.

#### *Betterment levy*

#### **40 Minerals: betterment levy, income tax and corporation tax**

- (1) This section has effect as respects the power of making regulations under section 74 of the Land Commission Act 1967 (power to adapt betterment levy for minerals by regulations requiring affirmative resolution of House of Commons) and has effect without prejudice to the generality of that section.
- (2) The amount, rate and incidence of betterment levy in respect of mining leases (as defined by the regulations) may be altered by the regulations so that—
- (a) betterment levy is charged from time to time by reference to the actual amount of the rents, royalties and other payments (including premiums) which are received or become receivable under the lease,
  - (b) the rate may be less than that prescribed under section 28 of the Land Commission Act 1967,
  - (c) the person chargeable in respect of any payment is, or is ascertained by reference to, the person entitled to the payment,
- and the regulations may contain such transitional or other consequential provisions, including provisions making exceptions or modifications in Part III of the said Act of 1967, as may appear to the Minister making the regulations to be necessary or expedient.
- (3) The regulations shall, as respects every mining lease, confer a right of election as respects the application to the mining lease of all provisions made in accordance with subsection (2) above so that—
- (a) in the case of a mining lease granted on or after 6th April 1968, an election may be made in accordance with the regulations excluding the application of those provisions ;
  - (b) in the case of a mining lease granted before that date, no such provisions shall apply unless an election is made in accordance with the regulations.

- (4) Where betterment levy is directly charged on any payment which is charged to tax under section 180 of the Income Tax Act 1952 (mining rents and royalties), the amount of betterment levy so charged shall be treated—
- (a) for the purposes of section 181 of that Act (management expenses of owner of mineral rights) as a sum disbursed as an expense of management in the year of assessment for which the tax is charged, and
  - (b) for the purposes of section 54(4) of the Finance Act 1965 (corresponding provision for corporation tax) as a sum so disbursed in the accounting period in which the payment falls to be taken into account for corporation tax.
- (5) Where betterment levy is directly charged on a payment which is charged to tax under Case VIII of Schedule D, the amount of betterment levy so charged shall for the purposes of Case VIII be treated as a payment made by the landlord in respect of management of the property in the year of assessment in which he becomes entitled to the payment:
- Provided that where the amount of the payment is reduced under section 22 of the Finance Act 1963 (treatment of premiums and other payments as rent) the amount of the betterment levy charged thereon shall be treated for the purposes of this subsection as reduced in the same proportion.
- (6) Paragraph 1 of Schedule 15 to the Finance Act 1967 (premiums, etc., under leases: allowance of betterment levy) shall not apply to betterment levy which is directly charged on any payment.
- (7) For the purposes of this section betterment levy is " directly charged " on a payment if it is charged in accordance with regulations made in accordance with subsection (2) above.
- (8) This section—
- (a) so far as it relates to betterment levy, applies as respects any payment made before or after the passing of this Act, and shall be construed as one with Part III of the Land Commission Act 1967,
  - (b) so far as it relates to income tax, has effect for the year 1967-68 and subsequent years of assessment, and shall be construed as one with the Income Tax Acts,
  - (c) so far as it relates to corporation tax, has effect for any accounting period ending after 5th April 1967, and shall be construed as one with the Corporation Tax Acts,
- and there shall be made all such adjustments, whether by way of discharge or repayment of tax or the making of assessments, as are required to give effect to this subsection.
- (9) The Land Commission shall afford to any officer of the Board such information as he may require for the purposes of this section.

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## PART IV

### THE SPECIAL CHARGE

#### 41 The special charge

- (1) In the case of an individual whose aggregate investment income for the year 1967-68 exceeded £3,000 plus the amount of his surtax personal allowances, there shall be made in accordance with the provisions of this Part of this Act a special charge in accordance with the following Table—

TABLE

For every pound of

the first thousand pounds of the excess	2 shillings
the next thousand pounds of the excess	3 shillings
the next three thousand pounds of the excess	6 shillings
the remainder of the excess	9 shillings.

- (2) For the purposes of subsection (1) above the amount of an individual's surtax personal allowances is the amount deductible from his total income for the year 1967-68 under section 14(1) of the Finance Act 1957, without regard to subsection (2) of that section (apportionment between husband and wife).
- (3) Subsection (1) above applies—
- to any individual domiciled in the United Kingdom in the year 1967-68, and
  - to any individual not so domiciled, if he was resident and ordinarily resident in the United Kingdom in the year 1967-68, and had been ordinarily resident in the United Kingdom throughout the nine preceding years.
- (4) The special charge shall not be made in the case of an individual who died before the end of the year 1967-68, but if a husband or wife died during the year 1967-68, this Part of this Act shall apply to the survivor as if during that year they had not been married.
- (5) Schedule 15 to this Act shall have effect as respects trustees, including personal representatives, and income arising under a trust.
- (6) Except as otherwise expressly provided expressions used in this Part of this Act have the same meanings as in the Income Tax Acts.
- (7) This Part of this Act shall extend to Northern Ireland and the Government of Ireland Act 1920 shall have effect as if the special charge were included among the taxes mentioned in section 22(1) of that Act (reserved taxes).

#### 42 Investment income

- (1) This section shall apply in ascertaining investment income and aggregate investment income for the purposes of this Part of this Act.
- (2) Subject to the provisions of this Part of this Act, " investment income " means income from any source other than a source of earned income and other than income

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- chargeable under Case VII of Schedule D (short-term capital gains), and the "aggregate investment income" of an individual shall be taken to be the aggregate of his investment income from all sources.
- (3) Subject to the provisions of this Part of this Act, income from any source shall be ascertained as it is ascertained for the purposes of surtax, and income shall be treated as income of an individual if it would be so treated for the purposes of surtax.
- (4) Investment income shall not include—
- (a) income from investments (including land) which falls to be taken into account as a receipt in computing, in accordance with the provisions of the Income Tax Acts, the profits or gains of a trade, profession or vocation, or which would fall so to be taken into account but for the fact that it has been subjected to tax under other provisions of those Acts,
  - (b) any other income arising from a trade, profession or vocation carried on by an individual otherwise than in partnership, not being income specified in subsection (5) below.
- (5) Investment income shall include income from investments (including land) held by or on behalf of the persons carrying on or exercising a trade, profession or vocation, not being income falling within subsection (4)(a) above.
- (6) Investment income shall not include—
- (a) any annuity purchased for an individual in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement, or
  - (b) royalties or other sums paid for or in respect of—
    - (i) the copyright in a literary, dramatic, musical or artistic work, or
    - (ii) the use of a patent,where the copyright or patent or the right to receive such sums has devolved by will or on intestacy on the death of the author or inventor, and the recipient took on that death or after one or more further devolutions on death, or
  - (c) any amount as being a sum charged to surtax under section 242 of the Income Tax Act 1952 (consideration for certain restrictive covenants, etc.).
- (7) Subject to the following provisions of this section, in ascertaining aggregate investment income any deduction in respect of interest, annuities or other annual payments allowable in computing the individual's total income for the year 1967-68 for surtax shall be allowed as a deduction.
- (8) In ascertaining aggregate investment income no deduction shall be allowed in respect of—
- (a) payments of any of the descriptions in subsections (1), (2), (3) and (4) of section 23 of the Finance Act 1966 (whether or not the disposition was made after 6th April 1965),
  - (b) periodical payments allowable as deductions in ascertaining total income for surtax, being payments—
    - (i) in pursuance of an order of any court for the payment of maintenance or aliment or in pursuance of an affiliation order or a decree of affiliation and aliment, or
    - (ii) in pursuance of a disposition not made for full consideration in money or money's worth,

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- or any other payments constituting income of the description in subsection (5) of section 23 of the Finance Act 1966 (whether or not the disposition was made after 6th April 1965),
- (c) payments allowable as deductions in computing profits or gains of any description,
  - (d) any loss incurred in carrying on a trade, profession, employment or vocation, or in the occupation of woodlands in respect of which the person in question has elected to be charged to tax under Schedule D.
- (9) Payments within paragraphs (a) and (b) of subsection (8) above shall not be treated as the income of any person other than the person making the payment.
- (10) In ascertaining aggregate investment income the amount of any allowance under Part X of the Income Tax Act 1952 (capital allowances) available or primarily available against a specified class of income for the year 1967-68 shall be allowed as a deduction, in so far only as the amount of the allowance does not exceed the individual's investment income for that year of that class.
- (11) In ascertaining aggregate investment income no deduction shall be allowed in respect of payments which are deemed under paragraph 9(1) of Schedule 21 to the Income Tax Act 1952 (underwriters' payments into special reserve fund) to be annual payments, and the following (also relating to underwriters) shall not be treated as the income of any person, namely—
- (a) payments deemed to be annual payments under sub-paragraph (2) or sub-paragraph (3) of the said paragraph 9,
  - (b) annual payments deemed to have been received under section 3(2) of the Finance (No. 2) Act 1955.

#### **43 Due date, interest and administration**

- (1) Subject to the provisions of this Part of this Act, the special charge in respect of an individual's aggregate investment income shall be made by assessment on that individual, and shall be payable by that individual.
- (2) Subject to the provisions of this Part of this Act, the special charge shall be payable on or before 1st January 1969, or on the day next following the making of the assessment, whichever is the later.
- (3) If all or any part of the special charge, whether already assessed or not, is not paid by 1st January 1969, it shall carry interest at the rate of four per cent, per annum from that date to the date of payment:
 

Provided that interest shall not be payable on the special charge made by any assessment unless the total amount of the interest exceeds five pounds.
- (4) The interest payable under subsection (3) above shall be paid without any deduction of income tax and shall be recoverable from the like persons as if it were part of the special charge in respect of which it is payable.
- (5) So far as all or any part of the special charge carries interest from 1st January 1969 to the date when the special charge, or that part of it, becomes due, the grossed-up amount of that interest shall be allowable as a deduction in computing income for surtax for the year of assessment in which the interest is paid, but, subject to that,



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interest payable under subsection (3) above for any period shall not be allowable as a deduction for surtax or for any other purpose.

In this subsection the "grossed-up" amount of any interest is such amount as would, after deduction of tax at the standard rate for the year in which it is paid, equal the amount of interest paid.

- (6) The special charge shall be under the care and management of the Board.
- (7) Subject to the provisions of this Part of this Act, the special charge shall be assessed and recoverable as if it were an amount of surtax, and all enactments applying to the management and administration of income tax, including those relating to incapacitated persons and personal representatives, those relating to assessing, collecting and receiving of income tax and those conferring or regulating a right of appeal, shall apply accordingly.
- (8) The Board shall have power by regulations contained in a statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament—
  - (a) to direct that any of the provisions applied by sub-section (7) above shall have effect as may be prescribed by the regulations, and subject to such exceptions or modifications as may be so prescribed, and
  - (b) to make further provision for the management, administration and collection of the special charge and interest thereon, including provision for enabling any question which may affect the liability of two or more persons to pay the special charge in respect of any particular investment income to be determined for all those persons in the same proceedings.
- (9) Where an assessment, or a decision on a claim, which under the provisions of this Part of this Act may affect the amount of an individual's aggregate investment income has become final and conclusive for the purposes of the Income Tax Acts, it shall be final and conclusive for the purposes of this Part of this Act as to the amount of the income or relief in question.
- (10) An assessment to the special charge in respect of an individual's aggregate investment income may be made at any time if an assessment to surtax in respect of that individual's total income for the year 1967-68 could be then made within the time limited by the Income Tax Acts for the making of assessments to surtax.
- (11) The Board may, whether an assessment to the special charge has been made or not, by notice in writing require any person in whose case it appears to the Board that the special charge may be payable by, or recoverable from, him, and that he has in his possession any information relevant to the assessment or recovery of the special charge, to furnish to the Board within such time as may be specified in the notice, not being less than thirty days, such particulars as they consider necessary for the purposes of the assessment or recovery of the special charge.

Part III of the Finance Act 1960 (penalties) shall have effect as if this subsection were referred to in column 2 of Schedule 6 to that Act, and subject to any modifications necessary for applying the said Part III to the special charge as it applies to income tax.
- (12) Special Commissioners or other persons who have made declarations in the form in Part I of Schedule 1 to the Income Tax Management Act 1964, or in the amended form provided for in paragraph 16 of Schedule 10 to the Finance Act 1965, shall be subject to the same obligations as to secrecy with respect to the special charge as they are subject to with respect to income tax.

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#### 44 Husband and wife

(1) In ascertaining aggregate investment income, subsections (1), (2) and (4) of section 354 (wife's income to be treated as that of her husband) and section 361 (separation, etc.) of the Income Tax Act 1952 shall apply as they apply for the purposes of income tax, but subject to the following provisions of this section.

(2) Subsection (3) below shall apply in the case of a husband and wife—

- (a) where application in that behalf is made either by the husband or the wife in such manner and form as may be prescribed by the Board, or
- (b) where an application by the husband or wife under section 356 of the Income Tax Act 1952 for separate assessment to surtax has effect as respects the year 1967-68, unless notice in writing requiring that subsection (3) below shall not apply is given both by the husband and by the wife in such manner and form as may be prescribed by the Board:

Provided that no application or notice under this subsection shall be made or given after 5th October 1968 or such later date, not falling after the expiration of thirty days from the giving to the husband of a notice of the assessment to the special charge, as the Board may allow.

(3) Where the provisions of this subsection apply—

- (a) the husband and wife shall be assessed under this Part of this Act, and the special charge shall be recoverable, as if they were not married, and this Part of this Act shall apply to each of them accordingly, but
- (b) in ascertaining aggregate investment income for the purposes of this Part of this Act the income of the husband and wife shall be treated as the income of one individual, and
- (c) the amount of the special charge payable by reference to the aggregate investment income so ascertained shall be divided between the husband and wife in proportion to the amounts of their respective aggregate investment incomes, after deducting the surtax personal allowances (that is to say the amount deductible under section 14(1) of the Finance Act 1957) apportioned in accordance with paragraph (d) below, and
- (d) that apportionment shall be made—
  - (i) in the case of the allowances within subsection (2)(b)(i) of the said section 14 (allowances for certain children and dependants), according to the apportionment in the said sub-paragraph (i),
  - (ii) in the case of any other allowances, according to the respective amounts of the aggregate investment incomes of the husband and wife,

but so that, if the amount by which the aggregate investment income of either falls to be reduced under sub-paragraph (i) or (ii) of this paragraph exceeds the amount of that aggregate investment income, the aggregate investment income of the other shall be treated as reduced by the amount of the excess.

(4) Section 359 (collection from wife of tax assessed on husband attributable to her income) and section 360 (disclaimer by husband of liability for tax on deceased wife's income) of the Income Tax Act 1952 shall apply with any necessary modifications for the purposes of the special charge as they apply for the purposes of income tax.

#### **45 Close companies**

- (1) It is hereby declared that, subject to subsection (3) below, investment income includes any amount apportioned for purposes of surtax (whether originally or by one or more sub-apportionments) to an individual under section 78 of the Finance Act 1965.
- (2) Subsection (5) of section 249 of the Income Tax Act 1952 as applied by the said section 78 (which, for surtax, prevents undistributed income which has been assessed and charged to surtax in pursuance of the said section 78 from being again assessed when distributed) shall apply for the purposes of computing investment income, but the other provisions of the said section 249 shall not apply for the purposes of this Part of this Act.
- (3) The Board may, if they see reason for it, apportion the whole of the income of a close company for the accounting period ending in the year 1967-68, up to the amount of the required standard, among the participators, and any amount apportioned to another close company, whether originally or by one or more sub-apportionments under this subsection, shall be further apportioned among the participators in that company.  

Any income apportioned to an individual under this subsection shall be included in his aggregate investment income.
- (4) Where the Board have made an apportionment under subsection (3) above, any distribution made by the company and any apportionment of the company's income for surtax shall be left out of account in ascertaining aggregate investment income for the purposes of the special charge.
- (5) Subsection (3) above shall not apply in the case of a trading company or of a member of a trading group.
- (6) Schedule 16 to this Act shall have effect for supplementing and giving effect to this section.
- (7) For the purposes of this section and the said Schedule—
  - (a) "distribution" shall have the meaning assigned by Schedule 11 to the Finance Act 1965,
  - (b) "the required standard" has the meaning given by section 77(2) of the Finance Act 1965,
  - (c) other expressions shall be construed in accordance with the provisions of the Corporation Tax Acts relating to close companies.
- (8) For the said purposes "the accounting period ending in the year 1967-68", in relation to a close company—
  - (a) if there is one, and only one, accounting period of the company ending in the year 1967-68, and it is an accounting period of twelve months, means that accounting period,
  - (b) if not, means the parts of accounting periods, and any whole accounting periods, falling within the year 1967-68, apportioning income of any accounting period to the respective parts in accordance with section 89(6) of the Finance Act 1965.

#### **46 Relief where income attributable to period of years was received in 1967-68**

- (1) Where, on a claim being made, the Board are satisfied as respects any assets that the income from the assets represents more than the income which would be attributable

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to a period of one full year if the income were deemed to have accrued from day to day, the Board shall in ascertaining aggregate investment income for the purposes of this Part of this Act make such reduction, if any, as may be appropriate to secure that there shall be taken as representing the income from the assets an amount equivalent to a full year's income therefrom.

Section 240(1) of the Income Tax Act 1952 shall apply for the purposes of this subsection as it applies for the purposes of section 238 of that Act (corresponding provision for surtax).

- (2) If an individual's investment income includes an amount in respect of which a claim could be made for relief under section 472 of the Income Tax Act 1952 (spreading of patent royalties over several years) a claim may be made under this section requiring that amount to be reduced, in ascertaining the individual's aggregate investment income, by multiplying by the fraction of which—
  - (a) the numerator is one, and
  - (b) the denominator is the six or less number of instalments into which that amount would be divided by a claim under the said section 472.
- (3) If an individual's investment income includes an amount in respect of which a claim could be made for relief under Schedule 6 to the Finance Act 1963 (premium, etc. treated as rent) a claim may be made under this section requiring that amount to be reduced, in ascertaining the individual's aggregate investment income, to the yearly equivalent of that amount, as defined in paragraph 1 of the said Schedule 6, less any sums deductible under paragraph 3(1)(a) of the said Schedule 6.
- (4) A claim for relief under this or either of the two next following sections—
  - (a) may be made by any person who has borne or is liable to bear the special charge in respect of the income in question, either by assessment or by a payment under Schedule 15 to this Act,
  - (b) shall be made to the Board,
  - (c) shall be made not later than the end of the year 1973-74, except that a claim which could not have been allowed but for the making of an assessment to the special charge in the year 1973-74 or a later year may be made at any time before the end of the year of assessment following that in which the assessment was made,

and section 9 of the Income Tax Management Act 1964 shall apply to the claim as it applies for the purposes of income tax.
- (5) Where in pursuance of a claim for relief under this or either of the two next following sections any amount of the special charge is repaid, there shall also be repaid any interest paid in respect of that amount of the special charge.

#### **47 Relief where capital is subject to estate duty or capital gains tax**

- (1) If on a claim being made it is shown to the satisfaction of the Board that—
  - (a) in consequence of a death occurring before the end of the year 1967-68 estate duty or capital gains tax became payable in respect of any assets, and
  - (b) investment income affecting, whether directly or indirectly, the amount of the special charge arose from the assets, and
  - (c) the amount of that income exceeded what it would have been if all estate duty and capital gains tax payable in consequence of the death had been paid

immediately on the occurrence of the death or other event whereby the estate duty or capital gains tax became payable,

the amount of the said investment income shall in ascertaining aggregate investment income for the purposes of this Part of this Act be treated as reduced by such amount as the Board may determine to be appropriate to offset the excess.

- (2) In this section " estate duty " includes estate duty payable under the law of Northern Ireland, and references to capital gains tax payable in consequence of a death shall be construed in accordance with subsection (8) and subsection (9)(a) of section 26 of the Finance Act 1965.

#### **48 Relief in respect of error or mistake**

If on a claim being made it is shown to the satisfaction of the Board that—

- (a) by reason of an error or mistake in a return or statement made for the purpose of the special charge, or for the purpose of income tax (including surtax), an assessment to the special charge was excessive, or
- (b) that after an assessment to the special charge became final, any adjustment was made under the provisions of the Income Tax Acts of any income which affected the ascertainment of aggregate investment income,

the Board shall make any appropriate adjustment.

#### **49 Double taxation relief**

- (1) Part XIII of the Income Tax Act 1952 together with any other enactment relating or referring to double taxation relief, and any arrangements made under section 347 of that Act in relation to income tax, shall have effect in relation to the special charge and investment income as they are expressed to have effect in relation to income tax and income subject to income tax.
- (2) In paragraph 5(1)(b) of Schedule 16 to the said Act (limit on total credit), as it applies to the total income for the year 1967-68 of an individual whose investment income is subject to the special charge, the sum of the rates there specified (effective income tax rate plus effective surtax rate) shall be increased for the purpose of allowing credit for foreign tax in respect of investment income by adding the rate ascertained by dividing the special charge by the amount of his aggregate investment income.

#### **50 Transactions designed to avoid liability**

- (1) Where, as a result of any action or decision taken by any person on or after 19th March 1968, an individual's aggregate investment income is, apart from this section, less by any amount than it would have been but for that action or decision, his aggregate investment income shall for the purposes of this Part of this Act be increased by that amount unless it is shown to the satisfaction of the Board that avoidance of, or reduction of liability to, the special charge was not the main object or one of the main objects of the action or decision.
- (2) Without prejudice to the generality of subsection (1) above, the following shall be treated for the purposes of that subsection as actions or decisions as a result of which an individual's aggregate investment income is less than it would have been but for the action or decision—

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- (a) the forgoing of any investment income to which the individual or his wife would otherwise have been entitled as income of the year 1967-68,
  - (b) the postponement of any entitlement to or receipt of investment income so as to prevent it from being income of the year 1967-68,
  - (c) the making of a settlement of which the individual or his wife is the settlor in consequence of which investment income becomes payable to any person or persons other than the individual or his wife,
  - (d) the incurring of any expenditure (including any liability to pay interest) which, but for this section, would affect the amount of the individual's aggregate investment income.
- (3) If it appears that the main benefit which might have been expected to accrue from the action or decision was the avoidance or reduction of liability either to the special charge, or to the special charge and surtax together, the avoidance or reduction of liability to special charge shall be deemed for the purposes of this section to have been the main object, or one of the main objects, of the action or decision.
- (4) If it appears to the Board that any person has taken or may have taken any action or decision as a result of which an individual's aggregate investment income is less than it would have been but for the action or decision, and that that person has in his possession any information relevant for the purpose of giving effect to this section, the Board may, whether an assessment to the special charge has been made or not, by notice in writing require that person to furnish to the Board within such time as may be specified in the notice, not being less than thirty days, such particulars as they consider necessary for that purpose.
- Part III of the Finance Act 1960 shall have effect as if this subsection were referred to in column 2 of Schedule 6 to that Act, and subject to any modifications necessary for applying the said Part III to the special charge as it applies to income tax.
- (5) In this section "settlement" and "settlor" have the meanings given by section 403 of the Income Tax Act 1952.

## PART V

### SELECTIVE EMPLOYMENT TAX

#### 51 Selective employment tax

- (1) In relation to any contribution week beginning on or after 2nd September 1968, for paragraphs (a) to (d) of section 44(1) of the Finance Act 1966 (which specify the weekly amount payable in respect of a person by way of selective employment tax) there shall be substituted the following paragraphs:—
- “(a) if that person is a man over the age of 18, 37s. 6d.; or
  - (b) if that person is a woman over the age of 18, 18s. 9d.; or
  - (c) if that person is a boy under the age of 18, 18s. 9d.; or
  - (d) if that person is a girl under the age of 18, 12s.”
- (2) Section 1 of the Provisional Collection of Taxes Act 1968 shall apply to selective employment tax; and accordingly, in subsection (1) of that section, after the words "income tax" there shall be inserted the words "selective employment tax".

- (3) In Schedule 12 to the Finance Act 1967, the references to Part VI of the Finance Act 1966 in paragraphs 8 and 10 shall be construed as including references to this section.
- (4) This section shall be construed as one with Part VI of the Finance Act 1966 and shall extend to Northern Ireland, but for the purposes of section 6 of the Government of Ireland Act 1920 shall be deemed to be contained in an Act passed before the appointed day.

## **52 Selective employment payments**

- (1) With a view to the making by the Secretary of State for Employment and Productivity of payments by way of refund of selective employment tax in respect of persons employed in certain hotels or similar establishments in the areas specified in Schedule 17 to this Act, section 2 of the Selective Employment Payments Act 1966 shall have effect in respect of any contribution week beginning on or after 2nd September 1968 with the following amendments, namely—
  - (a) in subsection (2)(a), after the words " paragraphs (a) to (e)" there shall be inserted the words " or, subject to subsection (3A) of this section, in paragraph (f) ";
  - (b) in subsection (3), at the end there shall be added the following paragraph:—

“(f) subject to subsection (3A) of this section, activities of a hotel, inn, boarding house, guest house or holiday camp”;
  - (c) after subsection (3) there shall be inserted the following subsection:—

“(3A) Subsection (3)(f) of this section shall have effect only where the establishment in question—

    - (a) contains not less than four rooms which at all times during the contribution week in question were available for use in return for payment as sleeping accommodation by guests or lodgers at the establishment; and
    - (b) is situated within an area specified in Schedule 17 to the Finance Act 1968”;
    - (d) in subsection (5)(a), after the words "paragraphs (a) to (d)" there shall be inserted the words " or under paragraph (f) ".
- (2) In relation to any such contribution week as aforesaid, in section 25(1) of the Finance Act 1967 (which provides for a refund to the employer in respect of certain persons in part-time employment of an amount equal to half the tax paid) for the word " half " there shall be substituted the words " two-thirds of " ; and the said section 25(1) shall have effect subject to subsection (4) of this section.
- (3) Where an employer has paid selective employment tax in respect of any person for any such contribution week as aforesaid and throughout that week that person was for the purposes of the National Insurance Act 1965 over the age of 65, then, subject to subsections (4) and (5) of this section, the Minister of Social Security shall make to that employer in respect of that person and that week a payment of an amount equal to two-thirds of the tax paid.
- (4) Where a payment has been made to an employer in respect of any person and any contribution week under the said section 25(1) or under subsection (3) of this section, the employer shall not be entitled to a payment in respect of that person and that contribution week under the other of those provisions.

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- (5) In Schedule 12 to the Finance Act 1967—
- (a) paragraphs 2, 3 (other than sub-paragraphs (b) and (c)), 5, 6 and 11 shall have effect as if references to the said section 25(1) included references to subsection (3) of this section;
  - (b) any question arising under the said subsection (3) as to whether a person was or was not over the age of 65 at a particular time shall be deemed to be included among the questions mentioned in paragraph 8;
  - (c) in paragraphs 8, 12 and 13 references to Part IV of the Finance Act 1967 shall include references to this section.
- (6) Where the Minister by whom any register of establishments is maintained under section 7(1) of the Selective Employment Payments Act 1966—
- (a) after having acceded to an application under section 10(3) of that Act by an employer with respect to the treatment of any premises, is at any time satisfied that, by reason of a change in the circumstances of the business of which those premises form part, it is proper so to do ; or
  - (b) having on acceding to such an application given notice in writing to the employer that he proposes to afford that treatment to those premises only if or for so long as specified conditions are fulfilled, is at any time satisfied that those conditions are not fulfilled,
- that Minister may, after giving not less than four weeks notice in writing to the employer of his intention so to do, cease to afford that treatment to those premises.
- (7) This section shall be construed as one with the Selective Employment Payments Act 1966.

## PART VI

### MISCELLANEOUS

#### **53 Interest on overdue tax**

- (1) In section 495(2) of the Income Tax Act 1952 and in section 8(2) of the Finance (No. 2) Act 1947 (remission of interest for tax paid not later than three months from the date on which it becomes due and payable) for the words "three months " there shall be substituted the words " two months ".
- (2) Without prejudice to the general interpretative provisions of this Act, this section applies to the enactments mentioned in subsection (1) above as extended by any other enactment, and in particular it applies to section 495(2) of the Income Tax Act 1952 as extended to capital gains tax and corporation tax.
- (3) This section has effect as respects tax becoming due and payable on or after 1st July 1968.

#### **54 Premium savings bonds: increase of prize money**

- (1) The terms of issue of premium savings bonds shall be altered by substituting for the prospectus relating to the issue of bonds of series B the provisions of Schedule 18 to this Act, being provisions which—



- (a) increase the rate of interest at which the prize fund is calculated from 4 ½ per cent, to 4 ⅞ per cent, (but subject, as in the existing prospectus, to a power of varying the rate of interest by giving not less than three months notice), and
  - (b) give effect to that increase in the rate of interest by providing for—
    - (i) a weekly draw of one £25,000 prize, and
    - (ii) an adjustment of the prizes on the monthly draw.
- (2) Subsection (1) above shall come into force on 1st September 1968 and have effect as respects all bonds issued before that date, whether before or after the passing of this Act.
- (3) If after the coming into force of subsection (1) above the Treasury issue premium savings bonds on the terms set out in the said Schedule to this Act, they may use any stock of forms of bonds which were prepared before the passing of this Act, notwithstanding that the forms refer to the prospectus superseded by subsection (1) above, and bonds issued in that form shall be valid and effectual as if they stated that the bond was issued under the terms in the said Schedule to this
- This subsection applies whether or not the bonds are issued after notice has been given, in pursuance of paragraph 15 in the said Schedule, of a variation of its terms.
- (4) In this section " bonds of series B " means the second issue of premium savings bonds, and " premium savings bonds " means both those issued under the National Loans Act 1939 and those issued under the National Loans Act 1968.

## 55 Exchange control

- (1) The definitions of " securities " and " security " in section 42(1) of the Exchange Control Act 1947 and in section 2(3) of the Emergency Laws (Re-enactments and Repeals) Act 1964 (power of Treasury to prohibit action on certain orders as to securities) shall include—
- (a) certificates of deposit,
  - (b) Government bills, and
  - (c) any description of promissory notes which is for the time being prescribed under this paragraph for the purposes of the Exchange Control Act 1947, or of the said section 2, or both.
- (2) Sections 21 and 22 of the Exchange Control Act 1947 (restrictions on import and on export) shall apply as if the references therein to Treasury bills included references to all Government bills, certificates of deposit and any description of promissory notes which is for the time being prescribed under subsection (1)(c) above for the purposes of the Exchange Control Act 1947.
- (3) In this section—
- " certificate of deposit " means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable,
  - " Government bill " means any bill, note or other obligation of a Government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an

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obligation which is or has been legal tender in any part of the world, and " Government bill" includes in particular a Treasury bill,

" prescribed "—

- (a) in relation to the Exchange Control Act 1947, has the same meaning as in that Act,
- (b) in relation to the said Act of 1964, means prescribed by the Treasury by order in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament,

and any such order may be varied or revoked by a subsequent order so made.

- (4) This section has effect notwithstanding that the said definitions of " securities " and " security " exclude promissory notes.
- (5) This section—
  - (a) so far as it relates to the Exchange Control Act 1947, shall be construed as one with that Act, and
  - (b) so far as it relates to the said Act of 1964, shall be construed as one with section 2 of that Act,
- (6) The amendments made by this section in the Exchange Control Act 1947 shall take effect also in the provisions of that Act which extend to the Channel Islands by virtue of any Order in Council under section 43(3) of that Act, and this section shall apply outside the United Kingdom in the same way as that Act, or as the case may be, section 2 of the said Act of 1964, so applies.

## **56 Stamp duties: amendments as respects loan capital duty**

- (1) Subsections (3) and (4) of section 28 of the Finance Act 1967 (under which loan capital issued by a company and incapable of being dealt in on a United Kingdom stock exchange is exempt from duty under section 8 of the Finance Act 1899 if it is repayable within five years of issue, on demand, or after notice not exceeding one year) shall have effect as respects loan capital issued on or after 1st August 1968 as if, for each reference to five years, there were substituted a reference to ten years.
- (2) Subsection (2) of the said section 28 (under which payment of duty under the said section 8 franks any trust deed or other instrument securing the loan capital in question) shall have effect in relation to any trust deed or other instrument securing loan capital issued after the passing of this Act by a corporation, company or body of persons formed or established in Northern Ireland as if the references therein to duty under the said section 8 were references to duty under that section as it has effect in Northern Ireland.

## **57 Stamp duties: further provisions as to composition by bankers**

- (1) This section applies to the duty chargeable under the heading " Bill of Exchange or Promissory Note" in Schedule 1 to the Stamp Act 1891.
- (2) Section 39(1)(a) of the Finance Act 1956 (under which the Commissioners may enter into an agreement with any banker for the composition of that duty so far as chargeable on instruments which are drawn on the banker by his customers and on forms supplied by him) shall be amended so as to read—
  - “(a) drawn either on the banker or on another banker by customers of, and on forms supplied by, the former, or”;

and, in any agreement under the said section 39 made with a banker before the passing of this Act, references to instruments drawn on the banker by his customers on forms supplied by him shall, as respects accounting periods thereunder beginning after 20th July 1968, be construed as references to instruments drawn either on the banker or on another banker by customers of, and on forms supplied by, the former.

- (3) The Commissioners may, in accordance with the following provisions of this section, enter into an agreement with any banker for the composition of the duty so far as chargeable on instruments of any description specified in the agreement, being instruments which are drawn on the banker and presented to him for payment.
- (4) Any such agreement shall require the banker to deliver to the Commissioners periodical accounts in respect of the instruments to which it relates, giving such particulars with respect thereto as may be specified in the agreement, and may contain such other terms and conditions as the Commissioners think proper.
- (5) Where any such agreement has been made with a banker, no instrument to which the agreement relates shall be chargeable with the duty if it contains the statement "Stamp duty (if any) compounded for under section 57 of the Finance Act 1968", but the banker shall pay to the Commissioners, on the delivery of any account under the agreement, such sums as would apart from this section have been chargeable by way of the duty on instruments to which the agreement relates so far as presented to him for payment during the period to which the account relates.
- (6) Where a banker makes default in delivering any account required by any such agreement, or in paying the duty payable on the delivery of any such account, he shall be liable to a fine not exceeding £50 for any day during which the default continues, and shall also be liable to pay to Her Majesty, in addition to the duty, interest thereon at the rate of 5 per cent, per annum from the date when the default begins.
- (7) Any person who—
  - (a) utters an instrument which is chargeable with the duty, but which contains the statement referred to in subsection (5) above or any other indication that it need not be stamped, or
  - (b) procures the printing of a form containing the said statement, or any other indication that it need not be stamped, being a form which is capable of being completed as an instrument chargeable with the duty and which he does not reasonably believe will be completed (if at all) as an instrument not so chargeable,shall be liable on summary conviction to a fine not exceeding £100.
- (8) This section shall be construed as one with the Stamp Act 1891.

## **58 Reliefs from surcharge under Sugar Act 1956**

- (1) The Commissioners may remit or repay any surcharge under section 7 of the Sugar Act 1956 if they are satisfied that the sugar in respect of which it is payable or has been paid will be, or has been, dealt with in either of the following ways, that is to say—
  - (a) treated in a manner approved by the Minister so as to render it unsuitable for human consumption ; or
  - (b) used in the manufacture of goods of any description prescribed for the purposes of this paragraph, at the time when the sugar was or is so used, by an order made by the Minister.

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- (2) In any case in which the Commissioners have power under subsection (1) of this section to remit or repay a surcharge in respect of any sugar if satisfied that it will be, or has been, dealt with as mentioned in that subsection, they shall have the like power if satisfied that a quantity of sugar corresponding to the sugar in question will be, or has been, dealt with as aforesaid.
- (3) The goods prescribed by the Minister for the purposes of subsection (1)(b) of this section shall be such as it appears to him to be expedient to prescribe for those purposes in the interests of the national economy.
- (4) Any remission or repayment under this section shall be subject to such conditions as the Commissioners may see fit to impose, including, in particular, conditions for securing that relief from surcharge is not obtained more than once (whether under this section or any other enactment) in relation to the same sugar.
- (5) For the purposes of this section—
  - (a) " goods " includes any part or ingredient of any goods and " sugar " includes invert sugar;
  - (b) in determining whether two quantities of sugar correspond with each other, the Commissioners shall have regard to their respective degrees of polarisation or, in the case of invert sugar, to the amount of sweetening matter which they respectively contain.
- (6) This section shall be construed as one with the said Act of 1956; and orders under this section shall be included among the orders to which section 33(2) of that Act (which makes certain orders subject to annulment in pursuance of a resolution of either House of Parliament) applies.

## **59 Confirmation of social services agreement with Northern Ireland**

- (1) Confirmation is hereby given to the agreement set out in Schedule 19 to this Act, being an agreement between the Treasury and the Ministry of Finance for Northern Ireland which amends (as from 28th November 1966, but only if confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland) an agreement scheduled to the Social Services (Northern Ireland Agreement) Act 1949 and entered into with a view to assimilating the burdens on the Exchequers of the United Kingdom and Northern Ireland in respect of certain social and allied services.
- (2) There shall be charged on and paid out of the Consolidated Fund of the United Kingdom any additional sums which, by virtue of the agreement hereby confirmed, are payable under the agreement thereby amended from the Exchequer of the United Kingdom to the Exchequer of Northern Ireland.
- (3) This section shall not come into operation unless and until Her Majesty by Order in Council declares that a corresponding provision has been enacted by the Parliament of Northern Ireland.

## **60 Provisional collection of taxes**

In section 1(4) of the Provisional Collection of Taxes Act 1968 (circumstances in which a resolution ceases to have statutory effect) paragraph (b) (under which a resolution continues in force if a Bill is amended by the House so as to implement the resolution within twenty-five sitting days from the passing of the resolution) shall

have effect as if after the words ' is amended by the House' there were added the words ' in Committee or on Report, or by any Standing Committee of the House'.

## **61 Citation, interpretation, construction and extent**

- (1) This Act may be cited as the Finance Act 1968.
- (2) In this Act, except where the context otherwise requires, " the Board " means the Commissioners of Inland Revenue.
- (3) Part I of this Act (except sections 5, 8 and 9) shall be construed as one with the Customs and Excise Act 1952.
- (4) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts and, so far as it relates to corporation tax shall be construed as one with the Corporation Tax Acts.
- (5) Parts II and III of this Act so far as they relate to chargeable gains shall be construed as one with Part III of the Finance Act 1965.
- (6) Part III of this Act so far as it relates to estate duty shall be construed as one with the Finance Act 1894.
- (7) This Act, so far as it relates to the Sugar Act 1956, shall extend to the Isle of Man.
- (8) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Act.
- (9) Except as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.
- (10) The enactments mentioned in Schedule 20 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision in relation thereto made at the end of any Part of that Schedule.

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## SCHEDULES

## SCHEDULE 1

Section 1(1).

## SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

Table 1: Spirits other than Imported Perfumed Spirits

Description of Spirits	Excise rate			Customs rates								
				Full			Commonwealth			Convention		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1. British spirits (per proof gallon)	17	2	9	—			—			—		
2. Imported spirits other than perfumed spirits												
(a) not-comprised below in this paragraph (per proof gallon)				17	5	3	17	2	9	17	2	9
(b) liqueurs, cordials, mixtures and other preparations in bottle, entered in				23	6	0	23	2	6	23	2	6

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Description of Spirits	Excise rate	Customs rates								
		Full			Commonwealth			Convention		
such manner as to indicate that the strength is not to be tested (per gallon)										
each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than 3 years, increased by 1s. 6d. per proof gallon or, for spirits within paragraph 2(b) of this table, by 2s. 0d. per gallon.										

SCHEDULE 2

Section 1(1).

WINE (RATES OF CUSTOMS DUTIES)

Description of wine	<i>Rates of duty (per gallon)</i>					
	Full			Commonwealth		
	£	s.	d.	£	s.	d.
Light wine: — Still—						
not in bottle.	1	3	3	1	1	3
in bottle	1	5	9	1	2	9
Sparkling	1	15	9	1	13	9
Other wine: — Still—						

For the purposes of this Schedule, "light wine" means wine not exceeding 25 degrees or, in the case of wine qualifying for Commonwealth preference, 27 degrees of proof spirit.

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Description of wine	Rates of duty (per gallon)					
	Full			Commonwealth		
not in bottle.	2	5	3	1	15	3
in bottle	2	7	9	1	16	9
Sparkling	2	17	9	2	7	9
together, in the case of wine exceeding 42 degrees proof spirit, with an addition for each additional degree or fraction of a degree of		3	9		2	11

For the purposes of this Schedule, "light wine" means wine not exceeding 25 degrees or, in the case of wine qualifying for Commonwealth preference, 27 degrees of proof spirit.

### SCHEDULE 3

Section 1(1).

#### BRITISH WINE (RATES OF EXCISE DUTIES)

Description of British wine	Rates of duty (per gallon)		
	£	s.	d.
Light British wine:—			
Still	1	0	9
Sparkling	1	6	9
Other British wine:—			
Still	1	5	9
Sparkling	1	11	9

For the purposes of this Schedule, "light British wine" means British wine not exceeding 27 degrees of proof spirit.



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

SCHEDULE 4

Section 4(3).

AMOUNT OF GAMING LICENCE DUTY IN RESPECT OF PREMISES

TABLE

*Amount of duty*

Description of premises	Amount of duty	
	On licence for bingo only	On licence for all games
	£	£
1. Premises other than— (a) premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,000; (b) premises consisting of or comprised in a vessel.	125	750
2. Premises— (a) which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,000 but not exceeding £1,500; or (b) which consist of or are comprised in a vessel.	1,500	7,500
3. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,500 but not exceeding £2,250.	2,000	15,000
4. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £2,250 but not exceeding £3,000.	2,000	30,000
5. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £3,000.	2,000	75,000

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

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## SCHEDULE 5

Section 4(4).

### ENFORCEMENT OF DUTIES RELATING TO BETTING OR GAMING

#### *Protection of officers*

- 1       Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector given in connection with the enforcement of the enactments relating to the general betting duty or the duty on gaming licences or on gaming machine licences and, apart from the provisions of this paragraph, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

#### *Keeping by bookmaker of record of authorised agents*

- 2       (1) The provisions of this paragraph shall apply to a bookmaker at any time when any person is for the time being, or has at any time during the immediately preceding two months been, authorised by that bookmaker to act as his agent for receiving or negotiating bets or otherwise conducting betting operations, other than such bets or operations as involve liability only to the pool betting duty.
- (2) The bookmaker shall maintain at any of his premises to which bets received by any such person as aforesaid as the bookmaker's agent are or were transmitted, or, if in the case of any such premises the Commissioners think fit, at such other place as the Commissioners may allow, a record in such form and containing such particulars as the Commissioners may direct in respect of any such person who is for the time being, and any such person who has at any time during the said two months been but is no longer, authorised as aforesaid, being in either case a person by or on whose behalf bets received as aforesaid are or were transmitted to those premises.
- (3) A bookmaker shall not be guilty of contravening or failing to comply with the provisions of sub-paragraph (2) of this paragraph by reason of a failure to make an entry or alteration in the said record if that entry or alteration is made before six o'clock in the evening of the day after that on which the happening which necessitated the entry or alteration took place.
- (4) Paragraph 2(2)(b) of Schedule 3 to the Finance Act 1966 (under which a bookmaker is required to notify the Commissioners of the names and addresses of any persons acting as his agent as mentioned in sub-paragraph (1) of this paragraph) shall cease to have effect.

#### *Form in which books, etc., are to be kept*

- 3       The books, records and accounts kept in pursuance of paragraph 3(a) of Schedule 1 to the Betting Duties Act 1963 by the person for the time being carrying on a general betting business or pool betting business shall be kept in such form as the Commissioners may direct.

#### *Power for officers to remain on premises*

- 4       Where an officer has entered on any premises, being premises used for the purposes of a general betting business on which the person carrying on that business is required by paragraph 3(c) of the said Schedule 1 to permit the officer to enter, that person shall permit that officer to remain on those premises at any time while those

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premises are being used, or when that officer has reasonable cause to believe that those premises are likely to be used, for the conduct of betting operations.

#### *Penalties*

- 5 Paragraphs 4 to 6 of the said Schedule 1 shall apply to a contravention of or failure to comply with any of the provisions of paragraphs 2 to 4 of this Schedule as they apply to a contravention of or failure to comply with any of the provisions of paragraph 2 or 3 of that Schedule.

#### *Interpretation*

- 6 In this Schedule, the following expressions have the following meanings respectively, that is to say—
- "bookmaker" has the same meaning as for the purposes of the Betting, Gaming and Lotteries Act 1963 ;
  - "Collector" means a Collector of Customs and Excise ;
  - "general betting business" and "pool betting business" mean a business which involves or may involve any sums becoming payable by the person carrying on that business by way of the general betting duty or, as the case may be, by way of the pool betting duty.

### SCHEDULE 6

Section 5.

#### AMENDMENTS TO PART I OF SCHEDULE 1 TO PURCHASE TAX ACT 1963

- 1 For any reference to 11% or 16 ½ % there shall be substituted a reference to 12 ½ % or, as the case may be, 20%.
- 2 Except in the following places, namely, Groups 1, 2, 4, 8, 9, 16 and 17, paragraph (c.) of Group 19, Groups 22, 24 and 25, paragraph (a) of Group 26, Group 29, paragraphs (a) and (b) of Group 30, and Groups 31 and 32, for any reference to 27 ½ % there shall be substituted a reference to 33 ⅓ %.
- 3 In the following places namely, paragraph (b) of Group 1, paragraph (b) of Group 2, paragraphs (a) and (b) of Group 4, paragraph (a) of Group 8, paragraph (b)(i) of Group 9, paragraph (b) of Group 16, paragraph (c) of Group 19, Groups 22 and 25, paragraph (a) of Group 26, Group 29 and paragraphs (a) and (b) of Group 30, for any reference to 27 ½ % there shall be substituted a reference to 50%.
- 4 In Group 14, paragraph (2) of the exemptions shall be omitted.
- 5 In Group 17, for the words " Articles not comprised below in this Group .... 27 ½ % " there shall be substituted the words—

“(a) Articles not comprised below in this Group	33 ⅓ %
(b) Articles not comprised below in this Group which are made wholly or partly of gold, silver or other precious metal (not including base metal which is coated or plated with precious metal).	50%”

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6 After Group 19 there shall be inserted the following:—

“GROUP 19A

(a) Instruments, whether or not complete, which are, or if complete would be, suitable for the reproduction of sound recorded on magnetic tapes or on other recording material, whether or not those instruments are, or if complete would be, suitable also for so recording sound, and parts thereof and accessories thereto.	33 ⅓ %
(b) Sound records on magnetic tape or on other recording material, other than records of a kind not produced in quantity for general sale.	50%
(c) Containers (not comprised in any other Group) for records falling within paragraph (b) above.	50%

*Not chargeable under this Group*

1. Tape recorders and reproducers suitable only for scientific or industrial use, and parts and accessories suitable only for use therewith.
2. Instruments suitable only as office appliances for the recording or reproduction of speech, and parts and accessories suitable only for use therewith.

*Exempt*

Sound records for the reproduction of speech, specially adapted for the use of the blind; and instruments specially designed for the reproduction of sound from such records.”

7 For Group 24 there shall be substituted the following:—

“GROUP 24

(a) Photographic cameras and photographic enlargers, lenses and other parts of and accessories to photographic cameras and photographic enlargers.	50%
(b) Cinematograph projectors, filmstrip and slide projectors, and parts thereof and accessories thereto; projection screens not exceeding 35 square feet in area; and slide viewers and slide containers, except viewers or containers for use with slides exceeding 3 inches in width.	50%
(c) Unexposed sensitized photographic paper, cloth, plates and film.	50%

*Exempt*

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

- (1) Cinematograph cameras and cinematograph projectors for film of standard width, and parts and accessories suitable only for use therewith.
- (2) Cameras, enlargers, cinematograph and filmstrip projectors, and parts thereof, and accessories thereto, being articles suitable only for industrial, scientific or military use.
- (3) Epidiascopes, projectors for use with slides exceeding 3 inches in width, and parts and accessories suitable only for use therewith.
- (4) Photographic paper, cloth, plates and film, the following:—
  - (i) cinematograph film of standard width;
  - (ii) X-ray plates, film and paper;
  - (iii) ferro-prussiate and ferro-gallic paper and cloth;
  - (iv) dye-line paper, cloth and film;
  - (v) document base paper, transparent tracing paper base and tracing cloth.”

8 In Group 30, in paragraph (a), for the words "comprised in Group 2 " there shall be substituted the words " comprised below or in any other Group ".

9 For Group 31 there shall be substituted the following:—

“GROUP 31

*comprising* Toilet requisites, except face cloths and towels.

(a) Brushes (other than toothbrushes), combs, scissors, nippers, knives, razors, razor blades, razor strops, razor sharpeners, dry shavers and dry shaver heads, mirrors, sponges, dental sticks and toothpicks.	33 ⅓ %
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(b) Other articles not comprised below in this Group.	50%
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*Exempt*  
Toothbrushes; toilet paper.”

10 For Group 32, there shall be substituted the following:—

“GROUP 32

*comprising* Perfumery; and toilet preparations, whether medicated or not, including cosmetics.

(a) Perfumery	50%
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(b) Soap made up for sale as toilet soap; soap substitutes made up for sale as substitutes for toilet soap; baby dusting powders; shaving creams; shampoos; dentifrices; eye" lotions, mouth washes and antiseptics; calamine lotion and similar alleviating preparations, unperfumed.	33 ⅓ %
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(c) Other articles.	50%”
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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 7

Section 8.

## VEHICLES EXCISE DUTY

## PART I

## RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 1 TO ACT OF 1962

Description of vehicle	Rate of duty		
	£	s.	d.
1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres; electrically propelled bicycles; electrically propelled tricycles which do not exceed 165 pounds in weight unladen	2	10	0
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger	5	0	0
3. Bicycles and tricycles not in the foregoing paragraphs	10	0	0

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

**PART II**

RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 3 TO ACT OF 1962

1.	Weight unladen of vehicle		Rate of Duty					
	2.	3.	4.			5.		
Description of vehicle	Exceeding	Not Exceeding	Initial			Additional for each ton or part of a ton in excess of the weight in column 2		
			£	s.	d.	£	s.	d.
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines.	—	—	5	0	0	—		
2. Haulage vehicles, being showmen's vehicles.	—	7 ¼ tons	47	0	0	—		
	7 ¼ tons	8 tons	56	5	0	—		
	8 tons	10 tons	65	10	0	—		
	10 tons	—	65	10	0	9	10	0
3. Haulage vehicles, not being showmen's vehicles.	—	2 tons	60	0	0	—		
	2 tons	4 tons	108	0	0	—		
	4 tons	6 tons	148	10	0	—		
	6 tons	7 ¼ tons	189	0	0	—		
	7 ¼ tons	8 tons	229	10	0	—		
	8 tons	—	229	10	0	40	10	0

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

## RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 4 TO ACT OF 1962

Table A

## GENERAL RATES OF DUTY

1.	Weight unladen of vehicle		Rate of Duty					
	2. Exceeding	3. Not Exceeding	4. Initial			5. Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2		
Description of vehicle			£	s.	d.	£	s.	d.
1. Farmers' goods vehicles.	—	12 cwt.	17	10	0	—		
	12 cwt.	16 cwt.	19	5	0	—		
	16 cwt.	1 ton	21	0	0	—		
	1 ton	1 $\frac{1}{4}$ tons	22	15	0	—		
	1 $\frac{1}{4}$ tons	2 $\frac{1}{2}$ tons	22	15	0	2	0	0
	2 $\frac{1}{2}$ tons	4 $\frac{1}{4}$ tons	32	15	0	2	10	0
	4 $\frac{1}{4}$ tons	5 $\frac{3}{4}$ tons	50	5	0	1	0	0
	5 $\frac{3}{4}$ tons	8 $\frac{1}{2}$ tons	56	5	0	1	5	0
2. Showmen's goods vehicles.	8 $\frac{1}{2}$ tons	—	70	0	0	1	0	0
	—	12 cwt.	17	10	0	—		
	12 cwt.	16 cwt.	19	5	0	—		
	16 cwt.	1 ton	21	0	0	—		
	1 ton	3 tons	21	0	0	2	0	0
	3 tons	4 tons	37	0	0	2	5	0
	4 tons	5 tons	46	0	0	2	0	0
	5 tons	6 tons	54	0	0	1	15	0
3. Electrically propelled goods vehicles (other than farmers' goods vehicles)	6 tons	—	61	0	0	2	0	0
	—	12 cwt.	24	0	0	—		
	12 cwt.	16 cwt.	26	5	0	—		
	16 cwt.	1 ton	29	10	0	—		
	1 ton	6 tons	29	10	0	3	0	0
	6 tons	7 tons	89	10	0	2	10	0
	7 tons	8 $\frac{1}{4}$ tons	99	10	0	2	15	0
	8 $\frac{1}{4}$ tons	—	113	5	0	3	0	0



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

Weight unladen of vehicle			Rate of Duty					
1.	2.	3.	4.			5.		
Description of vehicle	Exceeding	Not Exceeding	Initial			Additional for each ¼ ton or part of a ¼ ton in excess of the weight in column 2		
or showmen's goods vehicles); tower wagons.								
4. Goods vehicles not included in any of the foregoing provisions of this Part of this Schedule.	—	12 cwt.	24	0	0	—		
	12 cwt.	16 cwt.	30	0	0	—		
	16 cwt.	1 ton	36	10	0	—		
	1 ton	1 ½ tons	36	10	0	6	10	0
	1 ½ tons	2 tons	49	10	0	6	15	0
	2 tons	3 tons	63	0	0	7	10	0
	3 tons	4 tons	93	0	0	10	10	0
	4 tons	—	135	0	0	13	10	0

Table B

RATES OF DUTY ON GOODS VEHICLES USED FOR DRAWING TRAILERS

Weight unladen of vehicle			Rate of Duty		
1.	2.	3.	4.		
Description of vehicle	Exceeding	Not Exceeding	£	s.	d.
1. Showmen's goods vehicles	—	—	17	10	0
2. Electrically propelled goods vehicles (other than farmers' goods vehicles and showmen's goods vehicles);	—	1 ½ tons	14	0	0
	1 ½ tons	3 tons	24	0	0
	3 tons	—	27	0	0

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

Weight unladen of vehicle					
1.	2.	3.		4.	
Description of vehicle	Exceeding	Not Exceeding		Rate of Duty	
tower wagons.					
3. Other goods vehicles	—	1 ½ tons	14	0	0
	1 ½ tons	2 ½ tons	24	0	0
	2 ½ tons	4 tons	40	0	0
	4 tons	—	54	0	0

#### PART IV

#### RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 5 TO ACT OF 1962

Description of vehicle	Rate of Duty		
	£	s.	d.
1. Electrically propelled vehicles; vehicles not exceeding seven horse-power, if registered under the Roads Act 1920 for the first time before 1st January 1947	18	0	0
2. Vehicles not included above	25	0	0

#### SCHEDULE 8

Section 15.

#### AGGREGATION OF INFANTS' INVESTMENT, ETC. INCOME

##### *General rules about aggregation*

- 1 (1) Subject to the provisions of this Schedule, income to which section 15(1) of this Act applies shall be treated as follows—
- (a) so far as it is income for a year of assessment or part of a year of assessment during which both parents of the infant are alive, and are married to and living with each other, as income for that year of the father;
  - (b) so far as it is income for a year or part during which both parents are alive, but are either not married to each other or not living with each other, as income

for that year of the father or, for any period during which the mother has actual custody of the infant, as income for that year of the mother; and

- (c) so far as it is income for a year or part during which one only of the parents is alive, as income for the year of that parent.

- (2) So far as any income to which the said section 15(1) applies is income for a year of assessment, or part of a year of assessment, of an infant who is illegitimate and has not been adopted, sub-paragraph (1) above shall not apply to the income, but it shall be treated instead as income for that year of the mother, or, for any period during which the father has actual custody of the infant, as income for that year of the father.
- (3) For the purposes of this paragraph an infant's parents are to be treated as living with each other unless they are separated under an order of a court of competent jurisdiction, or by deed of separation, or are in fact separated in such circumstances that the separation is likely to be permanent.
- (4) Where a parent appeals against any assessment or decision on a claim on the grounds that an infant was not, or was, in his or her actual custody for any period, or was or was not for any period in the actual custody of the other parent, the other parent shall be entitled to appear and be heard on that question by the Commissioners hearing the appeal; and, as respects that question—
- (a) if the other parent does so appear, the determination of the Commissioners shall for the purposes of income tax be final and conclusive against him or her, save that he or she shall have the same right as the appellant to require the statement of a case for the opinion of the High Court, and
- (b) the determination of the Commissioners shall also be final and conclusive against the other parent if he or she fails without reasonable cause to appear.

- 2 Income of an infant falling to be treated as income of a parent by virtue of the provisions of this Schedule shall be so treated for all income tax purposes, or for the purposes of income tax other than surtax, or for the purposes of surtax only, according to the purposes for which it would have constituted income of the infant but for those provisions.

*Exclusion of aggregation where infant in legal custody of third party*

- 3 Paragraph 1 above shall not apply to any income so far as it is income for a year of assessment or part of a year of assessment during which the infant was in law in the custody of a person or persons other than a parent, and was not in the actual custody of a parent.

*Special rules for non-residents*

- 4 (1) Where, in the case of any income falling within paragraph 1(1)(a) above, one of the infant's parents is, and one is not, resident for the year in the United Kingdom, the said paragraph 1(1)(a) shall have effect in relation thereto as if, instead of specifying the infant's father, it specified the parent resident for the year in the United Kingdom if the infant is so resident, and the other parent if the infant is not so resident.
- (2) Nothing in the preceding provisions of this Schedule shall have effect so as to treat income of an infant resident in the United Kingdom for any year of assessment as income of a parent not so resident for that year, or income of an infant not so resident for any year as income of a parent so resident for that year.

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

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*Provisions as to certain payments involving tax reliefs*

- 5 (1) Where income of an infant for any period is treated by virtue of this Schedule as income of a parent, and the infant has made payments of either of the following descriptions—
- (a) annual payments in respect of which a deduction is permitted in computing for that period total income for the purposes of income tax or surtax, or
  - (b) payments in that period of interest in respect of which income tax at the standard rate is repayable,
- the said payments shall, to the extent of that income, be treated as having been made thereout by the parent instead of by the infant, and in the order in which they are described above.
- (2) Where income of an infant for any period is so treated, and the infant has during that period made payments qualifying for relief under section 219 of the Income Tax Act 1952 (premiums under certain life policies and annuity contracts), the deductions from tax to which he would apart from this sub-paragraph be entitled by reason of those payments shall, to the extent that the payments could have been made out of the income so treated (or, where sub-paragraph (1) above has effect, out of that income reduced by the payments falling within that sub-paragraph), be made instead from the tax with which the parent is chargeable.

*Right of parent to recover tax on infant's income*

- 6 (1) Where income of an infant is treated by virtue of this Schedule as income of a parent for any year of assessment, the parent shall be entitled to recover from the infant an amount equal to that by which the tax chargeable on and payable by him or her for the year exceeds that which would have been so chargeable and payable if the income had not been so treated:
- Provided that, so far as the excess is attributable to trust income which has not been distributed, the right conferred by this paragraph shall be exercisable against that income instead of against the infant.
- (2) A parent may require from the Board a certificate specifying in relation to any income the amount of tax which he or she is entitled to recover under this paragraph from trustees, and any such certificate shall be conclusive evidence of that amount.

*Repayments by parents*

- 7 Where income of an infant is treated as income of a parent by virtue of this Schedule, and, by reason thereof, the parent obtains in respect of any allowance or relief a repayment of tax in excess of that to which he would have been entitled if the income had not been so treated, the parent shall pay an amount equal to the excess to the infant, or, if the income arose under a trust, to the trustees.

*Loss relief*

- 8 (1) A claim for relief under section 341 of the Income Tax Act 1952 (set off of trade etc. losses against general income) may require that the relief be given without any reference to income treated by virtue of this Schedule as income of the person sustaining the loss or of that person's spouse.

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- (2) Where income so treated is not excluded by virtue of sub-paragraph (1) above, it shall be treated for the purposes of section 15(1) of the Finance Act 1953 (relief to be given by treating loss as reducing claimant's income first, and then income of claimant's spouse) as distinct from that of the claimant, and as if referred to therein after that of the spouse.

*Duty of trustees to give information*

- 9 A trustee shall, on being so required in writing by a parent of any beneficiary under the trust, give to the parent details of the trust income arising to the beneficiary for any year of assessment during, or for any part of which, the beneficiary is an infant.

*Adopted children*

- 10 In this Schedule "parent" means, in the case of an infant who has been adopted, a parent by adoption, and references to the father and the mother of an infant shall be construed accordingly; and references in this Schedule to adoption include references to adoption under the law of any territory outside the United Kingdom.

SCHEDULE 9

Section 16.

LIFE POLICIES, LIFE ANNUITY CONTRACTS AND CAPITAL REDEMPTION POLICIES

**PART I**

LIFE POLICIES: QUALIFICATION FOR RELIEF UNDER S.219 OF THE INCOME TAX ACT 1952

*General rules applicable to whole life and term assurances*

- 1 (1) Subject to the following provisions of this Part of this Schedule, if a policy secures a capital sum which is payable only on death, or one payable either on death or on earlier disability, it is a qualifying policy if—
- (a) it satisfies the conditions appropriate to it under sub paragraphs (2) to (4) below, and
  - (b) except to the extent permitted by sub-paragraph (5) below, it does not secure any other benefits.
- (2) If the capital sum referred to in sub-paragraph (1) above is payable whenever the event in question happens, or if it happens at any time during the life of a specified person—
- (a) the premiums under the policy must be payable at yearly or shorter intervals, and either—
    - (i) until the happening of the event, or, as the case may require, until the happening of the event or the earlier death of the specified person, or
    - (ii) until the time referred to in sub-paragraph (i) above or the earlier expiry of a specified period ending not earlier than ten years after the making of the insurance, and

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- (b) the total premiums payable in any period of twelve months must not exceed—
  - (i) twice the amount of the total premiums payable in any other such period, or
  - (ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for a period of ten years from the making of the insurance, or, in a case falling within paragraph (a)(ii) above, until the end of the period therein referred to.
- (3) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry of a specified term ending more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person—
  - (a) the premiums under the policy must be payable at yearly or shorter intervals, and either—
    - (i) until the happening of the event or the earlier expiry of the said term, or, as the case may require, until the happening of the event or, if earlier, the expiry of the term or the death of the specified person, or
    - (ii) as in sub-paragraph (i) above, but with the substitution for references to the term of references to a specified shorter period, being one ending not earlier than ten years after the making of the insurance of, if sooner, the expiry of three-quarters of the said term, and
  - (b) the total premiums payable in any period of twelve months must not exceed—
    - (i) twice the amount of the total premiums payable in any other such period, or
    - (ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for the term referred to in paragraph (a)(i) above, or, as the case may require, for the shorter period referred to in paragraph (a)(ii) above.
- (4) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry of a specified term ending not more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person, the policy must provide that any payment made by reason of its surrender during that period is not to exceed the total premiums previously paid thereunder.
- (5) Notwithstanding sub-paragraph (1)(b) above, if a policy secures a capital sum payable only on death, it may also secure benefits (including benefits of a capital nature) to be provided in the event of a person's disability ; and no policy is to be regarded for the purposes of that provision as securing other benefits by reason only of the fact that it confers a right to participate in profits, that it carries a guaranteed surrender value, that it gives an option to receive payments by way of annuity, or that it makes provision for the waiver of premiums by reason of a person's disability or for the effecting of a further insurance or insurances without the production of evidence of insurability.
- (6) In applying sub-paragraph (2) or (3) above to any policy—
  - (a) no account shall be taken of any provision for the waiver of premiums by reason of a person's disability, and

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

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- (b) if the term of the policy runs from a date earlier, but not more than three months earlier, than the making of the insurance, the insurance shall be treated as having been made on that date, and any premium paid in respect of the period before the making of the insurance, or in respect of that period and a subsequent period, as having been payable on that date.
- (7) References in this paragraph to a capital sum payable on any event include references to any capital sum, or series of capital sums, payable by reason thereof; and a policy secures a capital sum payable either on death or on disability notwithstanding that the amount payable may vary with the event.

*General rules applicable to endowment assurances*

- 2 (1) Subject to the following provisions of this Part of this Schedule, a policy which secures a capital sum payable either on survival for a specified term or on earlier death, or earlier death or disability, including a policy securing the sum on death only if occurring after the attainment of a specified age not exceeding sixteen, is a qualifying policy if it satisfies the following conditions—
- (a) the term must be one ending not earlier than ten years after the making of the insurance,
  - (b) premiums must be payable under the policy at yearly or shorter intervals, and—
    - (i) until the happening of the event in question, or
    - (ii) until the happening of that event, or the earlier expiry of a specified period shorter than the term but also ending not earlier than ten years after the making of the insurance, or
    - (iii) if the policy is to lapse on the death of a specified person, until one of those times or the policy's earlier lapse,
  - (c) the total premiums payable under the policy in any period of twelve months must not exceed—
    - (i) twice the amount of the total premiums payable in any other such period, or
    - (ii) one-eighth of the total premiums which would be payable if the policy were to run for the specified term,
  - (d) the policy—
    - (i) must guarantee that the capital sum payable on death, or on death occurring after the attainment of a specified age not exceeding sixteen, will, whenever that event may happen, be equal to three-quarters at least of the total premiums which would be payable if the policy were to run for that term, disregarding any amounts included in those premiums by reason of their being payable otherwise than annually, and
    - (ii) if it is a policy which does not secure a capital sum in the event of death before the attainment of a specified age not exceeding sixteen, must not provide for the payment in that event of an amount exceeding the total premiums previously paid thereunder, and
  - (e) the policy must not secure the provision (except by surrender) at any time before the happening of the event in question of any benefit of a capital nature other than a payment falling within paragraph (d)(ii) above, or benefits attributable to a right to participate in profits or arising by reason of a person's disability.

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- (2) Sub-paragraphs (6) and (7) of paragraph 1 above shall, with any necessary modifications, have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.
- (3) For the purposes of sub-paragraph (1)(d)(i) above, ten per cent, of the premiums payable under any policy issued in the course of an industrial assurance business as defined in section 1(2) of the Industrial Assurance Act 1923 shall be treated as attributable to the fact that they are not paid annually.

*Special types of policy*

(i) Friendly Society policies

- 3 A policy issued by any friendly society, or branch of a friendly society, in the course of its tax exempt life or endowment business, as defined in section 29(9) of the Finance Act 1966, is a qualifying policy notwithstanding that it does not comply with the conditions specified in paragraph 1 or 2 above.

(ii) Industrial Assurance policies

- 4 (1) A policy issued in the course of an industrial assurance business, as defined in section 1(2) of the Industrial Assurance Act 1923, and not constituting a qualifying policy by virtue of paragraph 1 or 2 above, is nevertheless a qualifying policy if—
- (a) the sums guaranteed by the policy, together with those guaranteed at the time the assurance is made by all other policies issued in the course of such a business to the same person and not constituting qualifying policies apart from this paragraph, do not exceed £1,000,
  - (b) it satisfies the conditions with respect to premiums specified in paragraph 1(2) above,
  - (c) except by reason of death or surrender, no capital sum other than one falling within paragraph (d) below can become payable under the policy earlier than ten years after the making of the assurance, and
  - (d) where the policy provides for the making of a series of payments during its term—
    - (i) the first such payment is due not earlier than five years after the making of the assurance, and the others, except the final payment, at intervals of not less than five years, and
    - (ii) the amount of any payment, other than the final payment, does not exceed four-fifths of the premiums paid in the interval before its payment, and
    - (iii) if the first such payment is due earlier than ten years after the making of the assurance, or any other such payment except the last is due earlier than ten years after the preceding one, the sums guaranteed by the policy, together with the other sums referred to in paragraph (a) above so far as guaranteed by policies the payments under which also fall within this sub-paragraph, do not exceed £500.
- (2) For the purpose of this paragraph, the sums guaranteed by a policy do not include any bonuses, or, in the case of a policy providing for a series of payments during its term, any of those payments except the first, or any sum payable on death during the term by reference to one or more of those payments except so far as that sum is referable to the first such payment.

(iii) Family income policies and mortgage protection policies



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- 5 (1) The following provisions apply to any policy which is not a qualifying policy apart from those provisions, and the benefits secured by which consist of or include the payment on or after a person's death of—
- (a) one capital sum of an amount which does not vary according to the date of death, plus a series of capital sums payable if the death occurs during a specified period, or
  - (b) a capital sum, the amount of which is less if the death occurs in a later part of a specified period than if it occurs in an earlier part of that period.
- (2) A policy falling within sub-paragraph (1)(a) above is a qualifying policy if—
- (a) it would be one if it did not secure the series of capital sums there referred to, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and
  - (b) it would also be one if it secured only that series of sums, and the premiums thereunder were the balance of those actually so payable.
- (3) A policy falling within sub-paragraph (1)(b) above is a qualifying policy if—
- (a) it would be one if the amount of the capital sum there referred to were equal throughout the period to its smallest amount, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and
  - (b) it would also be one if it secured only that capital sum so far as it from time to time exceeds its smallest amount, and the premiums payable thereunder were the balance of those actually so payable.

*Other special provisions*

(i) Exceptional mortality risk

- 6 For the purpose of determining whether any policy is a qualifying policy, there shall be disregarded—
- (a) so much of any premium thereunder as is charged on the grounds that an exceptional risk of death is involved, and
  - (b) any provision under which, on those grounds, any sum may become chargeable as a debt against the capital sum guaranteed by the policy on death.

(ii) Connected policies

- 7 Where the terms of any policy provide that it is to continue in force only so long as another policy does so, neither policy is a qualifying policy unless, if they had constituted together a single policy issued in respect of an insurance made at the time of the insurance in respect of which the first-mentioned policy was issued, that single policy would have been a qualifying policy.

(iii) Premiums paid out of sums due under previous policies

- 8 (1) Where, in the case of a policy under which a single premium only is payable, liability for the payment of that premium is discharged in accordance with sub-paragraph (2) below, the policy is a qualifying policy notwithstanding anything in paragraph 1(2) or 1(3) above, or in paragraph (b) or (c) of paragraph 2(1); and where, in the case of any other policy, liability for the payment of the first premium thereunder, or of any part of that premium, is so discharged, the premium or part shall be disregarded for the purposes of paragraph 1(2)(b) and 1(3)(b) above, and of paragraph (c) of paragraph 2(1).

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- (2) Liability for the payment of a premium is discharged in accordance with this sub-paragraph if it is discharged by the retention by the company with whom the insurance is made of the whole or a part of any sum which has become payable on the maturity of, or on the surrender more than ten years after its issue of the rights conferred by, a policy—
- (a) previously issued by the company to the person making the insurance, or, if it is made by trustees, to them or any predecessors in office, or
  - (b) issued by the company when the person making the insurance was an infant, and securing a capital sum payable either on a specified date falling not more than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age,
- being, unless it is a policy falling within paragraph (b) above and the premium in question is a first premium only, a policy which was itself a qualifying policy, or which would have been a qualifying policy if issued in respect of an insurance made after 19th March 1968.
- (iv) Substitutions, variations &c
- 9 (1) Where one policy (hereafter referred to as " the new policy ") is issued in substitution for, or on the maturity of and in consequence of an option conferred by, another policy (hereafter referred to as " the old policy " ) the question whether the new policy is a qualifying policy shall, to the extent provided by the rules in sub-paragraph (2) below, be determined by reference to both policies.
- (2) The said rules (for the purposes of which, the question whether the old policy was a qualifying policy shall be determined in accordance with this Part of this Schedule, whatever the date of the insurance in respect of which it was issued) are as follows—
- (a) if the new policy would apart from this paragraph be a qualifying policy, but the old policy was not, the new policy is not a qualifying policy unless the person making the insurance in respect of which it is issued was an infant when the old policy was issued, and the old policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age ;
  - (b) if the new policy would apart from this paragraph be a qualifying policy, and the old policy was also a qualifying policy, the new policy is a qualifying policy unless—
    - (i) it takes effect before the expiry of ten years from the making of the insurance in respect of which the old policy was issued, and
    - (ii) the highest total of premiums payable thereunder for any period of twelve months expiring before that time is less than one-half of the highest total paid for any period of twelve months under the old policy, or under any related policy issued less than ten years before the issue of the new policy (" related policy " meaning any policy in relation to which the old policy was a new policy within the meaning of this paragraph, any policy in relation to which that policy was such a policy, and so on);
  - (c) if the new policy would not apart from this paragraph be a qualifying policy, and would fail to be so by reason only of paragraph 1(2) or 1(3) above, or of paragraph (a), (b) or (c) of paragraph 2(1), it is nevertheless a qualifying policy if the old policy was a qualifying policy and—

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- (i) the old policy was issued in respect of an insurance made more than ten years before the taking effect of the new policy, and the premiums payable for any period of twelve months under the new policy do not exceed the smallest total paid for any such period under the old policy, or
      - (ii) the old policy was issued outside the United Kingdom, and the circumstances are as specified in sub-paragraph (3) below.
  - (3) The said circumstances are—
    - (a) that the person in respect of whom the new insurance is made became resident in the United Kingdom during the twelve months ending with the date of its issue,
    - (b) that the issuing company certify that the new policy is in substitution for the old, and that the old was issued either by a branch or agency of theirs outside the United Kingdom or by a company outside the United Kingdom with whom they have arrangements for the issue of policies in substitution for ones held by persons coming to the United Kingdom, and
    - (c) that the new policy confers on the holder benefits which are substantially equivalent to those which he would have enjoyed if the old policy had continued in force.
- 10 (1) Subject to the provisions of this paragraph, where the terms of a policy are varied, the question whether the policy after the variation is a qualifying policy shall be determined in accordance with the rules in paragraph 9 above, with references in those rules to the new policy and the old policy construed for that purpose as references respectively to the policy after the variation and the policy before the variation, and with any other necessary modifications.
- (2) In applying any of those rules by virtue of this paragraph, the question whether a policy after a variation would be a qualifying policy apart from the rule shall be determined as if any reference in paragraphs 1 to 7 of this Schedule to the making of an insurance,
- or to a policy's term, were a reference to the taking effect of the variation or, as the case may be, to the term of the policy as from the variation.
- (3) This paragraph does not apply by reason of—
  - (a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect, or
  - (b) any variation effected before the end of the year 1968 for the sole purpose of converting into a qualifying policy any policy issued (but not one treated by virtue of section 16(6) of this Act as issued) in respect of an insurance made after 19th March 1968.

## PART II

### PROVISIONS CHARGING TAX ON GAINS

*Meaning of "chargeable event", and computation of gain arising*

- (i) Life policies

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- 11 (1) Subject to the provisions of this paragraph, in this Part of this Schedule "chargeable event" means, in relation to a policy of life insurance—
- (a) unless it is a policy which falls within sub-paragraph (2) below, any of the following—
    - (i) any death giving rise to benefits under the policy,
    - (ii) the maturity of the policy,
    - (iii) the surrender in whole or in part of the rights conferred by the policy, and
    - (iv) the assignment for money or money's worth of those rights or of any share therein ; and
  - (b) if it is a policy falling within sub-paragraph (2) below, any of the above events, but—
    - (i) in the case of death or maturity, only if the policy is converted into a paid-up policy before the expiry of ten years from the making of the insurance, or, if sooner, of three-quarters of the term for which the policy is to run if not ended by death or disability,
    - (ii) in the case of a surrender or assignment, only if it is effected within that time, or the policy has been converted into a paid-up policy within that time.
- (2) A policy falls within this sub-paragraph if (whether or not the premiums thereunder are eligible for relief under section 219 of the Income Tax Act 1952) it is a qualifying policy within the meaning of Part I of this Schedule.
- (3) The maturity of a policy is not a chargeable event in relation thereto if a new policy is issued in consequence of the exercise of an option conferred by the maturing policy unless the person making the insurance in respect of which the new policy is issued was an infant when the former policy was issued, and the former policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age.
- (4) No event is a chargeable event in relation to a policy if the rights conferred by the policy have at any time before the event been assigned for money or money's worth.
- (5) No account shall be taken for the purposes of this paragraph of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights or share concerned, or of any assignment between spouses living together ; and references in sub-paragraph (1) above to the surrender of the rights conferred by a policy do not include references to the surrender of any right to a bonus.
- (6) Where sub-paragraph (1)(b) above applies to a policy which has been varied so as to increase the premiums payable thereunder, it shall so apply as if the references in sub-paragraph (i) to the making of the insurance and the term of the policy were references respectively to the taking effect of the variation and the term of the policy as from the variation.
- 12 (1) On the happening of a chargeable event in relation to any policy of life insurance, there shall be treated as a gain arising in connection with the policy—
- (a) if the event is a death, the excess (if any) of the surrender value of the policy immediately before the death, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums ;

- (b) if the event is the maturity of the policy, or the surrender in whole or in part of the rights thereby conferred, the excess (if any) of the amount or value of the sum payable or other benefits arising by reason of the event, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, or, in the case of a partial surrender, over the same proportion of that amount as is borne by the amount or value of the said sum or other benefits to the amount or value of the sum or other benefits which would have been payable, or would have arisen, if the rights had been wholly surrendered;
- (c) if the event is an assignment—
- (i) if it is an assignment of all the rights conferred by the policy, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, and
  - (ii) if it is an assignment of a share only in those rights, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments so far as attributable to the share assigned and received by the assignor or by any person at his direction, over the same proportion of the total amount previously paid under the policy by way of premiums as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Where, in a case falling within sub-paragraph (1)(b) above, a right to periodical payments arises by reason of the event, there shall be treated as payable by reason thereof an amount equal to the capital value of those payments at the time the right arises.
- (3) Where, in a case falling within sub-paragraph (1)(c) above, the assignment is between persons who are connected with each other within the meaning of paragraph 21 of Schedule 7 to the Finance Act 1965, the assignment shall be deemed to have been made for a consideration equal to the market value of the rights or share assigned.
- (4) In this paragraph, "relevant capital payments" means, in relation to any policy, any sum or other benefit of a capital nature, other than one attributable to a person's disability, paid or conferred under the policy before the happening of the chargeable event, and any sum paid, or other benefit conferred, by reason of any surrender before that time of a right to a bonus under the policy; and references in this sub-paragraph and (in relation to premiums) in sub-paragraph (1) above to "the policy" include references to any related policy, that is to say, to any policy in relation to which the policy is a new policy within the meaning of paragraph 9 above, any policy in relation to which that policy is such a policy, and so on.
- (ii) Life annuity contracts
- 13 (1) Subject to sub-paragraphs (2) and (3) below, in this Part of this Schedule "chargeable event" means, in relation to any contract for a life annuity, the surrender in whole or in part of the rights conferred by the contract, or the assignment for money or money's worth of those rights or of any share therein.

Where the terms of a contract provide for the payment of a capital sum as an alternative, in whole or in part, to payments by way of annuity, the taking of the capital sum shall be treated for the purposes of this and the next following paragraph as a surrender in whole or in part of the rights conferred by the contract

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- (2) An event referred to in sub-paragraph (1) above is not a chargeable event in relation to any contract if the rights conferred by the contract have at any time before the event been assigned for money or money's worth.
- (3) Sub-paragraph (5) of paragraph 11 above shall, with any necessary modification, apply for the purposes of this paragraph as it applies for the purposes of the said paragraph 11.
- 14 (1) On the happening of a chargeable event in relation to any contract for a life annuity, there shall be treated as a gain arising in connection with the contract—
- (a) if the event is the surrender in whole or in part of the rights conferred by the contract, the excess (if any) of the amount payable by reason of the event over—
- (i) the total amount previously paid under the contract, whether by way of premiums or as lump sum consideration, reduced, if before the happening of the event one or more payments have been made on account of the annuity, by the capital element in the said payment or payments, as determined in accordance with section 27 of the Finance Act 1956, or
- (ii) in the case of a partial surrender, the same proportion of that amount (as so reduced where appropriate) as is borne by the amount payable by reason of the event to the amount which would have been so payable if the rights had been wholly surrendered;
- (b) if the event is the assignment for money or money's worth of the rights conferred by the contract, or of any share therein, the excess (if any) of the amount or value of the consideration over—
- (i) the amount specified in sub-paragraph (1)(a)(i) above, or
- (ii) if the assignment is of a share only, the same proportion of that amount (reduced as therein mentioned where appropriate) as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Sub-paragraph (3) of paragraph 12 above shall apply for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1)(c) of that paragraph.
- (iii) Capital redemption policies
- 15 (1) Subject to sub-paragraph (2) below, in this Part of this Schedule "chargeable event" means, in relation to a capital redemption policy, any of the following—
- (i) the maturity of the policy,
- (ii) the surrender in whole or in part of the rights conferred by the policy, and
- (iii) the assignment for money or money's worth of those rights or of any share therein.
- (2) Sub-paragraph (5) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for purposes of the said paragraph 11.
- 16 (1) The provisions of paragraph 12 above, except sub-paragraph (3) thereof, shall, so far as appropriate and subject to sub-paragraph (2) below, apply to capital redemption policies as they apply to policies of life insurance.
- (2) Where a chargeable event happens in relation to a capital redemption policy which has previously been assigned for money or money's worth, the said paragraph 12 shall

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have effect in relation thereto as if, for the references to the total amount previously paid under the policy by way of premiums, there were substituted references to the amount or value of the consideration given for the last such assignment, plus the total amount of the premiums paid under the policy since that assignment

*Method of charging gain to tax*

- 17 (1) Where, under the preceding provisions of this Schedule, a gain is to be treated as arising in connection with any policy or contract—
- (a) if, immediately before the happening of the chargeable event in question, the rights conferred by the policy or contract were vested in an individual as beneficial owner, or were held on trusts created by an individual (including trusts arising under section 11 of the Married Women's Property Act 1882, section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880, or section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964) or as security for a debt owed by an individual, the amount of the gain shall be deemed for the purposes of surtax (but not for any other income tax purpose except the furnishing of information) to form part of that individual's total income for the year in which the event happened ;
  - (b) if, immediately before the happening of that event, the said rights were in the beneficial ownership of a close company within the meaning of Part IV of the Finance Act 1965, or were held on trusts created, or as security for a debt owed, by such a company, then—
    - (i) for the purposes of section 77 of that Act (shortfall in distributions) the company's distributable income (but not its estate or trading income) for the accounting period in which the event happened shall be treated as increased by the amount of the gain, and
    - (ii) the amount of the gain shall also be deemed to form part of the company's income for that period for the purposes of section 78 of that Act (surtax apportionments) ;
  - (c) if, immediately before the happening of that event, the said rights were vested in personal representatives within the meaning of Part XIX of the Income Tax Act 1952, the amount of the gain shall, as regards surtax, be deemed for the purposes of the said Part XIX to be part of the aggregate income of the estate of the deceased:

Provided that nothing in this sub-paragraph shall apply to any amount which is chargeable to income tax or to corporation tax apart from this sub-paragraph.

- (2) Where, immediately before the happening of a chargeable event, the rights conferred by any policy or contract were vested beneficially in two or more persons, or were held on trusts created,
- or as security for a debt owed, by two or more persons, paragraphs (a) and (b) of sub-paragraph (1) above shall have effect in relation to each of those persons as if he had been the sole owner, settlor or debtor, but with references to the amount of the gain construed as references to the part of it proportionate to his share in the rights at the time of the event or, as the case may require, when the trusts were created.
- (3) References in sub-paragraphs (1) and (2) above to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.

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*Relief where gain charged directly to surtax*

- 18 (1) The following provisions of this paragraph shall have effect for the purpose of giving relief, on a claim in that behalf being made by him to the Board, in respect of any increase in an individual's liability to tax which is attributable to one or more amounts being included in his total income for a year of assessment by virtue of paragraph 17(1)(a) above.
- (2) Where one amount only is so included, there shall be computed—
- (a) the surtax which would be chargeable in respect of the amount if relief under this paragraph were not available and it constituted the highest part of the claimant's total income for the year, and
  - (b) the surtax (if any) which would be chargeable in respect of the amount if calculated, in accordance with sub-paragraph (3) below, by reference to its appropriate fraction,
- and the relief shall consist of a reduction or repayment of tax equal to the difference between the two amounts of surtax so computed, or, if surtax would not be chargeable on a calculation by reference to the appropriate fraction, of a reduction or repayment of the tax equal to the surtax computed under paragraph (d) above.
- (3) In sub-paragraph (2) above "appropriate fraction" means, in relation to any amount, such a sum as bears thereto the same proportion as that borne by one to the number of complete years for which the policy or contract has run before the happening of the chargeable event; and the computation required by paragraph (b) of that sub-paragraph shall be made by applying to the amount in question the rate or rates of surtax (if more than one, in corresponding proportions) which would apply if it were reduced to that fraction, treating it, as so reduced, as still constituting the highest part of the claimant's total income for the year, and treating so much of it (if any) as would then not be chargeable to surtax as if it were chargeable thereto at a nil rate.
- For the purposes of this sub-paragraph, the number of years for which a policy of life insurance has run before the happening of a chargeable event shall be calculated, where appropriate, from the issue of the earliest related policy, meaning, any policy in relation to which the policy is a new policy within the meaning of paragraph 9 above, any policy in relation to which that policy is such a policy, and so on.
- (4) Where by virtue of the said paragraph 17(1)(a) two or more amounts are included in an individual's total income for any year of assessment, sub-paragraphs (2) and (3) above shall apply as if they together constituted a single amount, but with the appropriate fraction of the whole determined by adding together the appropriate fractions of the individual amounts.
- (5) A provision of this paragraph requiring surtax to be calculated as if an amount constituted the highest part of a claimant's total income shall apply notwithstanding any provision of the Income Tax Acts directing any other amount to be treated as the highest part thereof, but, for the purposes of this paragraph, a claimant's total income shall be deemed not to include any amount in respect of which he is chargeable to tax under section 37 of the Finance Act 1960 (payments on retirement or removal from office or employment) or sections 22 to 24 of the Finance Act 1963 (premiums, &c, treated as rent).
- (6) For the purposes of any provision of the Income Tax Acts, other than this paragraph or Schedule 6 to the Finance Act 1963, requiring an amount to be treated as the highest part of an individual's income, his income shall be calculated without regard to any amount included therein as mentioned in sub-paragraph (1) above ; and where



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an individual claims relief for any year of assessment under the said Schedule 6 or paragraph 7 of Schedule 4 to the Finance Act 1960, then, in calculating the relief, the claimant's income shall be deemed to include, in respect of any amount which would otherwise be included therein as aforesaid, no greater amount than the appropriate fraction thereof.

- (7) Section 9 of the Income Tax Management Act 1964 shall apply to any claim for relief under this paragraph.

*Right of individual to recover tax from trustees*

- 19 (1) Where an amount is included in an individual's income by virtue of paragraph 17(1) (a) above, and the rights or share in question were held immediately before the happening of the chargeable event on trust, the individual shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, an amount equal to that (if any) by which the tax with which he is chargeable for the year of assessment in question, reduced by the amount of any relief available under paragraph 18 above in respect of the amount so included, exceeds the tax with which he would have been chargeable for the year if the said amount had not been so included.
- (2) Where, for the purposes of relief under the said paragraph 18, two or more amounts are to be treated as one, the reduction required by sub-paragraph (1) above on account of the relief available in respect of any of them shall consist of a proportionate part of the relief available in respect of their aggregate.
- (3) An individual may require the Board to certify any amount recoverable by him by virtue of this paragraph, and the certificate shall be conclusive evidence of the amount.

### PART III

#### SUPPLEMENTARY PROVISIONS

*Duty of insurers, etc. to certify qualifying policies,  
and to give information about chargeable events*

- 20 (1) Subject to sub-paragraph (3) below, where a policy of life insurance issued in respect of an insurance made after 19th March 1968 is, in the opinion of the body by whom it is issued, a qualifying policy within the meaning of Part I of this Schedule, it shall be the duty of that body to give to the policy holder a duly authenticated certificate to that effect.

Any such certificate shall be given within three months of the issue of the policy, or, if later, within three months of the passing of this Act, and shall specify the name of the policy holder, the name of the person whose life is assured, the reference number or other means of identification allocated to the policy, the capital sum or sums assured, and the amounts and dates for payment of the premiums.

- (2) Subject to the said sub-paragraph (3), where a policy of life insurance is varied after the said 19th March and, in the opinion of the body by whom it was issued, is after the variation a qualifying policy within the meaning of the said Part I, it shall be the duty of that body, within three months of the making of the variation, or, if later,

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within three months of the passing of this Act, to give to the policy holder a like certificate with respect to the policy after the variation.

- (3) Where, in the case of any policy, or any policy after a variation, the total premiums payable in any period of twelve months do not exceed £26, a certificate need be given under sub-paragraph (1) or (2) above only if requested in writing by the policy holder, and, if so requested, shall be given within three months of receipt of the request; and sub-paragraph (2) above shall not apply by reason of—
- (a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect, or
  - (b) any variation of a policy issued in respect of an insurance made on or before 19th March 1968, other than a variation by virtue of which the policy falls, under section 16(6) of this Act, to be treated as issued in respect of an insurance made after that date.
- (4) Subject to sub-paragraph (5) below, where a chargeable event within the meaning of Part II of this Schedule has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall, within three months of the event or, if it is a death or an assignment, within three months of their receiving written notification thereof, deliver to the inspector a certificate specifying—
- (a) the name and address of the policy holder,
  - (b) the nature of the event, and the date on which it happened,
  - (c) as may be required for computing the gain to be treated as arising by virtue of the said Part II—
    - (i) the surrender value of the policy, or the sum payable, or other benefits to be conferred, by the body in question by reason of the event,
    - (ii) the amount or value of any relevant capital payments,
    - (iii) the amounts previously paid under the policy or contract by way of premiums, or otherwise by way of consideration for an annuity, and
    - (iv) the capital element in any payment previously made on account of an annuity, and
  - (d) the number of years relevant for computing the appropriate fraction of the gain for the purposes of paragraph 18(3) above.
- (5) Sub-paragraph (4) above shall not apply where—
- (a) the body in question are satisfied that no gain is to be treated as arising by reason of the event, or
  - (b) the amount of the surrender value or sum, or the value of the other benefits, referred to in paragraph (c)(i) of that sub-paragraph, together with the amount or value of any payments within paragraph (c)(ii) thereof, does not exceed £500,
- but the inspector may by notice in writing require a like certificate in any such case, and it shall be the duty of the body to deliver the certificate within thirty days of receipt of the notice.
- (6) Sections 46 and 47 of the Finance Act 1960 (penalties) shall have effect as if sub-paragraphs (4) and (5) above were included in the third column of Schedule 6 to that Act.

*Interpretation*

- 21 In this Schedule " assignment", in relation to Scotland, means an assignation.

SCHEDULE 10

Section 18.

CASH BASIS ETC.

*Allowable deductions*

- 1 (1) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of subsection (1) of the principal section, there shall be deducted from the amount which, apart from this paragraph, would be chargeable to tax—
- (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing for tax purposes the profits or gains of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits or gains as so computed, and
  - (b) any allowance under the Capital Allowances Act 1968 to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given by way of relief before the discontinuance.
- (2) No amount shall be deducted under sub-paragraph (1) above if that amount has been allowed under any other provision of the Income Tax Acts or the Corporation Tax Acts.
- (3) No amount shall be deducted more than once under this paragraph, or both under this paragraph and under section 32(4) of the Finance Act 1960 (post-cessation receipts: allowable deductions), and—
- (a) any expense or debit shall be apportioned between a sum chargeable under subsection (1) of the principal section and a sum chargeable under the said section 32 in such manner as may be just,
  - (b) as between sums chargeable, whether under subsection (1) of the principal section or the said section 32, for one year of assessment or accounting period, and sums so chargeable for a subsequent year of assessment or accounting period, any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier year of assessment or accounting period,
  - (c) subject to paragraph (b) above, as between sums chargeable for any year of assessment or accounting period under subsection (1) of the principal section and sums so chargeable under the said section 32, any deduction in respect of a loss or capital allowance shall be made under this paragraph rather than under the said section 32,
- but, in the case of a loss which by virtue of this paragraph or the said section 32(4) is to be allowed after the discontinuance, not so as to authorise its deduction from any sum chargeable for a year of assessment or accounting period preceding that in which the loss is incurred.

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

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- (4) In section 21(5) of the Finance Act 1964 (body corporate carrying on mutual business: exclusion of double relief), and in section 17(8) of the Finance Act 1967 (relief for sale of copyright), the references to section 32(4) of the Finance Act 1960 shall include references to this paragraph.
- 2 (1) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of subsection (2) of the principal section, there shall be deducted any expense or debit which is not otherwise allowable and which, but for the change in basis, would have been deducted in computing for tax purposes the profits or gains of the trade, profession or vocation.
- (2) No amount shall be deducted more than once under this paragraph.

*Transfer of right to receive a payment*

- 3 (1) Subject to sub-paragraph (2) below, in the case of a transfer for value of the right to receive any sum to which subsection (1) or subsection (2) of the principal section applies, any tax chargeable by virtue of that section shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in the principal section and this Schedule to sums received shall be construed accordingly.
- (2) Where the occasion of the discontinuance is a change in the persons carrying on the trade, profession or vocation, and the right to receive any sum to which subsection (1) of the principal section applies is or was transferred, at the time of the change, to die persons carrying on the trade, profession or vocation after title change, tax shall not be charged by virtue of the principal section, but (except where the change took place before 19th March 1968) any sum received by those persons by virtue of the transfer shall be treated for all purposes as a receipt to be brought into the computation of profits or gains of the trade, profession or vocation in the period in which it is received.

*Work in progress*

- 4 (1) It is hereby declared that where work in progress at the discontinuance of a profession or vocation, or the responsibility for its completion, is transferred, the sums to which subsection (1) of the principal section applies include any sums received by way of consideration for the transfer, and any sums received by way of realisation by the transferee, on behalf of the transferor, of the work in progress transferred.
- (2) Where, in the case of any profession or vocation, the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D there has been—
- (a) a change from a conventional basis to the earnings basis, or a change of conventional basis, and
  - (b) the value of work in progress at the time of the change was debited in the accounts and allowed as a deduction in computing profits for tax purposes for a period after the change,

then, in so far as no counterbalancing credit was brought into account in computing profits for tax purposes for any period ending before or with the date of the change, tax shall be charged under subsection (2) of the principal section in respect of that amount for the year of assessment in which the change occurred as if that amount

were a sum to which the said subsection (2) applies, and the change of basis were a change of the kind described in that subsection.

- (3) In this paragraph " work in progress " at the time of a change of basis shall be construed in the same way as " work in progress " at the discontinuance of a profession or vocation is construed by section 43(5) of the Finance Act 1960, with the substitution in that subsection for references to the discontinuance of references to the change of basis.

#### *Earned income relief*

- 5 Where an individual is chargeable to tax by virtue of the principal section, and the profits or gains of the trade, profession or vocation to which he was entitled before the discontinuance, or as the case may be before the change in basis, fell to be treated as earned income for income tax purposes the sums in respect of which he is so chargeable (after any reduction under section 19 of this Act) shall also be treated for income tax purposes as earned income.

#### *Election for charge to tax at time of discontinuance or change of basis*

- 6 (1) Where any sum chargeable to tax by virtue of the principal section is received in any year of assessment beginning not later than six years after the discontinuance, or as the case may be after the change of basis, the recipient may, by notice in writing sent to the inspector within two years after that year of assessment, elect that the tax so chargeable shall be charged as if the sum were received on the date on which the discontinuance took place, or as the case may be on the last day of the period at the end of which the change of basis took place and in any such case an assessment shall (notwithstanding anything in the Income Tax Acts or the Corporation Tax Acts) be made on him accordingly, and in connection with that assessment no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of paragraph 1 or paragraph 2 above.
- (2) In section 33(3) of the Finance Act 1960 (election as respects tax chargeable by virtue of section 32 of that Act corresponding to the election under this paragraph) for the words ' twelve months ' there shall be substituted the words ' two years '.

#### *Company surtax*

- 7 Subsections (4) and (5) of section 33 of the Finance Act 1960 (which, as amended by section 63 of the Finance Act 1965, concern the charge to tax on participators in a close company which is wound up) shall have effect as if references to section 32 of that Act included references to subsection (1) of the principal section.

#### *Partnerships*

- 8 (1) Section 19 of this Act shall apply as follows as respects the net amount of any sum chargeable under the principal section which is assessed by reference to a sum accruing to a partnership.
- (2) The part of that net amount which is apportioned to any partner (who is an individual), or the personal representative of such an individual, shall be a net amount with which that person is chargeable under the principal section.

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- (3) If the part of the said net amount which is so apportioned is a greater proportion of that amount than is the individual's share (that is to say the part to be included in his total income) of the total amount of the partnership profits assessed to income tax for the three years of assessment ending with the year in which the discontinuance or change of basis took place, the amount of the reduction to be given by way of relief shall not exceed the amount of relief which would have been so given if the apportionment had been made by reference to his share of that total amount.

## SCHEDULE 11

Section 32.

### QUOTED SECURITIES HELD ON 6TH APRIL 1965: ELECTION FOR POOLING AT VALUE ON THAT DATE

- 1 (1) If a person so elects, quoted securities covered by the election shall be excluded—
- (a) from the principal section, and
  - (b) from paragraph 22(4) of Schedule 6 to the Finance Act 1965 (which brings into the computation of the gain the cost of acquisition as well as the value on 6th April 1965).
- (2) This paragraph has effect as respects any disposal after 19th March 1968.
- (3) An election made by any person under this paragraph shall be as respects all disposals made by him at any time, including disposals made before the election but after 19th March 1968—
- (a) of quoted securities of kinds other than fixed-interest securities and preference shares, or
  - (b) of fixed-interest securities and preference shares,
- and references to the quoted securities covered by an election shall be construed accordingly.
- Any person may make both of the elections.
- (4) An election under this paragraph shall not cover quoted securities which the holder acquired on a disposal after 19th March 1968 in relation to which either of the following enactments (which secure that neither a gain nor a loss accrues on the disposal) applies, that is—
- (a) paragraph 20(1) of Schedule 7 to the Finance Act 1965 (husband and wife),
  - (b) paragraph 2(1) of Schedule 13 to that Act (transfers within group of companies),
- but this paragraph shall apply to the quoted securities so held if the person making the original disposal (that is to say the wife or husband of the holder, or the other member of the group of companies) makes an election covering quoted securities of the kind in question.
- For the purpose of identifying quoted securities disposed of by the holder with quoted securities acquired by him on a disposal in relation to which either of the said enactments applies, so far as they are of the same class, quoted securities acquired at an earlier time shall be deemed to be disposed of before quoted securities acquired at a later time.
- (5) For the avoidance of doubt it is hereby declared—

- (a) that where a person makes an election under this paragraph as respects quoted securities which he holds in one capacity, that election does not cover quoted securities which he holds in another capacity, and
  - (b) that an election under this paragraph is irrevocable.
- (6) An election under this paragraph shall be made by notice in writing to the inspector not later than the expiration of two years from the end of the year of assessment or accounting period of a company in which the first relevant disposal is made, or such further time as the Board may allow.
- (7) Subject to paragraph 2 below, in this paragraph the "first relevant disposal", in relation to each of the elections referred to in sub-paragraph (3) of this paragraph, means the first disposal after 19th March 1968 by the person making the election of quoted securities of the kind covered by that election.
- (8) In ascertaining the first relevant disposal, and in ascertaining " the relevant time " for the purposes of paragraph 2 below, any disposal chargeable under Case VII of Schedule D shall be disregarded, and " disposal chargeable under Case VII of Schedule D " includes any case where the acquisition and disposal is in circumstances such that no gain accrues, but if a gain had accrued it would have been so chargeable.
- (9) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

*Election by principal company of group*

- 2 (1) In the case of companies which at the relevant time are members of a group of companies—
- (a) an election under paragraph 1 above by the company which at that time is the principal company of the group shall have effect also as an election by any other company which at that time is a member of the group, and
  - (b) no election under that paragraph may be made by any other company which at that time is a member of the group.
- (2) In this paragraph " the relevant time ", in relation to a group of companies, and in relation to each of the elections referred to in paragraph 1(3) above, is the first occasion after 19th March 1968 when any company which is then a member of a group disposes of quoted securities of a kind covered by that election, and for the purposes of paragraph 1(6) above that occasion is, in relation to the group, " the first relevant disposal".
- (3) This paragraph shall not apply in relation to quoted securities of either kind referred to in paragraph 1(3) of this Schedule which are owned by a company which, in some period after 19th March 1968 and before the relevant time, was not a member of the group if in that period it had made an election under paragraph 1 above in relation to securities of that kind (or was treated by virtue of this paragraph, in relation to another group, as having done so), or had made a disposal of quoted securities of that kind and did not make an election within the time limited by paragraph 1(6) above.
- (4) This paragraph shall apply notwithstanding that a company ceases to be a member of the group at any time after the relevant time.
- (5) In this paragraph " company " and " group " shall be construed in accordance with paragraph 1 of Schedule 13 to the Finance Act 1965.

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

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*Pooling at value on 6th April 1965: exchange of securities etc.*

- 3 (1) Where a person who has made only one of the elections under the preceding provisions of this Schedule disposes of quoted securities which, in accordance with paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965, are to be regarded as being or forming part of a new holding, the election shall apply according to the nature of the quoted securities disposed of, notwithstanding that under the said paragraph 4 the new holding is to be regarded as the same asset as the original holding and that the election would apply differently to the original holding.
- (2) Where the election does not cover the disposal out of the new holding, but does cover quoted securities of the kind comprised in the original holding, then in computing the gain accruing on the disposal out of the new holding (in accordance with the principal section) the question of what remained undisposed of on any disposal out of the original holding shall be decided on the footing that the principal section applied to that earlier disposal.
- (3) In the case converse to that in sub-paragraph (2) above (that is to say where the election covers the disposal out of the new holding, but does not cover quoted securities of the kind comprised in the original holding) the question of how much of the new holding derives from quoted securities held on 6th April 1965, and how much derives from other quoted securities, shall be decided for the purposes of this Schedule as it is decided for the purposes of the principal section.

*Underwriters*

- 4 No election under this Schedule shall cover quoted securities comprised in any underwriter's premiums trust fund, or premiums trust fund deposits, or personal reserves, being securities comprised in funds to which paragraph 9 of Schedule 7 to the Finance Act 1965 applies.

SCHEDULE 12

Section 34.

CAPITAL GAINS

**PART I**

CAPITAL GAINS TAX AND CORPORATION TAX

*Exemption for tangible movables which are wasting assets*

- 1 (1) Subject to the provisions of this paragraph, no chargeable gain shall accrue on the disposal after 19th March 1968 of, or of an interest in, an asset which is tangible movable property and which is a wasting asset.
- (2) Sub-paragraph (1) above shall not apply to a disposal of, or of an interest in, an asset—
- (a) if, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, the asset has been used and used solely for the purposes of a trade, profession or vocation and if that person has claimed or could have claimed any capital allowance in respect



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- of any expenditure attributable to the asset or interest under paragraph (a) or paragraph (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965, or
- (b) if the person making the disposal has incurred any expenditure on the asset or interest which has otherwise qualified in full for any capital allowance.
- (3) In the case of the disposal of, or of an interest in, an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances—
- (a) the consideration for the disposal, and any expenditure attributable to the asset or interest by virtue of the said paragraph 4(1)(a) and (b), shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and
- (b) the computation under the said Schedule 6 shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
- (c) sub-paragraph (1) above shall not apply to any gain accruing by reference to the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances.
- (4) Sub-paragraph (1) above shall not apply to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market.
- (5) Paragraph 28 of Schedule 6 to the Finance Act 1965 (assets treated as acquired at value on 6th April 1965: capital allowances to be treated as made in respect of notional expenditure on acquisition on that date) shall apply for the purposes of paragraph 11 of that Schedule (wasting assets qualifying for capital allowances) as it applies for the purposes of paragraph 6 of that Schedule (restriction of losses by reference to capital allowances).
- (6) This paragraph shall be construed as one with Schedule 6 to the Finance Act 1965.

*Exemption for private residences*

- 2 (1) Section 29 of the Finance Act 1965 shall not apply in relation to a gain if the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.
- (2) Sub-paragraph (1) above has effect in substitution for subsection (11) of the said section 29 (which excludes relief unless the acquisition was made for the purpose of residing in, or in the part of, the dwelling-house and not wholly or partly for the purpose of realising a gain).

*Replacement of business assets*

- 3 (1) This paragraph has effect as respects Class I of the classes of assets in section 33(6) of the Finance Act 1965.

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- (2) Where the trade is a trade of dealing in or developing land, but a profit on the sale of any land held for the purposes of the trade would not form part of the trading profits, then, as regards that land, the trade shall be treated for the purposes of the said section 33 as if it were not a trade of dealing in or developing land.
- (3) A person who is a lessor of tied premises shall be treated as if he occupied (as well as used) those tied premises only for the purposes of the relevant trade.

This sub-paragraph shall be construed in accordance with section 26(2) of the Finance Act 1952 (income tax and corporation tax on tied premises).

*Death of heir of entail or proper liferenter*

- 4 (1) The provisions of Part III of the Finance Act 1965, so far as relating to the charging of capital gains tax on the death after 19th March 1968 of an heir of entail in possession of any property in Scotland subject to an entail, whether sui iuris or not, or of a proper liferenter of any property, shall have effect subject to the following provisions of this paragraph.
- (2) For the purposes of the said Part III, on the death of any such heir or liferenter—
- (a) the deceased shall be deemed not to have been a person competent to dispose of the entailed or, as the case may be, liferented property;
  - (b) the heir of entail next entitled to the entailed property under the entail (hereafter in this paragraph called " the next heir") or, as the case may be, the person (if any) who, on the death of the liferenter, becomes entitled to possession of the property as fiar (hereafter in this paragraph called " the fiar ") shall be deemed to have acquired all the assets forming part of the property—
    - (i) in the case of the next heir, at the date on which the deceased succeeded to the property under the entail,
    - (ii) in the case of the fiar, at the date on which the instrument under which the deceased was entitled to his liferent came into operation so as to create a liferent of the property,
 for a consideration equal to their market value at that date, and to have disposed of, and immediately reacquired, those assets at the date of the deceased's death for a consideration equal to their market value at that date.
- (3) Section 21 of the Finance Act 1965 (alternative charge to capital gains tax) shall not apply in relation to the charging of capital gains tax on gains accruing in consequence of sub-paragraph (2)(b) above.
- (4) Section 25(5) of the Finance Act 1965 (under which, in the case of the death of any individual, the relief provided for by section 24(2) of that Act in respect of capital gains tax chargeable on gains accruing in consequence of section 24(1) of that Act may in certain circumstances become available to the trustees of a settlement) shall, in a case where the deceased was such an heir of entail or life-renter as aforesaid, have effect, for the purpose of making that relief available to the next heir or, as the case may be, the fiar as well as to any such trustees, as if references—
- (a) to the trustees of a settlement, or to a body of trustees,
- included references to the next heir or, as the case may be, the fiar,
- (b) to settled property included references to the property of which the deceased was the heir of entail in possession or, as the case may be, the liferenter,

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- (c) to the disposal of settled property deemed to be effected in accordance with subsection (3) or subsection (4) of the said section 25 on the termination of a life interest by the death, or otherwise in consequence of the death, included references to the disposal of the property deemed to be effected in accordance with sub-paragraph (2)(b) above,  
and subject to any other necessary modification.
- (5) In the case of the death of any such heir or liferenter, section 29 of the Finance Act 1965 (private residences) shall, subject to all necessary modifications, apply in relation to a gain accruing in consequence of sub-paragraph (2)(b) above to the next heir or fiar on the disposal of an asset deemed to be effected in accordance with that sub-paragraph, being an asset within subsection (1) of the said section 29, where the dwelling-house or part of a dwelling-house mentioned in that subsection was the only or main residence of the deceased.
- (6) Where on the death of any such heir the next heir becomes chargeable to capital gains tax on gains accruing in consequence of sub-paragraph (2)(b) above, he shall, for the purpose of paying that tax or of recovering the amount of the tax if he has already paid it, have the like right to sell or charge the entailed property or any part of it as he would have had if the tax had been estate duty leviable on the property.
- (7) Paragraph 4 of Schedule 10 to the Finance Act 1965 (postponement of payment of tax) shall have effect as if—
- (a) after sub-paragraph (1)(b) there were inserted the following words—
- “or
- (c) on the disposal of any property deemed to be effected on any occasion in accordance with paragraph 4(2)(b) of Schedule 12 to the Finance Act 1968,”; and
- (b) in sub-paragraph (1), after the word " trustees " there were inserted the words " or, in a case falling within head (c) of this sub-paragraph, of the next heir or of the fiar, ".
- (8) In estimating, for the purposes of estate duty, the value of any-property passing on the death of any such heir or liferenter, being property of which, by virtue of sub-paragraph (2)(b) above, the next heir or, as the case may be, the fiar is deemed to have disposed at the date of the deceased's death, allowance shall be made for any capital gains tax chargeable on gains accruing in consequence of the said sub-paragraph 2(b) on that death in respect of that property.
- (9) This paragraph (except sub-paragraph (8) thereof) shall be construed as one with Part III of the Finance Act 1965, and sub-paragraph (8) shall be construed as one with Part I of the Finance Act 1894.

*Election for valuation on 6th April 1965*

- 5 (1) An election under paragraph 25(1) of Schedule 6 to the Finance Act 1965 shall be made by notice in writing to the inspector given within two years from the end of the year of assessment or accounting period of a company in which the disposal is made or such further time as the Board may by notice in writing allow.
- (2) This paragraph applies to a disposal made before or after the passing of this Act, and has effect in substitution for the time limit of two years in the said paragraph 25(1) whether or not that time limit has expired before the passing of this Act.

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- (3) Where the said time limit has expired before the passing of this Act all such adjustments shall be made, whether by way of repayment or discharge of tax, or by assessment, as may be required to give effect to the provisions of this paragraph.

*Land in Great Britain : election excluding valuation at current use value*

- 6 In section 33(3) of the Finance Act 1967 after " end of the year of assessment", there shall be inserted " or accounting period of a company " , and the definition of " year of assessment" shall be repealed.

*Duration of leases*

- 7 (1) In ascertaining for the purposes of Part III of the Finance Act 1965 the duration of a lease of land the following provisions shall have effect.
- (2) Where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the landlord.
- (3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date.
- (4) Sub-paragraph (3) applies in particular where the lease provides for the rent to go up after a given date, or for the tenant's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date by notice given by the tenant, and those provisions render it unlikely that the lease will continue beyond that date.
- (5) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the tenant, but subject to any right of the landlord by notice to determine the lease.
- (6) It is hereby declared that the question what is the duration of a lease is to be decided, in relation to the grant or any disposal of the lease, by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.
- (7) Paragraph 8 of Schedule 8 to the Finance Act 1965 (which is superseded by this paragraph) shall cease to have effect, and this paragraph shall be construed as one with the said Schedule 8 and so that the reference in paragraph 9(1) of that Schedule to the said paragraph 8 shall be taken as a reference to this paragraph.

*Disposal of debts*

- 8 (1) In paragraph 11 of Schedule 7 to the Finance Act 1965—
- (a) in sub-paragraph (1) (exemption for debt in hands of original creditor or his legatee), and
- (b) in sub-paragraph (4) (disallowance of loss on disposal of debt by assignee connected with original creditor or his legatee)
- for the words " or his legatee " there shall be substituted the words " or his personal representative or legatee ".

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- (2) Where the original creditor is a trustee and the debt, when created, is settled property, the said sub-paragraphs (1) and (4) shall apply as if for the references to the original creditor's personal representative or legatee there were substituted references to any person becoming absolutely entitled, as against the trustee, to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.

*Government securities issued at a discount*

- 9 In Schedule 9 to the Finance Act 1965 after the entry relating to " 6% Conversion Stock 1972 " there shall be added the following entry:—

“British Transport 3% Stock 1967-72	97 ½	100”
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*Exclusion of short-term gains accruing to trustees*

- 10 (1) This paragraph has effect as respects a gain accruing to a trustee on a disposal of an asset forming part of settled property, being a disposal deemed to be effected by the trustee under section 25(4) of the Finance Act 1965 (which, as extended by subsections (6) and (7) of that section, creates an occasion of charge on a termination of a life interest and on certain other occasions).
- (2) The gain shall not be a chargeable gain for the purposes of Part III of the Finance Act 1965—
- (a) if the trustee disposes of the asset in circumstances such that the disposal is chargeable under Case VII of Schedule D, or
  - (b) if by virtue of paragraph 4(2) of Schedule 9 to the Finance Act 1962 (beneficiary becoming absolutely entitled to settled property) any person is treated as if the acquisition of the asset by the trustee had been his acquisition of it, and that person disposes of the asset in circumstances such that the disposal is chargeable under the said Case VII.
- (3) This paragraph shall be construed as if contained in paragraph 3 of Schedule 6 to the Finance Act 1965.
- (4) There shall be made all such adjustments, whether by way of discharge or repayment of tax, or by the making of assessments, or otherwise, as are required to give effect to the provisions of this paragraph.

*Short-term gains on disposals only partly derived from relevant acquisitions*

- 11 (1) This paragraph has effect where—
- (a) after 10th April 1968 there is a disposal chargeable under Case VII of Schedule D, and
  - (b) an interest included in that disposal does not derive, or wholly derive, from a relevant acquisition,
- and in this paragraph the interest, or part of an interest, which does not derive from a relevant acquisition is called " the untaxed element".
- (2) For the purposes of Part III of the Finance Act 1965 it shall be assumed that immediately before the said disposal the untaxed element was sold and immediately reacquired by the person making the disposal (but so that the assumed sale is not a

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disposal chargeable under Case VII of Schedule D for the purposes of paragraph 3(1) of Schedule 6 to the Finance Act 1965 (exclusion of short-term gains)).

- (3) Where the said disposal is a part disposal, the assumption in sub-paragraph (2) above shall be made only as respects such part of the untaxed element as can reasonably and justly be attributed to what is disposed of.
- (4) For the said purposes it shall be assumed that the sale and reacquisition is for a consideration equal to the amount at which the untaxed element fell to be brought into account under section 13(4) of the Finance Act 1962 (which involves valuation at a date immediately before the disposal) in computing the gain accruing on the disposal chargeable under Case VII:

Provided that if the untaxed element is an interest in land section 33 of the Finance Act 1967 (current use value for land in Great Britain) and Schedule 14 to that Act shall have effect as if the definition of " land " in paragraph 17 of that Schedule included what is assumed to be sold.

- (5) In this paragraph references to a disposal chargeable under Case VII of Schedule D are references to cases where the acquisition and disposal is in circumstances such that the gain accruing on it is chargeable under Case VII of Schedule D, or where it would be so chargeable if there were a gain so accruing.
- (6) For the purposes of this paragraph " relevant acquisition " has the meaning given by section 13(8)(a) of the Finance Act 1962, and an interest included in the disposal shall be treated as deriving from an acquisition if without that acquisition the whole interest could not have been so included.

*Exclusion of short-term gains : supplemental*

- 12 (1) Paragraph 10 above, and sub-paragraphs (2), (3) and (4) of paragraph 3 of Schedule 6 to the Finance Act 1965 (which make corresponding provision for cases where a disposal of an asset is followed by another disposal of that asset which is chargeable under Case VII) shall apply if what is disposed of on the second occasion does not consist of or include the whole of what was disposed of on the first occasion, so as to afford relief in respect of so much of it as was comprised in both disposals.
- (2) In paragraph 3 of Schedule 6 to the Finance Act 1965 and in this Schedule references to a disposal chargeable under Case VII shall not include references to a disposal on which by virtue of paragraph 18(1) of Schedule 9 to the Finance Act 1962 neither a gain nor a loss can accrue.

*Administration: non-resident trading in United Kingdom*

- 13 The Table at the end of paragraph 1(3) of Schedule 10 to the Finance Act 1965 (income tax provisions applied to capital gains tax) shall include section 374 of the Income Tax Act 1952 (responsibility and indemnification of persons in whose name a non-resident person is chargeable).

*Commencement*

- 14 Except as otherwise provided, this Part of this Schedule has effect as respects any disposals of assets after 5th April 1968.

## PART II

### COMPANIES

#### *Company amalgamations and reconstructions*

- 15 (1) Paragraph 7 of Schedule 7 to the Finance Act 1965 shall be amended as follows.
- (2) Sub-paragraph (1) (issue of shares or debentures in one company to holders of shares or debentures in another company to be treated as an exchange in certain circumstances) shall apply after 10th April 1968, in relation to a company which has no share capital, as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company, and paragraphs 4 and 6 of the said Schedule 7 shall apply accordingly.
- (3) Sub-paragraph (2) (reconstruction or amalgamation involving transfer of a company's business) shall only apply to a transfer at a time after 10th April 1968 if both that company and the company to which the business is transferred are at that time resident in the United Kingdom.

#### *Transfer of business to a company*

- 16 Paragraph 8 of Schedule 7 to the Finance Act 1965 shall not apply to a transfer after 10th April 1968 if the person, or any of the persons, to whom any gain accrues on the transfer is a company.

#### *Dividend-stripping: receipt of dividend by member of a group*

- 17 (1) This paragraph has effect where section 65(3) of the Finance Act 1965 (main provisions about dividend-stripping) or paragraph 3(4) of Schedule 11 to the Finance Act 1967 (transfers between companies and their members or participators) applies so as to treat any amount as a capital distribution paid after 10th April 1968 if the recipient was, at the time when it became entitled to receive that amount, a member of a group of companies and if the holding consists of shares in another member of the group.
- (2) Paragraph 3(2) of Schedule 7 to the Finance Act 1965 (postponement of occasion of charge) shall apply as if the inspector had duly given a direction under that sub-paragraph, and that sub-paragraph shall apply accordingly, but subject to the provisions of paragraph 9 of Schedule 10 to the Finance Act 1966 (no postponement where there is no expenditure against which the distribution can be set off), and the said paragraph 9(1) shall apply as if it referred to the said paragraph 3(2) as extended by this paragraph.

#### *Company ceasing to be member of a group*

- 18 (1) If a company (in this paragraph called the chargeable company) ceases to be a member of a group of companies at any time after 10th April 1968, this paragraph shall have effect as respects any asset which the chargeable company acquired from another company which was at the time of acquisition a member of that group of companies, but only if the time of acquisition fell—
- (a) on or after 6th April 1965, and

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- (b) within the period of six years ending with the time when the company ceases to be a member of the group.

Where two or more associated companies cease to be members of the group at the same time, this sub-paragraph shall not have effect as respects an acquisition by one from another of those associated companies.

- (2) If, when the chargeable company ceases to be a member of the group, the chargeable company, or an associated company also leaving the group, owns, otherwise than as trading stock—

- (a) the asset, or
- (b) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

the chargeable company shall be treated for all the purposes of Part III of the Finance Act 1965 as if immediately after its acquisition of the asset it had sold, and immediately reacquired, the asset at market value at that time.

- (3) For the purposes of this paragraph—

- (a) two or more companies are associated companies if, by themselves, they would form a group of companies,
- (b) a chargeable gain is carried forward from an asset to other property on a replacement of business assets if, by one or more claims under section 33 of the Finance Act 1965, the chargeable gain accruing on a disposal of the asset is reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property,
- (c) an asset acquired by the chargeable company shall be treated as the same as an asset owned at a later time by that company or associated company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.

- (4) If any of the corporation tax assessed on a company in consequence of this paragraph is not paid within six months from the date when it becomes payable then—

- (a) a company which on the said date, or immediately after the chargeable company ceased to be a member of the group, was the principal company of the group, and
- (b) a company which owned the asset on the said date, or when the chargeable company ceased to be a member of the group,

may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax ; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover a sum of that amount from the chargeable company.

- (5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this paragraph may be made at any time within six years from the time when the chargeable company ceased to be a member of the group, and where under this paragraph the chargeable company is to be treated as having disposed of, and reacquired, an asset, all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this paragraph shall be carried out.



*Shares in subsidiary member of a group*

- 19 (1) This paragraph has effect if a company (in this paragraph called the subsidiary) ceases to be a member of a group of companies at any time after 10th April 1968, and on an earlier occasion shares in the subsidiary were disposed of by another company (in this paragraph called "the chargeable company") which was then a member of that group in the course of an amalgamation or reconstruction in the group, but only if that earlier occasion fell—
- (a) on or after 6th April 1965, and
  - (b) within the period of six years ending with the date on which the subsidiary ceases to be a member of the group.
- (2) The chargeable company shall be treated, for all the purposes of Part III of the Finance Act 1965, as if immediately before the earlier occasion it had sold, and immediately re-acquired, the said shares at market value at that time.
- (3) If, before the subsidiary ceases to be a member of the group, the chargeable company has ceased to exist, or a resolution has been passed, or an order made, for the winding up of the company, or any other act has been done for the like purpose, any corporation tax to which, if the chargeable company had continued in existence, it would have been chargeable in consequence of this paragraph may be assessed and charged (in the name of the chargeable company) on the company which is, at the time when the subsidiary ceases to be a member of the group, the principal company of the group.
- (4) If any of the corporation tax assessed on a company in consequence of this paragraph, or in pursuance of sub-paragraph (3) above, is not paid within six months from the date when it becomes payable, then—
- (a) a company which is on the said date, or was on the earlier occasion, the principal company of the group, and
  - (b) any company taking an interest in the subsidiary as part of the amalgamation or reconstruction in the group,
- may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover a sum of that amount from the chargeable company, or as the case may be from the company assessed under sub-paragraph (3) above.
- (5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this paragraph may be made at any time within six years from the time when the subsidiary ceased to be a member of the group and, in relation to any disposal of the property after the earlier occasion, there shall be made all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax as may be required in consequence of the provisions of this paragraph.
- (6) For the purposes of this paragraph there is a disposal of shares in the course of an amalgamation or reconstruction in a group of companies if paragraph 6 or paragraph 7 of Schedule 7 to the Finance Act 1965 (company amalgamations) applies to shares in a company so as to equate them with shares in or debentures of another company, and the companies are members of the same group, or become members of the same group as a result of the amalgamation or reconstruction.

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- (7) Where by virtue of paragraph 7 of the said Schedule 7 shares are to be treated as cancelled and replaced by a new issue, references in this paragraph to a disposal of shares include references to the occasion of their being so treated.

*Loss on disposal of shares etc. attributable to depreciatory transaction in a group*

- 20 (1) This paragraph has effect as respects a disposal after 10th April 1968 of shares in, or securities of, a company if the value of the shares or securities has been materially reduced by any disposal of assets, on or after 6th April 1965, at other than market value by one member of a group of companies to another, and in this paragraph any such disposal of assets is called a "depreciatory transaction":

Provided that no account shall be taken under this sub-paragraph of a disposal of assets if and to the extent that that disposal of assets fell to be treated as giving rise to a capital distribution within the meaning of Part III of the Finance Act 1965, and if the recipient of the capital distribution is the person disposing of the shares and securities.

- (2) If the person making the disposal of the shares or securities is, or has at any time been, a member of the said group of companies, any allowable loss accruing on the disposal shall be reduced to such extent as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the depreciatory transaction:

Provided that if the person is not a member of the said group when that person disposes of the shares or securities, no reduction of the loss shall be made by reference to a depreciatory transaction which took place when that person was not a member of the said group.

- (3) The inspector or the Commissioners shall make the decision under sub-paragraph (2) above on the footing that the allowable loss ought not to reflect any diminution in the value of the company's assets which was attributable to a depreciatory transaction if and so far as the effect of the transaction was to increase the value of the assets of any other member of the group, but allowance may be made for any other transaction on or after 6th April 1965 which has enhanced the value of the company's assets and depreciated the value of the assets of any other member of the group.

- (4) If, under sub-paragraph (2) above, a reduction is made in an allowable loss, any chargeable gain accruing on a disposal of the shares or securities of any other company which was a party to the depreciatory transaction by reference to which the reduction was made, being a disposal not later than six years after the depreciatory transaction, shall be reduced to such extent as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable having regard to the effect of the depreciatory transaction on the value of those shares or securities at the time of their disposal:

Provided that the total amount of any one or more reductions in chargeable gains made by reference to a depreciatory transaction shall not exceed the amount of the reductions in allowable losses made by reference to that depreciatory transaction.

All such adjustments, whether by way of discharge or repayment of tax, or otherwise, as are required to give effect to the provisions of this sub-paragraph may be made at any time.

- (5) For the purposes of this paragraph—

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" securities " includes any loan stock or similar security whether secured or unsecured, references to the disposal of assets include references to any method by which one company which is a member of a group appropriates the goodwill of another member of the group, a

" group of companies " may consist of companies some or all of which are not resident in the United Kingdom.

- (6) References in this paragraph to the disposal of shares or securities include references to the occasion of the making of a claim under section 23(4) of the Finance Act 1965 that the value of shares or securities has become negligible, and references to a person making a disposal shall be construed accordingly.

*Disposal or acquisition outside a group of companies*

- 21 (1) In paragraph 4 of Schedule 13 to the Finance Act 1965 (capital allowances) for the words

“Where a member of a group of companies disposes of an asset”  
there shall be substituted the words

“Where a company which is or has been a member of a group of companies disposes of an asset”.

- (2) In paragraph 5 of the said Schedule 13 (transitional provisions as to assets held on 6th April 1965) for the words

“in relation to a disposal of an asset by a member of a group of companies”  
there shall be substituted the words

“in relation to a disposal of an asset by a company which is or has been a member of a group of companies”.

- (3) References in the said paragraphs 4 and 5 to the acquisition of an asset by one member of a group from another shall, notwithstanding sub-paragraphs (1) and (2) above, continue to be read as references to acquisition at a time when both are members of the group.

- (4) This paragraph applies as respects any disposal after 10th April 1968.

*Non-resident group of companies*

- 22 (1) This paragraph has effect for the purposes of section 41 of the Finance Act 1965 (residents interested in non-resident company).

- (2) Part I of Schedule 13 to the Finance Act 1965 (group of companies resident in the United Kingdom), without paragraph 1 (definition of company and group) and without paragraph 7 (recovery of tax), shall apply in relation to non-resident companies which are members of a non-resident group of companies, as it applies in relation to companies resident in the United Kingdom which are members of a group of companies.

- (3) Paragraphs 18 and 19 above shall apply for the said purposes as if for any reference in those paragraphs to a group of companies there were substituted a reference to a non-resident group of companies, and as if references to companies were references to companies not resident in the United Kingdom.

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- (4) This paragraph has effect as respects any disposal after 10th April 1968.

*Supplemental*

- 23 (1) For the purposes of this Part of this Schedule—
- (a) a " non-resident group " of companies—
    - (i) in the case of a group, none of the members of which are resident in the United Kingdom, means that group, and
    - (ii) in the case of a group, two or more members of which are not resident in the United Kingdom, means the members which are not resident in the United Kingdom;
  - (b) " group " and " subsidiary " shall be construed in accordance with subparagraphs (b) and (c) of paragraph 1 of Schedule 13 to the Finance Act 1965, with any necessary modifications where applied to a company incorporated under the law of a country outside the United Kingdom,
  - (c) except in the definition of " non-resident group " above, or as otherwise expressly provided, " company " shall be construed in accordance with subparagraph (a) of the said paragraph 1 (which relates to companies resident in the United Kingdom).
- (2) For the purposes of this Part of this Schedule a group remains the same group so long as the same company remains the principal company of the group, and if at any time the principal company of a group becomes a subsidiary of another company the group of which it was the principal company before that time shall be regarded as the same as the group of which that other company, or one of which it is a subsidiary, is the principal company, and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.
- (3) For the said purposes the passing of a resolution or the making of an order, or any other act, for the winding-up of a company shall not be regarded as the occasion of that company, or of any subsidiary of that company, ceasing to be a member of a group of companies.
- (4) Without prejudice to the provisions of paragraph 2(1) of Schedule 13 to the Finance Act 1965, where any provision in this Part of this Schedule makes the assumption that a member of a group has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.
- (5) Any provision in this Part of this Schedule making the assumption that an asset is sold and reacquired at market value shall have effect subject to the provisions of section 33 of the Finance Act 1967 (current use value of land in Great Britain).
- (6) This Part of this Schedule has effect as respects tax for any accounting period ending after 10th April 1968, and so far as it relates to liability to tax arising on a disposal deemed to have been made on or before 10th April 1968, shall have effect for tax for earlier accounting periods.

SCHEDULE 13

Section 34.

SHORT TERM CAPITAL GAINS

*Exemption for tangible movables which are wasting assets*

- 1
- (1) Chargeable assets for the purposes of Case VII of Schedule D shall not include an asset which is tangible movable property and which is a wasting asset, and shall not include an interest in tangible movable property which is a wasting asset.
  - (2) Sub-paragraph (1) above shall not apply to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market.
  - (3) In this paragraph "wasting asset" has the meaning given by paragraph 9 of Schedule 6 to the Finance Act 1965.
  - (4) This paragraph has effect as respects a disposal after 19th March 1968.

*Company amalgamations and reconstructions*

- 2
- Paragraph 13(1) of Schedule 9 to the Finance Act 1962 (issue of shares or debentures in one company to holders of shares or debentures in another company to be treated as an exchange in certain circumstances) shall apply after 10th April 1968, in relation to a company which has no share capital, as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company, and paragraphs 10 and 12 of that Schedule shall apply accordingly.

*Husband and wife dealing in shares, etc.*

- 3
- (1) Where, in the case of a man and his wife living with him, one of them—
    - (a) disposes of shares to his wife or her husband after 10th April 1968, and
    - (b) disposes of other shares, of the same kind as those disposed of to the wife or husband, to another person (in this paragraph called "a third party"),the provisions of this paragraph shall have effect as respects any shares acquired by the person making those disposals which, but for the provisions of paragraph 8 of Schedule 9 to the Finance Act 1962 (identification of shares), could have been comprised in either of those disposals.
  - (2) If, but for the provisions of this sub-paragraph, shares disposed of to a third party—
    - (a) would not be taxable shares, and
    - (b) but for the disposal to the wife or husband would be taxable shares,the identification shall be reversed so that the shares disposed of to the third party (or, if the quantity disposed of to the third party was greater than the quantity disposed of to the wife or husband, a part of them equal to the quantity disposed of to the wife or husband) shall be taxable shares.
  - (3) If there is more than one disposal to the wife or husband, or more than one disposal to a third party, the provisions of this paragraph shall be applied to shares disposed of on an earlier date before being applied to shares disposed of on a later date, and the re-identification of the shares first disposed of shall accordingly determine the way in which this paragraph applies to the shares comprised in the later disposal.

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- (4) In this paragraph " taxable shares " are shares the disposal of which, together with their acquisition, constitutes an acquisition and disposal within the meaning of Chapter II of Part II of the Finance Act 1962.
- (5) This paragraph shall apply in relation to a disposal of any assets as it applies in relation to a disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

*Husband and wife dealing in shares etc.: sale at a loss and reacquisition*

- 4 (1) Where, in the case of a man and his wife living with him, a loss accrues to one of them from his or her acquisition and disposal of any shares, and the other of them is to be treated in accordance with this paragraph as acquiring the same shares within the prescribed period after the disposal, that loss shall be allowable under Case VII by deduction from any gain accruing to the other (that is to say the wife or husband of the person to whom the loss accrued) from an acquisition and disposal of the shares beginning with that acquisition by the other, but shall not be so allowable by deduction from any other gain accruing to either of them.
- (2) Shares disposed of by the husband or wife shall not for the purposes of this paragraph be treated as the same as shares acquired by the other if for the purposes of paragraph 9 of Schedule 9 to the Finance Act 1962—
  - (a) the person disposing of the shares is to be treated as having reacquired the same shares, or
  - (b) the person acquiring the shares is to be treated as thereby reacquiring shares disposed of,
 or if the person acquiring the shares acquires them from her husband or his wife.
- (3) Subject to sub-paragraph (2) above, where the husband or wife disposes of shares and the other afterwards acquires the like shares within the prescribed period from the disposal, the other is to be treated for the purposes of this paragraph as acquiring the same shares as those disposed of (or, if the quantity disposed of was greater than the quantity acquired, a part equal to the quantity acquired) and, so far as necessary, the rules in paragraphs (a) to (d) of paragraph 9(2) of Schedule 9 to the Finance Act 1962 (successive disposals and successive acquisitions) shall apply for the purpose of determining which are the same shares, as if the husband and wife were one person, and disregarding all shares excluded by sub-paragraph (2) above.
- (4) For the purposes of this paragraph shares acquired by the wife or husband for transfer or delivery after the date of transfer or delivery of the shares sold by the other shall be deemed to have been acquired after the disposal of the shares sold.
- (5) Where the husband or wife acquires shares and, under paragraph 8 of Schedule 9 to the Finance Act 1962, shares previously disposed of by him or her are identified with those shares, then—
  - (a) this paragraph shall not apply in relation to any loss accruing from that acquisition and disposal, and
  - (b) that acquisition shall not be treated for the purposes of this paragraph as an acquisition of the same shares as any shares disposed of by the other,
 and sub-paragraphs (4) to (6) of paragraph 9 of the said Schedule 9 shall apply as if references in those sub-paragraphs to sub-paragraph (3) of that paragraph included references to this sub-paragraph.

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- (6) In this paragraph " the prescribed period " means—
- (a) in the case of an acquisition of shares through a stock exchange, one month, and
  - (b) in the case of an acquisition of shares otherwise than through a stock exchange, or in the case of an acquisition of some other kind of asset, six months.
- (7) This paragraph shall apply in relation to acquisitions or disposals of any assets as it applies in relation to acquisitions or disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

*Construction and commencement*

- 5 (1) Except as otherwise provided, this Schedule has effect as respects any disposals of assets after 10th April 1968.
- (2) This Schedule shall be construed as one with Chapter II of Part II of the Finance Act 1962,

SCHEDULE 14

Section 35.

ESTATE DUTY : GIFTS, ETC.

*Substitution of seven years for five years*

- 1 List of enactments amended
- Customs and Inland Revenue Act 1881
  - Section 38(2)(a) except as respects gifts for public or charitable purposes.  
Finance Act 1894
  - Section 2(3) except as respects gifts for public or charitable purposes.  
Finance Act 1939
  - Section 31(2).  
Finance Act 1940
  - Section 43(2).
  - Section 46(1).
  - Section 47(1) (in two places).
  - Section 48(3) (in two places).
  - Section 51(1A).
  - Section 55(1)(a).
  - Section 58(1)(a).
  - In Schedule 7, paragraphs 1(4), 2(1)(3)(5) and 2(6)(c).  
Finance Act 1950
  - Section 45(2)(a)(b).  
Finance Act 1954
  - Section 29(1)(2)(4).  
Finance Act 1958
  - Section 28(1)(8)(10).

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*Consequential amendments*

- 2 (1) In section 38(2)(a) of the Customs and Inland Revenue Act 1881 (as applied by section 2(1)(c) of the Finance Act 1894) for " three months " (as originally enacted) substitute " seven years, or in the case of a gift made for public or charitable purposes twelve months ".
- (2) In section 2(3) of the Finance Act 1894 for " twelve months " substitute " seven years, or in the case of a gift made for public or charitable purposes twelve months ".
- (3) In section 59(3) of the Finance (1909-10) Act 1910 the reference to the period provided by that section shall be taken as a reference to seven years, or in the case of a gift made for public or charitable purposes twelve months.

*Benefits from companies*

- 3 (1) In section 46(2) of the Finance Act 1940 for " last five accounting years" substitute " last seven accounting years " , and, where the company came into existence in any of the last seven accounting years mentioned in the said section 46(2) as so amended, the reference to the last seven accounting years shall be construed as a reference to the accounting year in which the company came into existence and all later accounting years.
- (2) In the case of a death on or before 19th March 1970 the exception in subsection (1) of the principal section shall not apply to any of the amendments made by that subsection in section 46 or section 47 of, or Schedule 7 to, the Finance Act 1940 if any benefits accrued to the deceased from the company after 19th March 1963.
- (3) The provisions of the said Act as to what are to be treated as benefits accruing to the deceased from the company, and as to when a benefit is treated as having accrued therefrom, shall, as amended by this Act, apply for the purposes of sub-paragraph (2) above as they apply for the purposes of the said section 46, but as if the references in section 47 of that Act, and paragraph 2 of Schedule 7 to that Act, to the seven years ending with the death of the deceased were treated as references to the said seven years less so much thereof as fell before 20th March 1963.

*Surrender of title to benefits from a company : graduation of charge*

- 4 (1) In section 65(1) of the Finance Act 1960 for " two years " substitute " four years " , and—
- (a) in paragraph (a) of the said subsection (1) for " three years " substitute " five years " , and
- (b) in paragraph (b) of that subsection for " four years" substitute " six years ".
- (2) Sub-paragraph (1) above shall not have effect so as to give a lesser percentage reduction than the percentage reduction (if any) which, assuming that the deceased had died on 19th March 1968, would have fallen to be made under the said subsection (1) without the amendments made by this paragraph.



SCHEDULE 15

Section 41.

SPECIAL CHARGE: TRUSTS

*Income out of capital, etc.*

- 1 (1) The investment income of an individual arising under a trust shall be ascertained without regard to any part of it shown to the satisfaction of the Board to be attributable to payments duly made otherwise than out of the income of the trust.
- (2) For the purposes of this paragraph the income of a trust shall be ascertained without regard to—
- (a) income or deductions of any description which, under section 42 of this Act, are to be left out of account in ascertaining aggregate investment income, or
  - (b) income from another trust which is shown to the satisfaction of the Board to be attributable to payments duly made otherwise than out of the income of that trust,
- and no deduction shall be made in respect of any payment made to a beneficiary under the trust or to any person claiming under such a beneficiary.

*Recovery of charge from trustees*

- 2 (1) If the person originally chargeable has not paid the special charge or any part of it, and so elects as respects any trust—
- (a) his liability to the special charge shall be reduced by the amount, if any, attributable to the trust, and
  - (b) the amount so attributable shall be chargeable on the person answerable for the trust.
- (2) If the person originally chargeable has paid part only of the special charge he may nevertheless make an election in accordance with sub-paragraph (1) above, but the reduction under sub-paragraph (1)(a) above in respect of the trust, or, if more than one, of all the trusts together, shall not exceed the amount remaining unpaid.
- (3) An election under this paragraph shall be made by notice in writing to the Board within thirty days from the date of the notice of assessment to the special charge or such longer time as the Board may allow, and shall not be effective unless the notice contains, to the satisfaction of the Board, sufficient particulars of the trust, the names and addresses of the persons answerable for the trust, and the amount of investment income arising under the trust to the person making the election.
- (4) In this and the four next following paragraphs "trust" does not include a foreign trust.
- 3 (1) If the person originally Chargeable has paid the whole of the special charge he may recover from the person answerable for a trust the amount, if any, attributable to that trust.
- (2) If the person originally chargeable has paid the part of the special charge which is not attributable to any trust, and any additional amount, he may recover from the person answerable for a trust the amount, if any, attributable to that trust, but so that the total amount recoverable, and the amount recoverable from any one trust, shall not exceed that additional amount.
- 4 If at any time after the expiration of thirty days from the date when the special charge became due, all or any part of the special charge remains due from the

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person originally chargeable, then, without prejudice to the powers of recovery from that person, the amount attributable to any trust may be charged on the person answerable for the trust, but not so as to charge more than is unpaid.

- 5 The amount with which a person answerable for a trust is chargeable under paragraph 2 or paragraph 4 above shall be due and payable by him on the issue to him of a notice of charge by the Board, and an appeal shall lie against the notice of charge in the same way as an appeal lies against an assessment to the special charge.

*Income derived from another trust*

- 6 (1) This paragraph has effect where all or part of an individual's investment income arising under a trust (in this paragraph called " the first trust") derives from another trust (in this paragraph called " the second trust").

(2) If—

- (a) the person originally chargeable has made an election under paragraph 2 above as respects the first trust, or
- (b) any amount has become chargeable on the person answerable for the first trust in accordance with paragraph 4 above,

the person answerable for the first trust may elect that for all the purposes of this Schedule the individual's investment income deriving from the second trust shall be treated as arising under that trust, and not under the first trust, and then any election under paragraph 2 above as respects the first trust shall take effect also as an election as respects the second trust.

An election under this sub-paragraph shall be made by notice in writing to the Board within thirty days from the date of the notice of charge on the person answerable for the first trust, or such longer time as the Board may allow, and shall not be effective unless the notice contains, to the satisfaction of the Board, sufficient particulars of the second trust, the names and addresses of the persons answerable for that trust, and the amount of the individual's investment income deriving from that trust.

- (3) If the person originally chargeable has made a claim for recovery of any amount under paragraph 3 above from the person answerable for the first trust, the person answerable for the first trust may by notice in writing to the person originally chargeable require that, as respects his rights of recovery, the individual's investment income deriving from the second trust shall be treated as arising under that trust, and not under the first trust.

A notice under this sub-paragraph shall give particulars of the names and addresses of the persons answerable for the second trust, and of the amount of the individual's investment income deriving from the second trust.

- (4) Where income arising under the second trust derives from a third trust, the person answerable for the second trust shall have the rights conferred by this paragraph as respects that income, and so on for any further trust, and in such a case references in this paragraph to the first and second trust shall be construed accordingly.

- (5) For the purposes of this paragraph the amount of the individual's income which derives from the second trust shall be that fraction of his income arising under the first trust of which—

- (a) the numerator is the income arising under the second trust to the trustees of the first trust, ascertained in accordance with paragraph 1(1) above,

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- (b) the denominator is the total income of the first trust, ascertained in accordance with paragraph 1(2) above.

*Notice to persons answerable for a trust*

- 7 (1) The person originally chargeable shall not be entitled to exercise his right under paragraph 3 above unless, not later than six months after his payment of, or of the part of, the special charge or after the making of the assessment, whichever is the later, he gave notice in writing to the person answerable for the trust of his intention to exercise any right available to him under paragraph 3 above.
- (2) If notice is so given, the person answerable for the trust shall not be entitled to give a notice under paragraph 6(3) above unless, not later than one month after the receipt of the notice under this paragraph, he has given notice in writing of its receipt to the person answerable for the second trust.
- (3) If an application is made to the Board in accordance with the following provisions of this paragraph, showing to their satisfaction the amount of an individual's investment income which arises under a trust, the Board shall give to the person originally chargeable, and to the person answerable for the trust, a certificate stating the amount of the special charge attributable to the trust, and, if less, the amount recoverable from the person answerable for the trust.
- (4) An application under sub-paragraph (3) above—
- (a) may be made by the person originally chargeable, if he has paid the whole of the special charge, or the part of the special charge which is not attributable to any trust together with an additional amount, but shall be made not later than six months after the payment, or after the making of the assessment, whichever is the later,
- (b) may be made by the person answerable for the trust not later than one month after receipt of a notice under sub-paragraph (1) above, or as the case may be, of a notice under sub-paragraph (2) above.

*Application of trust property in payment of charge*

- 8 (1) The powers of a trustee or tenant for life (whether arising under the Settled Land Act 1925 or that Act as applied by section 28 of the Law of Property Act 1925, or otherwise) shall include a power to apply or direct the application of capital money, and to raise money by mortgage, for the purpose of paying the special charge, or interest on the special charge, of making payments in advance of assessment in or towards the special charge, and of discharging any liability arising under the preceding provisions of this Schedule.
- (2) As between the persons interested (whether in income or capital) under a trust, the law relating to the ultimate incidence of estate duty shall apply to any amount falling to be paid under the preceding provisions of this Schedule in respect of income derived from property subject to the trust as if—
- (a) that amount were estate duty charged on that property,
- (b) estate duty was so charged on the cesser of a life interest in the property, occurring at the end of the year 1967-68, being an interest not subject to any interest in the property in fact existing under the trust, and
- (c) that amount were charged as on property not passing to the executor as such :

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Provided that as between any annuity, other than one by reason of which the said amount or any part thereof fell to be paid, and other interests, the amount shall be borne by the other interests to the exoneration of the annuity.

- (3) Where the income derived from property referred to in sub-paragraph (2) above was a share only of income from the property, whether or not subject to other interests, that sub-paragraph shall apply as if the income so derived had been derived from a corresponding share of the property.
- (4) This paragraph shall, in its application to Scotland, have effect as if for sub-paragraph (1) there were substituted the following sub-paragraph:—
- “(1) For the purpose of paying the special charge, of making payments in advance of assessment in or towards the special charge, and of discharging any liability arising under the preceding provisions of this Schedule, a trustee, a liferenter or an heir of entail in possession shall have power to expend capital money and to sell, or to borrow money on the security of, the estate or any part thereof, heritable as well as moveable.”
- (5) In the application of sub-paragraph (1) above to Northern Ireland, for the first reference to the Settled Land Act 1925 there shall be substituted a reference to the Settled Land Acts 1882 to 1890, and the reference to the said Act of 1925 as applied by the Law of Property Act 1925 shall be omitted.

#### *Foreign trusts*

- 9 (1) If it is shown to the satisfaction of the Board—
- (a) that any part of the special charge in respect of an individual's aggregate investment income is directly or indirectly attributable to a foreign trust, and
  - (b) that neither the individual or his wife nor, if different, the person chargeable, nor the trustee of any intermediate trust which is not a foreign trust, was absolutely entitled, as against the trustees, to the capital of the trust, or to a part of the capital of the trust of an amount or value not less than the amount of the special charge so attributable, and
  - (c) that the income in question does not arise under a settlement in relation to which the individual or his wife is a settlor under any of the provisions of Part XVIII of the Income Tax Act 1952,
- the Board shall relieve all persons of liability to that part of the special charge, by discharge or by repayment, and, as between the person originally chargeable and any person answerable for a trust any amount recovered in respect of that part of the special charge shall be repaid.
- (2) For the purposes of this paragraph part of the special charge is directly or indirectly attributable to a foreign trust—
- (a) if, in accordance with this Schedule, it is attributable to that trust, or
  - (b) if income of a trust which is not a foreign trust derives from the foreign trust, and part of the special charge would be attributable to the foreign trust if it were not a foreign trust and if an election were made under paragraph 6 of this Schedule.
- (3) For the purposes of this paragraph—

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- (a) a trust is, in relation to a foreign trust, an intermediate trust if any part of the investment income arising under the trust derives, directly or indirectly, from the foreign trust,
- (b) where a person has any rights or powers which could be exercised so as to make him absolutely entitled, as against the trustees, to the capital of the trust or any part of it, he shall be treated as absolutely entitled, as against the trustees, to the capital or that part of it.

#### *Limitation of liability of trustees*

- 10 (1) Where on a claim against a trustee or tenant for life made in pursuance of this Schedule by the Board or some other person it is shown to the satisfaction of the Board that the rights of indemnification of the trustee or tenant for life out of the trust estate are, otherwise than by negligence or default on his part, insufficient to provide for his reimbursement, the Board shall give such directions for the limitation or release of his liability as appear just and equitable.
- (2) Sub-paragraph (1) above shall not apply to a claim against a trustee for any amount in respect of which the trustee could have made an election or given a notice under paragraph 6 of this Schedule.
- (3) Where a person who has paid any part of the special charge proves to the satisfaction of the Board that by reason of directions under sub-paragraph (1) above he is deprived of the right to recover any amount in respect thereof, the Board shall repay that amount to him.

#### *Interpretation*

- 11 (1) The following provisions have effect for the interpretation of this Schedule in a case where the special charge falls to be made in respect of an individual's aggregate investment income and that income includes any amount arising under a trust.
- (2) For the purposes of this Schedule the amount of the special charge attributable to the trust shall be the fraction of the special charge of which—
- (a) the numerator is the individual's investment income arising under the trust, and
  - (b) the denominator is the individual's aggregate investment income, ascertained before making any deduction under section 42(7) of this Act.
- (3) Where credit for foreign tax falls to be allowed against the special charge, the amount of the special charge attributable to the trust shall be ascertained—
- (a) by applying the fraction in sub-paragraph (2) above to the special charge without allowing the credit against the amount of the special charge, and
  - (b) by deducting from the resulting amount so much of the credit, if any, as is allowable in respect of income arising from the trust.
- (4) For the said purposes "the person originally chargeable" means the individual or other person liable to pay the special charge apart from the provisions of this Schedule.
- 12 (1) For the said purposes "the person answerable" for a trust is—
- (a) in the case of a subsisting settlement within the meaning of the Settled Land Act 1925, or in Northern Ireland the Settled Land Acts 1882 to 1890, the tenant for life,

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- (b) in the case of any other subsisting trust, the trustees.
- (2) Where the trust has come to an end, " the person answerable " for the trust is the person who immediately after the trust came to an end was entitled in law to the trust property, either beneficially or as the trustee of property settled under another trust, and if more than one person was then so entitled, those persons shall be severally liable as persons answerable for the trust in proportion to the value of their interests therein.
- (3) In applying sub-paragraph (2) above a person becoming entitled by virtue of a mortgage or charge, or in Scotland by virtue of the exercise of a power of sale contained in a bond and disposition in security, shall be disregarded, and sub-paragraph (2) above shall apply to the person or persons who would have been entitled in law to the trust property but for the mortgage or charge, or the exercise of the power of sale.
- (4) For the purposes of this paragraph a trust shall be deemed to have come to an end when any person has become entitled thereunder to capital and the trust property has in consequence thereof become vested in that person or an assignee of his interest, and where part of the trust property has become so vested a proportionate part of the amount recoverable from the person answerable for the trust shall be recoverable from the person described in sub-paragraphs (2) and (3) above, and the remainder from the person described in sub-paragraph (1) above, and " subsisting " in relation to a settlement or trust shall be construed accordingly.
- 13 (1) In this Schedule, unless the context otherwise requires—
- a trust is a " foreign trust " if and only if the general administration of the trust is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom,
- " tenant for life " means, in relation to any settlement, any person who has the powers of a tenant for life under the Settled Land Act 1925 or in Northern Ireland under the Settled Land Acts 1882 to 1890,
- " trustee " includes a personal representative and " trust " shall be construed accordingly,
- and references to a trust do not include references to a trust constituted in pursuance of a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940.
- (2) In this Schedule references to income of an individual arising under a trust include references to income from property subject to the trust which is treated as the income of that individual for income tax purposes generally, or for surtax.
- (3) Where any property or fund is held as to different parts thereof on different trusts, this Schedule shall apply separately to each part.

SCHEDULE 16

Section 45.

SPECIAL CHARGE: CLOSE COMPANIES

*Special apportionments*

- 1 Subject to paragraph 2 below—
- (a) any apportionment under Part IV of this Act of the income of a close company shall be made according to the respective interests of the participators in that company,
  - (b) any sub-apportionment under Part IV of this Act of income of one close company apportioned to another close company shall be made according to the respective interests of the participators in that other company.

- 2 (1) In the case of any company—
- (a) the provisos to section 258(3) of the Income Tax Act 1952 (beneficial interests in loans),
  - (b) section 259(1) of that Act (interests which would arise in a winding up), and
  - (c) section 260 of that Act, without subsection (5) (further provisions as to underlying interests),

shall apply as they applied, in the case of an investment company, to apportionments for surtax under Chapter III of Part IX of that Act (a reference to a participator being substituted for any reference to a member or loan creditor).

- (2) For the purposes of sub-paragraph (1) above, a loan creditor shall be deemed to have an interest in any company which is an investment company to the extent that the income to be apportioned or assets representing it is or have been expended or applied, or is or are available to be expended or applied, in redemption or repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.

In this sub-paragraph " investment company " means a company whose income consists wholly or mainly of investment income, construing " investment income " in accordance with paragraph 8(1) of Schedule 18 to the Finance Act 1965.

- 3 (1) Notice of any apportionment (including any sub-apportionment) of the income of a close company under Part IV of this Act shall be given by serving on the company a statement showing the amount of the income of the company up to the required standard for the purposes of the apportionment, and either the amount apportioned to each participator or the amount apportioned to each class of shares, as the Board think fit.
- (2) A company which is aggrieved by any such notice of apportionment shall be entitled to appeal to the Special Commissioners on giving notice to an officer of the Board within thirty days after the date of the notice.

*Recovery of special charge from company*

- 4 (1) This paragraph has effect where the special charge falls to be made in respect of an individual's investment income and that income includes any amount—
- (a) treated as part of his total income for surtax in consequence of an apportionment (with any sub-apportionment) of the income of a company under section 78 of the Finance Act 1965, or

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- (b) treated as part of his investment income in consequence of an apportionment (with any sub-apportionment) of the income of a close company under Part IV of this Act,  
 and in this paragraph " the apportioned income " means any amount falling within paragraph (a) or (b) above.
- (2) If at the expiration of thirty days from the time when the special charge became due, any part of it remains unpaid, the Board may by notice in writing addressed to the company require the company to pay what then remained unpaid up to the following limit.
- (3) The said limit is the fraction of the special charge falling to be made in respect of the individual's aggregate investment income of which—
- (a) the numerator is the apportioned income, and
  - (b) the denominator is the individual's aggregate investment income, ascertained before making any deduction under section 42(7) of this Act.
- (4) Where credit for foreign tax falls to be allowed against the special charge, the said limit shall be ascertained by applying the fraction in sub-paragraph (3) above to the special charge without allowing the credit against the amount of the special charge.
- (5) Any sum required to be paid by a company in pursuance of the notice shall be payable on the day next following the giving of the notice, and the provisions of Part IV of this Act shall apply as if that amount had been assessed on the company.

## SCHEDULE 17

Section 52.

### SELECTIVE EMPLOYMENT TAX—AREAS FOR HOTEL ETC. REFUND

The areas referred to in section 52(1) of this Act are—

- (1) the following employment exchange areas (that is to say, areas for which an employment exchange has been established for the purposes of the Employment and Training Act 1948) as subsisting at the date of the passing of this Act, being areas which at that date formed part of the development areas hereinafter mentioned within the meaning of section 26(6) of the Finance Act 1967, namely—
- (a) in the Northern Development Area—

Alnwick	Keswick
Amble	Malton
Barnard Castle Sub-Office	Middleton-in-Teesdale Sub-Office
Berwick-on-Tweed	Millom
Brampton	Morpeth
Carlisle	Northallerton
Cleator Moor	Penrith
Cockermouth	Pickering
Crook	Prudhoe



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Grange-over-Sands	Richmond
Sub-Office	Scarborough
Haltwhistle	Thirsk
Hexham	Ulverston
Kendal	Whitby
(b) in the Scottish Development Area—	
Annan	Fort William
Anstruther	Fraserburgh
Arbroath	Galashiels
Ayr	Girvan
Banchory	Glenrothes
Banff	Haddington
Blairgowrie	Hawick
Brechin	Helensburgh
Buckie	Huntly
Campbeltown	Invergordon
Carluke	Inverness
Castle Douglas	Inverurie
Cowdenbeath	Kirkcaldy
Crieff	Kirkwall
Cumnock	Lanark
Cupar	Lerwick
Dingwall	Lesmahagow
Dumfries	Leven and Methil
Dunoon	Lochgilthead
Elgin	Lossiemouth
Eyemouth	Montrose
Forfar	Nairn
Forres	Newton Stewart
North Berwick Sub-Office	Sanquhar
	Stirling
Oban	Stonehaven Branch Office
Perth	Stornoway
Peterhead	Stranraer
Pitlochry	Thurso

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Portree	Troon
Rothesay	Wick
St. Andrews	
(c) in the Welsh Development Area—	
Aberystwyth	Llandeilo Sub-Office
Amlwch	Llandovery Sub-Office
Bangor	Llandrindod Wells
Beaumaris	Llandyssul
Bethesda	Llangefni
Blaenau Ffestiniog	Llangollen
Brecon	Llanrwst
Caernarvon	Machynlleth
Cardigan	Milford Haven
Carmarthen	Newtown
Conway	Pembroke Dock
Crickhowell Branch Office	Penmaenmawr
	Penygroes
Denbigh	Portmadoc
Fishguard	Pwllheli
Haverfordwest	Tenby
Holyhead	Welshpool
Lampeter	
(d) in the South Western Development Area—	
Barnstaple	Looe
Bideford	Newquay
Bude Sub-Office	Penzance
Camborne	Redruth
Camelford	St. Austell
Falmouth	St. Ives
Helston	Truro
Ilfracombe	Wadebridge
Liskeard	
(2) in the said Scottish Development Area—	
(a) the islands comprised in the employment exchange areas of Ardrossan and Largs as subsisting as aforesaid ;	

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- (b) so much of the employment exchange area of Aberdeen as subsisting as aforesaid as at the date of the passing of this Act was comprised—
- (i) in the area of the district council of Alford or of Ellon; or
  - (ii) in the small burgh of Ellon.

## SCHEDULE 18

Section 54.

### PREMIUM SAVINGS BONDS : NEW TERMS

- 1 Premium Savings Bonds are a Government Security and are eligible for inclusion in draws for cash prizes. These prizes are free from United Kingdom Income Tax, Surtax and Capital Gains Tax.
- 2 Premium Saving Bonds (Series B) (hereinafter called Bonds) will be issued in units of £1 by the Treasury and will be subject to regulations made from time to time by the Treasury under section 12 of the National Debt Act 1958, or having effect by virtue of that Act. The principal of the Bonds and the prizes allotted will be a charge on the National Loans Fund with recourse to the Consolidated Fund.
- 3 The purchaser will be required to fill in an application form giving his full name and address, the amount of Bonds which he wishes to purchase and his usual signature.
- 4 Bonds are not transferable either during the lifetime or on the death of the registered holder. No responsibility can be accepted in respect of their use as security for a loan.
- 5 There will be a monthly prize fund which will be determined by calculating one month's interest on each bond eligible for the draws in that month. The rate of interest will be  $4\frac{5}{8}\%$  per annum or such other rate as may be prescribed under the provisions of paragraph 15 below.
- 6 A draw will be held each week to allot from the prize fund one prize of £25,000, and a draw will be held each month to allot the amount remaining after the amounts for the prizes for the weekly draws in that month have been set aside.
- 7 A Bond will be eligible for inclusion in the first draw held after the expiration of the three clear calendar months following the month in which it is purchased, provided that it has not been repaid before the expiration of those three months. After a Bond has qualified for its first draw it will be included in each succeeding draw, unless it has been repaid before the first day of the month in which the draw is held or (subject to the provisions of paragraph 15 below) the registered holder has died before the first day of a period of twelve consecutive calendar months preceding the month in which the draw is held.
- 8 Each £1 unit Bond will have one chance in each draw for which it is eligible. Each £1 unit Bond may win not more than one prize in each draw for which it is eligible and in draws producing more than one prize will be allotted the highest prize for which it is drawn.
- 9 Notwithstanding the provisions of paragraph 7 above any Bond purchased in contravention of any regulation limiting the number of unit Bonds which may be held by any person shall not be eligible for inclusion in any draw until the holding has been reduced to not more than the maximum number permitted by such regulation.

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- 10 The monthly prize fund will be allocated in prizes of the following numbers and amounts (or such other numbers and amounts as may be prescribed under the provisions of paragraph 15 below):—
- (a) For the weekly draws there will be set aside an amount to be allocated as single prizes of £25,000 each week, the number of such prizes to be equal to the number of Saturdays in the month.
  - (b) For the monthly draw the remaining prize fund will then be allocated as follows:—
    - (i) each complete £100,000 will be divided into:
      - 1 prize of £5,000
      - 10 prizes of £1,000
      - 10 prizes of £500
      - 20 prizes of £250
      - 30 prizes of £100
      - 150 prizes of £50
      - 2,580 prizes of £25
    - (ii) of the remainder, each complete £10,000 will be divided into:
      - 1 prize of £1,000
      - 1 prize of £500
      - 2 prizes of £250
      - 3 prizes of £100
      - 20 prizes of £50
      - 268 prizes of £25
    - (iii) any amount of less than £10,000 will be allocated in prizes of £25, any residual sum of less than £25 being added to the prize fund in the following month.
- 11 The serial numbers of Bonds which are allotted prizes will be published in the London Gazette, and the registered holders will be notified by post at their last address as recorded at the Bonds and Stock Office.
- 12 All matters relating to the method and conduct of the draw and allotment of prizes shall be at the sole discretion of the Postmaster General, whose decision as to which Bonds have drawn prizes shall be final.
- 13 The purchase price of a Bond is repayable in full on application to the Bonds and Stock Office.
- 14 For the purposes of this Prospectus a Bond shall be deemed to be repaid on the day on which a warrant for the amount repayable is posted to the person entitled to it.
- 15 The Treasury reserve the right by giving not less than three months notice in the London, Edinburgh and Belfast Gazettes:—
- (a) to vary the rate of interest specified in paragraph 5 above for determining the amount of the prize fund ;
  - (b) to vary the scale of prizes set out in paragraphs 6 and 10 above;
  - (c) to vary the provisions of paragraph 7 above insofar as they relate to the eligibility of a Bond for inclusion in a draw after the death of the registered holder;
  - (d) to declare any Bonds purchased on or before a date specified in the Notice to be ineligible for further draws.

- 16 If the Treasury give notice under paragraph 15 above to vary the terms of this Prospectus for any Bonds sold on those terms, its terms shall be deemed to be varied accordingly, as from the date of publication of the Notice, for any application to buy a Bond or Bonds on or after that date.

## SCHEDULE 19

Section 59.

SOCIAL SERVICES AGREEMENT BETWEEN TREASURY  
AND MINISTRY OF FINANCE FOR NORTHERN IRELAND

The Commissioners of Her Majesty's Treasury and the Ministry of Finance for Northern Ireland, with a view to assimilating the burdens on the Exchequer of the United Kingdom and the Exchequer of Northern Ireland in respect of social and allied services, have entered into the following Agreement which amends as from 28th November 1966 the Agreement of 11th February 1949, relating to social and allied services, set out in the Schedule to the Social Services (Northern Ireland Agreement) Act 1949.

- 1 The said Agreement of 11th February 1949 shall have effect as if:—
- (a) there were substituted for sub-paragraphs (a) to (c) of paragraph (i) of article 1 the following sub-paragraphs:—
    - “(a) the Ministry of Social Security Act 1966, and the corresponding enactments in Northern Ireland;
    - (b) the Family Allowances Act 1965, and the corresponding enactments in Northern Ireland; and
    - (c) the National Health Service Act 1946, the National Health Service (Scotland) Act 1947, and the corresponding enactments in Northern Ireland.”;
  - (b) in sub-paragraph (a) of paragraph (ii) of article 1, for the words " the Family Allowances Act 1945 ", there were substituted the words " the Family Allowances Act 1965 ",  
and for the words " the Ministry of National Insurance " there were substituted the words " the Ministry of Social Security ";
  - (c) in sub-paragraph (b) of paragraph (ii) of article 1, for the words " sub-paragraphs (a), (b), (c) and (c)", there were substituted the words " sub-paragraphs (a) and (b) ";
  - (d) in sub-paragraph (c) of paragraph (ii) of article 1, for the words " sub-paragraph (d)", there were substituted the words " sub-paragraph (c) ";
  - (e) there were substituted for paragraph (a) of article 3 the following paragraph:—
    - “(a) to maintain the rates of—
      - (i) benefits corresponding to those payable in Great Britain under the Ministry of Social Security Act 1966, and
      - (ii) family allowances,
 in general parity with the rates of benefits and allowances obtaining in Great Britain ; and”.
- 2 This Agreement shall not come into operation until confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland respectively, but upon being so confirmed shall apply as from 28th November 1966.

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In Witness whereof Brian Kevin O'Malley and John McCann two of the Commissioners of Her Majesty's Treasury have hereunto set their hands and seals and the Official Seal of the Ministry of Finance for Northern Ireland has been hereunto affixed this Twenty-eighth day of February 1968.

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Signed Sealed and Delivered by                      B. K. O'Malley  
Brian Kevin" O'Malley one of the  
Commissioners of Her Majesty's  
Treasury in the presence of:— }

F. R. Green,  
House of Commons,  
London, S.W.1.  
Civil Servant

Signed Sealed and Delivered by John              J. McCann  
McCann one of the Commissioners of  
Her Majesty's Treasury in the presence  
of:— }

F. R. Green,  
House of Commons,  
London, S.W.1.  
Civil Servant

The Official Seal of the Ministry of              H. V. Kirk  
Finance for Northern Ireland was  
hereunto affixed in the presence of:— }

C. J. Bateman,  
Civil Servant,  
Ministry of Finance,  
Northern Ireland.

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## SCHEDULE 20

Section 61.

### REPEALS

#### PART I

#### CUSTOMS AND EXCISE REPEALS

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. and 1 Eliz. 2. c. 44.	The Customs and Excise Act 1952.	Section 66.
5 & 6 Eliz. 2. c.49.	The Finance Act 1957.	Section 3.

The above repeals in the Finance Act 1965 do not affect licences taken out before 20th March 1968.

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

Chapter	Short Title	Extent of Repeal
7 & 8 Eliz. 2. c. 58.	The Finance Act 1959.	In section 1(7) the words from " and section 3 of the Finance Act 1957 " onwards.
1963 c. 9.	The Purchase Tax Act 1963.	In Part I of Schedule 1, in Group 14, paragraph (2) of the exemptions, and in paragraph (a) of Group 26 the words " Diaries, calendars and similar articles: and"
1964 c. 49.	The Finance Act 1964.	Section 7(1) and (5).
1965 c. 25.	The Finance Act 1965.	In section 5, subsections (1), (2), (6) and (7), and in subsection (5) the words "II and" and the words from " except" onwards.  In Schedule 5, Parts I, II, in, IV and VI.
1966 c. 18.	The Finance Act 1966.	Section 4.  Section 5 (on the expiration of the period of one month beginning with the day on which this Act is passed).  In Schedule 3, paragraph 2(2) (b).
1967 c. 54.	The Finance Act 1967.	In section 1— subsection (1)(b); in subsection (2), paragraphs (a), (c) and (d) and, in the words following the paragraphs, the figure " 1" and the words " 3 and 4 respectively"; subsection (3)(a) and (d).  Schedules 1, 3 and 4.

The above repeals in the Finance Act 1965 do not affect licences taken out before 20th March 1968.

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

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**PART II**

## DOUBLE TAXATION RELIEF REPEALS

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. and 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	In Schedule 16 paragraphs 5, 6, 7 and 8.
1965 c. 25.	The Finance Act 1965.	In Schedule 16 paragraphs 1 and 6.

This Part of this Schedule has effect as respects relief from income tax or capital gains tax for the year 1968-69 and subsequent years of assessment, and as respects relief from corporation tax for the financial year 1968 and subsequent financial years.

**PART III**

## CAPITAL GAINS REPEALS

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	In section 17 subsections (7) and (8) where the acquisition and disposal take place after 19th March 1968.  Section 24(10) as respects a death after 19th March 1968.  Section 29(11).  In Schedule 6, paragraph 9(1) (b), and in paragraph 25(1) the words from "by notice" to "date of the disposal".  In Schedule 8 paragraph 8 as respects a disposal after 5th April 1968.
1967 c. 54.	The Finance Act 1967.	In section 33(3) the words from " and ' year of assessment' " to the end of the subsection.

**PART IV**

## ESTATE DUTY REPEALS

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 7.	The Customs and Inland Revenue Act 1889.	In the first paragraph of section 11(1) the words from

This Part of this Schedule has effect in the case of a death after 19th March, 1968.



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

Chapter	Short Title	Extent of Repeal
10 Edw. 7 & 1 Geo. 5. c. 8.	The Finance (1909-10) Act 1910.	"shall be read as if" to "said description of property". In section 59 subsection (1), and in subsection (2) the words " and this section" and, as respects gifts made after 19th March 1968, the words from "which are made" to " circumstances or ".
3 & 4 Geo. 6. c. 29.	The Finance Act 1940.	In section 46(2) proviso (b).
9 & 10 Geo. 6. c. 64.	The Finance Act 1946.	Section 47. Schedule 11.
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957.	In section 38(10) the words from " except in " to the end of the subsection.
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960.	Section 64(1).

This Part of this Schedule has effect in the case of a death after 19th March, 1968.

## PART V

### EXCHANGE CONTROL REPEALS

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 14.	The Exchange Control Act 1947.	In section 30, in subsection (1)(v), and in subsection (3), the words "Treasury bills or". In section 40 the words " Treasury bills ".
1964 c. 60.	The Emergency Laws (Re-enactments and Repeals) Act 1964.	In section 2(3), in paragraph (a) of the definition of " security " the words " and Treasury bills ".

## PART VI

### MISCELLANEOUS REPEALS

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. and 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	Section 205(3). Section 397(3).
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960.	Section 40(1)(c).

The repeal of section 397(3) of the Income Tax Act 1952 has effect for the year 1969-70 and subsequent years of assessment.

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Chapter	Short Title	Extent of Repeal
<a href="#">1965 c. 25.</a>	The Finance Act 1965.	In Schedule 17, paragraph 4(3), the words from " and as regards" to "each of the others " as respects a distribution made after 10th April 1968.
<a href="#">1967 c. 54.</a>	The Finance Act 1967.	Section 16(1).

The repeal of section 397(3) of the Income Tax Act 1952 has effect for the year 1969-70 and subsequent years of assessment.