



# Finance Act 1974

## 1974 CHAPTER 30

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [31st July 1974]

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 AND VALUE ADDED TAX

#### **1 Increase of duties on spirits, beer, wine, British wine and tobacco**

- (1) The rate of the duty of excise chargeable under section 1 of the Finance Act 1964 on British spirits by virtue of Schedule 1 to the Finance Act 1973 shall be increased by £1.5600 per proof gallon.
- (2) The rates of the duties of customs chargeable under the said section 1 on imported spirits other than perfumed spirits by virtue of Schedule 1 to the Finance Act 1973 or any relevant order shall each be increased—
  - (a) in the case of spirits not comprised in paragraph (b) below, by £1.5600 per proof gallon ; and

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- (b) in the case of liqueurs, cordials, mixtures and other preparations in bottle, entered in such manner as to indicate that the strength is not to be tested, by £2.1000 per liquid gallon.
- (3) The rates of the duties of customs and excise chargeable under section 2 of the Finance Act 1964 on beer by virtue of Schedule 2 to the Finance Act 1973 or any relevant order shall each be increased—
  - (a) except as regards the increases mentioned in paragraph (b) below, by £2.4600 per 36 gallons; and
  - (b) as regards the increases in the rates of duty falling to be made, in the case of beer of an original gravity exceeding 1,030 degrees, for each additional degree, by £0.0220 per 36 gallons ;

and as respects beer on which there have been paid duties of customs or excise at the said increased rates, the rates of drawback allowable under the said section 2 by virtue of the said Schedule 2 or any such order shall each be increased by the like amount per 36 gallons.
- (4) The rates of the duties of customs chargeable under section 3 of the Finance Act 1964 on imported wine by virtue of Schedule 3 to the Finance Act 1973 or any relevant order shall each be increased—
  - (a) except as regards the additions mentioned in paragraph (b) below, by £0.5450 per gallon ; and
  - (b) as regards the additions to the rates of duty falling to be made, in the case of wine exceeding 42 degrees of proof spirit, for each additional degree or fraction of a degree, by £0.0450 per gallon.

For the purposes of this subsection " wine " includes the lees of wine.

- (5) The rates of the duty of excise chargeable under section 3 of the Finance Act 1964 on British wine by virtue of Schedule 4 to the Finance Act 1973 shall each be increased by £0.5450 per gallon.
- (6) The rates of the duties of customs and excise chargeable under section 4 of the Finance Act 1964 on tobacco by virtue of Schedule 5 to the Finance Act 1973 or any relevant order shall each be increased by £1.4000 per pound; and as respects tobacco on which there have been paid duties of customs or excise at the said increased rates, the rates of drawback allowable under the said section 4 by virtue of the said Schedule 5 or any such order shall each be increased by the like amount per pound.
- (7) In this section " relevant order " means any order made before 27th March 1974 under subsection (4) of section 1 of the Finance Act 1973 (power to alter rates of duties of customs and of drawbacks); and the preceding provisions of this section are without prejudice to the powers conferred on the Treasury by that section.
- (8) This section shall be deemed to have come into force on 27th March 1974, and as from 23rd May 1974 shall have effect as if in subsection (4) " relevant order " included the Customs Duties (Quota Relief) Order 1973 (but without prejudice to the powers conferred on the Secretary of State by section 5 of the Import Duties Act 1958).

## **2 Increase of certain duties on betting**

- (1) In section 1(2)(b) of the Betting and Gaming Duties Act 1972 and section 17(1)(b) of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (general

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betting duty on bets other than on-course bets) for the words " 6 per cent." there shall be substituted the words " 17 ½ per cent.

This subsection shall be deemed to have come into force on 31st March 1974.

- (2) For the purposes of the pool betting duty on bets made at any time by reference to any event taking place after 31st March 1974, section 7(1) of the Betting and Gaming Duties Act 1972 and section 18(1) of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (under which the amount of the duty is 33 ⅓ per cent, of the amount on which the duty falls to be computed) shall each have effect with the substitution for the words " 33 ⅓ per cent. " of the words " 40 per cent.", except in the case of bets made by way of pool betting in respect of a competition for prizes held by—
- (a) the holder of a licence under the Pool Competitions Act 1971, or
  - (b) any person approved by the Secretary of State in that behalf on the recommendation of the Gaming Board for Great Britain,
- in respect of which the amount of the pool betting duty shall be 33 1/3 per cent.

### **3 Continuation of powers under section 9 of Finance Act 1961**

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 3 of the Finance Act 1973, was extended until the end of August 1974) shall extend until the end of August 1975 or such later date as Parliament may hereafter determine.

### **4 Delivery of rum for home use after two years' warehousing**

In section 109(1) of the Customs and Excise Act 1952 (which, subject to various exceptions, prohibits the delivery of spirits for home use unless they have been warehoused for a period of at least three years), after the words " three years " there shall be inserted the words " or, in the case of rum, at least two years ".

### **5 Value added tax-time of supply**

Part I of the Finance Act 1972 (and in particular section 7(8) shall have effect as if references to cases where—

- (a) goods or services are supplied for a consideration the whole or part of which is determined or payable periodically or at the end of any period ; or
- (b) goods are supplied for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose; or
- (c) goods are supplied on hire for any period ; or
- (d) services are supplied for any period,

included cases where the supply took place or began before the passing of that Act.

### **6 Value added tax tribunals**

- (1) Schedule 6 to the Finance Act 1972 shall be amended in accordance with the following provisions of this section.
- (2) In paragraph 3(4) after the word "pension" there shall be inserted the words " allowance or gratuity ".

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- (3) In paragraph 7(2), for the words from the beginning to " one to " there shall be substituted the words " One member of each panel of chairmen shall ".
- (4) In paragraph 7(3)—
- (a) for the words from the beginning to " be appointed " (where those words first occur) there shall be substituted the words " Appointments to a panel of chairmen shall be made "; and
  - (b) for the words from " all" to " be appointed " (where those words next occur) there shall be substituted the words " appointments to a panel of other members shall be made " ;
- but these amendments shall not affect any appointment to a panel of chairmen made by the Treasury before the passing of this Act.
- (5) In paragraph 7(4), the word " full-time " (in both places where it occurs) shall be omitted and after the word " pension " there shall be inserted the words " allowance or gratuity ".
- (6) In paragraph 7(5), the word " full-time " shall be omitted.

## PART II

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX (GENERAL)

#### 7 Charge of income tax for 1974-75

- (1) Income tax for the year 1974-75 shall be charged at the basic rate of 33 per cent.; and
- (a) in respect of so much of an individual's total income as exceeds £4,500 at such higher rates as are specified in the Table below ; and
  - (b) in respect of so much of the investment income included in an individual's total income as exceeds £2,000 at the additional rate of 15 per cent.

TABLE

<i>Part of excess over £4,500</i>	<i>Higher rate</i>
The first £500	38 per cent.
The next £1,000	43 per cent.
The next £1,000	48 per cent.
The next £1,000	53 per cent.
The next £2,000	58 per cent.
The next £2,000	63 per cent.
The next £3,000	68 per cent.
The next £5,000	73 per cent.
The remainder	83 per cent.

- (2) In section 59(2) of the Finance Act 1973, in the definition of " the additional rate ", after the words " Finance Act 1971 " there shall be inserted the words " or, if more than one, the higher or highest of them ".

## **8 Increase of surtax rates for 1972-73**

- (1) Subject to the following provisions of this section, section 10 of the Finance Act 1973 (surtax rates for 1972-73) shall have effect as if—

- (a) each of the higher rates applied by subsection (1) of that section were increased by 10 per cent, of the difference between that rate and the standard rate for the year 1972-73 (the differences being equal to the percentages specified in the Table in section 12(1) of the Finance Act 1970); and
- (b) the 40 per cent, mentioned in subsection (2) of that section (reduced marginal rate) were increased to 44 per cent.;

and so much of the surtax charged for that year as is attributable to this section is in the following provisions of this section referred to as " the surcharge ".

- (2) The surtax charged by any assessment made before 1st July 1974 in accordance with section 10 of the Finance Act 1973 as originally enacted shall, unless by that date a further assessment has been made in respect of the surcharge, be treated as from that date as varied in accordance with subsection (1) above by virtue of this Act and without more.

- (3) The provisions of the Income Tax Acts prescribing dates for the payment and recovery of surtax (which, in relation to surtax, have effect as originally enacted) shall be modified as follows—

- (a) section 4(3) of the Taxes Act (payment by individuals) shall have effect as if the 1st January mentioned in it were, in relation to one half of the surcharge, 1st July 1974. and, in relation to the other half, 1st January 1975. ; and section 24 of the Finance Act 1971 (claims for deferment) shall not apply in relation to the surcharge and shall not by reason of the surcharge apply to any amount to which it does not apply apart from the surcharge; and

- (b) section 297(6) of the Taxes Act (recovery from close company or participator) shall have effect as if the 1st and 2nd January mentioned in paragraphs (a) and (b) respectively of the proviso were, in relation to one half of the surcharge, 1st and 2nd July 1974 and, in relation to the other half, 1st and 2nd January 1975 ;

and 1st July 1974 and 1st January 1975 shall also be taken for the purposes of section 88 of the Taxes Management Act 1970 (interest on tax recovered to make good loss due to taxpayer's fault) as the dates when one half of the surcharge and the other half ought to have been paid respectively.

- (4) Where the surcharge is charged by an assessment treated under subsection (2) above as varied it shall be deemed for the purposes of section 86 of the Taxes Management Act 1970 (interest on overdue tax) to be charged by an assessment separately made.

- (5) Sections 40 and 41 of the Taxes Act (recovery of tax attributable to wife's income) shall have effect in relation to the surcharge as if it had been charged by an assessment separately made, as if that assessment had been made before the service of any notice for the year 1972-73 under section 41(1) of that Act, and with any other necessary modifications.

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- (6) Section 29 of the Taxes Act (relief in case of death) shall, in relation to surtax for the year 1972-73, apply to a person who died after the end of that year but before 27th March 1974 as it applies to a person who died in that year.
- (7) Where surtax for the year 1972-73 has been assessed on any person in the name of a company which is dissolved before the end of January 1975 (and whether before or after the passing of this Act) and, the assessment having been made in accordance with section 10 of the Finance Act 1973 as originally enacted, a notice of charge under section 297(6) of the Taxes Act is served on that person in respect of the surcharge, the surcharge shall become payable by him, without any election under that section, on whichever of the following is the latest, that is to say, 1st January 1975, the day after the service of the notice, and the day after the dissolution of the company.
- (8) Section 21 of the Finance Act 1965 (under which the rate of capital gains tax may depend on the rates of income tax, including surtax) shall have effect as if the preceding provisions of this section had not been enacted.

## **9 Charge of corporation tax for financial year 1973**

Corporation tax shall be charged for the financial year 1973 at the rate of 52 per cent.

## **10 Corporation tax-other rates and fractions**

- (1) The fractions by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are included in a company's profits for the purposes of corporation tax shall be—
  - (a) for companies other than authorised unit trusts or investment trusts, eleven twenty-sixths ; and
  - (b) for authorised unit trusts and investment trusts, thirty seven fifty-seconds;and the fraction specified in paragraph (b) above shall, as from 1st April 1973, replace that specified in section 93(2).
- (2) The small companies rate for the financial year 1973 shall be 42 per cent, and for that year the fraction mentioned in section 95(2) of the Finance Act 1972 (marginal relief for small companies) shall be one-sixth.
- (3) The special rate for the purposes of section 96 of the Finance Act 1972 (relief for industrial and provident societies, housing associations and building societies) shall for the financial year 1973 and subsequent years be 40 per cent.

## **11 Mitigation of corporation tax liability of small companies**

For any financial year after 1972 for references to the amounts of £15,000 and £25,000 in section 95(3)(a) of the Finance Act 1972 there shall be substituted the amounts of £25,000 and £40,000 and for references to the amounts of £15,000 and £25,000 in section 95(3)(b) of the same Act there shall be substituted the amounts of £25,000 and of £40,000.

## **12 Rate of advance corporation tax for financial year 1974**

The rate of advance corporation tax for the financial year 1974 shall be thirty-three sixty-sevenths.

### **13 Payments in addition to advance corporation tax due in financial year 1974**

- (1) Where a company is liable to pay an amount of advance corporation tax and that amount (whenever paid) is due at any time during the financial year 1974 the company shall be liable to make, in addition, a payment of one-half of that amount; but nothing in this section shall require such a payment to be made by the trustees of an authorised unit trust or by an investment trust (within the meaning of Chapter VI of Part XII of the Taxes Act).
- (2) Where a company makes a payment under this section the payment shall, subject to subsection (3) below, be deemed to be made on account of its liability to corporation tax for the relevant accounting period; and accordingly, if the amount of the payments made under this section exceeds the amount of that liability, the excess shall be repaid to the company.
- (3) Where throughout the relevant accounting period of a company which makes a payment under this section (in this subsection referred to as "the parent company") another company is a subsidiary of the parent company for the purposes of section 92 of the Finance Act 1972, the parent company may by notice in writing to the inspector elect that, to the extent only of the subsidiary's liability to corporation tax for the subsidiary's relevant accounting period, or to such less extent as may be specified in the notice, the payment shall be deemed to be made on account of that liability.
- (4) A payment under this section shall, if the amount of advance corporation tax by reference to which it is to be made is due before 1st September 1974, be due on that day and shall in any other case be due at the same time as that amount; and any such payment shall be made without the making of an assessment.
- (5) Where an amount of advance corporation tax due and paid before 1st September 1974 is repaid before that date under paragraph 4 of Schedule 14 to the Finance Act 1972, that amount shall be left out of account for the purposes of this section; and where, after a company has made a payment under this section, the whole or part of the advance corporation tax by reference to which it was made is repaid under that paragraph, there shall be repaid to the company, together with the advance corporation tax, so much of the payment as does not exceed one-half of the amount of advance corporation tax so repaid.
- (6) For the purposes of subsection (5) above any repayment of advance corporation tax made after the end of the financial year 1974 shall, if it might be attributed either to advance corporation tax due during that year or to advance corporation tax due after that year, be attributed to advance corporation tax due after that year.
- (7) Except as provided by subsection (5) above or subsection (8) below, the repayment of any amount under this section shall be made at the time payment of the corporation tax on account of which it is deemed to be made is due (or, as the case may be, would be due if there were any liability to corporation tax).
- (8) If the inspector is satisfied before the time mentioned in subsection (7) above that an amount falls to be repaid under that subsection, that amount shall be repaid when the inspector is so satisfied; but no repayment shall be made by virtue of this subsection before 1st September 1975.
- (9) The relevant accounting period for the purposes of this section shall be determined as follows, but subject to subsection (10)(b) below:—

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- (a) if the company has an accounting period ending in the financial year 1974 which is a period of twelve months or is the company's first accounting period, that period shall be the relevant accounting period;
- (b) if the company does not have such an accounting period but has an accounting period ending in the financial year 1974, that accounting period (or if more than one the first of them) and, so far as necessary, any subsequent accounting period shall be a relevant accounting period; and
- (c) if the company has no accounting period ending in the financial year 1974 its first accounting period ending after that financial year shall be the relevant accounting period;

but where a relevant accounting period falling under paragraph (b) above is a period of less than twelve months it shall be the relevant accounting period for such part only of the payments made under this section and repayments due to the company under subsection (7) of this section as bears to the whole thereof the same proportion as the length of that period bears to twelve months.

- (10) Where the affairs of a company are wound up, then—
  - (a) if the winding-up commenced before 1st January 1974, the company shall not be required to make any payment by virtue of this section ; and
  - (b) if the winding-up commenced on or after that date but before the end of the financial year 1974 and the company so elects by notice in writing given to the inspector, the accounting period ending with the commencement of the winding-up shall be the relevant accounting period.
- (11) If any payment to be made under this section is not made at the time it is due the amount of the payment may be assessed on the company and shall carry interest as if it were an amount of tax assessable in accordance with Schedule 14 to the Finance Act 1972; and for the purpose of recovering the whole or part of the interest the amount of the payment may be so assessed whether or not it has been paid.

## **14 Alteration of personal reliefs**

- (1) Chapter II of Part I of the Taxes Act shall be amended in accordance with the following provisions of this section.
- (2) In section 8 (personal relief)—
  - (a) for the reference in subsection (1)(a) (married) to £775 there shall be substituted a reference to £865 ; and
  - (b) for the references in subsections (1)(b) (single) and (2) (wife's earned income relief) to £595 there shall be substituted references to £625.
- (3) In section 10(3) (appropriate amount for child)—
  - (a) for the reference to £265 (child over sixteen) there shall be substituted a reference to £305 ;
  - (b) for the reference to £235 (child over eleven but not over sixteen) there shall be substituted a reference to £275; and
  - (c) for the reference to £200 (child not over eleven) there shall be substituted a reference to £240.
- (4) In section 14 (additional relief for widows and others in respect of children) for the references to £130 there shall be substituted references to £180.
- (5) In section 7 (persons over sixty-five with small incomes)—



- (a) for the references to £700 and £1,000 (income limits for exemption) there shall be substituted references to £810 and £1,170;
  - (b) for the reference to £340 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £565 ; and
  - (c) for the reference to 50 per cent, (percentage governing relief by reduction of tax) there shall be substituted a reference to 55 per cent.
- (6) In section 24 (reduction on account of family allowances) for the reference to £60 there shall be substituted a reference to £52.

## **15 Maintenance payments**

- (1) Where an individual's income for any year of assessment consists of or includes amounts paid as maintenance payments to him or for his benefit, the first £1,000 of those amounts shall not be investment income for the purposes mentioned in section 32(3) of the Finance Act 1971.

- (2) In this section—

" maintenance payments " means payments made by a party to a marriage by way of provision for the other party or for a child of both or either of the parties, or payments by way of provision for a child which are made by his natural father;

" marriage " includes a marriage which has been dissolved or annulled;

" child " includes an illegitimate child and an adopted child;

and for the purposes of this section payments to or for the benefit of a party to a marriage which are made under a settlement (within the meaning of Chapter III of Part XVI of the Taxes Act) made by the other party shall be treated as made by the other party if they are made during his life.

## **16 Partnership retirement annuities**

- (1) Where a person (in this section referred to as the former partner) has ceased to be a member of a partnership on retirement because of age or ill-health or on death and, under—

- (a) the partnership agreement; or
- (b) an agreement replacing the partnership agreement or supplementing it or supplementing an agreement replacing it; or
- (c) an agreement made with an individual who acquires the whole or part of the business carried on by the partnership;

annual payments are made for the benefit of the former partner or his widow or a dependant of his and are for the purposes of income tax income of the person for whose benefit they are made, the payments shall be treated as earned income of that person, except to the extent that they exceed the limit specified in subsection (2) below, and shall not reduce the income which is chargeable as investment income of any other person.

- (2) The limit mentioned in subsection (1) above is 50 per cent, of the average of the amounts which, in the best three of the relevant years of assessment, were the former partner's shares of the relevant profits or gains; and for this purpose—

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- (a) the former partner's share in any year of the relevant profits or gains is so much of the relevant profits or gains as fell to be included in a return of his income for that year; and
- (b) the relevant profits or gains are the profits or gains of any trade, profession or vocation on which the partnership or any other partnership of which the former partner was a member was assessed to income tax; and
- (c) the relevant years of assessment are the last seven years of assessment in which he was required to devote substantially the whole of his time to acting as a partner in the partnership or those partnerships ; and
- (d) the best three of the relevant years of assessment are those three of them in which the amounts of his shares of the relevant profits were highest;

but where, in any of the relevant years, the circumstances were such that any of the profits or gains of a partnership were not assessable to income tax, paragraphs (a), (b) and (d) above shall apply as they would apply had those profits or gains been so assessable.

## **17 Expenditure on fire safety**

- (1) If a person carrying on a trade has on or after 1st June 1972 incurred expenditure in taking steps specified in a notice served on him by the fire authority under section 5(4) of the Fire Precautions Act 1971, and—
- (a) the notice was issued on an application for a fire certificate in respect of premises used by him for the purposes of the trade ; and
  - (b) an allowance or deduction in respect of the expenditure could not, apart from this section, be made in taxing the trade or computing the profits or gains arising from it;

Chapter I of Part III of the Finance Act 1971 shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him and had been in use for the purposes of the trade; and as if the disposal value of the machinery or plant were nil.

- (2) This section shall be construed as if contained in Chapter I of Part III of the Finance Act 1971.

## **18 Expenses allowances to directors and others**

Section 198(3) of the Taxes Act shall have effect for the year 1975-76 and subsequent years of assessment as if for the references to £2,000 there were substituted references to £5,000.

## **19 Restrictions on relief for interest**

- (1) In section 75 of the Finance Act 1972 (relief for payment of interest)—
- (a) in subsection (1) for the words " and makes a claim to relief under this subsection, then" there shall be substituted the words " and the interest is stated in Schedule 9 to this Act or in Part III of Schedule 1 to the Finance Act 1974 to be eligible for relief under this section, then, if he makes a claim to the relief and ";
  - (b) after subsection (1) there shall be inserted the following subsection:—

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- “(1A) Relief under this section shall not be given in respect of interest on a debt incurred by overdrawing an account or by debiting the account of any person as the holder of a credit card or under similar arrangements.”;
- (c) subsections (3) to (5) shall be omitted ; and
- (d) at the end of subsection (7) there shall be added the words " and Schedule 1 to the Finance Act 1974 ".
- (2) The provisions of the Taxes Act and of the Finance Act 1972 mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified therein.
- (3) The preceding provisions of this section apply in relation to any interest paid after 26th March 1974 unless it is excepted from this subsection by the following provisions of this section; and where any interest which is so excepted would also be eligible for relief under section 75 of the Finance Act 1972 as amended by this Act, the relief shall not be restricted by virtue of subsection (3) of that section.
- (4) Interest is excepted from subsection (3) above if it is payable on a debt incurred on or before 26th March 1974 or on a debt replacing one so incurred and—
- (a) where it is payable on an overdraft, it is payable before 6th April 1975 ; and
- (b) where it is not payable on an overdraft but on a debt replacing an overdraft, the overdraft was replaced (either by the debt on which the interest is payable or by another debt which was not an overdraft) before 6th April 1975 and the interest is payable before 6th April 1980; and
- (c) in any other case the interest is payable before 6th April 1980;
- but where the interest is payable on an overdraft or on a debt replacing an overdraft it shall be eligible for relief to the extent only that it or, as the case may be, the amount on which it is payable, does not exceed the limit imposed by subsection (5) below.
- (5) The limit on the interest excepted by virtue of paragraph (a) of subsection (4) above is the amount of interest that would be payable after 26th March 1974 and before 6th April 1975 on an amount equal to the debit balance on 26th March 1974 of the overdrawn account and at the rate at which interest on that balance was chargeable on 26th March 1974; and the limit on the amount interest payable on which is excepted by paragraph (b) of that subsection is that debit balance.
- (6) For the purposes of this section—
- (a) a debt replaces another if it is incurred for the purpose of discharging that other debt or a debt replacing it;
- (b) a debt incurred by overdrawing an account which had a debit balance on 26th March 1974 shall be treated as incurred on or before that date ; and
- (c) a debt incurred by debiting the account of a person as the holder of a credit card or under similar arrangements shall be treated as incurred by overdrawing that account and " overdraft" shall be construed accordingly.
- (7) Where, by virtue of Part I of Schedule 9 to the Finance Act 1972 as originally enacted, interest on a loan would be protected interest, and it is proved by written evidence—
- (a) that the money raised by the loan and applied as mentioned in that Part was so applied in pursuance of a binding contract entered into on or before 26th March 1974; and

- (b) that the loan was made in pursuance of an offer made by the lender on or before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender on or before that date;
- the debt on which the interest is payable shall be deemed for the purposes of subsection (4) above to have been incurred on or before that date.

## **20 Share option and share incentive schemes**

- (1) The following provisions shall cease to have effect—
- (a) section 78 of the Finance Act 1972 (approved share option schemes) except in its application to cases where a right obtained as mentioned therein was exercised before 27th March 1974 ; and
  - (b) subsections (2)(a) and (3)(a) of section 79 of that Act (which exclude the application of subsections (4) and (7) of that section in cases of acquisitions under approved share incentive schemes) except in their application to cases where the acquisition was made before that day; and
  - (c) paragraph 7(a) of Schedule 8 to the Finance Act 1973 (certain matters not to be regarded as restrictions attaching to shares) except in its application to cases where the shares were acquired before 26th April 1974.
- (2) In paragraph 1 of Schedule 8 to the Finance Act 1973 the following sub-paragraph shall be substituted for sub-paragraph (b)—
- “(b) the shares satisfy the condition stated in paragraph 3 below, and are either shares of a class quoted on a recognised stock exchange or shares in a company which is not under the control of another company”.

## **21 Cases I and II of Schedule E**

- (1) In paragraph 1 of Schedule E as set out in section 181(1) of the Taxes Act the following shall be substituted for Cases I and II:—
- “Case I: where the person holding the office or employment is resident and ordinarily resident in the United Kingdom, any emoluments for the chargeable period, subject, however, to the deduction or exception provided for in Schedule 2 to the Finance Act 1974 if in the chargeable period he performs the duties of the office or employment wholly outside the United Kingdom or the emoluments are foreign emoluments;
- Case II: where that person is not resident or, if resident, then not ordinarily resident in the United Kingdom, any emoluments for the chargeable period in respect of duties performed in the United Kingdom, subject, however, to the deduction provided for in Schedule 2 to the Finance Act 1974 if the emoluments are foreign emoluments;”
- and in the words beginning with " The emoluments excepted from Cases I and II as foreign emoluments " for " excepted from " there shall be substituted " referred to in " .
- (2) Where a person performs any duties of an office or employment in the United Kingdom, his emoluments from any other office or employment shall not be treated for the purposes of Case I of Schedule E as emoluments in respect of duties performed wholly outside the United Kingdom unless he shows that their amount would have been the same whether or not the duties of any office or employment which he performs in the United Kingdom were performed by him.

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- (3) In section 188(2) of the Taxes Act (exemptions and reliefs in respect of tax under section 187)—
- (a) paragraph (b) and the words following paragraph (c) shall be omitted and paragraph (c) shall become paragraph (b); and
  - (b) for the words from the beginning to " (a) in any case, that" there shall be substituted the words

“Tax shall not be charged by virtue of section 187 above in respect of one-half of a payment in the case of which the conditions in paragraph (b) below are satisfied and shall not be charged in respect of any payment in the case of which the conditions in paragraph (c) below are satisfied ; and those conditions are—

    - (a) that”and
  - (c) in the paragraph which becomes paragraph (b) for the words preceding " that the foreign service " there shall be substituted the words " that the payment is in respect of an office or employment in which the holder's service included foreign service and ".
- (4) In Schedule 8 to the Taxes Act—
- (a) in paragraph 6 the words " and not being a payment of compensation for loss of office " shall be omitted; and
  - (b) in paragraph 16 after the words " means service" there shall be inserted the words " before the year 1974-75 " and after sub-paragraph (b) there shall be inserted the words " or service after the year 1973-74 such that emoluments from the office or employment were not chargeable under Case I of Schedule E (or would not have been so chargeable, had there been any) or that a deduction equal to their whole amount was or would have been allowable under paragraph 1 of Schedule 2 to the Finance Act 1974 in charging them ".
- (5) In section 221(4) of the Taxes Act, for the words from " but" to " employment for that year " there shall be substituted the words " but either—
- (a) the circumstances in which he performs the duties of his employment are such that no tax is chargeable under Case I or II of Schedule E in respect of the emoluments of his employment for that year (or would have been so chargeable had there been any); or
  - (b) those emoluments are foreign emoluments within the meaning of paragraph 1 of Schedule E and the Board are satisfied, on a claim made by the employee, that the payments in question are made pursuant to a scheme or to a fund which corresponds to such a scheme or fund as is mentioned in subsection (1) or (2) above ".
- (6) In Schedule 12 to the Taxes Act (double taxation relief: Republic of Ireland) in paragraph 3(3) of Part III, for the words " excepted from " there shall be substituted the words " referred to in " and for the words " shall not include " the words " shall be taken not to include ".
- (7) For subsection (2) of section 24 of the Finance Act 1970 there shall be substituted the following subsection:—
- “(2) Neither subsection (1) nor subsection (2) of the last preceding section shall apply for any year of assessment where the employee performs the duties of his employment in such circumstances that no tax is chargeable under Case I or Case II of Schedule E in respect of the emoluments of his

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employment (or would be so chargeable were there such emoluments) or where the emoluments from the employment are foreign emoluments within the meaning of paragraph 1 of Schedule E and the Board are satisfied, on a claim made by the employee, that the retirement benefits scheme in question corresponds to such a scheme as is mentioned in paragraph (a), (b) or (c) of subsection (1) above.”

- (8) Schedule 2 to this Act shall have effect with respect to the deductions and exception referred to in Cases I and II of Schedule E as substituted by subsection (1) above.
- (9) This section has effect for the year 1974-75 and subsequent years of assessment; but tax shall not be chargeable for any of those years under Case III of Schedule E on emoluments which, if this section had had effect for earlier years, would have fallen under Case I or Case II.

## **22 Foreign pensions or annuities**

- (1) In section 122 of the Taxes Act paragraph (c) of subsection (2) (remittance basis for income arising from foreign pension) shall be omitted; but in charging any income arising from a pension which would have fallen under that paragraph a deduction of one-tenth of its amount shall be allowed unless it is the income of a person falling under paragraph (a) of that subsection.
- (2) Where any income chargeable in accordance with subsection (1) above arises from a pension payable under any special provision made by the law of the Federal Republic of Germany or any part of it or of Austria for victims of National-Socialist persecution, the deduction to be made under that subsection shall be equal to one-half instead of one-tenth of the amount of the income.
- (3) A deduction of one-tenth of its amount shall also be allowed in charging any pension or annuity to tax under paragraph 4 of Schedule E.
- (4) In section 53(5) of the Finance Act 1973 (change of source of payment not to affect liability to tax) paragraph (a) (limitation to pensions chargeable under Case V of Schedule D) shall be omitted.
- (5) This section has effect for the year 1974-75 and subsequent years of assessment; and where, as a result of subsection (1) of this section, the particulars required by a notice given under section 8 of the Taxes Management Act 1970 before the commencement of this Act are insufficient a further notice under that section may be given, but limited to such further particulars as may be required for the purposes of this section.

## **23 Income from trade, etc. carried on abroad**

- (1) In section 122 of the Taxes Act paragraph (b) of subsection (2) (remittance basis for income derived from trade, profession or vocation carried on abroad) shall be omitted and any income which would have fallen under that paragraph shall, unless it is the income of a person falling under paragraph (a) of that subsection, be computed in accordance with the rules applicable to Cases I and II of Schedule D, and subsection (1) (a) of that section shall not apply to it.
- (2) Subject to the following provisions of this section—
  - (a) the following provisions of the Taxes Act (so far as applicable) namely, sections 168 to 172 and 174 shall apply in relation to a loss incurred by any person in the year 1973-74 or a subsequent year of assessment in the

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- carrying on of a trade, profession or vocation chargeable in accordance with subsection (1) above as they apply to a loss incurred in a trade, profession or vocation chargeable to tax under Case I or Case II of Schedule D ; and
- (b) the Capital Allowances Act 1968 and Part III of the Finance Act 1971 shall apply in relation to such a trade, profession or vocation as is first mentioned in paragraph (a) above as they apply to one such as is last mentioned therein.
- (3) In charging the income from any trade, profession or vocation in accordance with subsection (1) above there shall be allowed a deduction of one-quarter of the amount of that income and the like deduction shall be made from any charge made by virtue of subsection (2)(b) above; and any relief given by virtue of subsection (2) above in respect of the amount of any loss or allowance shall be confined to tax on three-quarters of that amount.
- (4) Relief shall not be given by virtue of subsection (2)(a) above except on income in the charging of which to tax a deduction is to be allowed under this section or section 22 of, or Schedule 2 to, this Act.
- (5) This section has effect for the year 1974-75 and subsequent years of assessment; and where, as a result of this section, the particulars required by a notice given under section 8 of the Taxes Management Act 1970 before the commencement of this Act are insufficient a further notice under that section may be given, but limited to such further particulars as may be required for the purposes of this section.
- (6) Nothing in this section shall be taken—
- (a) to permit any capital allowances to be made for a year earlier than the year 1974-75 and carried forward to that or a subsequent year ; or
- (b) to apply sections 115 to 118 or section 154 of the Taxes Act (basis of assessment and change in ownership of trade, etc.) in relation to income chargeable under Case V of Schedule D but computed in accordance with subsection (1) above.
- (7) Where tax on the income from any trade, profession or vocation is chargeable for the year 1974-75 in accordance with subsection (1) above and would not, apart from this subsection, be computed on the income arising in that year, then, if the person charged so requires by notice in writing given to the inspector not later than six years after the end of that year, the tax shall be computed on the amount of the income so arising, and such adjustments shall be made, whether by repayment of tax, assessment or otherwise, as may be necessary to give effect to this subsection.

## **24 Returns of persons treated as employees**

Where a person performs in the United Kingdom for a continuous period of not less than thirty days duties of an office or employment and—

- (a) the office or employment is under or with a person resident outside and not resident in the United Kingdom; but
- (b) the duties are performed for the benefit of a person resident or carrying on a trade, profession or vocation in the United Kingdom ;

section 15 of the Taxes Management Act 1970 (return of employees) except paragraph (b) of subsection (1) (payments made in respect of employment) shall apply as if the person performing the duties were employed by the person for whose benefit they are performed; and any notice given to him under section 8 of the Taxes

Management Act 1970 may require a return of his income to include particulars of any emoluments paid to him, whether or not tax is chargeable on them.

## **25 Sub-contractors in construction industry**

- (1) In section 30 of the Finance Act 1971 (exceptions from section 29) in subsection (3) for the words " a certificate " onwards there shall be substituted the words " on such an application a separate certificate may be issued in respect of the firm to each of the partners ".
- (2) In subsection (7) of the said section 30, at the end of paragraph (d) (power to make regulations requiring production of certificates) there shall be added the words " and providing for the completion and delivery of forms supplied by the Board certifying such production ".
- (3) A person to whom a certificate is issued under the said section 30 shall take all reasonable steps to ensure its safe custody; and any person who, without lawful authority or excuse—
  - (a) disposes of any such certificate or any form supplied by the Board in connection with regulations made by virtue of subsection (7)(d) of that section, or
  - (b) possesses such a certificate or form or any document purporting to be such a certificate or form,
 shall be liable on summary conviction to a fine not exceeding £500.
- (4) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under subsection (6) of the said section 30 or under subsection (3) above may be commenced at any time within three years from the commission of the offence.

## **26 Life insurance companies**

- (1) The following provisions of this section shall have effect in relation to any accounting period of an insurance company carrying on life assurance business which falls wholly after 31st March 1973 and any part falling after that date of such an accounting period beginning before and ending after that date.
- (2) The policy holders' share of the life assurance gains shall not be reduced under section 93(2) of the Finance Act 1972, but corporation tax charged on so much of that share as remains after setting against it the amounts referred to in subsection (3) (c) below shall be calculated as if the rate of corporation tax were whichever of the following is the less—
  - (a) the rate at which capital gains tax is chargeable under section 20(3) of the Finance Act 1965 for the year of assessment in which the accounting period ends; and
  - (b) 37.5 per cent.
- (3) For the purposes of this section there shall be ascertained the policy holders' share and the remainder (in this subsection referred to as the residual part) of the life assurance gains and of the relevant reliefs ; and—
  - (a) the residual part of the relevant reliefs shall be set against so much of the residual part of those gains as remains after reducing it in accordance with section 93(2) of the Finance Act 1972 ; and



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- (b) if the residual part of the relevant reliefs exceeds the residual part, as so reduced, of those gains, the excess (or so much of it as does not, together with the policy holders' share of the relevant reliefs, exceed the policy holders' share of those gains) shall be added to the policy holders' share of the relevant reliefs ; and
  - (c) the policy holders' share of the relevant reliefs, with any addition made under paragraph (b) above, shall be set against the policy holders' share of the life assurance gains.
- (4) For the purposes of this section—
- (a) the life assurance gains are such part of the amount to be included, in accordance with section 265 of the Taxes Act, in the company's total profits as is attributable to gains from investments held in connection with the company's life assurance business ;
  - (b) the policy holders' share of the life assurance gains or of the relevant reliefs is such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which, under section 309 of the Taxes Act, is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D; and
  - (c) the relevant reliefs are such of the sums to be deducted from or set off against the company's profits as are deducted from or set off against the life assurance gains.
- (5) Section 322 of the Taxes Act (deduction of tax from chargeable gains) shall have effect as if the proviso to subsection (3) thereof had not been included among the repeals made by the Finance Act 1972; and section 93(8) of that Act (which modified that subsection) shall cease to have effect.

## **27 Friendly societies**

- (1) Where this section applies to a registered friendly society—
- (a) section 332(1) of the Taxes Act shall not exempt the society from income tax or corporation tax on its profits arising after 26th March 1974 otherwise than from life or endowment business ; and
  - (b) if the society, after 26th March 1974 or such later date as may be specified in a direction under this section, makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
    - (i) any previous payment so made to him by the society after that date, and
    - (ii) any earlier repayment of such sums paid by him,the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.
- (2) This section applies to any society registered after 31st May 1973 unless—
- (a) its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the registrar; or

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- (b) it was registered before 27th March 1974 and its rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as the registrar may authorise for the purposes of this section;

and also applies to any society registered before 1st June 1973 with respect to which a direction under the following provisions of this section is in force.

- (3) If a friendly society registered before 1st June 1973 begins after 26th March 1974 to carry on business other than life or endowment business or, in the opinion of the registrar, begins to carry on business other than life or endowment business on an enlarged scale or of a new character, and it appears to the registrar, having regard to the restrictions imposed by this section on friendly societies registered later, that for the protection of the revenue it is expedient to do so, he may serve a notice on the society referring to the provisions of this subsection and stating that he is considering the question whether, for the protection of the revenue, it is expedient to give a direction that this section shall apply to the society as from such date as may be specified in the notice, being the date when in the opinion of the registrar the relevant change in the society's activities took place.
- (4) The registrar shall consider any representations or undertakings made or offered to him by the society within the period of one month from service of the notice, and if the society so requests shall afford it an opportunity of being heard by him not later than three weeks after the end of that period.
- (5) If, after consideration of any such representations or undertakings, the registrar remains of the opinion that it is expedient to do so, he shall direct that this section shall apply to the society as from the date specified in the notice, but subject to any further direction given by him cancelling that direction.
- (6) A friendly society may, within one month from the giving of a direction under this section, appeal against it to the court to which or person to whom it might appeal under section 77A of the Friendly Societies Act 1896 or section 81 of the Friendly Societies Act (Northern Ireland) 1970 against cancellation of its registration.
- (7) For the purposes of this section a registered friendly society formed on the amalgamation of two or more friendly societies shall be treated as registered before 1st June 1973 if at the time of the amalgamation this section did not apply to any of the societies amalgamated, but otherwise shall be treated as registered at that time.
- (8) In this section—  
     " life or endowment business " has the same meaning as in Chapter III of Part XII of the Taxes Act;  
     " the registrar " means the Chief Registrar of Friendly Societies or the assistant registrar for Scotland or the registrar having corresponding functions under the law of Northern Ireland;  
 and references to a friendly society include references to any branch of the society.
- (9) In section 335 of the Taxes Act, in subsection (4) the words from " but" to the end shall be omitted; and after that subsection there shall be inserted the following subsection—  
     “(4A) A friendly society may, within one month from the giving of a direction under this section, appeal against it to the court to which or person to whom it might appeal under section 77A of the Friendly Societies Act 1896 or section 81 of

the Friendly Societies Act (Northern Ireland) 1970 against cancellation of its registration.”

## **28 Trade unions**

- (1) In section 338 of the Taxes Act (exemption for trade unions)—
  - (a) references to a registered trade union shall be construed as including references to a trade union entered in the list of trade unions maintained under the Trade Union and Labour Relations Act 1974 ; and
  - (b) in subsection (2) (definition of " provident benefits " by reference to registered rules) the word " registered" shall be omitted.
- (2) Section 123(2) of the Finance Act 1972 (which restricts the exemption conferred by section 338 of the Taxes Act) shall cease to have effect.

## **29 Depreciatory transactions**

In relation to any disposal made (within the meaning of section 280 of the Taxes Act) after 26th March 1974 subsection (5) of that section (measure of reduction of allowable loss) shall have effect as if the words " 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 " were omitted.

## **30 Transactions in deposits without certificate or in debts**

- (1) Where, in a transaction in which no certificate of deposit or security (within the meaning of paragraph 5 of Schedule 7 to the Finance Act 1965) is issued, an amount becomes payable with interest and the person liable to pay it is a bank or similar institution or a person regularly engaging in similar transactions, then if the right to receive the amount or the interest on it is disposed of or the right to receive the amount is exercised (whether by the person who acquires it in the transaction or by some person acquiring it directly or indirectly from him), any profits or gains arising from the disposal or exercise shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to tax under Case VI of Schedule D.
- (2) Subsections (2) to (4) of section 26 of the Finance Act 1973 (which contain supplementary provisions with respect to transactions in certificates of deposit) shall, with the necessary modifications, apply for the purposes of this section.
- (3) This section does not apply in relation to the disposal or exercise of any right to receive an amount or interest on it, if the transaction in which the amount became payable was entered into on or before 7th December 1973 and the disposal or exercise takes place not later than the time at which the right arose or would have arisen but for any transaction entered into after that date.

## **31 Replacement of business assets**

Section 33 of the Finance Act 1965 (replacement of business assets) shall be amended by adding after paragraph (d) of subsection (10) the words “and

- (e) in relation to the activities of an unincorporated association or other body chargeable to corporation tax, being a body not established for profit whose activities are wholly or mainly carried on otherwise than for profit, but in the case of assets within head A of class 1 in

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subsection (6) above only if they are both occupied and used by the body, and in the case of other assets only if they are used by the body;”

### **32 Disposals of shares in unit trusts, investment trusts and funds in court**

In relation to gains accruing on disposals after 5th April 1974 section 112 of the Finance Act 1972 (reduction of tax liability on certain disposals of shares in unit trusts, investment trusts and funds in court) shall have effect as if for the references in paragraphs (b) and (c) of subsection (3) to 15 per cent, there were substituted references to 16 ½ per cent.

### **33 Reduced rate of capital gains tax for certain unit trusts and for funds in court**

Section 113 of the Finance Act 1972 shall have effect for the year 1974-75 and subsequent years of assessment as if the rate specified in it were 16 ½ per cent, instead of 15 per cent.

### **34 Transfer of business on retirement**

For references to the amounts of ten thousand pounds and two thousand pounds in section 34(1) of the Finance Act 1965 there shall, as regards disposals made after 2nd July 1974, be substituted references to the amounts of twenty thousand pounds and four thousand pounds respectively.

### **35 Interest paid to directors and directors' associates**

- (1) As from 1st April 1974 section 285(4) of the Taxes Act (overall limit beyond which interest paid by close company to directors with material interest or their associates is treated as distribution) shall have effect as if the rate of interest specified therein were 12 per cent, per annum ; and the Treasury may by order provide that as from such later date as may be specified in the order that section shall have effect as if that rate were such rate as may be so specified.
- (2) Where an accounting period begins before and ends on or after the date as from which a change takes effect by virtue of subsection (1) above, a separate overall limit shall be worked out for the part of the accounting period ending before that date and the part beginning on that date ; and its amount shall be such proportion of the overall limit for the whole period (calculated in the first case at the rate before the change and, in the second, at the rate after the change) as is equal to the proportion which the amount of the relevant interest paid in that part bears to the amount of the relevant interest paid in the whole of the period.
- (3) In this section " interest" and " paid " have the same meanings as in section 285 of the Taxes Act and " relevant interest" means interest paid as mentioned in subsection (1) of that section.
- (4) An order under this section shall be made by statutory instrument and may be varied or revoked by a subsequent order; but no such order shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.

### **36 Amendment of Taxes Act section 243**

In section 243(5) of the Taxes Act (assessment before corporation tax is charged for the year in question) after the words " according to the rate of tax " there shall be inserted the words " and the other rates and the fractions ".

### **37 Tax on company in liquidation**

(1) In section 245 of the Taxes Act there shall be substituted, for subsections (2) and (3), subsections (2) and (3) set out below and, for subsection (7), subsections (7) to (9) set out below:—

“(2) Subject to subsection (3) below—

- (a) corporation tax shall be charged on the profits of the company arising in the winding-up in its final year at the rate of corporation tax fixed or proposed for the penultimate year, and the amount of chargeable gains to be included in those profits shall be reduced by such fraction fixed or proposed for the penultimate year as is applicable under section 93 of the Finance Act 1972; but
- (b) where the corporation tax charged on the company's income included in those profits falls to be calculated or reduced in accordance with section 95 or section 96 of the Finance Act 1972 it shall be so calculated or reduced in accordance with such rate or fraction fixed or proposed for the penultimate year as is applicable under that section.

(3) If, before the affairs of the company are completely wound up, any of the rates or fractions mentioned in subsection (2) above has been fixed or proposed for the final year, that subsection shall have effect in relation to that rate or fraction as if for the references to the penultimate year there were substituted references to the final year.

(7) References in this section to a rate or fraction fixed or proposed are references to a rate or fraction fixed by an Act passed before the completion of the winding-up or, if not so fixed, proposed by a Budget resolution (and without regard to any subsequent Act); except that if a rate or fraction so fixed is proposed to be altered by a Budget resolution any such reference to it is a reference to it as proposed to be so altered.

In this subsection " Budget resolution " means a resolution of the House of Commons for fixing any such rate or fraction as is mentioned in this section.

(8) Where the winding-up commenced before the company's final year, paragraphs (a) and (b) of subsection (2) (but not subsection (3)) above shall apply in relation to the company's profits arising at any time in its penultimate year.

(9) Any assessment made by virtue of section 243(5) above shall be subject to any such adjustment by discharge or repayment of tax or by a further assessment as may be required to give effect to this section.”

(2) Advance corporation tax on a distribution made by a company in the financial year in which its affairs are completely wound up shall, if the winding-up is completed before the rate of advance corporation tax for that year has been fixed by an Act, be computed at the rate proposed for that year by a resolution of the House of Commons and without regard to any Act passed subsequently, but subject to section 103(5) of the Finance

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Act 1972 (distributions made on or before 5th April); and where advance corporation tax has, under section 103(1) of that Act, been paid or assessed according to the rate last fixed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.

### PART III

#### CAPITAL GAINS FROM LAND

### CHAPTER I

#### DEVELOPMENT GAINS FROM LAND

#### **38 Certain development gains from land to be taxed as income**

- (1) This section applies to any disposal of any interest in land situated in the United Kingdom which is made after 17th December 1973.
- (2) Where a gain accrues to a person on a disposal of an interest in land to which this section applies, so much (if any) of the gain as by virtue of this Chapter is a development gain shall be treated for all the purposes of the Tax Acts as income arising at the time of the disposal and as constituting profits or gains chargeable to tax under Case VI of Schedule D for the chargeable period in which the disposal is made, and (except for the purpose of computing the development gain, if any, accruing in respect of the disposal) shall not be a chargeable gain.
- (3) Where a chargeable gain accrues to a person on a disposal of an interest in land to which this section applies, then, subject to the provisions of this Chapter, the development gain accruing to him in respect of that disposal shall be equal to whichever is the least of the following amounts (computed in accordance with any relevant provisions of this Chapter), that is to say—
  - (a) the net proceeds of the disposal reduced by an amount equal to 120 per cent, of the total sum that is by virtue of paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 allowable as a deduction from the consideration for the disposal in computing the chargeable gain;
  - (b) the net proceeds of the disposal reduced by an amount equal to 110 per cent, of the current use value of the interest at the time of the disposal; and
  - (c) the amount of the chargeable gain reduced by the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date.
- (4) Schedule 3 to this Act shall have effect for interpreting and supplementing this section, which is there referred to as the principal section.
- (5) This section shall have effect subject to the transitional provisions in Schedule 4 to this Act.

### **39 Exemption or relief for small disposals**

- (1) If the aggregate amount or value of the net proceeds of all the disposals of interests in land to which section 38 of this Act applies made by a person in a chargeable period does not exceed—
  - (a) in the case of an individual or the personal representatives of a deceased person as such, £10,000 ; or
  - (b) in the case of a company or the trustees of a settlement, £1,000,no part of the gain accruing to that person on any of those disposals shall be a development gain.
- (2) If, in a case not falling within subsection (1) above, the aggregate amount or value of the net proceeds of all the disposals of interests in land to which section 38 of this Act applies made by a person in a chargeable period is less than—
  - (a) in the case of an individual or the personal representatives of a deceased person as such, £20,000 ; or
  - (b) in the case of a company or the trustees of a settlement, £2,000,then the total of the development gains accruing to that person in respect of those disposals shall be treated for the purposes of the Tax Acts as reduced to a fraction of their actual total, and that fraction shall be—
  - (i) in the case of an individual or the personal representatives of a deceased person as such, the fraction of which the numerator is the amount by which the aggregate amount or value of the said net proceeds exceeds £10,000 and the denominator is £10,000 ; or
  - (ii) in the case of a company or the trustees of a settlement, the fraction of which the numerator is the amount by which that aggregate amount or value exceeds £1,000 and the denominator is £1,000 ;and the total of the chargeable gains accruing to him on those disposals shall be treated as increased by the amount of that reduction.
- (3) For the purposes of this section disposals made by a man to his wife living with him or by her to him shall be disregarded, and all other disposals made by either shall be treated as made by one individual.
- (4) Where two or more persons carry on a trade or business in partnership, then, for the purposes of this section—
  - (a) notwithstanding section 45(7)(b) of the Finance Act 1965, the firm shall be treated as a single individual, and all disposals of partnership assets by the firm shall be treated as made by that individual;
  - (b) a change in the persons carrying on the trade or business shall be disregarded if, assuming an election under section 154(2) of the Taxes Act to have been duly made, the trade or business would not by virtue of section 154(1) of that Act be treated as discontinued by reason of the change ; and
  - (c) for any year of assessment in or in a part of which a company is a member of the partnership, subsections (1) and (2) above shall apply as if in paragraph (a) above for the words " a single individual" and " that individual" there were substituted respectively the words " a company " and " that company ".
- (5) Schedule 5 to this Act shall have effect for supplementing this section.

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#### **40 Development losses**

- (1) This section applies to any disposal of any interest in land situated in the United Kingdom which is made after 17th December 1973.
- (2) Where in any chargeable period a loss accrues to a person on a disposal of an interest in land to which this section applies, he may, by notice in writing given within two years after the end of that period, make a claim for relief from tax by reference to the amount of any development loss accruing to him in respect of the disposal.
- (3) If, but only if, a claim under subsection (2) above is made in respect of a disposal to which this section applies, then, subject to the provisions of Schedule 6 to this Act—
  - (a) so much (if any) of the loss accruing on the disposal as by virtue of this Chapter is a development loss shall be treated as a loss to which section 176 or, as the case may be, section 179 of the Taxes Act (Case VI losses), applies, and (except for the purpose of computing the the development loss, if any, accruing in respect of the disposal) shall not be an allowable loss within the meaning of Part III of the Finance Act 1965; and
  - (b) the said section 176 or 179 shall apply to any development loss accruing in respect of the disposal as if a claim under that section had been duly made with regard to it.
- (4) Where an allowable loss accrues to a person on a disposal of an interest in land to which this section applies and a claim under subsection (2) above is made in respect of that disposal, then, subject to the provisions of this Chapter, the development loss accruing to him in respect of that disposal shall be equal to the amount of the allowable loss reduced by the amount (if any) by which the current use value of the interest at the time of the disposal is less than the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date.
- (5) Schedule 6 to this Act shall have effect for supplementing this section.
- (6) Without prejudice to subsection (3) of section 41 or subsection (3) of section 42 of this Act, nothing in either of those sections shall be taken to extend the application of this section.

#### **41 Disposals of interests in land effected indirectly**

- (1) Where after 17th December 1973 a person disposes of shares in a company (" the said company ") and immediately before the disposal either—
  - (a) the said company is or has control of a land-owning company, and is a close company in which he has a material interest; or
  - (b) the said company, or a company of which it has control, has a material interest in a land-owning company which is a close company, and the said company is one of which he has control or of which he and persons connected with him have control,the disposal shall be deemed to be a disposal of an interest in land to which section 38 of this Act applies.
- (2) Where a chargeable gain accrues to a person on a disposal of shares in a company to which the preceding subsection applies, then, subject to the provisions of section 39 of this Act and this section, the development gain accruing to him in respect of the disposal shall be equal to that chargeable gain.



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- (3) Where, apart from this subsection, a development gain would by virtue of the preceding provisions of this section accrue to a person in respect of a disposal of shares in a company, then—
- (a) a development gain shall not accrue to him in respect of the disposal unless an excess of development gains over development losses would have accrued to the company, being a land-owning company, or to a landowning company mentioned in paragraph (a) or (b), as the case may be, of subsection (1) above, on the company disposing of its relevant land at market value at the time of his disposal and any such land-owning company disposing likewise of the relevant land of that company; and
  - (b) the development gain accruing to him in respect of the disposal shall not exceed one-half of the excess of the total development gains over the total development losses that would have accrued as mentioned in paragraph (a) above, or one-half of such part of that excess as is attributable to the shares disposed of by him.

If a claim under section 40(2) of this Act could have been made in respect of any disposal which is to be assumed for the purposes of this subsection, that claim shall for those purposes be assumed to have been made.

- (4) Where a person disposes of shares in a company (" the said company ") in circumstances such that subsection (1) above would apply to the disposal if the said company or, as the case may be, a land-owning company mentioned in paragraph (b) of that subsection had been a close company at the material time (that is to say, immediately before the disposal), then, if the said company or that land-owning company was not resident in the United Kingdom at that time but would have been a close company at that time if it had been so resident, this Chapter shall apply in relation to the disposal as if the said company or, as the case may be, the land-owning company had been resident in the United Kingdom at that time.
- (5) Where a person disposes of shares in a company (" the said company ") in a case falling within subsection (1)(a) above and at the material time (that is to say, immediately before the disposal) the said company had control of a land-owning company which, because it was not resident in the United Kingdom, was not a close company, then this Chapter shall apply in relation to the disposal as if that land-owning company had been resident in the United Kingdom at that time.
- (6) For the purposes of this section—
- (a) " land-owning company " means a company that owns relevant land to a value exceeding three-quarters of the net value of all its assets (that is to say, their value less the value of the debts and liabilities of the company);
  - (b) subject to subsection (11) below, a person has a material interest in a company if under subsection (6) of section 285 of the Taxes Act he would have a material interest in it for the purposes of that section if in the said subsection (6) for " 5 per cent. ", in both places, there were substituted " 10 per cent. ";
  - (c) an unauthorised unit trust which owns relevant land to a value exceeding three-quarters of the net value of all its assets (that is to say, their value less the value of the debts and liabilities of the unit trust) shall be treated as if it were both a land-owning company and a close company;
  - (d) the part attributable to any shares in a company of the amount of an excess of total development gains over total development losses shall be the sum which

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that amount would add to the distributions made in respect of those shares in a winding-up of the company if the amount represented assets of the company, and if apart from that amount the assets of the company were enough, and no more than enough, to ensure the satisfaction of its liabilities (including the return of share capital), and the part of any such amount which is directly or indirectly attributable under this paragraph to shares held by a company shall (so far as is necessary for the determination of any question as to the tax chargeable in consequence of this section) be apportioned by the like method between the shares in that company to arrive at the part attributable to any of those shares.

In its application by virtue of section 45(8) of the Finance Act 1965 to an unauthorised unit trust, paragraph (d) above shall have effect with any necessary modifications.

- (7) For the purposes of this and the preceding subsection—
- (a) "relevant land" (subject to subsections (8) to (10) below) means any interest in land situated in the United Kingdom, other than an interest held as a trading stock;
  - (b) the value of the relevant land of a company or unauthorised unit trust shall be taken to be its value free of any liability charged or secured thereon ;
  - (c) a company or unauthorised unit trust shall be treated as owning any interest in land which it has unconditionally contracted to acquire, but not as owning any interest in land which it has unconditionally contracted to dispose of ;
  - (d) "value", in relation to the relevant land of a company or unauthorised unit trust, means market value;
  - (e) the net value of the assets of a company other than a unit trust scheme is the net value they would have on a sale in the open market of the business of the company as a going concern ; and
  - (f) an interest under a settlement shall be treated as an interest in land situated in the United Kingdom if a disposal thereof would fall within section 42(1) of this Act.
- (8) The interest of a company in any building or part of a building—
- (a) which the company occupies and uses for the purposes only of a trade carried on by it (other than a trade of providing services for the occupier of land in which the company has an interest) ; or
  - (b) which, in a case where the company is a member of a group of companies, some other member of the group occupies and uses for the purposes only of a trade carried on by that other member (other than a trade of providing services for the occupier of land in which any member of the group has an interest),
- shall not be relevant land in relation to the company for the purposes of subsections (6) and (7) above, nor shall its interest in the site of any such building or part of a building (including in the site any land in the immediate vicinity of the building which the company or, as the case may be, that other member of the group occupies for purposes ancillary to its occupation and use of the building or part of a building).
- (9) If, in the case of a building or part of a building in which a company has an interest, it is established to the satisfaction of the inspector or, on appeal, of the Commissioners concerned that the company or, in a case where the company is a member of a group of companies, some other member of the group intends within three years of the relevant disposal of shares to occupy and use that building or part as mentioned in paragraph (a) or, as the case may be, paragraph (b) of the preceding subsection, that paragraph shall have effect as if the company were so occupying that building or part.

- (10) Subsections (8) and (9) above—
- (a) shall apply in relation to any permanent or semi-permanent structure in the nature of a building as they apply in relation to a building ; and
  - (b) shall apply in relation to the discharge of the functions of a public authority, and to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, as they apply in relation to a trade;
- and section 272 of the Taxes Act (groups of companies: definitions) shall apply for the purposes of those subsections as it applies for the purposes of sections 273 to 281 of that Act.
- (11) In the case of a close company (within the meaning of this Chapter) which for the purposes of the Corporation Tax Acts is not a close company because it falls within section 282(4) or 283 of the Taxes Act, subsection (6)(b) above shall, except in relation to an excepted person, have effect as if for "'10 per cent.'" there were substituted "' 20 per cent.' "
- (12) In the preceding subsection " excepted person", in relation to a company, means any of the following, namely—
- (a) any director or associate of a director of the company; or
  - (b) any company which is under the control of any such director or associate, or of two or more persons each of whom is such a director or associate; or
  - (c) any associated company of the company; or
  - (d) the trustees of any fund the capital or income of which is applicable or applied wholly or mainly for the benefit of, or of the dependants of, the employees or directors, or past employees or directors, of the company, or of any company within paragraph (b) or (c) above.
- Expressions used in this subsection and in subsection (5) of section 283 of the Taxes Act have the same meaning in this subsection as in that.
- (13) A disposal of an interest in shares in a company which under paragraph 3 of Schedule 7 to the Finance Act 1965 (capital distributions by companies) a person is treated as having made in consideration of a capital distribution from the company in the form of an interest in land shall be disregarded for the purposes of this section if the distribution is made or due in respect of share capital in the course of a dissolution or winding-up of the company.

## **42 Disposals of interests in settled property**

- (1) Where after 17th December 1973 a person disposes of an interest under a settlement which immediately before the disposal is a land settlement, the disposal shall be deemed to be a disposal of an interest in land to which section 38 of this Act applies.
- (2) Where a chargeable gain accrues to a person on a disposal of an interest under a settlement to which the preceding subsection applies, then, subject to the provisions of section 39 of this Act and this section, the development gain accruing to him in respect of the disposal shall be equal to that chargeable gain.
- (3) Where, apart from this subsection, a development gain would by virtue of the preceding provisions of this section accrue to a person in respect of a disposal of an interest under a settlement then—

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- (a) a development gain shall not accrue to him in respect of the disposal unless an excess of development gains over development losses would have accrued to the trustees of the settlement on their disposing of the relevant land comprised in the settled property at market value at the time of his disposal; and
- (b) the development gain accruing to him in respect of the disposal shall not exceed the amount (if any) by which the market value of the interest at that time exceeds what its market value would then have been if the value of the relevant land then comprised in the settled property had been equal to the actual value of that relevant land at that time reduced by one-half of the excess of development gains over development losses that would have accrued as mentioned in paragraph (a) above.

If a claim under section 40(2) of this Act could have been made in respect of any disposal which is to be assumed for the purposes of this subsection, that claim shall for those purposes be assumed to have been made.

- (4) Where a gain accrues to a person on a disposal of an interest under a settlement which immediately before the disposal is a land settlement and—

- (a) paragraph 13(1) of Schedule 7 to the Finance Act 1965 (exemption for gains accruing on disposals of interests under settlements) would, apart from this subsection, apply to that gain ; and
- (b) immediately before the disposal it was the case that under the terms of the settlement the person making the disposal would or might become absolutely entitled to all or any part of the settled property as against the trustee,

then the development gain accruing to him in respect of that disposal shall first be computed as if the said paragraph 13(1) did not so apply, and the said paragraph 13(1) shall then apply to so much, if any, of the gain as is not by virtue of this Chapter a development gain.

- (5) Where by virtue of paragraph 13(2) of Schedule 7 to the Finance Act 1965 a person who has acquired an interest in settled property is treated as disposing of the interest on the occasion of his becoming, as the holder of that interest, absolutely entitled to any settled property as against the trustee, then—

- (a) subsection (4) above shall not apply in the case of that disposal if the trustee is chargeable to tax on that occasion by virtue of section 25(3) of the Finance Act 1965 (settled property); and
- (b) where the preceding paragraph would apply if the trustee were resident and ordinarily resident in the United Kingdom, then, if any beneficiary under the settlement is by virtue of section 42 of the Finance Act 1965 (non-resident trusts) treated as if the whole or part of the relevant amount had been development gains accruing to that beneficiary, the development gain accruing to the first-mentioned person in respect of the said disposal shall not exceed the difference between what that development gain would be apart from this paragraph and the relevant fraction of what that development gain would be apart from this paragraph.

- (6) For the purposes of this and the preceding subsection—

- (a) " the relevant amount" means the amount on which the trustee of the settlement mentioned in that subsection would have been chargeable to income tax in respect of development gains by virtue of section 38(2) of this Act as mentioned in subsection (2) of the said section 42;
- (b) " the relevant fraction " means the fraction of which the numerator is equal to so much of the relevant amount as is by virtue of subsection (2) of the said

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- section 42 treated as development gains accruing to beneficiaries under the said settlement, and the denominator is the relevant amount; and
- (c) references to the said section 42 are references to that section as it has effect in relation to development gains by virtue of paragraph 3 of Schedule 8 to this Act.
- (7) Where, in a case to which subsection (4) above applies, a person having an interest in settled property is charged to tax in respect of a development gain accruing to him by virtue of this section, then, for the purposes of the computation under Schedule 6 to the Finance Act 1965 of the gain accruing to the trustees of the settlement on a disposal of all or any part of the relevant land which was comprised in the settled property immediately before the disposal in respect of which that development gain accrued to him, paragraph 4(1)(a) of that Schedule (computation of chargeable gains: allowable expenditure) shall apply—
- (a) as if a sum equal to the amount of that development gain formed part of the consideration given by the trustees for the acquisition of the relevant land which was so comprised in the settled property; and
- (b) if the relevant land which was so comprised in the settled property consisted of more than one interest in land, as if such proportion of that sum as is just and reasonable formed part of the consideration given by the trustees for the acquisition of each of those interests.
- (8) For the purposes of this section—
- (a) a settlement is a "land settlement" if the settled property comprises relevant land to a value exceeding three-quarters of the net value of all the settled property (that is to say, its value less the value of any debts or liabilities of the trustees in their capacity as such); and
- (b) "value", in relation to any settled property, means market value.
- (9) For the purposes of this and the preceding subsection—
- (a) "relevant land" (subject to subsection (10) below) means any interest in land situated in the United Kingdom, other than an interest held as trading stock;
- (b) the value of the relevant land comprised in settled property shall be taken to be its value free of any liability charged or secured thereon;
- (c) the net value of the assets of any business comprised in settled property shall be taken to be the net value they would have on a sale in the open market of the business as a going concern;
- (d) the settled property comprised in a settlement shall be treated as including any interest in land which the trustees in their capacity as such have unconditionally contracted to acquire, but not as including any interest in land which the trustees in that capacity have unconditionally contracted to dispose of; and
- (e) shares in a company shall be treated as an interest in land situated in the United Kingdom if a disposal thereof would fall within section 41(1) of this Act.
- (10) Subsections (8) to (10) of section 41 of this Act, except paragraph (b) of subsection (8) and so much of subsection (9) as refers to, or relates to the case mentioned in, that paragraph, shall apply for the purposes of subsections (8) and (9) above as they apply for the purposes of subsections (6) and (7) of that section, subject to the modification that for references to a company there shall be substituted references to the trustees of settled property in their capacity as such.

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#### **43 Special rates of charge for development gains accruing to trustees, personal representatives or unit trust schemes**

- (1) Income arising in a year of assessment by virtue of section 38(2) of this Act to trustees or to the personal representatives of a deceased person as such or to an unauthorised unit trust shall (unless chargeable to income tax under any of the following provisions of this section) be chargeable to income tax at a rate equal to the sum of the basic rate and the additional rate for that year.

In this subsection " the additional rate " means the additional rate mentioned in section 32(1) of the Finance Act 1971 or, if more than one, the higher or highest of them.

- (2) Where in any year of assessment a gain accrues to a unit trust scheme from a disposal of an interest in land to which section 38 of this Act applies and by virtue of section 38(2) of the Finance Act 1965 (unit trusts for exempt unit holders) one-tenth only of all the gains accruing to the scheme in that year are chargeable gains, then—
- (a) all the gains so accruing shall for the purposes of this Chapter be treated as chargeable gains (but not so as to give rise to any increased liability to capital gains tax or corporation tax by reference to chargeable gains); and
  - (b) of all the income of the scheme which is attributable to development gains accruing to it in that year of assessment by virtue of the preceding paragraph, 90 per cent, shall be exempt from income tax or corporation tax, and the other 10 per cent, shall—
    - (i) if the scheme is an authorised unit trust, be chargeable to corporation tax as profits of the scheme arising in the accounting period in which the disposal occurred; or
    - (ii) if the scheme is an unauthorised unit trust, be chargeable to income tax at the rate applicable under subsection (1) above.

#### **44 Supplementary**

- (1) For the purposes of this Chapter—

" authorised unit trust " has the meaning given by section 358 of the Taxes Act, and " unauthorised unit trust " means a unit trust scheme which is not an authorised unit trust;

" chargeable period " means an accounting period of a company or a year of assessment;

" close company ", except for the purposes of Schedule 7 to this Act, has the meaning given by subsections (1) to (3) (disregarding (1)(d)) of section 282 of the Taxes Act, and (except as aforesaid) the exceptions made by subsections (4) and (5) of that section and section 283 of that Act shall not apply ;

" interest in land " means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land, or, in Scotland, the interest of a creditor in a charge or security of any kind over land ;

" land " includes buildings ;

" securities " includes securities as defined in paragraph 5 of Schedule 7 to the Finance Act 1965, except that it does not include a security for a normal commercial loan as defined in paragraph 1 of Schedule 12 to the Finance Act 1973 ;

" shares " does not include fixed-rate preference shares as defined in paragraph 1 of Schedule 12 to the Finance Act 1973, but includes securities (as well as, by virtue of section 45(1) of the Finance Act 1965, stock) and, in relation to a company not limited by shares (whether or not it has a share capital), also includes the interest of a member of the company as such, whatever the form of that interest, and this Chapter shall apply in relation to any disposal of rights attached to or forming part of a share as if the rights included in the disposal and those not included were separate shares;

" unit trust scheme " means a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or, for Northern Ireland, in section 22(1) of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940.

- (2) In this Chapter references to the net proceeds of a disposal of an interest in land to which section 38 of this Act applies are (subject to Schedule 5 to this Act) references to the amount which, in the computation of the chargeable gain accruing on the disposal, falls to be taken as the consideration, less any sum allowable in that computation as a deduction on account of the incidental costs to the person making the disposal of making it.
- (3) Where a person disposing of an interest in land acquired it in circumstances such that, by virtue of any enactment, he and the person from whom he acquired it (" the previous disposer ") fall to be treated as if the acquisition were for a consideration of such amount as would secure that on the disposal under which he acquired it neither a gain nor a loss would accrue to the previous disposer, any reference in this Chapter to the acquisition of the interest by the person making the disposal shall be construed as a reference to its acquisition by the previous disposer, or, if the previous disposer himself acquired it in such circumstances as aforesaid, as a reference to its acquisition by the person from whom the previous disposer acquired it (and likewise for any number of previous acquisitions of the interest each made in the like circumstances).
- (4) Schedule 7 to this Act shall have effect with respect to the treatment of development gains under the Tax Acts ; and the enactments relating to the taxation of capital gains shall have effect subject to the provisions of Schedule 8 to this Act (being provisions for adapting or amending those enactments in connection with this Chapter).
- (5) This Chapter shall be deemed to have come into force on 18th December 1973.

## CHAPTER II

### FIRST LETTING OR OCCUPATION OF BUILDING AFTER MATERIAL DEVELOPMENT

#### **45 Charge to tax; first letting or occupation of building after material development**

- (1) Subject to the provisions of this section and Schedule 9 to this Act, where after 17th December 1973 a chargeable building is first let or occupied to a material extent after the commencement of the relevant development, any person who on the material date has an interest in the relevant land shall be deemed for the purposes of Part III of the

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Finance Act 1965 and Chapter I of this Part of this Act to have on that date disposed of and immediately reacquired that interest for a consideration equal to its market value.

(2) For the purposes of this Chapter a chargeable building is first let or occupied to a material extent after the commencement of the relevant development on the first occasion thereafter on which either—

- (a) the floor area of the part or parts let under one or more leases granted after the commencement of that development ; or
- (b) the floor area of the part or parts occupied as of right otherwise than under any lease so granted (whether or not the occupation began before the commencement of that development); or
- (c) the aggregate of the floor area of the part or parts let as aforesaid and the floor area of the part or parts occupied as aforesaid,

is more than 25 per cent, of what was or is the floor area of the whole chargeable building on the date on which the relevant development was or is substantially completed.

(3) Subsection (1) above shall not apply in the case of a chargeable building which was wholly or partly let or occupied before 18th December 1973 if at any time before that date either—

- (a) the floor area of the part or parts let under one or more leases granted after the commencement of the relevant development; or
- (b) the floor area of the part or parts occupied as of right otherwise than under any lease so granted ; or
- (c) the aggregate of the floor area of the part or parts let as aforesaid and the floor area of the part or parts occupied as aforesaid,

was more than 25 per cent, of what was or is the floor area of the whole chargeable building on the date on which the relevant development was or is substantially completed. For the purposes of this subsection a building or part of a building shall not be treated as let at a particular time unless it was then let under a lease granted by an instrument executed before that time.

(4) Schedule 9 to this Act shall have effect for supplementing this section.

#### **46 Interpretation, etc.**

(1) In this Chapter—

" chargeable building " has the meaning given by subsections (3) to (5) below ;

" interest in land " and " land " have the same meaning as in Chapter I of this Part of this Act;

" lease " includes an underlease, sublease or tenancy, and "lessor", "lessee", "let" and "rent" shall be construed accordingly;

" material development " has the meaning given by paragraph 6 of Schedule 3 to this Act;

" the material date ", in relation to a chargeable building which after 17th December 1973 is first let or occupied to a material extent after the commencement of the relevant development, means the later of the following dates, namely the date after 17th December 1973 on which the chargeable building was first let or occupied as aforesaid and the date on which the relevant development is substantially completed ;



" the relevant development ", in relation to a chargeable building, means the material development from which the building has resulted or of which it has been the subject, so far as that development directly concerns that building;

" the relevant land ", in relation to a chargeable building, means the chargeable building and its site (including in the site, subject to subsection (6) below, any land occupied for purposes ancillary to the use of the chargeable building).

- (2) For the purposes of this Chapter a person shall be treated as occupying land if, but only if, his occupation of it is or, but for any exemption from rates which he enjoys, would be such as to render him or some other person liable to be assessed to rates in respect thereof under the law relating to rating in the part of the United Kingdom in which the land is situated, and references to occupation shall be construed accordingly.
- (3) Subject to subsections (4) and (5) below, every separate building in the United Kingdom that has resulted from or been the subject of material development (whenever carried out) shall be a chargeable building for the purposes of this Chapter, except that for those purposes—
- (a) a separate building constructed or adapted for use wholly as one or more private dwellings shall not be a chargeable building ; and
  - (b) a separate building constructed or adapted for use only partly as one or more private dwellings shall be a chargeable building but shall be deemed not to include any part constructed or adapted for use as a private dwelling.
- (4) For the purposes of the preceding subsection a building which is physically connected with another building—
- (a) shall, although so connected, be treated as a separate building if it is so constructed as to be capable of remaining in position and being used independently of the other building or as to require only minor modification to render it so capable; and
  - (b) shall not be treated as other than a separate building merely because it is so connected with the other building at or below ground level or by means of a bridge or similar structure (whether affording access or accommodation or both).
- (5) Where—
- (a) subsection (1) of section 45 of this Act has operated in the case of a chargeable building or would have so operated if that section had been enacted and come into force before the commencement of the relevant development, and had been so enacted with the omission of subsection (3) and of the words " after 17th December 1973 " in subsection (1); and
  - (b) after the material date there is carried out in relation to that building further material development which, apart from this subsection, would make the said subsection (1) liable to operate as regards the whole of any chargeable building ("the resulting chargeable building") consisting of or including the whole or part of the first-mentioned chargeable building; and
  - (c) one or more parts, but not the whole, of the resulting chargeable building has or have directly resulted from or been directly the subject of the further material development,

then, without prejudice to subsection (3)(a) and (b) above, the resulting chargeable building shall for the purposes of this Chapter be deemed not to include any part

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which has not directly resulted from or been directly the subject of the further material development.

- (6) Where land is occupied for purposes ancillary to the use of two or more chargeable buildings, it shall for the purposes of this Chapter be apportioned between those buildings in a fair and reasonable manner; and so much of the land as is apportioned to any one chargeable building shall for those purposes be taken to form part of the site of that, and of no other, chargeable building.
- (7) For the purposes of this Chapter " floor area " means gross floor area as ascertained by external measurement; and where different parts of a building are separately let or occupied, floor space used in common shall be apportioned rateably.
- (8) In relation to a chargeable building, references in this Chapter to the commencement of the relevant development are references to the date on which that development was begun, determined in accordance with paragraph 9 of Schedule 3 to this Act.
- (9) Where a lease of land is granted for a term commencing later than the date of the grant, the land shall for the purposes of this Chapter not be taken to become let under that lease until the commencement of the term.
- (10) This Chapter shall be deemed to have come into force on 18th December 1973.

### CHAPTER III

#### OTHER PROVISIONS ABOUT CAPITAL GAINS FROM LAND

#### **47 Matters arising out of Chapters I and II of this Part**

Schedule 10 to this Act shall have effect with respect to the payment and recovery of tax payable by virtue of Chapter I or II of this Part, the obtaining of information for purposes of those Chapters, and other matters arising out of those Chapters.

#### **48 Disposals of interests in land in United Kingdom reflecting development value**

- (1) Paragraph 23 of Schedule 6 to the Finance Act 1965 (sales of land in the United Kingdom reflecting development value) shall be amended in accordance with the following provisions of this section.
- (2) In sub-paragraphs (1) and (2), for the words " land in the United Kingdom or an estate or interest in land " there shall be substituted the words " an interest in land situated ".
- (3) In sub-paragraph (1), for the words from the beginning of paragraph (b) to the end of the sub-paragraph there shall be substituted—
  - “(b) if the consideration for the asset acquired on the disposal exceeds the current use value of the asset at the time of the disposal, or if any material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the asset”.
- (4) After sub-paragraph (4) there shall be added as sub-paragraph (5)—
  - “(5) For the purposes of this paragraph—

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- (a) 'interest in land' has the meaning given by section 44(1) of the Finance Act 1974;
  - (b) 'material development' has the meaning given by paragraph 6 of Schedule 3 to the Finance Act 1974;
  - (c) the current use value of an interest in land shall be computed in accordance with Part I of the said Schedule 3, but so that, in relation to any material development which was begun before 18th December 1973, sub-paragraph (2) of paragraph 1 of that Schedule (definition of current use value) shall have effect as if the words from 'other than' to the end of the sub-paragraph (which allow for the completion of duly authorised material development already begun) were omitted ;
  - (d) paragraph 9 of the said Schedule 3 (date when material development is begun) shall apply as it applies for the purposes of that Schedule; and
  - (e) paragraph 14 of the said Schedule 3 (meaning of material development 'carried out after' a particular date) shall apply as it applies for the purposes of paragraphs 11 to 13 of that Schedule".
- (5) This section shall apply in relation to disposals of interests in land made after 17th December 1973.

## PART IV

### MISCELLANEOUS AND GENERAL

#### **49 Increase of certain stamp duties**

- (1) The provisions of Schedule 11 to this Act shall have effect, being provisions increasing, or connected with the increase of, certain stamp duties.
- (2) As from 1st August 1974 (but without prejudice to their operation as regards the period before that date) the said provisions, so far as they increase any stamp duty, shall not apply in any case where the conveyance, transfer or letting is made or agreed to be made to a body of persons established for charitable purposes only or to the trustees of a trust so established:

Provided that no instrument not stamped with the duty to which it would apart from this subsection be liable shall be treated as duly stamped by virtue of this subsection unless it has in accordance with the provisions of section 12 of the Stamp Act 1891 been stamped with a particular stamp denoting that it is duly stamped.

- (3) In any case where by virtue of the preceding subsection any provisions of Schedule 11 to this Act do not apply, such of the repeals contained in Parts III and IV of Schedule 14 to this Act as are consequential on the provisions in question shall also not apply.

#### **50 Vehicle excise duty-disabled persons**

In section 7 of the Finance Act 1971 for the words " specifically and extensively adapted " there shall be substituted the word " suitable " and the words from " conspicuous " to " and where " shall be omitted.

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

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## **51 Gifts to Historic Churches Preservation Trust**

- (1) In Schedule 25 to the Finance Act 1972 and in Schedule 1 to the Finance (Northern Ireland) Order 1972 (relief from estate duty and capital gains tax—recipient bodies), there shall be added at the end the words " The Historic Churches Preservation Trust " .
- (2) Subsection (1) above shall have effect—
  - (a) for the purposes of section 119 of the Finance Act 1972 (capital gains tax relief), in relation to disposals made after 26th March 1974 ; and
  - (b) for the purposes of section 121 of that Act and Article 5 of the Finance (Northern Ireland) Order 1972 (estate duty relief), in relation to deaths occurring after 26th March 1974.

## **52 Definition of " local authority " for certain tax purposes**

- (1) The definition of "local authority" set out below (which reproduces the effect of that in section 353 of the Taxes Act with modifications necessary to take account of the reorganisation of local government in all parts of the United Kingdom) shall have effect for the purposes of the Income Tax Acts, the Corporation Tax Acts and the enactments relating to capital gains tax ; and the enactments mentioned in Schedule 12 to this Act (some of which relate to stamp duty or estate duty) shall have effect subject to the provisions of that Schedule.
- (2) " Local authority " means—
  - (a) any authority having power to make or determine a rate;
  - (b) any authority having power to issue a precept, requisition or other demand for the payment of money to be raised out of a rate;

and in this subsection " rate " means a rate the proceeds of which are applicable for public local purposes and which is leviable by reference to the value of land or other property.
- (3) This section shall come into operation or, as the case may be, be deemed to have come into operation—
  - (a) in its application to England and Wales, on 1st April 1974;
  - (b) in its application to Scotland, on 16th May 1975; and
  - (c) in its application to Northern Ireland, on 1st October 1973.

## **53 Regional employment premiums**

- (1) In relation to any week beginning after 6th April 1975 and before the date appointed by the Treasury under section 122(3) of the Finance Act 1972 the enactments mentioned in Schedule 13 to this Act (which relate to regional employment premiums) shall have effect subject to the amendments specified in that Schedule (being amendments required in connection with the coming into force of the Social Security Act 1973).
- (2) For the purposes of subsection (1) above and, after 6th April 1975, of the following provisions, namely—
  - (a) sections 1, 3 and 7 of the Selective Employment Payments Act 1966;
  - (b) section 26 of the Finance Act 1967 ; and
  - (c) section 122(3) of the Finance Act 1972,

the expression " week" shall mean a period of seven days beginning with midnight between Sunday and Monday.

- (3) This section does not extend to Northern Ireland.

#### **54 Grants towards duty charged on bus fuel**

- (1) In relation to fuel used in operating any bus service on or after 12th February 1974, subsection (2) of section 92 of the Finance Act 1965 shall have effect as if for the words from " but" onwards (which specify the maximum amount of any grant under subsection (1) of that section by the Secretary of State to the operator of a bus service towards defraying customs or excise duties charged on bus fuel) there were substituted (instead of the words substituted by section 33(1) of the Transport Act 1968) the words " but the amount of a grant shall not exceed such sum 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 as the Treasury may from time to time approve, being a sum not greater than the rate per gallon of the duty of excise chargeable on hydrocarbon oil produced in the United Kingdom at the date of use of the fuel, including any addition to that duty by virtue of an order under section 9 of the Finance Act 1961. "
- (2) The preceding subsection shall be deemed to have come into operation on 12th February 1974.
- (3) The preceding provisions of this section shall not extend to Northern Ireland, but it is hereby declared that for the purposes of the Northern Ireland Constitution Act 1973 a provision for purposes similar to the purposes of those provisions is not a provision dealing with an excepted matter.

#### **55 Power to authorise amendment of taxi fare byelaws**

- (1) The following provisions of this section shall have effect for the purpose of facilitating the amendment of byelaws fixing the charges payable for hackney carriages (in this section referred to as " taxi fare byelaws ").
- (2) Whenever the Secretary of State considers it proper to do so, he may by order authorise the local authority having power to amend any taxi fare byelaws to amend those byelaws by resolution so as to increase or reduce the charges thereby permitted with a view to off-setting any change in the costs of operating hackney carriages which is attributable to the imposition, variation or abolition of any tax or duty affecting those costs.
- For the purposes of this subsection the costs of operating hackney carriages shall be taken to include any tax charged by reference to the charges payable for such carriages.
- (3) An order under this section shall apply to all local authorities having power as aforesaid in the area to which the order applies, and—
- (a) may limit in any way that the Secretary of State thinks fit the power of amendment which it confers; and
  - (b) may include provision for securing that appropriate steps are taken to publish any resolution passed in pursuance of the order and to make copies available to the public.
- (4) Where a byelaw is amended by virtue of this section, the amendment shall have effect as if made under the same power as that under which the byelaw was made, and (without prejudice to any power of amendment exercisable by virtue of this section)

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the byelaw may accordingly be amended by a subsequent exercise of the power under which the byelaw was made.

- (5) An order under this section shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be revoked or varied by a subsequent order thereunder.
- (6) This section does not extend to Northern Ireland.

## **56 Trustee savings banks-special investments**

In section 18(1) of the Trustee Savings Banks Act 1969 (which provides that a special investment may be made only on behalf of a person who is a depositor to the extent of not less than £50) after " £50 " there shall be inserted " or such smaller amount as may be specified in the rules of the bank ".

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

- (1) This Act may be cited as the Finance Act 1974.
- (2) In this Act "the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) In this Act—
  - (a) Part I, except so far as it relates to value added tax, shall be construed as one with the Customs and Excise Act 1952 and, so far as it relates to value added tax, shall be construed as one with Part I of the Finance Act 1972;
  - (b) Part II, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with Part III of the Finance Act 1965 ;
  - (c) Part III, so far as it relates to capital gains tax or the computation of development gains, shall be construed as one with Part III of the Finance Act 1965, 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 ; and
  - (d) Schedule 11 shall be construed as one with the Stamp Act 1891.
- (4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference to that enactment as applied, by or under any other enactment, including this Act.
- (5) If the Northern Ireland Assembly passes provisions amending or replacing any enactment of the Parliament of Northern Ireland, or any Order in Council made under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972, referred to in this Act, the reference shall be construed as a reference to the enactment or order as so amended or, as the case may be, as a reference to those provisions.
- (6) The enactments mentioned in Schedule 14 to this Act (which include certain enactments which had ceased to have effect before the commencement of this Act) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

## SCHEDULES

### SCHEDULE 1

Section 19.

#### RELIEF FOR INTEREST

##### PART I

###### AMENDMENT OF SCHEDULE 9 TO FINANCE ACT 1972

- 1 In Schedule 9 to the Finance Act 1972, for the words " protected interest" wherever they occur (in paragraph 1, 5, 10, 11, 12, 13 or 15) there shall be substituted the words " eligible for relief under section 75 of this Act " ; and the relief referred to in the words so substituted in paragraph 1(c) of that Schedule shall include any relief by virtue of section 19(4) of this Act.
- 2 In paragraph 1 of that Schedule, after the words " this Part of this Schedule " there shall be inserted the words " and to Part II of Schedule 1 to the Finance Act 1974 ".
- 3 After paragraph 5 of that Schedule there shall be inserted the following paragraph:  
—  
“5A References in this Part of this Schedule to an estate or interest in land include references to the property in a house boat, that is to say, a boat or similar structure designed or adapted for use as a place of permanent habitation”.

##### PART II

###### RESTRICTION ON RELIEF FOR LOANS FOR PURCHASE OR IMPROVEMENT OF LAND

- 4 (1) Subject to the following provisions of this Part of this Schedule, Part I of Schedule 9 to the Finance Act 1972 shall not apply unless the land, caravan or house boat referred to therein either—
  - (a) is at the time the interest is paid used as the only or main residence of the person by whom it is paid (in this Part of this Schedule referred to as " the borrower") or of a dependent relative or former or separated spouse of his, or, if the interest is paid less than twelve months after the date on which the loan is made, is so used within twelve months after that date ; or
  - (b) is, in any period of fifty-two weeks comprising the time at which the interest is payable and falling wholly or partly within the year of assessment, let at a commercial rent for more than twenty-six weeks and, when not so let, either available for letting at such a rent or used as mentioned in paragraph (a) above or prevented from being so available or used by any works of construction or repair ;and shall, in a case falling within paragraph (a) above, apply only within the limit imposed by paragraph 5 below.

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- (2) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case sub-paragraph (1) above shall have effect as if for the references to twelve months there were substituted references to such longer period as meets the circumstances of that case.
- (3) Where the land, caravan or house boat is used as the only or main residence of a dependent relative of the borrower it does not thereby fall within sub-paragraph (1) (a) above unless it is provided rent-free and without any other consideration.
- (4) In this Part of this Schedule—
- (a) " dependent relative " means, in relation to any person, a relative of his, or of his spouse, who is incapacitated by old age or infirmity from maintaining himself, or the mother of that person, or of his spouse, if the mother is widowed or living apart from her husband, or, in consequence or dissolution or annulment of marriage, a single woman; and
  - (b) " separated " means separated under an order of a court of competent jurisdiction or by deed of separation or in such circumstances that the separation is likely to be permanent.
- 5 (1) Where Part I of Schedule 9 to the Finance Act 1972 applies to a loan (in this sub-paragraph referred to as " the limited loan ") by virtue of paragraph 4(1)(a) above interest on it is eligible for relief under section 75 of that Act only to the extent that the amount on which it is payable does not exceed the following limit, that is to say, £25,000 for 1974-75 reduced by the amount on which interest is payable under any loan taken into account under sub-paragraph (2) below ; so that—
- (a) if the amount on which interest is payable under the limited loan exceeds the limit, so much only of that interest is eligible for the relief as bears to the whole of that interest the same proportion as that part of that amount which does not exceed the limit bears to the whole of that amount; and
  - (b) if the amount on which interest is payable under loans taken into account under sub-paragraph (2) below is £25,000 or more none of the interest on the limited loan is eligible for the relief.
- (2) If interest is payable by the borrower—
- (a) on any earlier loan to which Part I of Schedule 9 to the Finance Act 1972 applies by virtue of paragraph 4(1)(a) above ; or
  - (b) on any loan to which that Part as originally enacted applies by virtue of section 19(4) of this Act, other than a loan to which, if it had been raised after 26th March 1974, that Part as amended would have applied by virtue of paragraph 4(1)(b) above; or
  - (c) on any loan which is subsidised under Part II of the Housing Subsidies Act 1967 ;
- that loan shall be taken into account for the purposes of sub-paragraph (1) above.
- (3) Where a loan on which interest is payable by the borrower was made jointly to the borrower and another person, not being the borrower's husband or wife, then, if—
- (a) the land, caravan or house boat concerned is used as the main or only residence of that other person, or of a dependent relative or former or separated spouse of his, and
  - (b) that other person owns an estate or interest in the land or the property in the caravan or house boat, and
  - (c) that other person pays part of the interest payable on the loan,



the amount on which interest is payable under the loan shall be treated for the purposes of this paragraph as being such part only of that amount as bears to the whole thereof the same proportion as the amount of interest paid by the borrower bears to the whole of the interest paid on the loan.

- (4) For the purposes of this paragraph—
- (a) any interest payable on a loan made to the borrower's husband or wife shall be treated as payable on a loan made to the borrower ; and
  - (b) where interest is payable on more than one loan made or treated as made to the borrower and the loans were made simultaneously it shall be treated as payable on one loan.
- (5) References in this paragraph to the borrower's husband or wife do not include references to a separated husband or wife.
- 6 (1) Where Part I of Schedule 9 to the Finance Act 1972 applies to a loan by reason of the land, caravan or house boat concerned being used as a person's only or main residence, and the borrower raises another loan to defray money to be applied as mentioned in paragraph 1 of that Schedule with a view to the use of other land or another caravan or house boat as that person's only or main residence and the disposal of the first-mentioned land, caravan or house boat, then in relation to interest payable within twelve months from the making of the other loan, that Part of that Schedule—
- (a) shall continue to apply to the first-mentioned loan, whether or not the first-mentioned land, caravan or house boat continues to be so used ; and
  - (b) shall apply to the other loan to the same extent (if any), as if no interest were payable on the first-mentioned loan.
- (2) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case sub-paragraph (1) above shall have effect as if for the reference to twelve months there were substituted a reference to such longer period as meets the circumstances of that case.
- 7 Relief under section 75 of the Finance Act 1972 for interest eligible for it by virtue of Part I of Schedule 9 to that Act in a case where the land, caravan or house boat referred to in it falls under paragraph 4(1)(b) above shall be given only against income from the letting of that or any other land, caravan or house boat, but may, if and to the extent that such income for the year of assessment is insufficient, be given against such income for the following year, and so on, provided the first-mentioned land, caravan or house boat continues to fall under that paragraph.
- 8 (1) Where any interest paid by persons as the personal representatives of a deceased person or as trustees of a settlement made by his will would, on the assumptions required by sub-paragraph (2) below, be eligible for relief under section 75 of the Finance Act 1972 by virtue of Part I of Schedule 9 to that Act and, in a case where the condition stated in that sub-paragraph applies, that condition is satisfied, that interest shall be so eligible notwithstanding the preceding provisions of this Part of this Schedule.
- (2) For the purposes of sub-paragraph (1) above it shall be assumed that the deceased would have survived and been the borrower ; and if, at his death, the land, caravan or house boat concerned was used as his only or main residence, it shall be further assumed that he would have continued so to use it and the following condition shall then apply, namely, that the land, caravan or house boat is, at the time the interest is paid, used as the only or main residence of the deceased's widow or widower or of any dependent relative of the deceased.

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- (3) In this paragraph " personal representatives " has the meaning assigned to it by section 432 of the Taxes Act.

### PART III

#### FURTHER CASES OF INTEREST ELIGIBLE FOR RELIEF

##### *Loan applied in acquiring interest in close company*

- 9 (1) Subject to the following provisions of this Part of this Schedule, interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring any part of the ordinary share capital of a close company satisfying any of the conditions of paragraph 3A(2) of Schedule 16 to the Finance Act 1972 ; or
  - (b) in lending money to such a close company which is used wholly and exclusively for the purposes of the business of the company or of any associated company of it which is a close company satisfying any of those conditions ; or
  - (c) in paying off another loan interest on which would have been eligible for relief under section 75 of the Finance Act 1972 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and the conditions stated in paragraph 10 below are satisfied.
- (2) The relief referred to in sub-paragraph (1)(c) above includes any relief by virtue of section 19(4) of this Act.

- 10 The conditions referred to in paragraph 9 above are—
- (a) that, when the interest is paid, the company continues to satisfy any of the conditions of paragraph 3A(2) of Schedule 16 to the Finance Act 1972 and the individual has a material interest in the company, and
  - (b) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time in the actual management or conduct of the business of the company, or of an associated company of the company, and
  - (c) that he shows that in that period he has not recovered any capital from the company, apart from any amount taken into account under paragraph 13 below.

##### *Loan applied in acquiring interest in partnership*

- 11 (1) Subject to the following provisions of this Part of this Schedule, interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan to an individual to defray money applied—
- (a) in purchasing a share in a partnership ; or
  - (b) in contributing money to a partnership by way of capital or premium, or in advancing money to a partnership, where the money contributed or advanced is used wholly for the purposes of the trade, profession or vocation carried on by the partnership; or

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(c) in paying off another loan interest on which would have been eligible for relief under that section had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest) ;  
and the conditions stated in paragraph 12 below are satisfied.

(2) The relief referred to in sub-paragraph (1)(c) above includes any relief by virtue of section 19(4) of this Act.

12 The conditions referred to in paragraph 11 above are—

- (a) that, throughout the period from the application of the proceeds of the loan until the interest was paid, the individual has personally acted in the conduct of the trade, profession or vocation carried on by the partnership ; and
- (b) that he shows that in that period he has not recovered any capital from the partnership, apart from any amount taken into account under paragraph 13 below.

*Provisions supplementary to paragraphs 9 to 12*

13 If at any time after the application of the proceeds of the loan the individual has recovered any amount of capital from the close company or partnership without using that amount in repayment of the loan, he shall be treated for the purposes of section 75 of the Finance Act 1972 and this Part of this Schedule as if he had at that time repaid that amount out of the loan, so that out of the interest otherwise eligible for relief (or, where paragraph 15 of Schedule 9 to that Act applies, out of the proportion so eligible) and payable for any period after that time there shall be deducted an amount equal to interest on the amount of capital so recovered.

14 (1) The individual shall be treated as having recovered an amount of capital from the close company or partnership if—

- (a) he receives consideration of that amount or value for the sale, exchange or assignment of any part of the ordinary share capital of the company or of his interest in the partnership, or any consideration of that amount or value by way of repayment of any part of that ordinary share capital; or
- (b) the close company or partnership repays that amount of a loan or advance from him or the partnership returns that amount of capital to him ; or
- (c) he receives consideration of that amount or value for assigning any debt due to him from the close company or partnership ;

and where a sale or assignment is not a bargain made at arm's length, the sale or assignment shall be deemed to be for a consideration of an amount equal to the market value of what is disposed of.

(2) In the application of this paragraph to Scotland for the word " assignment ", wherever it occurs, there shall be substituted the word " assignation " .

15 Paragraph 10 or, as the case may be, 12 and paragraphs 13 and 14 above shall apply to a loan within paragraph 9(c) or 11(c) above as if it, and any loan it replaces, were one loan, and so that—

- (a) references to the application of the proceeds of the loan are references to the application of the proceeds of the original loan; and
- (b) any restriction under paragraph 13 above which applies to any loan which has been replaced shall apply to the loan which replaces it.

16 In paragraphs 9 and 10 above expressions to which a meaning is assigned by Chapter III or Part XI of the Taxes Act have that meaning.

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

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*Loan to pay estate duty*

- 17 (1) Interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan to the personal representatives of a deceased person, the proceeds of which are applied—
- (a) in paying, before the grant of representation or confirmation, estate duty in accordance with section 6(2) of the Finance Act 1894, being estate duty which is payable in respect of the personal property of which the deceased was competent to dispose at his death and is payable on delivery of the Inland Revenue affidavit; or
  - (b) in paying off another loan interest on which would have been eligible for that relief by virtue of this paragraph if the loan had not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and the interest is paid in respect of a period ending within one year from the making of the loan within sub-paragraph (a) above.
- (2) The reference in sub-paragraph (1)(b) above to relief by virtue of this paragraph shall be construed as including any relief by virtue of section 19(4) of this Act.
- 18 If or to the extent that any relief in respect of interest eligible for it under paragraph 17 above cannot be given against income of the year in which the interest is paid because of an insufficiency of income in that year, it may instead be given against income of the preceding year of assessment, and so on ; and if or to the extent that it cannot be so given it may instead be given against income of the year following that in which the interest is paid, and so on.
- 19 Paragraph 17 above does not apply to interest on so much of any loan as is applied in paying estate duty in respect of property situate in Great Britain which did not pass to the personal representatives as such, or in respect of property situate elsewhere which, had it been situate in Great Britain, would not have passed to the personal representatives as such.
- 20 Sufficient evidence of the amount of estate duty paid in accordance with section 6(2) of the Finance Act 1894 in respect of any particular description of property, and of any statements relevant to its computation in the Inland Revenue affidavit, may be given by the production of a document purporting to be a certificate from the Board.
- 21 For the purposes of the preceding paragraphs—
- (a) " estate duty " means estate duty leviable under the law in force in Great Britain or the law in force in Northern Ireland together with any interest payable on the duty; and
  - (b) references to interest in respect of a period ending within a given time apply whether or not interest continues to run after that time.
- 22 The preceding paragraphs shall apply to estate duty leviable under the law of Northern Ireland with the substitution for the estate duty enactments mentioned therein of the corresponding enactments forming part of the law of Northern Ireland and with the substitution in paragraph 19 of " Northern Ireland " for " Great Britain ".

*Supplementary*

- 23 Paragraphs 2, 14 and 15 of Schedule 9 to the Finance Act 1972 shall (with the necessary modifications) apply for the purposes of the preceding provisions of this Part of this Schedule.

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

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*Loan to purchase life annuity*

- 24 (1) Subject to the following provisions of this paragraph, interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan in respect of which the following conditions are satisfied—
- (a) that the loan was made as part of a scheme under which not less than nine-tenths of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as " the annuitants ") who include the person to whom the loan was made ;
  - (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of sixty-five years ;
  - (c) that the loan was secured on land in the United Kingdom or the Republic of Ireland and the person to whom it was made or one of the annuitants owns an estate or interest in that land ; and
  - (d) that, if the loan was made after 26th March 1974, the person to whom it was made or each of the annuitants uses the land on which it was secured as his only or main residence at the time the interest is paid.
- (2) Interest is not eligible for relief by virtue of this paragraph unless it is payable by the person to whom the loan was made or by one of the annuitants.
- (3) If the loan was made after 26th March 1974, interest on it is eligible for relief by virtue of this paragraph only to the extent that the amount on which it is payable does not exceed £25,000 ; and if the interest is payable by two or more persons the interest payable by each of them is so eligible only to the extent that the amount on which it is payable does not exceed such amount as bears to £25,000 the same proportion as the interest payable by him bears to the interest payable by both or all of them.

**PART IV**

AMENDMENT OF SCHEDULE 10 PARAGRAPH 7 OF FINANCE ACT 1972

- 25 (1) In paragraph 7 of Schedule 10 to the Finance Act 1972 for sub-paragraphs (a) and (b) and the word " which" preceding them there shall be substituted the words " showing—
- (a) the date when the debt was incurred,
  - (b) the amount of the debt when incurred,
  - (c) the interest paid in the year of assessment for which the claim is made (or in the case of relief by virtue of paragraph 7 or 18 of Schedule 1 to the Finance Act 1974 the year of assessment for which the claim would be made but for an insufficiency of income), and
  - (d) the name and address of the debtor."
- (2) In relation to claims for relief in respect of interest excepted from subsection (3) of section 19 of this Act by subsection (4)(a) of that section the statement to be furnished under paragraph 7 of Schedule 10 to the Finance Act 1972 shall be a statement showing—
- (a) the debit balance of the account on 26th March 1974 ;
  - (b) the amount of interest that would have been payable on that balance after 26th March 1974 and before 6th April 1975 at the rate at which interest on that balance was chargeable on 26th March 1974 ;

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- (c) so much of the interest paid in the year of assessment for which the claim is made as was payable after 26th March 1974 and before 6th April 1975 ; and
- (d) the name and address of the claimant.

## PART V

### AMENDMENT OF SCHEDULE 16 TO FINANCE ACT 1972

26 In Schedule 16 to the Finance Act 1972, in paragraph 1(2) for the words " paragraphs 2 and 3 " there shall be substituted the words " paragraphs 2 to 3A ", in paragraph 5(7) after the words " paragraph 3 " there shall be inserted the words " or 3A " and after paragraph 3 there shall be inserted the following paragraph:—

- “3A (1) Subject to the following provisions of this paragraph, there may be apportioned under paragraph 1 above as if it were income of a close company for an accounting period any interest paid by the company in that period.
- (2) Sub-paragraph (1) above does not apply to a company—
- (a) if it is a trading company, or
  - (b) if it is a member of a trading group, or
  - (c) if more than 75 per cent, of its income is of one or more of the following descriptions, that is—
    - (i) estate or trading income,
    - (ii) interest, and dividends or other distributions, received from a 51 per cent, subsidiary of it (both companies being bodies corporate) if the subsidiary is itself within any of paragraphs (a), (b) and (c) of this sub-paragraph ;
 and for the purposes of paragraph (c) above no account shall be taken of any deduction from the company's profits for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description.
- (3) Sub-paragraph (1) above shall not apply—
- (a) to interest which would be eligible for relief under section 75 of this Act if paid by an individual; or
  - (b) to interest which is money wholly and exclusively laid out or expended for the purposes of a trade carried on by the company.
- (4) If any amount of interest apportionable by virtue of this paragraph is interest paid to a participator in the close company or is (apart from this paragraph) treated for the purposes of income tax as the income of such a participator, the amount so apportionable to that participator shall be reduced by the first-mentioned amount (and without requiring the reduction to be reflected in the amount apportioned to any other person).
- (5) Any amount apportionable by virtue of this paragraph shall be in addition to the amount (if any) apportionable under paragraph 1 above without this paragraph, and nothing in sub-paragraph (2) of that paragraph shall apply to any apportionment made by virtue of this paragraph.

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- (6) In determining for the purposes of this Schedule the person to whom any amount is to be apportionable by virtue of this paragraph, any interest which any person possesses as a loan creditor shall be disregarded (but without prejudice to the making of an apportionment to him in any other capacity).
- (7) In determining for the purposes of sub-paragraph (2)(c)(ii) above whether one body corporate is a 51 per cent, subsidiary of another, that other shall be treated as not being the owner—
- (a) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom, or
  - (b) of any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.”

## PART VI

### AMENDMENT OF TAXES ACT

27 The provisions of the Taxes Act specified in the first column of the following Table shall have effect—

- (a) so far as they were amended by paragraph 2, 4 or 9 of Schedule 11 to the Finance Act 1972, as if those amendments had not been made ; and
- (b) so far as they or any words contained in them were repealed by the Finance Act 1972, as if those repeals had not been made;

but subject to any amendment specified in the second column of that Table.

### TABLE

<i>Provisions of Taxes Act restored</i>	<i>Amendment</i>
Section 64A.	
Section 122(1)	For paragraph (c) there shall be substituted:— “(c) to a deduction on account of any annual interest payable out of the income to a person not resident in the United Kingdom, being interest payable before 6th April 1980 on a debt incurred on or before 26th March 1974”.
Section 248	In subsection (6) the following shall be substituted for paragraph (d):— “(d) the payment of interest would, on the assumptions made

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<i>Provisions of Taxes Act restored</i>	<i>Amendment</i>
<p>Section 440. Section 455. Section 456. Section 469(6). Section 496(3) to (7). Schedule 12, Part III paragraph 2(1).</p>	<p>below, be eligible for relief under section 75 of the Finance Act 1972 by virtue of Part I of Schedule 9 to that Act if it were made by an individual”, and after that paragraph there shall be inserted the words “For the purposes of paragraph (d) above it shall be assumed that if the land concerned is occupied by the company the conditions of paragraph 4(1) of Schedule 1 to the Finance Act 1974 are satisfied if the land either— (i) is not used as a residence, or (ii) is used as an individual's main or only residence; but the limit imposed by paragraph 5 of that Schedule shall apply only in a case falling within paragraph (ii) above and shall then apply without regard to any loan made in connection with any other land.”.</p> <p>For paragraph (c) there shall be substituted:— “(c) to a deduction on account of any annual interest payable out of the income to a person not resident in the United Kingdom, being interest payable before 6th April 1980 on a debt incurred on or before 26th March 1974”.</p>



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<i>Provisions of Taxes Act restored</i>	<i>Amendment</i>
Schedule 12, Part III paragraph 3(1).	At the end there shall be inserted the words " and to a deduction on account of any annual interest so payable to such a person before 6th April 1980 which is interest on a debt incurred on or before 26th March 1974 ".
28	In section 175(2)(a) of the Taxes Act for the word " relief" there shall be substituted the words " payments of interest eligible for relief ".
29	In paragraph 2(2) of Part III of Schedule 12 to the Taxes Act, for the words " annual interest or any annuity or other annual payment" there shall be substituted the words " annuity or other annual payment (not being interest) " and after the words " resident in the United Kingdom" there shall be added the words " and to a deduction on account of any annual interest so payable to such a person before 6th April 1980 which is interest on a debt incurred on or before 26th March 1974 ".

## SCHEDULE 2

Section 21.

### DEDUCTIONS OR EXCEPTION IN RESPECT OF CERTAIN EMOLUMENTS

#### *Duties wholly performed outside the United Kingdom*

- 1 (1) Where the duties of an office or employment are performed wholly outside the United Kingdom and are performed wholly or partly while the holder of the office or employment is absent from the United Kingdom for a continuous period, a deduction shall be allowed in charging tax on the emoluments from that office or employment under Case I of Schedule E.
  - (2) The deduction shall, in a case falling within sub-paragraph (3) below, be equal to the whole, and, in any other case, be equal to one-quarter, of so much of the amount of the emoluments as is attributable to the continuous period.
  - (3) A case falls within this sub-paragraph if the continuous period during which the holder of the office or employment is absent from the United Kingdom, including any part of it falling outside the year of assessment, includes 365 or more qualifying days ; and for this purpose a day is a qualifying day if on that day he is the holder of that or any other office or employment the duties of which are, in the year of assessment to which that day belongs, performed wholly outside the United Kingdom.
  - (4) Where emoluments from an office or employment the, duties of which are wholly performed outside the United Kingdom are paid for a period of leave immediately following a period of continuous absence from the United Kingdom, they shall be attributed for the purposes of this paragraph to that period of absence but shall for other purposes of Case I of Schedule E be treated as emoluments for duties performed outside the United Kingdom during the period of leave.
- 2 For the purposes of paragraph 1 above a period in which the holder of an office or employment is absent from the United Kingdom is continuous unless during that period he is present in the United Kingdom—
- (a) on more than sixty-three consecutive days ; or

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(b) on more days (whether consecutive or not) than one-sixth of the number of days in the period ;

and he shall be treated as present in the United Kingdom throughout any day on which he arrives there but as absent from the United Kingdom on any day on which he departs from there.

*Foreign emoluments*

- 3 (1) Subject to paragraph 4 below, where the emoluments from an office or employment are foreign emoluments within the meaning of paragraph 1 of Schedule E, a deduction shall be allowed in charging tax on them under Case I or II of that Schedule.
- (2) The deduction, except in a case falling within sub-paragraph (3) below, shall be equal to one-half of the amount of the foreign emoluments.
- (3) Where the year of assessment is the year 1976-77 or a subsequent year and the holder of the office or employment—
- (a) is in that year resident in the United Kingdom ; and
  - (b) was resident in the United Kingdom in the preceding ten years of assessment or in nine of them ;

the deduction shall be equal to one-quarter of the amount of the foreign emoluments.

- 4 Where the duties of an office or employment are performed wholly outside the United Kingdom and the emoluments from the office or employment are foreign emoluments within the meaning of paragraph 1 of Schedule E, the emoluments shall be excepted from Case I of that Schedule.

*Amount of emoluments*

- 5 For the purposes of the preceding paragraphs the amount of any emoluments shall be taken to be the amount remaining after any capital allowance and after any deductions allowable under Chapter I of Part VIII or section 208(1) of the Taxes Act, section 21(4) or 22(2) of the Finance Act 1970, or under paragraph 6 below.
- 6 Where the emoluments from an office or employment are foreign emoluments within the meaning of paragraph 1 of Schedule E and it appears to the Board, on a claim made by the holder of the office or employment, that out of those emoluments he has made payments in circumstances corresponding to those in which the payments would have reduced his liability to income tax, the Board may allow those payments as a deduction in computing the amount of the emoluments.

SCHEDULE 3

Section 38.

PROVISIONS SUPPLEMENTARY TO SECTION 38

**PART I**

DEFINITIONS OF CURRENT USE VALUE, MATERIAL DEVELOPMENT, ETC.

*Definition of current use value*

- 1 (1) For the purposes of the principal section and this Schedule the current use value of an interest in land shall be ascertained in accordance with this Part of this Schedule; and in this Part of this Schedule the time as at which current use value is to be ascertained is referred to as " the relevant time ".
- (2) Subject to the following provisions of this Part of this Schedule, the current use value of an interest in land at the relevant time is the market value of that interest at that time calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land other than any material development thereof which, being authorised by planning permission in force at that time, was begun before that time.
- (3) In this paragraph " planning permission " has the same meaning as in the Town and Country Planning Act 1971, or, in Scotland, the Town and Country Planning (Scotland) Act 1972, or, in Northern Ireland, the Planning (Northern Ireland) Order 1972 ; and in determining for the purposes of this paragraph what material development of any land was authorised by planning permission at a time when there was in force in respect of the land planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters), any such development of the land which at that time—
- (a) was authorised by that permission without any requirement as to subsequent approval; or
  - (b) not being so authorised, had been approved in the manner applicable to that planning permission,
- but no other material development, shall for those purposes be taken to have been authorised by that permission at that time.

*Current use value—part disposals*

- 2 (1) Subject to sub-paragraphs (5) to (7) below, this paragraph shall apply as regards the current use value of an interest in land which has been disposed of by way of a part disposal of an asset (in this paragraph referred to as " the relevant asset ") consisting of an interest in land.
- (2) The current use value at the relevant time of the interest disposed of shall be the relevant fraction of the current use value of the relevant asset at that time, calculated on the same assumptions as to the lawfulness or otherwise of any material development as fall to be made under this Schedule in calculating the current use value at that time of the interest disposed of.
- (3) For the purposes of the preceding sub-paragraph " the relevant fraction " means that fraction of the sums mentioned in the following sub-paragraph which under

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paragraph 7(2) of Schedule 6 to the Finance Act 1965 is, or would but for paragraph 7(4) of that Schedule be, allowable as a deduction in computing under that Schedule the amount of the gain accruing on the part disposal.

- (4) The sums referred to in the preceding sub-paragraph are the sums which, if the entire relevant asset had been disposed of at the time of the part disposal, would be allowable by virtue of paragraph 4(1)(a) and (b) of the said Schedule 6 as a deduction in computing under that Schedule the gain accruing on that disposal of the relevant asset.
- (5) Sub-paragraphs (2) to (4) above shall not apply—
- (a) in the case of a disposal of an interest in land by way of a part disposal if, on making the disposal, the person doing so no longer has any interest in the land which is subject to that interest; or
  - (b) in a case to which the following provisions of this paragraph apply.
- (6) In computing under this Chapter any gain accruing to a person on a part disposal of a lease which is a wasting asset by way of the grant of a sub-lease for a premium, the current use value of the lease at the time of its acquisition by the person making the disposal shall be the relevant fraction of what its current use value at that time would be apart from sub-paragraphs (2) to (4) above.
- (7) For the purposes of the preceding sub-paragraph " the relevant fraction " means that fraction of the expenditure attributable to the lease under paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 which under paragraph 4 of Schedule 8 to that Act (sub-leases out of short leases) falls to be apportioned to what is disposed of.
- 3 In computing under this Chapter any gain accruing to a person on a part disposal of an interest in land resulting under subsection (3) of section 22 of the Finance Act 1965 from the receipt as mentioned in paragraph (a), (c) or (d) of that subsection of a capital sum, the current use value at the relevant time of the interest out of which the part disposal was made shall be taken to be what it would have been at that time if the circumstances which caused the capital sum to be received had not arisen.

*Current use value—leases and reversions*

- 4 (1) The current use value of an interest in land which is either—
- (a) a freehold interest which is subject to a lease or an agreement for a lease ; or
  - (b) an interest under a lease or agreement for a lease,
- shall be ascertained without regard to any premium required under the lease or agreement for a lease or any sublease, or otherwise under the terms subject to which the lease or sublease was or is to be granted, but with regard to all other rights under the lease or prospective lease (and, for the current use value of an interest under a lease subject to a sublease, under the sublease).
- (2) If under the preceding sub-paragraph an interest under a lease or agreement for a lease would have a negative value, the current use value of the interest shall be nil.
- (3) If a lease is granted out of any interest in land after 17th December 1973, then, in computing under this Chapter any gain accruing on any disposal of the reversion on the lease made while the lease subsists, the current use value of the reversion at any time after the grant of the lease shall not exceed what would have been at that time the current use value of the interest in the land of the person then owning the reversion if that interest had not been subject to the lease.

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- (4) In the application of this paragraph to Scotland, " freehold " means the estate or interest of the proprietor of the dominium utile or, in the case of property other than feudal property, of the owner, and " reversion " means the interest of the landlord in property subject to a lease.
- 5 (1) In computing under this Chapter any gain accruing to a person on a disposal of a lease which is a wasting asset, the current use value of the lease at the time of its acquisition by the person making the disposal shall be the relevant fraction of what its current use value at that time would be apart from this paragraph.
- (2) For the purposes of the preceding sub-paragraph " the relevant fraction " means the fraction of which the numerator is equal to so much of the expenditure attributable to the lease under paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 as is not under paragraph 1 of the computation under the said Schedule 6 of the gain accruing on the disposal, and the denominator is equal to the whole of the expenditure which would be so attributable to the lease for those purposes apart from the said paragraph 1.

*Definition of material development*

- 6 In this Schedule, subject to the following paragraph, " material development ", in relation to any land, means the making of any change in the state, nature or use of the land.
- 7 (1) The doing of any of the following things in the case of any land shall not be taken for the purposes of this Schedule to involve material development of the land, that is to say—
- (a) the carrying out of works for the maintenance, improvement, enlargement or other alteration of any building, so long as the cubic content of the original building is not exceeded by more than one-tenth ;
  - (b) the carrying out of works for the rebuilding, as often as occasion may require, of any building which was in existence at the relevant time, or of any building which was in existence in the period of ten years immediately preceding the day on which that time falls but was destroyed or demolished before the relevant time, so long as (in either case) the cubic content of the original building is not exceeded by more than one-tenth ;
  - (c) the use of any land for the purposes of agriculture or forestry, the use for any of those purposes of any building occupied together with land so used, and the carrying out on any land so used of any building of other operations required for the purposes of that use ;
  - (d) the carrying out of operations on land for, or the use of land for, the display of an advertisement, announcement or direction of any kind ;
  - (e) the carrying out of operations for, or the use of the land for, car parking, provided that such use shall not exceed three years ;
  - (f) in the case of a building or other land which at the relevant time was used for a purpose falling within any class specified in paragraph 8 below or which, being unoccupied at that time, was last used for any such purpose, the use of that building or land for any other purpose falling within the same class ;
  - (g) in the case of a building or other land which at the relevant time was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building

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- used for that purpose at the relevant time or, as the case may be, one-tenth of the area of the land so used at that time ;
- (h) in the case of land which at the relevant time was being temporarily used for a purpose other than the purpose for which it was normally used, the resumption of the use of the land for the last-mentioned purpose ;
- (i) in the case of land which was unoccupied at the relevant time, the use of the land for the purpose for which it was last used before that time.
- (2) In determining for the purposes of sub-paragraph (1)(a) or (b) above whether or not the cubic content of the original building has been exceeded by more than one-tenth, the cubic content of the building after the carrying out of the works in question shall be treated as reduced by the amount (if any) by which so much of that cubic content as is attributable to one or more of the matters mentioned in the following sub-paragraph exceeds so much of the cubic content of the original building as was attributable to one or more of the matters so mentioned.
- (3) The matters referred to in the preceding sub-paragraph are the following, that is to say—
- (a) means of escape in case of fire ;
- (b) car-parking or garage space ;
- (c) accommodation for plant providing heating, air-conditioning or similar facilities.
- 8 The classes of purposes mentioned in paragraph 7(1)(f) above are the following—
- Class A—Use as a dwelling-house or for the purpose of any activities which are wholly or mainly carried on otherwise than for profit, except use for a purpose falling within Class B, C or E.
- Class B—Use as an office or retail shop.
- Class C—Use as a hotel, boarding-house or guest-house, or as premises licensed for the sale of intoxicating liquors for consumption on the premises.
- Class D—Use for the purpose of any activities wholly or mainly carried on for profit, except—
- (a) use as a dwelling-house or for the purposes of agriculture or forestry ;  
and
- (b) use for a purpose falling within Class B, C or E.
- Class E—Use for any of the following purposes, namely—
- (a) the carrying on of any process for or incidental to any of the following purposes, namely—
- (i) the making of any article or of any part of any any article, or the production of any substance;
- (ii) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolishing of any article ; or
- (iii) without prejudice to (i) or (ii) above, the getting, dressing or treatment of minerals,
- being a process carried on in the course of a trade or business other than agriculture or forestry, but excluding any process carried on at a dwelling-house or retail shop ;
- (b) storage purposes (whether or not involving use as a warehouse or repository) other than storage purposes ancillary to a purpose falling within Class B or C.

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*Date when material development is begun*

- 9 (1) For the purposes of this Schedule material development shall be taken to be begun on the earliest date on which any specified operation comprised in the material development is begun.
- (2) In this paragraph " specified operation " means any of the following, that is to say—
- (a) any work of construction in the course of the erection of a building ;
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building ;
  - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in (b) above ;
  - (d) any operation in the course of laying out or constructing a road or part of a road ;
  - (e) any change in the use of any land.

*Interpretation*

- 10 (1) In this Part of this Schedule, unless the context otherwise requires—
- " agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly ;
  - " article " means an article of any description ;
  - " building " includes part of a building, and references to a building may include references to land occupied therewith and used for the same purposes ;
  - " forestry " includes afforestation ;
  - " minerals " includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;
  - " retail shop " includes any premises of a similar character where retail trade or business (including repair work) is carried on;
  - " substance " means any natural or artificial substance or material, whether in solid or liquid form or in the form of a gas or vapour.
- (2) Any reference in this Part of this Schedule to the cubic content of a building is a reference to that content as ascertained by external measurement.
- (3) For the purposes of paragraph 7(1)(a) and (b) of this Schedule where two or more buildings are included in a single development the whole of that development may be regarded as a single building, and where two or more buildings result from the redevelopment of a single building the new buildings may together be regarded as a single building.

For the purposes of this sub-paragraph two or more buildings shall not be treated as included in a single development unless they are or were comprised in the same curtilage.

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## PART II

### OTHER PROVISIONS SUPPLEMENTARY TO SECTION 38

#### *Computation of development gain in respect of disposal of interest in land after material development has been carried out*

- 11 (1) This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the interest.
- (2) Subsection (3) of the principal section shall apply in relation to the disposal as if paragraph (b) were omitted, and as if for the words " whichever is the least " there were substituted the words " whichever is the smaller ".
- (3) For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount by which the current use value of the interest in land at the time of the disposal exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph (or, if both those amounts are nil, to be nil).
- (4) The amounts referred to in the preceding sub-paragraph are the following, that is to say—
- (a) the amount (if any) by which the current use value of the interest immediately before the date on which the material development mentioned in sub-paragraph (1) above was begun exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be; and
  - (b) the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in the following sub-paragraph.
- (5) The amounts referred to in sub-paragraph (4)(b) above are the following, that is to say—
- (a) the current use value of the interest immediately after the date on which the material development mentioned in sub-paragraph (1) above was begun, calculated on the assumption that it was lawful for that development to be carried out; and
  - (b) the amount of any expenditure attributable to that development which is allowable under paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965 as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon.
- (6) Where material development of the land in question has been carried out on two or more different occasions after 17th December 1973 since the person making the disposal acquired the interest, then for the purposes of this paragraph—
- (a) there shall be calculated for the first of those occasions the amount mentioned in sub-paragraph (4)(a) above (the reference there to the material development mentioned in sub-paragraph (1) above being for this purpose read as a reference to the material development carried out on that occasion);



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- (b) there shall be calculated for each of those occasions other than the first the amount (if any) by which the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the occasion preceding the one for which the calculation is being made); and
- (c) there shall be calculated the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the last of those occasions);

and sub-paragraph (3) above shall apply as if for the words from " the sum of the amounts mentioned in the following sub-paragraph " to the end of the paragraph there were substituted the words " the sum of the amounts calculated under sub-paragraph (6)(a) to (c) below (or, if those amounts are each nil, to be nil) ".

*Computation of development gain in respect of disposal  
of interest in land reflecting expenditure on enhancement*

- 12 (1) This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if any expenditure which is or, but for paragraph 1 of Schedule 8 to the Finance Act 1965, would be allowable under paragraph 4(1) (b) of Schedule 6 to the Finance Act 1965 as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon has been incurred since the person making the disposal acquired the interest, not being expenditure attributable to material development of the land carried out as mentioned in paragraph 11(1) of this Schedule (that is, carried out after 17th December 1973 since the person making the disposal acquired the interest).
- (2) For the purpose of computing the amount given by subsection (3)(c) of the principal section the current use value of the interest in land at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph.
- (3) The amounts referred to in the preceding sub-paragraph are the following, that is to say—
- (a) the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be ; and
  - (b) so much of the expenditure mentioned in sub-paragraph (1) above as is reflected in the current use value of the interest at the time of the disposal.
- (4) Where material development of the land has been carried out (whether on only one occasion or on two or more different occasions) after 17th December 1973 since the person making the disposal acquired the interest, sub-paragraphs (2) and (3) above shall not apply, and paragraph 11 of this Schedule shall have effect subject to the following provisions of this paragraph.
- (5) Where any expenditure mentioned in sub-paragraph (1) above was incurred before the date on which the material development of the land carried out after 17th

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December 1973 on the first or only occasion was begun, then in calculating under paragraph 11(4)(a) or 11(6)(a) of this Schedule the amount mentioned in the said paragraph 11(4)(a), the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be, shall be increased by so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun.

- (6) Where any expenditure so mentioned was incurred on or after the date on which the material development of the land so carried out on the last or only occasion was begun, then in calculating under paragraph 11(5)(b) or 11(6)(c) of this Schedule the expenditure attributable to that material development which is allowable as mentioned in the said paragraph 11(5)(b) there shall be included in that expenditure so much of the expenditure incurred as is reflected in the current use value of the interest at the time of the disposal.
- (7) Where any expenditure so mentioned was incurred on or after the date on which the material development (" the preceding development ") so carried out on any but the last of two or more occasions was begun but before the date on which the material development (" the following development ") carried out on the next of those occasions was begun, then, in calculating under paragraph 11(6)(b) of this Schedule the expenditure attributable to the preceding development which is allowable as mentioned in paragraph 11 (5)(b) of this Schedule, there shall be included in that expenditure so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the following development was begun.

*Provisions supplementary to paragraphs 11 and 12*

- 13 (1) Where paragraph 11 of this Schedule would, apart from this paragraph, apply in relation to a disposal of an interest in land because of any material development of the land carried out after 17th December 1973 since the person making the disposal acquired the interest, the said paragraph 11 shall not so apply if the amount by which the current use value of the interest immediately after the date on which that material development was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date—
- (a) is not greater than one-tenth of the current use value of the interest immediately before that date ; and
- (b) does not exceed £2,500.
- (2) Where material development of the land in question has been carried out on two or more different occasions after 17th December 1973 since the person making the disposal acquired the interest, then for the purposes of this paragraph there shall be calculated for each of those occasions the amount by which the current use value of the interest immediately after the date on which the material development carried out on that occasion was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date, and the preceding sub-paragraph shall not apply in relation to the disposal if the aggregate of the amounts so calculated exceeds £2,500.
- (3) Where by virtue of the preceding provisions of this paragraph paragraph 11 of this Schedule does not apply in relation to a disposal of an interest in land even though material development of the land has been carried out as aforesaid, the material

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development in question shall be disregarded for the purposes of paragraph 12 of this Schedule.

14 (1) Subject to the following sub-paragraph, material development shall for the purposes of paragraphs 11 to 13 of this Schedule not be treated as carried out after a particular date if it was begun on or before that date.

(2) If, in the case of any land—

(a) material development thereof was begun on or before 17th December 1973 but was not completed on or before that date ; and

(b) the development was on that date to any extent not authorised by planning permission then in force,

then, for the purposes of paragraphs 11 to 13 of this Schedule, so much of the development carried out after that date as was not so authorised on that date shall be treated as begun on the earliest date after 17th December 1973 on which any specified operation comprised therein is begun, and shall accordingly be treated as material development of the land carried out after 17th December 1973.

(3) Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1 ; and in this paragraph " specified operation " has the same meaning as in paragraph 9 of this Schedule.

*Computation of amount given by subsection (3)(c) of principal section in certain cases within paragraph 23(4) of Schedule 6 to the Finance Act 1965*

15 Where a chargeable gain accrues to a person on a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 23 of Schedule 6 to the Finance Act 1965 (sales of land in United Kingdom reflecting development value) applies, then, if the amount of the gain is by virtue of sub-paragraph (4) of that paragraph computed without regard to Part II of that Schedule (assets held on 6th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (3)(c) of the principal section and paragraphs 11 and 12 of this Schedule any reference to the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date referred only to its current use value at the time of its acquisition by him.

*Computation of development gains in connection with replacements of business assets*

16 (1) Subject to the provisions of paragraph 2 of Schedule 4 to this Act, the development gain, if any, accruing in respect of a disposal of an interest in land to which the principal section applies shall, if the disposal is one in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies, be computed as if any claim under the said section 33 as respects the whole or a part of the consideration for the disposal had not been made.

(2) The preceding sub-paragraph shall not affect the subsequent operation of paragraph 4 of Schedule 8 to this Act in relation to such a claim.

17 Where under subsection (1)(b) or (2)(b) of section 33 of the Finance Act 1965 or paragraph 18(4) of this Schedule the person making a disposal of an interest in land to which the principal section applies would, apart from this paragraph, be treated for the purposes of Part III of that Act as if the amount or value of the consideration for the acquisition of that interest were reduced or further reduced by some amount,

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the development gain, if any, accruing in respect of the disposal shall be computed as if the said subsection (1)(b) or (2)(b) or the said paragraph 18(4), as the case may be, did not apply to that consideration.

*Replacement of business assets*

- 18 (1) If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this paragraph referred to as " the old assets ") used, and used only, for the purposes of the trade throughout the period of ownership is wholly or partly applied by him in acquiring other assets, or an interest in other assets (in this paragraph referred to as " the new assets ") which on the acquisition are taken into use, and used only, for the purposes of the trade, and—
- (a) the old assets and new assets are within the classes of assets listed in subsection (6) of section 33 of the Finance Act 1965 (replacement of business assets) and the old assets consist of or include land in the United Kingdom; and
  - (b) some or all of the new assets are qualifying assets ; and
  - (c) development gains accrue to the person carrying on the trade in respect of the disposal; and
  - (d) the amount of the consideration for the disposal applied as aforesaid is greater than the difference between the whole of that consideration and the amount of those development gains,
- then, if the person carrying on the trade makes a claim as respects those development gains, the provisions of sub-paragraphs (2) to (5) below shall apply.
- (2) There shall be ascertained the following amounts, that is to say—
- (a) the amount by which so much of the consideration for the disposal as has been applied as described in sub-paragraph (1) above exceeds the difference mentioned in sub-paragraph (1)(d) above ; and
  - (b) the amount of the consideration for the disposal which has been so applied in acquiring qualifying assets ;
- and in the following provisions of this paragraph "the material amount" means whichever of those amounts is the smaller (or, if they are equal, the amount which is equal to each of them).
- (3) The income tax or corporation tax to which the person carrying on the trade is chargeable for the chargeable period in which the disposal was made shall be reduced by an amount equal to whichever of the following amounts is the smallest, that is to say—
- (a) 30 per cent, of what is, under sub-paragraph (5) below, the appropriate amount;
  - (b) 30 per cent, of the amount, if any, by which the development gains accruing to him in that chargeable period exceed the development losses, if any, accruing to him in that period (so that if the amount under this head is nil, no reduction will fall to be made under this sub-paragraph) ;
  - (c) the total amount of the income tax for which he is liable for that chargeable period or, in the case of a company, the total amount of the corporation tax for which the company is liable for that chargeable period after setting against that liability the amount of any advance corporation tax falling to be set against it under section 85 of the Finance Act 1972, but before any

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set-off under subsection (5) of section 240 of the Taxes Act (income tax on distributions etc. received by U.K. company).

For the purposes of paragraph (b) of this sub-paragraph a man and his wife living with him shall be treated as one person if the result of so treating them is to increase the amount given by that paragraph.

- (4) Where a reduction falls to be made under the preceding sub-paragraph, the person carrying on the trade shall be treated for the purposes of Part III of the Finance Act 1965 as if the consideration for the acquisition of, or of the interest in, such of the new assets as are qualifying assets were reduced (or further reduced) by what is, under sub-paragraph (5) below, the appropriate amount; but this sub-paragraph shall not affect the treatment for those purposes of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.
- (5) For the purposes of sub-paragraphs (3)(a) and (4) above—
  - (a) if the material amount is equal to or greater than one-half of the development gains accruing in respect of the disposal, the appropriate amount is the full amount of the development gains so accruing ;
  - (b) if the material amount is less than one-half of the development gains so accruing, the appropriate amount is an amount equal to twice the material amount.
- (6) The following provisions shall, with any necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of section 33 of the Finance Act 1965, namely—
  - (a) subsections (3), (5) and (7) to (11) of that section ; and
  - (b) paragraph 3 of Schedule 12 to the Finance Act 1968.
- (7) Without prejudice to the provisions of Part III of the Finance Act 1965 providing generally for apportionments, where consideration is given—
  - (a) for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under this paragraph applies and some or part of which are not; or
  - (b) for the acquisition or disposal of assets some or part of which are, in relation to a claim under this paragraph, qualifying assets and some or part of which are not,the consideration shall be apportioned in such manner as is just and reasonable.
- (8) For the purposes of this paragraph assets are, in relation to a trade, qualifying assets if they are within the following classes of assets, that is to say the classes listed in section 33(6) of the Finance Act 1965, excluding assets within paragraph (b) of head A in class 1 other than land constituting the site of any asset within paragraph (a) of that head (including in the site any land in the immediate vicinity of the asset which is occupied for purposes ancillary to the occupation and use of the asset).

*Replacement of business assets: depreciating assets*

- 19 (1) Paragraph 16 of Schedule 19 to the Finance Act 1969 (replacement of business assets: depreciating assets) shall have effect in relation to the preceding paragraph as it has effect in relation to section 33 of the Finance Act 1965, subject to the modifications specified in the following provisions of this paragraph and any other necessary modifications.

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(2) For sub-paragraph (1) substitute:—

“(1) Paragraph 18 of Schedule 3 to the Finance Act 1974 shall have effect subject to the provisions of this paragraph, in which—

- (a) the ' tax reduction' means the reduction in the income tax or corporation tax to which the person carrying on the trade is chargeable which is made under sub-paragraph (3) of the said paragraph 18 in connection with a disposal of an asset (called ' asset No. 1');
- (b) the ' expenditure reduction' means the related amount by which, under sub-paragraph (4) of that paragraph, and apart from the provisions of this paragraph, the expenditure allowable in respect of another asset (called ' asset No. 2 ') is reduced ;
- (c) any reference to an expenditure reduction of any amount being carried forward to any asset is a reference to a reduction of that amount in expenditure allowable in respect of that asset”.

(3) In sub-paragraph (2)—

- (a) for the words from the beginning to " until" substitute—

“(2) If asset No. 2 is a depreciating asset, the expenditure reduction shall not be carried forward, but when—”

- (b) after " comes first" add “an amount equal to the tax reduction may be assessed to tax and recovered accordingly.

Any assessment to income tax or corporation tax under this paragraph shall be made under Case VI of Schedule D. ”.

(4) In sub-paragraph (3)—

- (a) for " section 33 " substitute " paragraph 18 ";
- (b) for " the gain held over from asset No. 1 " substitute " the expenditure reduction ".

(5) In sub-paragraph (4)—

- (a) for the words from " the time when " to " accrue " substitute " the occurrence of whichever of the events mentioned in sub-paragraph (2) above comes first ";
- (b) for " the postponed gain" substitute " the expenditure reduction ".

(6) Omit sub-paragraphs (5) and (8) and, in sub-paragraph (9), for " section 33 " substitute " paragraph 18 ".

#### *Company amalgamations*

- 20 (1) Where a company issues shares or debentures to a person in exchange for shares in or debentures of another company in circumstances such that paragraph 6 of Schedule 7 to the Finance Act 1965 (company amalgamations) applies, then, if section 41(1) of this Act applies to the disposal by him to the issuing company of the shares in or debentures of the other company, the amount of any development gain accruing to him in respect of that disposal shall be computed as if the said paragraph 6 did not apply in relation to the exchange.

- (2) Where, in the case of a disposal of shares in or debentures of a company made in the circumstances mentioned in the preceding sub-paragraph, the amount of any development gain accruing in respect of that disposal falls by virtue of that sub-paragraph to be computed as if the said paragraph 6 did not apply in relation to the exchange, the provisions of paragraph 14 of Schedule 9 to this Act (postponement of payment of tax), excluding sub-paragraphs (2) and (6), shall, with any necessary modifications, apply in the case of that disposal as they apply in the case of a disposal of an interest in land which is deemed to have been made as mentioned in sub-paragraph (1) of the said paragraph 14, but as if in the said sub-paragraph (1) for the reference to the total tax chargeable in respect of a gain accruing on the disposal there were substituted a reference to such part of that total tax as is equal to the amount by which that total tax exceeds the tax which would have been chargeable but for the sub-paragraph (1) of this paragraph.

*Private residences*

- 21 Where subsection (3) of section 29 of the Finance Act 1965 (private residences) would, apart from this paragraph, apply to a gain accruing to an individual on a disposal of an interest in land to which the principal section applies, then—
- (a) there shall first be computed both the development gain that would accrue to him in respect of the disposal if that subsection did not so apply and the Chargeable gain that would accrue to him thereon if that were so ;
  - (b) the amount of the development gain accruing to him in respect of the disposal shall be equal to the amount of the development gain as computed under (a) above reduced by the fraction given by that subsection ; and
  - (c) that subsection shall then be applied to so much of the gain accruing on the disposal as is equal to the chargeable gain as computed under (a) above.

*Transfer of business on retirement*

- 22 (1) Where a disposal within subsection (1) of section 34 of the Finance Act 1965 (transfer of business on retirement) involves a disposal by the individual in question of one or more interests in land to which the principal section applies, the development gains, if any, accruing to him in respect of the disposal shall be computed without reference to that section.
- (2) Where any development gains accrue to an individual in respect of a disposal within subsection (1) of the said section 34, being gains which so accrue—
- (a) where subsection (1)(a) of that section applies, on the disposal of chargeable business assets comprised in the disposal by way of sale or gift; or
  - (b) where subsection (1)(b) of that section applies, on the disposal of the shares or securities,
- sub-paragraphs (3) to (5) below shall apply in relation to the disposal within the said subsection (1) made by that individual, instead of the provisions of that section.
- (3) There shall be ascertained how much of the amount available for relief under subsection (1) of the said section 34 would, under subsection (2) or (3) of that section, have fallen to be applied in giving relief to the individual as respects the disposal if this Chapter had not applied in relation to the disposal.

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- (4) An amount up to, but not exceeding, the amount ascertained under the preceding sub-paragraph shall be applied so as to give relief to the individual as respects the disposal by reducing or extinguishing one or both of the following amounts, that is to say—
- (a) the aggregate of the development gains accruing to the individual in respect of the disposal, being gains which so accrue as mentioned in, sub-paragraph (2)(a) or (b) above ; and
  - (b) the aggregate of the chargeable gains accruing to him on the disposal, being gains which so accrue as mentioned in the said sub-paragraph (2)(a) or (b),
- and as between those amounts shall be so applied in whatever way is to the individual's best advantage.
- (5) Subsection (5) of the said section 34 shall apply for the purpose of arriving at the aggregate mentioned in sub-paragraph (4)(b) above as it applies (in cases where that section applies) for the purpose of arriving at the aggregate under subsection (2) or (3) of that section.
- (6) Any relief given under sub-paragraph (4) above as respects the disposal shall, for the purposes of the said section 34 as regards any other disposal within subsection (1) of that section, be taken into account in determining under subsection (4) of that section how far the amount available for relief under the said subsection (1) has been applied.
- (7) In this paragraph " chargeable business asset" has the same meaning as in the said section 34.

*Insurance companies*

- 23 Where, in the case of an insurance company carrying on life assurance business, a profit arising from general annuity business and attributable to a disposal of an interest in land to which section 38 of this Act applies falls (or would but for paragraph 7(2) of Schedule 7 to this Act fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the development gain, if any, accruing to the company in respect of the disposal shall be computed as if paragraph 2(1) of Schedule 6 to the Finance Act 1965 (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.

*Chargeable gains in respect of mineral royalties*

- 24 No part of any chargeable gain which under section 29 of the Finance Act 1970 (taxation of mineral royalties) is treated as accruing to a person entitled to receive such royalties under a mineral lease or agreement shall be a development gain.

*Computation of development gain in respect of disposal of interest in land with planning permission for the winning and working of minerals*

- 25 (1) Without prejudice to any other provisions of this Schedule as to the computation of the amount given by subsection (3)(c) of the principal section, this paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if at the time of the disposal there is in force, as regards the land or any part of it, planning permission authorising material development consisting of the winning and working of minerals.



- (2) For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount of the chargeable gain accruing on the disposal shall be taken to be what it would be if the amount which, in the computation of that chargeable gain, falls to be taken as the consideration were reduced to the sum of the following amounts, that is to say—
- (a) the market value of the interest at the time of the disposal calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land consisting of the winning and working of minerals ; and
  - (b) one-half of the amount by which the actual consideration for the disposal exceeds the said market value.

In this sub-paragraph " the actual consideration for the disposal" means the amount which, in the computation (apart from this paragraph) of the chargeable gain accruing on the disposal, falls to be taken as the consideration.

- (3) Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1 ; and in this paragraph " minerals " has the meaning given by paragraph 10(1) of this Schedule.
- (4) For the purposes of this paragraph the winning and working or minerals includes the carrying out of any ancillary operations requisite therefor.

#### SCHEDULE 4

Section 38.

##### TRANSITIONAL PROVISIONS RELATING TO DEVELOPMENT GAINS

- 1 In this Schedule " the principal section " means section 38 of this Act.

##### *Replacement of business assets*

- 2 (1) This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if the disposal is one in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies.
- (2) Where—
- (a) a claim is made by a person under the said section 33 as respects so much of the consideration for the disposal as has been applied by him in acquiring other assets, or an interest in other assets (in this sub-paragraph referred to as " the new assets ") as described in subsection (1) of that section; and
  - (b) the acquisition of, or of the interest in, some or all of the new assets took place either before 18th December 1973, or under an unconditional contract for the acquisition entered into before that date, or under a contract to which sub-paragraph (4) below applies,

then the amount of any development gain accruing to him in respect of the disposal (as computed before this sub-paragraph is applied) shall be reduced by the amount, if any, by which so much of the consideration for the disposal as has been applied in acquiring before that date, or under such a contract, all or any of the new assets exceeds the sum of the amounts mentioned in the following sub-paragraph.

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- (3) The amounts referred to in the preceding sub-paragraph are the following, that is to say—
- (a) the sum that is by virtue of paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 allowable as a deduction from the consideration for the disposal in computing the chargeable gain ; and
  - (b) the chargeable gain, if any, accruing to him on the disposal (as computed before the preceding sub-paragraph is applied).
- (4) This sub-paragraph applies to a contract made after 17th December 1973 if—
- (a) the parties thereto had before 18th December 1973 arranged (without entering into a binding contract) to dispose of and acquire the interest in question on terms which do not differ materially from the terms of the contract subsequently made ; and
  - (b) the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date.

*Conditional contracts entered into before 18th December 1973*

- 3 If the disposal of an asset under a conditional contract entered into before 18th December 1973 is made for a consideration not depending wholly or mainly on the value of the asset at the time the condition is satisfied, then for the purposes of subsection (1) of the principal section the contract shall in relation to the disposal be treated (on the condition being satisfied) as if it had never been conditional.

*Disposals under arrangements made before 15th December 1973*

- 4 Where an owner of an interest in land to which the principal section applies had before 18th December 1973 arranged (without entering into a binding contract) to dispose of that interest to another person and—
- (a) the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date ; and
  - (b) he disposes of the interest to that other person under a contract entered into before 18th December 1974 of which the terms do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the said owner,
- the contract—
- (i) if not conditional, shall be treated for the purposes of subsection (1) of the principal section as if made before 18th December 1973 ; or
  - (ii) if conditional, shall be treated for the purposes of the preceding paragraph as if entered into before that date.

*Disposal to authority exercising compulsory powers where notice to treat was served before 18th December 1973*

- 5 (1) Where a disposal of an interest in land to which the principal section applies is made to an authority exercising compulsory powers, then, if notice to treat in respect of that interest was (or is by virtue of any enactment deemed to have been) served before 18th December 1973 on the person making the disposal, the disposal shall be treated for the purposes of this Chapter as having been made before that date.

- (2) In this paragraph " authority exercising compulsory powers " means, in relation to any disposal of an interest in land, a person acquiring the interest compulsorily or who has been authorised to acquire it compulsorily (whether for himself or some other person).

## SCHEDULE 5

Section 39.

### PROVISIONS SUPPLEMENTARY TO SECTION 39

#### *Interpretation*

- 1 In this Schedule " the principal section " means section 39 of this Act.

#### *Net proceeds*

- 2 Paragraph 14(5) of Schedule 6 to the Finance Act 1965 (consideration to be brought into account without discount etc.) shall apply in the computation of the net proceeds of a disposal for the purposes of the principal section as it applies in the computation under that Schedule.
- 3 Paragraph 14(2)(a) of Schedule 7 to the Finance Act 1965 (consideration for option) shall apply for the computation of the net proceeds of a disposal for the purposes of the principal section as it applies for the computation of chargeable gains.

#### *Disregard of proceeds of certain disposals*

- 4 (1) For the purposes of the principal section the consideration for a disposal shall be disregarded if, under any provision other than section 38(2) of this Act—
- (a) it falls to be excluded from the computation of a gain, arising on the disposal; or
  - (b) a gain accruing on the disposal is not a chargeable gain.
- (2) If by virtue of section 29(3) of the Finance Act 1965 (private residences) a fraction of the gain accruing to an individual on a disposal is not a chargeable gain, that fraction of the net proceeds of the disposal shall be disregarded for the purposes of the principal section.
- 5 For the purposes of the principal section the consideration for a disposal shall be disregarded if the disposal is one as respects which any of the following provisions of the Taxes Act applies, that is to say—
- (a) section 267 (company reconstruction or amalgamation: transfer of assets);
  - (b) section 273 (transfers within a group);
  - (c) section 342 (disposals of land between the Housing Corporation and housing societies).

#### *Gifts to charities etc.*

- 6 In section 119(2)(a) of the Finance Act 1972 (gifts to charities etc.) after the words " 1971 " there shall be inserted the words " or section 39 of the Finance Act 1974 ".

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## SCHEDULE 6

Section 40.

## DEVELOPMENT LOSSES

*Interpretation*

- 1 (1) In this Schedule " the principal section " means section 40 of this Act.
- (2) Part I of Schedule 3 to this Act shall apply for the purposes of the principal section and this Schedule as it applies for the purposes of section 38 of this Act.

*Losses accruing to persons not resident or ordinarily resident in the United Kingdom*

- 2 A loss accruing to a person in a chargeable period during no part of which he is resident or ordinarily resident in the United Kingdom shall not be to any extent a development loss unless, under section 20(2) of the Finance Act 1965 as applied by paragraph 1 of Schedule 8 to this Act, he would (or would but for section 39(1) of this Act) be chargeable to income tax or corporation tax in respect of a development gain if there had been a gain instead of a loss on that occasion.

*Modification of sections 176 and 179 of the Taxes Act (Case VI losses) in relation to development losses*

- 3 In its application to a development loss in accordance with subsection (3) of the principal section—
- (a) section 176 of the Taxes Act shall have effect with the omission of so much of subsection (5) as precedes the words " but the question " ; and
- (b) section 179 of that Act shall have effect with the omission of subsection (3).
- 4 Without prejudice to the following provisions of this Schedule, any development losses which have accrued to a person in any chargeable period shall under section 176 or, as the case may be, section 179 of the Taxes Act be deducted from or set off against—
- (a) first, any development gains accruing to him in that period ;
- (b) secondly, any other profits or gains or income arising from transactions in respect of which he is assessed for that period under Case VI of Schedule D ;
- (c) thirdly, any development gains accruing to him in the first subsequent chargeable period;
- (d) fourthly, any other profits or gains or income arising from transactions in respect of which he is assessed for the last-mentioned chargeable period under that Case,

and so on for each successive chargeable period.

*Computation of development loss in cases where paragraph 11 or 12 of Schedule 3 would apply in computing a development gain*

- 5 For the purpose of computing the development loss accruing to a person in respect of a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 11 or 12 of Schedule 3 to this Act would (or would but for paragraph 13 of that Schedule) apply if a chargeable gain had accrued to him on the disposal, paragraphs 11, 12 and 14 (but not 13) of that Schedule shall

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have effect in relation to the disposal subject to the following modifications, that is to say—

- (a) paragraph 11(2) shall be omitted ;
- (b) in paragraphs 11(3) and 12(2), the references to the amount given by section 38(3)(c) of this Act shall be read as references to the amount given by section 40(4) of this Act; and
- (c) in paragraph 11, for the word "exceeds", wherever occurring, there shall be substituted the words " is less than ".

*Computation of amount given by subsection (4) of principal section in certain cases within paragraph 23(4) of Schedule 6 to the Finance Act 1965*

- 6 Where an allowable loss accrues to a person on a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 23 of Schedule 6 to the Finance Act 1965 (sales of land in United Kingdom reflecting development value) applies, then, if the amount of the loss is by virtue of sub-paragraph (4) of that paragraph computed without regard to Part II of that Schedule (assets held on 6th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (4) of the principal section and paragraphs 11 and 12 of Schedule 3 to this Act (as applied by paragraph 5 of this Schedule) any reference to the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date referred only to its current use value at the time of its acquisition by him.

*Private residences*

- 7 Where a claim under the principal section is made in respect of a disposal by an individual of an interest in land to which the principal section applies, being an interest such that subsection (3) of section 29 of the Finance Act 1965 (private residences) would, apart from this paragraph, apply to the loss accruing to him on the disposal, paragraph 21(a) to (c) of Schedule 3 to this Act shall have effect in relation to the disposal subject to the following modifications, that is to say—
- (a) any reference to a chargeable gain shall be read as a reference to an allowable loss ;
  - (b) any reference to a development gain shall be read as a reference to a development loss ; and
  - (c) any other reference to a gain shall be read as a reference to a loss.

*Set-off of development losses*

- 8 (1) Where, in the case of any person, section 39(1) of this Act applies in relation to any chargeable period, then, if any development losses accrued to him in that period, they shall for the purposes of section 176 or 179 of the Taxes Act (Case VI losses) be treated as reduced by the amount of the development gains which, but for the said section 39(1), would have accrued to him in the period in which the development losses accrued.
- (2) Subsection (2) of section 39 of this Act shall not apply, in the case of any person, in relation to any chargeable period in which any development losses accrue to him ; but where, in the case of any person, that subsection would, apart from this sub-paragraph, apply in relation to any chargeable period, then, if the aggregate of any

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development gains accruing to him in that period (computed without reference to that subsection) exceeds the aggregate of any development losses accruing to him in that period, the total of the development gains accruing to him in respect of all the disposals of interests in land to which section 38 of this Act applies made by him in that period shall be treated for the purposes of the Tax Acts as reduced to an amount equal to a fraction of that excess, and that fraction shall be the fraction that would otherwise apply under paragraph (i) or (ii) of that subsection, as the case may be.

- (3) For any year of assessment in which a married woman is living with her husband, they shall be treated for the purposes of this paragraph as one person.

#### *Insurance companies*

- 9 (1) Where, in the case of an insurance company carrying on life assurance business, a loss arising from general annuity business and attributable to a disposal of an interest in land to which the principal section applies falls (or would but for the following sub-paragraph fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the development loss, if any, accruing to the company in respect of the disposal shall be computed as if paragraph 2(1) of Schedule 6 to the Finance Act 1965 (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.
- (2) Development losses shall be left out of account in computing under the said section 312 the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2) of section 313 of the Taxes Act (general annuity business), after paragraph (a) there shall be inserted as paragraph (aa)—  
“(aa) development losses shall not be taken into account;”.
- (3) This paragraph shall be construed as one with Chapter II of Part XII of the Taxes Act.

### SCHEDULE 7

Section 44.

#### TREATMENT OF DEVELOPMENT GAINS UNDER THE TAX ACTS

#### *Individuals*

- 1 For the purposes mentioned in subsection (3) of section 32 of the Finance Act 1971 (income tax charged at basic and other rates) a development gain accruing to an individual shall not be investment income.
- 2 (1) An individual to whom a development gain accrues may on making a claim require that effect shall be given to the following provisions of this paragraph in relation to that gain.
- (2) If the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him exceeds twelve months but does not exceed twenty-four months, then, for all income tax purposes, one-half only of the amount of the gain shall be treated as having arisen on the date of the disposal, and the remaining half shall be treated as having arisen twelve months before that date.

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- (3) If the said interval exceeds twenty-four months but does not exceed thirty-six months, then, for all income tax purposes, one-third only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-third shall be treated as having arisen twelve months, and one-third twenty-four months, before that date.
- (4) If the said interval exceeds thirty-six months, then, for all income tax purposes, one-quarter only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-quarter shall be treated as having arisen twelve months, one-quarter twenty-four months, and one-quarter thirty-six months, before that date.

*Companies: general*

- 3 (1) Subject to paragraph 4 below, advance corporation tax paid by a company shall not be set against its liability to corporation tax on any profits attributable to development gains and, accordingly, in section 85(6) of the Finance Act 1972 after the words "chargeable gains", in both places where they occur, there shall be inserted the words "or development gains".
- (2) In subsection (8) of section 95 and subsection (3) of section 96 of the Finance Act 1972 (where the income of a company is defined for the purposes of those sections by reference to the said section 85(6)), after the words "section 85(6) above" there shall be added the words "as originally enacted".

*Close companies*

- 4 (1) Paragraph 3(1) above shall not apply in the case of a close company as regards an accounting period for which the income of the company may under paragraph 1 of Schedule 16 to the Finance Act 1972 be apportioned among the participators or could be so apportioned apart from sub-paragraphs (2) and (3) of that paragraph; and accordingly section 85(6) of the Finance Act 1972 shall, in the case of a close company, have effect as regards any such accounting period as if the said paragraph 3(1) had not been enacted.
- (2) For the purposes of paragraph 11(1) of Schedule 16 to the Finance Act 1972 (close companies: definition of trading company) a development gain accruing to a company shall not be investment income.
- 5 In paragraph 10(8) of Schedule 16 to the Finance Act 1972 (order in which different descriptions of company's income are to be treated as reduced by allowable deductions)—
  - (a) in paragraph (b), for the word "and" there shall be substituted the words "other than estate or trading income attributable to development gains";
  - (b) in paragraph (c), for the words "chargeable gains" there shall be substituted the words "development gains"; and
  - (c) after paragraph (c) there shall be inserted as paragraph (d)—
    - “(d) fourthly, so far as it cannot be made under (a), (b) or (c) above, from the amount included in the company's profits in respect of chargeable gains.”
- 6 After paragraph 14 of Schedule 16 to the Finance Act 1972 there shall be inserted the following paragraph—
  - “14A (1) For die purposes of paragraph 14 above any part of a company's distributable income which is attributable to development gains to which

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this paragraph applies shall be treated as not affected by any such restriction as is mentioned in sub-paragraph (1) of that paragraph, and the amount which would otherwise be disregarded under that sub-paragraph shall accordingly be reduced by an amount equal to that part.

- (2) This paragraph applies to any development gain accruing in respect of a disposal which is by virtue of section 45(1) of the Finance Act 1974 or paragraph 2(3) of Schedule 9 to that Act deemed to have been made.
- (3) Any deduction which under paragraph 10(8)(c) above is treated as made from the amount included in a company's profits in respect of development gains shall for the purposes of this paragraph be treated as made first from any amount so included in respect of development gains to which this paragraph applies.
- (4) For the purposes of this paragraph the part, if any, of a company's distributable income which is attributable to development gains to which this paragraph applies is the part attributable to such development gains after the making of any deduction under paragraph 10(8)(c) above in accordance with sub-paragraph (3) of this paragraph”.

#### *Insurance companies*

- 7 (1) A development gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated for the purposes of sections 310 (rate relief; investment income reserved for policy holders) and 315 (foreign life assurance funds) of the Taxes Act as if it were income from investments held in connection with that business.
- (2) Income attributable to development gains shall be left out of account in computing under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits) the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2)(a) of section 313 of the Taxes Act (general annuity business) for the words " and group income" there shall be substituted the words " group income and income attributable to development gains ".
- (3) Overseas life insurance companies shall be chargeable to corporation tax on income attributable to development gains in the same manner as other insurance companies carrying on life assurance business and, accordingly, in section 316 of the Taxes Act (overseas life insurance companies: charge on investment income) after subsection (1) there shall be inserted as subsection (1A)—
  - “(1A) In the preceding subsection ' income' shall not include income attributable to development gains (but without prejudice to any claim under section 310 of this Act)”.
- (4) This paragraph shall be construed as one with Chapter II of Part XII of the Taxes Act.

#### *Discretionary trusts*

- 8 In section 17 of the Finance Act 1973 (payments under discretionary trusts), in subsection (3) (amounts to be set against tax assessable on trustees in connection with such payments), at the end of paragraph (d) there shall be inserted the words “and



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- (e) the amount of any tax on income arising to the trustees by virtue of section 38(2) of the Finance Act 1974 (development gains) and charged at a rate equal to the sum of the basic rate and the additional rate in pursuance of section 43(1) of that Act;”

*Estates of deceased persons in course of administration*

- 9 (1) Where a development gain has accrued to the personal representatives of a deceased person as such during the administration period, Part XV of the Taxes Act (estates of deceased persons in course of administration) shall have effect subject to the following provisions of this paragraph.
- (2) For the purposes of section 426(5) of the Taxes Act (relief from tax on deemed income in respect of a limited interest in a foreign estate)—
- (a) any income arising to the personal representatives of a deceased person as such by virtue of section 38(2) of this Act (development gains) shall be treated as not forming part of the aggregate income of the estate in question ; and
  - (b) any United Kingdom income tax borne by any such income shall be left out of account.
- (3) Section 427 of the Taxes Act (absolute interests in residue) shall have effect as if—
- (a) for subsection (3)(a) there were substituted—
    - “(a) in the case of a United Kingdom estate—
      - (i) in the first instance, as regards so much of his residuary income for that year as has borne income tax at the basic rate for that year, that much of that income less income tax at that rate, and
      - (ii) subject to the preceding sub-paragraph, as regards so much of his residuary income for that year as has borne income tax at a rate equal to the sum of the basic rate and the additional rate for that year, that much of that income less income tax at the sum of those rates,
- and”;
- (b) in subsection (3), as amended by paragraph 53(b) of Schedule 6 to the Finance Act 1971, there were added at the end the words " or, where appropriate, at a rate equal to the sum of the basic rate and the additional rate "; and
  - (c) in subsection (4)(a), as amended by paragraph 53(c) of the said Schedule 6, after the words " the basic rate" there were inserted the words " or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate,-at a rate equal to the sum of those rates ".
- (4) Section 429 of the Taxes Act (special provisions as to certain interests in residue) shall have effect as if in subsection (2)(a), as amended by paragraph 55 of the said Schedule 6, after the words " the basic rate " there were inserted the words " or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate, at the sum of those rates ".
- (5) This paragraph shall be construed as one with Part XV of the Taxes Act; and in sections 427 and 429 of that Act, as they have effect by virtue of this paragraph, " the

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additional rate " means the additional rate mentioned in section 32(1) of the Finance Act 1971 or, if more than one, the higher or highest of them.

*Settlements on children*

- 10 Where a development gain accrues in respect of a disposal of assets made by a person holding them as trustee for a person who would be absolutely entitled as against the trustee but for being an infant, the income which by virtue of section 38(2) of this Act is treated as arising by reference to that gain shall for the purposes of Chapter II of Part XVI of the Taxes Act (settlements on children) be deemed to be paid to the infant. In this paragraph " infant ", in relation to Scotland, means a pupil or minor.

SCHEDULE 8

Section 44.

ADAPTATIONS AND AMENDMENTS OF PROVISIONS  
 RELATING TO THE TAXATION OF CAPITAL GAINS

*Persons chargeable to tax in respect of development gains*

- 1 Subsections (1) and (2) of section 20 of the Finance Act 1965 (persons chargeable to capital gains tax or corporation tax in respect of chargeable gains) shall have effect in relation to income tax or corporation tax in respect of development gains as they have effect in relation to capital gains tax or corporation tax in respect of chargeable gains.

*Development gains accruing to non-resident companies and trusts*

- 2 Section 41 of the Finance Act 1965 (chargeable gains accruing to certain non-resident companies) shall have effect in relation to development gains as it has effect in relation to chargeable gains, subject to the modification that for the reference in subsection (7) to capital gains tax there shall be substituted a reference to income tax or corporation tax.
- 3 Section 42 of the Finance Act 1965 (chargeable gains accruing to non-resident trusts) shall have effect in relation to development gains as it has effect in relation to chargeable gains, subject to the following modifications, that is to say—
- (a) in subsection (2), for the words "capital gains tax under section 20(4) of this Act" there shall be substituted the words " income tax by virtue of section 38(2) of the Finance Act 1974 "; and
  - (b) for the references to capital gains tax in subsections (4)(b) and (5) there shall be substituted references to income tax or corporation tax.

*Development gains accruing in connection with replacement of business assets*

- 4 Where a development gain accrues to a person in respect of a disposal of an interest in land to which section 38 of this Act applies, being a disposal in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies, then, if a claim under that section is made as respects the whole or any part of the consideration for the disposal, the consideration obtained by him for the disposal shall be treated for the purposes of the said section 33 in its application in relation

to the disposal as if it were equal to the amount by which the actual consideration obtained by him exceeds the amount of the said development gain.

*Development gains accruing in connection with company amalgamations*

- 5 Where a company has issued shares or debentures to a person in exchange for shares or debentures in another company in a case falling within paragraph 20 of Schedule 3 to this Act, the amount of any development gain which accrued to him in respect of the disposal by him to the issuing company of the shares or debentures in the other company shall, in computing under Schedule 6 to the Finance Act 1965 the gain accruing on a disposal of the shares or debentures so issued to him, be treated as an amount allowable under paragraph 4(1)(b) of the said Schedule 6.

*Transfer of business to a company*

- 6 In paragraph 15 of Schedule 19 to the Finance Act 1969 (capital gains; transfer of business to a company), after sub-paragraph (4) there shall be inserted as sub-paragraph (4A)—

“(4A) If any development gains accrue to the transferor in respect of his disposal of the assets included in the business, then for the purposes of sub-paragraph (4) above B (that is, the value of the whole of the consideration received by the transferor in exchange for the business) shall be taken to be what it would be if the value of the consideration other than shares so received by him were less by an amount equal to those gains.”

- 7 (1) If, in a case where paragraph 15 of Schedule 19 to the Finance Act 1969 applies, any development gains accrue to the transferor in respect of his disposal (referred to below as "the original disposal") of the assets included in the business, then, if the transferor makes a claim under this paragraph as respects the transfer, the following provisions of this paragraph shall apply.

This paragraph shall be construed as one with the said paragraph 15.

- (2) For the purposes of this paragraph—
- (a) " the net development gains " means the development gains accruing to the transferor in respect of the original disposal, as reduced by any development losses deducted from or set off against those gains under section 176 or 179 of the Taxes Act in accordance with paragraph 4 of Schedule 6 to this Act;
  - (b) " the qualifying amount "—
    - (i) if the business is transferred wholly in exchange for shares issued by the company to the transferor, means the amount of the net development gains ;
    - (ii) in any other case, means the amount by which what would have been the amount determined under sub-paragraph (4) of the said paragraph 15 if this Chapter had not been enacted exceeds the amount actually determined under that sub-paragraph, or the amount of the net development gains, whichever is the smaller ;
  - (c) the qualifying amount shall be apportioned between the new assets (that is to say, the shares received by the transferor in exchange for the business) as a whole, and, if those shares are not all of the same class, the apportionment between them shall be in accordance with their market values at the time they were acquired by the transferor.

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- (3) The profits or gains chargeable to tax under Case VI of Schedule D on the transferor for the year of assessment in which the original disposal is made shall be reduced by the qualifying amount.
- (4) If the transferor disposes of shares comprised in the new assets, being all the shares of a particular class which are so comprised, then the amount apportioned to those shares under sub-paragraph (2)(c) above shall be treated as a development gain accruing to him in the year of assessment in which that disposal is made and as constituting profits or gains chargeable to tax under Case VI of Schedule D for that year.
- (5) If the transferor disposes of shares comprised in the new assets, being some but not all of the shares of a particular class which are so comprised (so that the disposal constitutes a part disposal), then a fraction only of the amount apportioned to all the shares of that class under sub-paragraph (2)(c) above shall be treated as mentioned in the preceding paragraph, and that fraction shall be the fraction of the sums mentioned in the following sub-paragraph which is allowable as a deduction in computing under Schedule 6 to the Finance Act 1965 the amount of the gain accruing on that part disposal.
- (6) The sums referred to in the preceding sub-paragraph are the sums which, if all the shares of the class in question comprised in the new assets and remaining undisposed of immediately before the time of the part disposal in question had been disposed of at that time, would be allowable by virtue of paragraph 4(1)(a) and (b) of the said Schedule 6 as a deduction in computing under that Schedule the gain accruing on the disposal of all those shares.
- (7) Where an individual to whom a development gain is treated as accruing by virtue of this paragraph makes a claim under paragraph 2 of Schedule 7 to this Act as respects that gain, sub-paragraphs (2) to (4) of that paragraph shall have effect in relation to that claim subject to the following modifications, that is to say—
  - (a) the references to the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him shall be read as references to the interval between the date when he acquired any of those assets of the business which caused development gains to accrue to him in respect of the original disposal and the date of the original disposal; and
  - (b) the references to " the date of the disposal " shall be read as references to the date of the disposal of shares comprised in the new assets which is mentioned in sub-paragraph (4) or (5) above, as the case may be.

## SCHEDULE 9

Section 45.

### SUPPLEMENTARY PROVISIONS ABOUT DEEMED DISPOSALS UNDER SECTION 45

#### *Interpretation*

- 1 (1) In this Schedule—
  - " the five-year period " in relation to a relevant chargeable building, means the period of five years beginning with the material date ;

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" the interest of a relevant person ", in relation to a relevant chargeable building, means that interest of a relevant person in the relevant land by virtue of which he is a relevant person (and references to a relevant person's interest shall be construed accordingly);

" the principal section " means section 45 of this Act;

" relevant chargeable building " means a chargeable building which after 17th December 1973 is first let or occupied to a material extent after the commencement of the relevant development, other than a chargeable building in the case of which, by virtue of subsection (3) of the principal section, subsection (1) of that section does not apply ;

" relevant person ", in relation to a chargeable building which after 17th December 1973 is first let or occupied to a material extent after the commencement of the relevant development, means any person who after that date, either by granting one or more leases or by his occupation of the whole or any part or parts of the chargeable building, caused or helped to cause the building to be let or occupied as aforesaid.

(2) In the application of the principal section and this Schedule to Scotland.—

" freehold " means the estate or interest of the proprietor of the dominium utile, or, in the case of property other than feudal property, of the owner ;

" reversion " means the interest of the landlord in property subject to a lease.

*The interest of a relevant person*

2 (1) In the case of a relevant chargeable building, this paragraph shall apply in relation to the interest of a relevant person in the relevant land.

(2) Subsection (1) of the principal section shall not apply to a relevant person's interest in the relevant land on the material date unless on that date—

(a) the relevant land is wholly or partly let under one or more leases granted by him ; and

(b) the rent or aggregate of the rents to which he is entitled under the lease or leases is £5,000 or more per annum,

and shall in any case not apply to his interest in so much, if any, of the relevant land as is occupied by him on that date.

For the purposes of this and the following sub-paragraph a relevant person who on any date occupies not less than 90 per cent, of the floor area of the relevant chargeable building shall be deemed to occupy on that date the whole of so much of the relevant land as is then subject to his interest (and references to occupation in this and the following sub-paragraph shall be construed accordingly).

(3) Where by virtue of sub-paragraph (2) above subsection (1) of the principal section does not apply—

(a) to a relevant person's interest in the relevant land on the material date by reason of his occupation of so much of that land as is subject to that interest; or

(b) to a relevant person's interest in that land on that date so far as it is not occupied by him,

then, if within the five-year period the rent or aggregate of the rents to which he is entitled under any lease or leases by which he has let the whole or any part or

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parts of the relevant land becomes £5,000 or more per annum, he shall be deemed for the purposes of Part III of the Finance Act 1965 and Chapter I of this Part of this Act to have on the subsequent date disposed of and immediately re-acquired for a consideration equal to its market value his interest in so much of the relevant land as is not on the subsequent date occupied by him.

In this and the following sub-paragraph " the subsequent date " means the date within the five-year period on which the said rent or the aggregate of the said rents first becomes £5,000 or more per annum or, if this sub-paragraph would to any extent apply to a relevant person's interest on the last-mentioned date but for his occupation on that date of not less than 90 per cent, of the floor area of the relevant chargeable building, the date (if any) within the five-year period on which he first occupies less than 90 per cent, of that floor area.

- (4) If before the end of the five-year period a relevant person—
- (a) in a case where subsection (1) of the principal section applies to his interest on the material date in so much of the relevant land as was not occupied by him on that date, ceases to occupy any part of the relevant land which was occupied by him on that date ; or
  - (b) in a case where sub-paragraph (3) above applies to his interest on the subsequent date in so much of the relevant land as was not occupied by him on that date, ceases to occupy any part of the relevant land which was occupied by him on that date,

then the said subsection (1) or sub-paragraph (3) shall apply to his interest in that part as if he had not been in occupation of it on the material date or the subsequent date, as the case may be (but without prejudice to the operation of this sub-paragraph in relation to his interest in any other such part of the relevant land which he may cease to occupy within the five-year period).

- (5) For the purposes of this paragraph the rent per annum to which a relevant person is entitled at any particular date under a lease of the whole or part of the relevant land shall be treated as being whichever of the following is the greater, that is to say—
- (a) the rent which at the time when the lease was granted was the rack-rent for so much of the relevant land as is let under the lease ; and
  - (b) the actual rent per annum to which he is entitled under the lease at that date.

*Interests other than that of a relevant person*

- 3 (1) Subject to the following paragraphs of this Schedule, this paragraph (so far as applicable) shall in the case of a relevant chargeable building have effect with respect to any interest (other than the interest of a relevant person) which a person has in the relevant land on the material date, being a freehold interest or an interest under a lease or agreement for a lease.
- (2) Subsection (1) of the principal section shall not apply to a person's freehold interest in the whole or part of the relevant land or to the interest of a lessee under a lease of the whole or part of the relevant land if at the material date—
- (a) that interest is not subject to any lease or agreement for a lease, and the rack-rent for so much of the relevant land as is subject to that interest is less than £5,000 per annum and cannot reasonably be expected to be increased to or above £5,000 per annum within the five-year period ; or
  - (b) that interest is subject to one or more leases or agreements for a lease extending, or together extending, to the whole of so much of the relevant

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land as is subject to that interest, and the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of the said one or more leases or agreements is less than £5,000 per annum and cannot reasonably be expected to be increased to or above £5,000 per annum within the five-year period ; or

- (c) that interest is subject to one or more leases or agreements for a lease extending, or together extending, to part only of so much of the relevant land as is subject to that interest, and the aggregate of—
- (i) the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of the said one or more leases or agreements ; and
  - (ii) the rack-rent for the remainder of so much of the relevant land as is subject to that interest,
- is less than £5,000 per annum and cannot reasonably be expected to be increased to or above £5,000 per annum within the five-year period.

(3) Sub-paragraph (2) above shall apply in relation to the interest of a person under an agreement to grant him a lease of the whole or part of the relevant land as it applies in relation to the interest of a lessee under a lease of the whole or part of the relevant land, subject to the modification that in paragraphs (a) to (c) the references to his interest under that agreement being subject to one or more leases shall be omitted.

(4) Where a person's interest in the relevant land falls within sub-paragraph (1) above and is not excluded from the operation of subsection (1) of the principal section by any of the preceding provisions of this paragraph, the said subsection (1) shall not apply to that interest if the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of any one or more leases or agreements for a lease to which at the material date that interest is subject does not, and cannot be made to, reflect the value or any part of the value of the relevant development.

(5) Where—

- (a) the preceding sub-paragraph would apply to a person's interest in the relevant land but for the fact that the rent or aggregate of the rents there mentioned can be made to reflect the value or part of the value of the relevant development; but
- (b) that rent or the aggregate of those rents cannot be made to reflect that value (or part of it) until a date as from which the rent or one or more of the rents in question could be increased under provisions for the review of the rent contained in any relevant lease or agreement,

then, if that person makes a claim under this sub-paragraph, subsection (1) of the principal section shall in the case of that interest or, if the rent or rents which can be increased as mentioned in paragraph (b) above extend to part only of a person's interest, that part of his interest apply as if the last reference therein to the material date were a reference to the date mentioned in paragraph (b) of this sub-paragraph and, where the rent or rents which can be increased at that date extend to part only of a person's interest, as if his interest in the relevant land were limited to that part.

4 (1) In the case of a relevant chargeable building, paragraph 3 of this Schedule shall not have effect with respect to an interest which a person has in the relevant land on the material date, being either—

- (a) a freehold or leasehold interest which on the material date is subject to a lease or an agreement to grant a lease, being (in either case) a lease of which the term will expire within the period of twenty-five years from the commencement of the relevant development; or

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- (b) an interest under an agreement for a lease which on the material date is subject to an agreement to grant a lease of which the term will expire within the said period.
- (2) The provisions of subsections (1)(b), (c) and (d) and (2) to (3A) of section 84 of the Taxes Act shall have effect in ascertaining for the purposes of this paragraph when the term of a lease or prospective lease will expire as they have effect in ascertaining the duration of a lease for the purposes of sections 80 to 82 of that Act, but as if—
- (a) in the said subsection (1)(b), after the word " premium " there were inserted the words " (if any) ";
  - (b) in the said subsection (2), for the words from " the time of the grant of the lease " to " entered into " there were substituted the words " the material date referred to in paragraph 4(1) of Schedule 9 to the Finance Act 1974 ";
  - (c) in the said subsection (3A), the reference to the provisions of subsections (1) to (3) of the said section 84 were a reference, to those provisions as applied by this paragraph ;
  - (d) in the case of a prospective lease, references to what its terms do were references to what, in accordance with the agreement under which the lease is to be granted, its terms are to do.
- 5 In the case of a relevant chargeable building, subsection (1) of the principal section shall not apply to an interest in the relevant land which does not fall within paragraph 2, 3 or 4 of this Schedule if the market value of that interest on the material date is less than £10,000.

*Provisions supplementary to paragraph 3*

- 6 (1) The following provisions of this paragraph shall have effect for the purposes of paragraph 3 of this Schedule.
- (2) Without prejudice to sub-paragraphs (3) and (4) below, if at the time when a lease or agreement for a lease was granted or entered into the parties thereto were not at arm's length, the rent to which the lessor or party agreeing to grant a lease is or is to be entitled shall be deemed to be what it would be if, the other terms of the lease or agreement remaining as they are, the amount of the rent had been negotiated by the parties at arm's length.
- (3) Where the payment of any premium, fine or other capital sum (whether in lieu of or in addition to rent)—
- (a) is required under a lease or otherwise under the terms subject to which a lease is granted, or on the granting of a lease ; or
  - (b) will be so required by virtue of an agreement for a lease ; or
  - (c) is on the making of an agreement for a lease required from the party to whom the lease is to be granted,
- the amount per annum of the rent to which the lessor or party by whom the lease is to be granted is or is to be entitled under or by virtue of the lease or agreement shall be deemed to be (if there is or is to be no actual rent) or to include (in addition to the actual rent, where there is or is to be any) the annual equivalent of that sum or, if there are two or more such sums, the aggregate of their respective annual equivalents.
- (4) Where the terms subject to which a lease is or is to be granted impose or are to impose on the lessee an obligation to carry out any work on the premises, the lease shall for the purposes of sub-paragraph (3) above be deemed to have required, or to be one



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that will require the payment of a premium to the lessor (in addition to any other premium) of an amount equal to the amount by which the value of the interest of the lessor immediately after the commencement of the lease exceeds or will exceed what its then value would have been or would be if the said terms did not or were not to impose that obligation on the lessee.

*Exemption for interest in land occupied on the material date in right of that interest*

- 7 (1) Where, in the case of a relevant chargeable building, subsection (1) of the principal section would, apart from this paragraph, apply to an interest (not being the interest of a relevant person) which a person has in the relevant land on the material date, the following provisions of this paragraph shall apply if on that date any part of the relevant land is occupied by him in right of that interest.
- (2) Subject to the following provisions of this paragraph, the said subsection (1) shall not apply to that interest of that person in so much of the relevant land as is on the material date occupied by him in right thereof.
- (3) If before the end of the five-year period that person ceases to occupy any part of the relevant land, being a part in which he had an interest on the material date and to which the said subsection (1) would apply but for sub-paragraph (2) above, the said sub-paragraph (2) shall cease to apply to the interest which he had on that date in that part, and the said subsection (1) shall apply thereto accordingly.
- (4) For the purposes of this paragraph a person who on any date occupies not less than 90 per cent, of the floor area of the relevant chargeable building shall be deemed to occupy on that date the whole, and not to have ceased on that date to occupy any part, of so much of the relevant land as is then subject to his interest (and references to occupation and ceasing to occupy shall be construed accordingly).

*Exemption for interest in land disposed of after the material date*

- 8 (1) Where, in the case of a relevant chargeable building, subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule would, apart from this paragraph, apply to an interest which a person has in the relevant land on the material date, or, as the case may be, the subsequent date within the meaning of that sub-paragraph, then, subject to the following provisions of this paragraph, that subsection or sub-paragraph, as the case may be, shall not apply, and be deemed never to have applied, to that interest if the whole of that interest is disposed of by him within the period of three years beginning with that date or such longer period as the Board may by notice in writing allow.
- (2) The preceding sub-paragraph shall not be taken to affect the application of the said subsection (1) to interests in the relevant land which are not excluded therefrom by that sub-paragraph.
- (3) Sub-paragraph (1) above shall not apply if by virtue of any enactment the person disposing of his interest in the relevant land (" the disposer ") and the person to whom the disposal is made fall to be treated as if the latter's acquisition of it were for a consideration of such amount as would secure that on the disposal by the disposer neither a gain nor a loss would accrue to the disposer.

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*Exemption by reference to occupation within three years  
of the material date of land then intended to be occupied*

- 9 (1) The following provisions of this paragraph shall have effect for the purposes of paragraphs 2 and 7 of this Schedule in the case of a relevant chargeable building.
- (2) If on the material date a person—
- (a) has an interest in a part of the relevant land which is not then occupied by him ; and
  - (b) intends to occupy that part in right of that interest,
- then, if within the period of three years beginning with that date he goes into occupation of that part in right of that interest, he shall be deemed to have been in occupation of that part in right of that interest throughout the period beginning with the material date and ending with the time when he so went into occupation of it (even if that part was wholly or partly occupied by others for some or all of that period).
- (3) If the interest in question is an agreement for a lease and the person goes into occupation of the part in question under a lease granted in pursuance of that agreement, sub-paragraph (2) above shall apply as if he had gone into occupation in right of the agreement.

*Exemption for interests in land subject on 18th December  
1973 to certain leases or agreements for a lease*

- 10 (1) In the case of a relevant chargeable building, subsection (1) of the principal section shall not apply to the interest of a person in the relevant land, on his making a claim, in so far as—
- (a) that interest is subject to a lease which was granted before 18th December 1973 ; or
  - (b) that person had before that date entered into an agreement, whether unconditional or conditional, to grant a lease of the whole or part of so much of the relevant land as is subject to that interest,
- and, in either case, the rent reserved or to be reserved under the lease, and any premium payable under or in respect of the lease or agreement, does not depend wholly or mainly on the value of the chargeable building (or of any part of that building) on the completion of the relevant development.
- (2) Where, in the case of a relevant chargeable building, a person having an interest in the relevant land had before 18th December 1973 arranged (without entering into a binding contract)—
- (a) to grant to another person a lease of the whole or part of so much of the relevant land as is subject to that interest; or
  - (b) to enter into with another person such an agreement as is mentioned in sub-paragraph (1)(b) above,
- and—
- (i) the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date; and
  - (ii) he grants such a lease to or (as the case may be) enters into such an agreement with that other person before 18th December 1974 on terms which do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the first-mentioned person,

then the lease or agreement shall be treated for the purposes of sub-paragraph (1) above as if granted or entered into before 18th December, 1973.

*Groups of companies*

- 11 (1) For the purpose of determining whether a chargeable building falls within subsection (1) or subsection (3) of the principal section, any lease granted by a member of a group of companies to another member of the group shall be disregarded.
- (2) For the purposes of this Schedule, land occupied by a member of a group of companies may be treated as occupied by any other member of the group.
- (3) Section 272 of the Taxes Act (groups of companies: definitions) shall apply for the purposes of this paragraph as it applies for the purposes of sections 273 to 281 of that Act.

*Tied premises*

- 12 (1) For the purposes of this Chapter a person carrying on a trade who is a lessor of tied premises shall be treated as occupying those premises.
- (2) The preceding sub-paragraph shall be construed in accordance with section 140(2) of the Taxes Act (income tax and corporation tax on tied premises).

*Power to make assessments etc. in connection with certain deemed disposals*

- 13 (1) Where in accordance with this Schedule subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule comes to apply to a person's interest in any land in consequence of his ceasing to occupy that land, an assessment to tax chargeable in consequence of that subsection or sub-paragraph so coming to apply to that interest may be made at any time within six years from the time when that subsection or sub-paragraph so came to apply to that interest.
- (2) Where—
- (a) under the said subsection (1) or sub-paragraph (3) a person is to be treated as having disposed of and reacquired an interest in any land ; or
  - (b) under paragraph 8 above the said subsection (1) is deemed never to have applied to a particular interest in land,
- 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 said subsection (1), sub-paragraph (3) or paragraph 8 shall be carried out.
- (3) The preceding provisions of this paragraph shall have effect notwithstanding any limit on the time for making assessments; and in this paragraph " tax " means capital gains tax, income tax or corporation tax.

*Postponement of payment of tax*

- 14 (1) Subject to sub-paragraph (2) below, where an interest in land is under subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule deemed to have been disposed of, the total tax chargeable in respect of a gain accruing on the disposal may, at the option of the person liable to pay it, be paid by eight equal yearly

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instalments or sixteen half-yearly instalments, but subject to the payment of interest under Part IX (except sections 87 and 88) of the Taxes Management Act 1970.

- (2) Where on the occasion on which the said subsection (1) or sub-paragraph (3) comes to apply to a person's interest in any land he becomes entitled to one or more capital sums (whether by way of premium or otherwise), then—
- (a) if the total tax chargeable in respect of a gain accruing on the disposal of that interest which under that subsection or sub-paragraph he is deemed to have made does not exceed one-half of that capital sum or of the aggregate of those capital sums, as the case may be, sub-paragraph (1) above shall not apply to the tax chargeable in respect of that gain ; and
  - (b) if the total tax chargeable as aforesaid exceeds one-half of that capital sum or of the aggregate of those capital sums, as the case may be, sub-paragraph (1) above shall apply only to so much of the total tax as exceeds that half.
- (3) Where tax is payable by instalments by virtue of this paragraph, the first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly ; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time, and, subject to the following sub-paragraph, shall become due and payable forthwith if the interest in land deemed to have been disposed of as aforesaid is disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who is deemed to have acquired it under the first disposal).
- (4) Where a subsequent disposal such as is described in the preceding sub-paragraph is a part-disposal of the interest in land deemed to have been disposed of as aforesaid, a fraction only of the tax for the time being unpaid shall, with interest to the date of payment, become due and payable forthwith, and that fraction shall be the fraction of the sums mentioned in the following sub-paragraph which is allowable as a deduction in computing under Schedule 6 to the Finance Act 1965 the amount of the gain accruing on the part disposal.
- (5) The sums referred to in the preceding sub-paragraph are the sums which, if so much of the interest in land there mentioned as immediately before the time of the part disposal in question remained undisposed of had been disposed of at that time, would be allowable by virtue of paragraph 4(1)(a) and (b) of the said Schedule 6 as a deduction in computing under that Schedule the gain accruing on that disposal of that much of that interest.
- (6) Paragraph 14 of Schedule 6 to the Finance Act 1965 (payment of tax by instalments) shall not apply in relation to the payment of tax in respect of a gain accruing on a disposal of an interest in land to which sub-paragraph (1) above applies.
- (7) In this paragraph " tax " means capital gains tax, income tax or corporation tax.

*Consideration for deemed disposal to be disregarded  
 in certain circumstances in computing capital gain*

- 15      Where an interest in land is under subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule deemed to have been disposed of, the consideration for which the disposal is deemed to have been made, shall for the purposes of Part III of the Finance Act 1965 (capital gains) be disregarded if, had it been actually paid, it would under paragraph 2 of Schedule 6 to that Act fall

to be excluded from the consideration for the disposal taken into account in the computation under that Schedule of the gain accruing on the disposal.

*Deemed disposals in cases involving the grant of a lease for a premium*

- 16 (1) Where an interest in land is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of on a particular date and before that date (but after 17th December 1973) there was a part disposal of that interest by way of the grant of a lease or sub-lease at a premium, then, if income tax has become chargeable under section 80 of the Taxes Act on any amount by reference to that premium so that an exclusion or deduction of that amount falls to be made under paragraph 5(1) or (2) of Schedule 8 to the Finance Act 1965, the two following sub-paragraphs shall apply; and in those sub-paragraphs " the said interest" means the interest in land first mentioned in this sub-paragraph.
- (2) In computing under Schedule 6 to the Finance Act 1965 the amount of the gain accruing on the disposal of the said interest—
- (a) the consideration for the disposal shall be treated as increased by an amount equal to the premium paid in respect of the grant of the said lease or sub-lease ;
  - (b) the sums allowable by virtue of paragraphs (a) and (b) of paragraph 4(1) of that Schedule as a deduction from the consideration for the disposal shall be treated as including any part of those sums which is as a result of an apportionment under paragraph 7 of that Schedule allowable as a deduction in computing under that Schedule the amount of the gain accruing on the part disposal; and
  - (c) the gain as computed in accordance with (a) and (b) above shall then be reduced by the amount of any gain which (after any exclusion or deduction falling to be made under the said paragraph 5(1) or (2)) accrued on the part disposal, and the amount resulting from that reduction shall (subject to section 38(2) of this Act) be taken as the amount of the gain accruing on the disposal of the said interest.
- (3) In a case falling within sub-paragraph (1) above involving more than one part disposal in relation to which sub-paragraph (2) above is applicable, the provisions of sub-paragraph (2)(a) and (b) above shall operate cumulatively as regards those part disposals, and the reference in sub-paragraph (2)(c) above to the gain as computed in accordance with those provisions shall be construed accordingly.
- (4) In this and the following paragraph " premium " has the same meaning as in paragraph 5(1) and (2) of Schedule 8 to the Finance Act 1965.
- 17 Where an interest in land is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of on a particular date and on that date there was a part disposal of that interest in consequence of the grant out of that interest of a lease in respect of which a premium was required under that lease or otherwise under the terms subject to which that lease was granted, that part disposal shall be disregarded for all purposes of Part III of the Finance Act 1965.
- 18 Where an interest in land consisting of a reversion on a lease is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of, paragraph 7 of Schedule 8 to the Finance Act 1965 (deduction allowable under paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965 in respect

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of amount chargeable to tax under section 80(2) of the Taxes Act as being a premium the payment of which is deemed to be required by a lease) shall not apply for the purposes of the computation of any gain accruing on the disposal.

## SCHEDULE 10

Section 47.

### MATTERS ARISING OUT OF CHAPTERS I AND II OF PART III OF THIS ACT

#### *Recovery of tax from persons not primarily liable*

- 1 The following provisions (which provide for the recovery of tax in respect of chargeable gains from persons other than those primarily liable) that is to say—
- (a) section 25(9) of, and paragraph 19 of Schedule 7 to, the Finance Act 1965 ; and
  - (b) sections 266, 277, 278(5) and (6) and 279(4) and (5) of the Taxes Act,
- shall apply in relation to development gains and income tax or corporation tax in respect of development gains as they apply in relation to chargeable gains and capital gains tax or corporation tax in respect of chargeable gains.

#### *Postponement of payment of tax*

- 2 Subject to paragraph 14(6) of Schedule 9 to this Act, paragraph 14 of Schedule 6 to the Finance Act 1965 and paragraph 4 of Schedule 10 to that Act (payment by instalments of tax in respect of chargeable gains) shall apply in relation to the payment of income tax or corporation tax in respect of development gains as they apply in relation to the payment of capital gains tax or corporation tax in respect of chargeable gains.

#### *Returns by relevant persons*

- 3 (1) Every person who to the best of his knowledge and belief is or becomes a relevant person in relation to a relevant chargeable building shall not later than one year after the material date or, if that date fell before the passing of this Act, one year after the passing of this Act, give notice to the inspector that he is a relevant person in relation to that building.
- (2) In the preceding sub-paragraph " relevant person ", " relevant chargeable building " and " material date " have the same meaning as in Schedule 9 to this Act.
- (3) If any person fails to give a notice which he is required to give under this paragraph he shall be liable to a penalty not exceeding £100.

#### *Information*

- 4 (1) The inspector may by notice in writing require—
- (a) any company which is or which he considers may be (within the meaning of section 41 of this Act) a close company or a land-owning company; or
  - (b) the trustees of any settlement which is or which he considers may be a land settlement within the meaning of section 42 of this Act,

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to furnish him within such time (not being less than thirty days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of Chapter I or II of Part III of this Act.

- (2) For the purposes of the said Chapter I or II the inspector may by notice in writing require any person who is or whom the inspector considers may be the owner of an interest in land situated in the United Kingdom to state in writing within such time as aforesaid—
  - (a) whether he has any interest in the land and, if so, the nature of that interest; and
  - (b) the name and address of any other person known or believed by that person to have an interest in that land.
- (3) The inspector may by notice in writing require any person who is or whom the inspector considers may be a relevant person in relation to a relevant chargeable building to furnish him within such time as aforesaid with such particulars as the inspector thinks necessary for determining whether he is a relevant person in relation to that building and, if so—
  - (a) what is for the purposes of Chapter II of Part III of this Act the material date in relation to that building ; and
  - (b) whether paragraph 2(2) of Schedule 9 to this Act applies to his interest in the relevant land and, if so, what in relation to that interest is the subsequent date for purposes of that paragraph.

In this sub-paragraph " relevant person " and " relevant chargeable building" have the same meaning as in the said Schedule 9.

- (4) Any powers conferred on the inspector by the preceding provisions of this paragraph may be exercised by the Board, and references in those provisions to the inspector shall be construed accordingly.
- (5) In this paragraph " interest in land " has the meaning given by section 44(1) of this Act.

*Amendments of the Taxes Management Act 1970*

- 5 (1) The Taxes Management Act 1970 shall have effect subject to the following provisions of this paragraph.
- (2) In section 28 of that Act (non-resident companies and trusts)—
  - (a) the references to sections 41 and 42 of the Finance Act 1965 shall be construed as including references to those sections as they have effect by virtue of paragraphs 2 and 3 of Schedule 8 to this Act; and
  - (b) the references to chargeable gains and to capital gains tax shall be construed as including respectively references to development gains and to income or corporation tax in respect of development gains.
- (3) In section 47 of the said Act of 1970 (special jurisdiction relating to tax on chargeable gains) the reference to an appeal against an assessment to tax on chargeable gains shall be construed as including a reference to an appeal against an assessment to income tax or corporation tax in respect of development gains.
- (4) The power of the Board to make regulations under section 57 of the said Act of 1970 shall include power to make regulations entitling persons, in addition to those

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who would be so entitled apart from the regulations, to appear on appeals against assessments to capital gains tax, income tax or corporation tax made by virtue of Chapter II of Part III of this Act.

- (5) In subsection (1)(d) of the said section 57 (power to enable any of two or more persons whose liability to capital gains tax may be affected by any matter to have the matter determined), the reference to capital gains tax shall be construed as including a reference to income tax or corporation tax in respect of development gains.
- (6) In section 98 of the said Act of 1970 (penalties for failure to furnish particulars etc.) there shall be added in the first column of the Table the words " Paragraph 4 of Schedule 10 to the Finance Act 1974 ".

## SCHEDULE 11

Section 49.

### INCREASE OF CERTAIN STAMP DUTIES

#### PART I

##### PROVISIONS HAVING EFFECT IN GREAT BRITAIN

- 1 (1) This Part of this Schedule, except paragraphs 6 and 7 shall be deemed to have had effect as from 1st May 1974 ; and paragraphs 6(1) and 7 shall have effect as from 1st August 1974.
- (2) This Part of this Schedule shall not extend to Northern Ireland.
- (3) The Commissioners may make such arrangements operating for such period as they may think proper for the charge of duty on any instrument giving effect to a stock exchange transaction (as denned in section 4 of the Stock Transfer Act 1963) in respect of which settlement was due before 1st May 1974 to be the same as if this Act had not been passed, and any instrument stamped in accordance with such arrangements shall be deemed to be duly stamped for all purposes.

##### *Bearer instruments*

- 2 (1) The heading "Bearer Instrument" inserted in Schedule 1 to the Stamp Act 1891 by section 59(1) of the Finance Act 1963 shall be amended as follows.
- (2) In paragraph (3), as amended by paragraph 6(2) of Schedule 7 to the Finance Act 1970 (instrument excepted from paragraph (1) or (2): duty of Is. for every £50, or part of £50, of market value), for " 1s. " (to be read under the Decimal Currency Act 1969 as 5p) substitute " 10p ".
- (3) In paragraph (4), as amended by paragraph 6(3) of the said Schedule 7 (duty of Is. on substituted instrument), for " 1s. " (to be likewise read as 5p) substitute " 10p ".

##### *Conveyance or transfer on sale*

- 3 For the Table set out in Part I of Schedule 11 to the Finance Act 1963 (ad valorem duty on conveyance or transfer on sale), as substituted by paragraph 10 of



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Schedule 7 to the Finance Act 1970 and amended by section 125(1) of the Finance Act 1972, substitute—

“Amount or value of consideration	Special rate for certain instruments certified at £20,000	Special rate for certain instruments certified at £25,000	Special rate for certain instruments certified at £30,000	Ordinary rate
Not exceeding £5.	5p	5p	10p	10p
Exceeding £5 but not exceeding £100.	5p for every £10 or part of £10 of the consideration	10p for every £10 or part of £10 of the consideration	15p for every £10 or part of £10 of the consideration	20p for every £10 or part of £10 of the consideration
Exceeding £100 but not exceeding £300.	10p for every £20 or part of £20 of the consideration	20p for every £20 or part of £20 of the consideration	30p for every £20 or part of £20 of the consideration	40p for every £20 or part of £20 of the consideration
Exceeding £300.	25p for every £50 or part of £50 of the consideration	50p for every £50 or part of £50 of the consideration	75p for every £50 or part of £50 of the consideration	£1 for every £50 or part of £50 of the consideration”

4 (1) Section 55 of the Finance Act 1963 (rates of ad valorem duty on conveyance or transfer on sale) shall be amended as follows.

(2) For paragraphs (a) to (c) of subsection (1) (exemption from, and reduced and ordinary rates of, such duty), as amended by section 125(1) of the Finance Act 1972, substitute—

- “(a) where the amount or value of the consideration is £15,000 or under and the instrument is certified within the meaning of section 34 of the Finance Act 1958 at £15,000, nil;
- (b) where the amount or value of the consideration is £20,000 or under and the instrument is certified as aforesaid at £20,000, the rate specified in column 2 of Part I of Schedule 11 to this Act;
- (c) where the amount or value of the consideration is £25,000 or under and the instrument is certified as aforesaid at £25,000, the rate specified in column 3 of Part I of that Schedule ;
- (d) where the amount or value of the consideration is £30,000 or under and the instrument is certified as aforesaid at £30,000, the rate specified in column 4 of Part I of that Schedule ;
- (e) in any other case, the rate specified in column 5 of Part I of that Schedule.”

(3) In subsection (2), for " paragraphs (a) and (b)" and " paragraph (c)" substitute " paragraphs (a) to (d) " and " paragraph (e) " respectively.

5 In section 62(2) of the Finance Act 1963 (rate of duty in respect of a transfer of commonwealth stock), as amended by paragraph 11 of Schedule 7 to the Finance Act 1970, for the words from " shall be " to the end substitute " shall be 10p for every £20 or part of £20 of the consideration if the amount or value thereof does

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not exceed £300 and, in any other case, 50p for every £100 or part of £100 of the consideration. "

*Composition in respect of certain transfers etc.*

- 6 (1) In section 115(3) of the Stamp Act 1891 (rate of composition payable in respect of transfers of certain stock etc.) as it has effect by virtue of section 37(2) of the Finance Act 1920 and section 57(1) of the Finance Act 1963, for " one shilling" (to be read under the Decimal Currency Act 1969 as 5p) substitute " 10p ".
- (2) The duty chargeable under the said section 115 on any half-yearly account required to be delivered on or within seven days before 1st August 1974 shall be the same as if the account had been delivered on that 1st August; and where any such account has been delivered before the passing of this Act and the full amount of the duty thereon has not been paid in accordance with this paragraph, a supplementary account shall be delivered, and the additional duty shall be paid, within fifteen days after the passing of this Act.
- (3) The said section 115 shall apply in relation to a neglect or failure to deliver a supplementary account or to pay any additional duty in compliance with the preceding sub-paragraph as it applies in relation to a neglect or failure under that section.
- 7 (1) In subsection (2) of section 37 of the Finance Act 1939 (rate of composition payable in respect of transfers of commonwealth government stock), as amended by paragraph 13(2) of Schedule 7 to the Finance Act 1970, for " 1s." (to be read under the Decimal Currency Act 1969 as 5p) substitute " 10p ".
- (2) Any agreement entered into for the purposes of the said section 37 before the passing of this Act shall, so far as it relates to payments to be made on or after 1st August 1974, have effect as if it provided for the making of those payments at the rate at which duty is chargeable under that section by virtue of the preceding sub-paragraph.
- 8 (1) In subsection (3) of section 65 of the Finance Act 1971 (rate of composition payable in respect of transfer duty on certain loan capital), for " 15p " substitute " 30p ".
- (2) The preceding sub-paragraph shall not apply in relation to any agreement entered into for the purposes of the said section 65 before 1st May 1974.

*Duplicates and counterparts*

- 9 In the heading " Duplicate or Counterpart of any instrument chargeable with any duty" in Schedule 1 to the Stamp Act 1891 (same duty as on original instrument if that is less than 5s., otherwise duty of 5s.), for " 5s." in both places (to be read under the Decimal Currency Act 1969 as 25p) substitute " 50p ".

*Lease or tack*

- 10 (1) The heading " Lease or Tack " in Schedule 1 to the Stamp Act 1891 shall be amended as follows.
- (2) The duty chargeable under paragraph (2)(a) and paragraph (4) shall be £1 and £2 respectively (instead of 50p and £1 as provided by section 56(2) of the Finance Act 1963), and the rates of duty specified in the said paragraphs (2)(a) and (4) shall be amended accordingly.

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(3) For the Table set out in paragraph (3), as substituted by section 56(1) of the Finance Act 1963 and amended by section 125(3) of the Finance Act 1972, substitute—

	“If the term does not exceed 7 years or is indefinite	If the term exceeds 7 years but does not exceed 35 years	If the term exceeds 35 years but does not exceed 100 years	If the term exceeds 100 years
	£p	£p	£p	£p
Not exceeding £5 per annum.	Nil	0.10	0.60	1.20
Exceeding £5 and not exceeding £10.	Nil	0.20	1.20	2.40
Exceeding £10 and not exceeding £15.	Nil	0.30	1.80	3.60
Exceeding £15 and not exceeding £20.	Nil	0.40	2.40	4.80
Exceeding £20 and not exceeding £25.	Nil	0.50	3.00	6.00
Exceeding £25 and not exceeding £50.	Nil	1.00	6.00	12.00
Exceeding £50 and not exceeding £75.	Nil	1.50	9.00	18.00
Exceeding £75 and not exceeding £100.	Nil	2.00	12.00	24.00
Exceeding £100 and not exceeding £150.	Nil	3.00	18.00	36.00
Exceeding £150 and not exceeding £200.	Nil	4.00	24.00	48.00
Exceeding £200 and not exceeding £250.	Nil	5.00	30.00	60.00
Exceeding £250 for any full sum of £50 and also	0.50	1.00	6.00	12.00”

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	“If the term does not exceed 7 years or is indefinite	If the term exceeds 7 years but does not exceed 35 years	If the term exceeds 35 years but does not exceed 100 years	If the term exceeds 100 years
for any fractional part thereof.				

## PART II

### PROVISIONS HAVING EFFECT IN NORTHERN IRELAND

- 11 (1) This Part of this Schedule shall have effect as from 1st August 1974.
- (2) This Part of this Schedule shall not extend to Great Britain.
- (3) The Commissioners may make such arrangements operating for such period as they may think proper for the charge of duty on any instrument giving effect to a stock exchange transaction (as defined in section 4 of the Stock Transfer Act (Northern Ireland) 1963) in respect of which settlement was due before 1st August 1974 to be the same as if this Act had not been passed, and any instrument stamped in accordance with such arrangements shall be deemed to be duly stamped for all purposes.

#### *Bearer instruments*

- 12 (1) The heading "Bearer Instrument" inserted in Schedule 1 to the Stamp Act 1891 by section 8(1) of the Finance Act (Northern Ireland) 1963 shall be amended as follows.
- (2) In paragraph (3), as amended by paragraph 6(2) of Schedule 2 to the Finance Act (Northern Ireland) 1970 (instrument excepted from paragraph (1) or (2): duty of Is. for every £50, or part of £50, of market value), for "1s." (to be read under the Decimal Currency Act 1969 as 5p) substitute "10p".
- (3) In paragraph (4), as amended by paragraph 6(3) of the said Schedule 2 (duty of Is. on substituted instrument), for "1s." (to be likewise read as 5p) substitute "10p".

#### *Conveyance or transfer on sale*

- 13 For the Table set out in Part I of Schedule 1 to the Finance Act (Northern Ireland) 1963 (ad valorem duty on conveyance or transfer on sale), as substituted by paragraph 10 of Schedule 2 to the Finance Act (Northern Ireland) 1970 and amended by Article 12(1) of the Finance (Northern Ireland) Order 1972, substitute—

“Amount or value of consideration	Special rate for certain instruments certified at £20,000	Special rate for certain instruments certified at £25,000	Special rate for certain instruments certified at £30,000	Ordinary rate
Not exceeding £5.	5p	5p	10p	10p

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“Amount or value of consideration	Special rate for certain instruments certified at £20,000	Special rate for certain instruments certified at £25,000	Special rate for certain instruments certified at £30,000	Ordinary rate
Exceeding £5 but not exceeding £100.	5p for every £10 or part of £10 of the consideration	10p for every £10 or part of £10 of the consideration	15p for every £10 or part of £10 of the consideration	20p for every £10 or part of £10 of the consideration
Exceeding £100 but not exceeding £300.	10p for every £20 or part of £20 of the consideration	20p for every £20 or part of £20 of the consideration	30p for every £20 or part of £20 of the consideration	40p for every £20 or part of £20 of the consideration
Exceeding £300.	25p for every £50 or part of £50 of the consideration	50p for every £50 or part of £50 of the consideration	75p for every £50 or part of £50 of the consideration	£1 for every £50 or part of £50 of the consideration”

14 (1) Section 4 of the Finance Act (Northern Ireland) 1963 (rates of ad valorem duty on conveyance or transfer on sale) shall be amended as follows.

(2) For paragraphs (a) to (c) of subsection (1) (exemption from, and reduced and ordinary rates of, such duty), as amended by Article 12(1) of the Finance (Northern Ireland) Order 1972, substitute—

- “(a) where the amount or value of the consideration is £15,000 or under and the instrument is certified within the meaning of section 7(4) of the Finance Act (Northern Ireland) 1958 at £15,000, nil;
- (b) where the amount or value of the consideration is £20,000 or under and the instrument is certified as aforesaid at £20,000, the rate specified in column 2 of Part I of Schedule 1 to this Act;
- (c) where the amount or value of the consideration is £25,000 or under and the instrument is certified as aforesaid at £25,000, the rate specified in column 3 of Part I of that Schedule ;
- (d) where the amount or value of the consideration is £30,000 or under and the instrument is certified as aforesaid at £30,000, the rate specified in column 4 of Part I of that Schedule ;
- (e) in any other case, the rate specified in column 5 of Part I of that Schedule.”

(3) In subsection (2), for " paragraphs (a) and (b)" and " paragraph (c) " substitute " paragraphs (a) to (d) " and " paragraph (e) " respectively.

15 In section 11(2) of the Finance Act (Northern Ireland) 1963 (rate of duty in respect of a transfer of commonwealth stock), as amended by paragraph 11 of Schedule 2 to the Finance Act (Northern Ireland) 1970, for the words from " shall be " to the end substitute " shall be 10p for every £20 or part of £20 of the consideration if the amount or value thereof does not exceed £300 and, in any other case, 50p for every £100 or part of £100 of the consideration. "

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

*Composition in respect of certain transfers etc.*

- 16 (1) In section 115(3) of the Stamp Act 1891 (rate of composition payable in respect of transfers of certain stock etc.) as it has effect by virtue of section 37(2) of the Finance Act 1920 and section 6(1) of the Finance Act (Northern Ireland) 1963, for " one shilling " (to be read under the Decimal Currency Act 1969 as 5p) substitute " 10p ".
- (2) The duty chargeable under the said section 115 on any half-yearly account required to be delivered on or within seven days before 1st August 1974 shall be the same as if the account had been delivered on that 1st August; and where any such account has been delivered before the passing of this Act and the full amount of the duty thereon has not been paid in accordance with this paragraph, a supplementary account shall be delivered, and the additional duty shall be paid, within fifteen days after the passing of this Act.
- (3) The said section 115 shall apply in relation to a neglect or failure to deliver a supplementary account or to pay any additional duty in compliance with the preceding sub-paragraph as it applies in relation to a neglect or failure under that section.
- 17 (1) In paragraph (4) of Article 11 of the Finance (Northern Ireland) Order 1972 (rate of composition payable in respect of transfer duty on certain loan capital), for " 15p " substitute " 30p ".
- (2) The preceding sub-paragraph shall not apply in relation to any agreement entered into for the purposes of the said Article 11 before 1st August 1974.

*Duplicates and counterparts*

- 18 In the heading " Duplicate or Counterpart of any instrument chargeable with any duty" in Schedule 1 to the Stamp Act 1891 (same duty as on original instrument if that is less than 5s., otherwise duty of 5s.), for " 5s." in both places (to be read under the Decimal Currency Act 1969 as 25p) substitute " 50p ".

*Lease or tack*

- 19 (1) The heading " Lease or Tack " in Schedule 1 to the Stamp Act 1891 shall be amended as follows.
- (2) The duty chargeable under paragraph (2)(a) and paragraph (4) shall be £1 and £2 respectively (instead of 50p and £1 as provided by section 5(2) of the Finance Act (Northern Ireland) 1963), and the rates of duty specified in the said paragraphs (2) (a) and (4) shall be amended accordingly.
- (3) For the Table set out in paragraph (3), as substituted by section 5(1) of the Finance Act (Northern Ireland) 1963 and amended by Article 12(3) of the Finance (Northern Ireland) Order 1972, substitute—

“If the term does not exceed 7 years or is indefinite	If the term exceeds 7 years but does not exceed 35 years	<i>If the term exceeds 35 years but does not exceed 100 years</i>	If the term exceeds 100 years
£p	£p	£p	£p

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	“If the term does not exceed 7 years or is indefinite	If the term exceeds 7 years but does not exceed 35 years	<i>If the term exceeds 35 years but does not exceed 100 years</i>	If the term exceeds 100 years
Not exceeding £5 per annum.	Nil	0.10	0.60	1.20
Exceeding £5 and not exceeding £10.	Nil	0.20	1.20	2.40
Exceeding £10 and not exceeding £15.	Nil	0.30	1.80	3.60
Exceeding £15 and not exceeding £20.	Nil	0.40	2.40	4.80
Exceeding £20 and not exceeding £25.	Nil	0.50	3.00	6.00
Exceeding £25 and not exceeding £50.	Nil	1.00	6.00	12.00
Exceeding £50 and not exceeding £75.	Nil	1.50	9.00	18.00
Exceeding £75 and not exceeding £100.	Nil	2.00	12.00	24.00
Exceeding £100 and not exceeding £150.	Nil	3.00	18.00	36.00
Exceeding £150 and not exceeding £200.	Nil	4.00	24.00	48.00
Exceeding £200 and not exceeding £250.	Nil	5.00	30.00	60.00
Exceeding £250 for any full sum of £50 and also for any fractional part thereof.	0.50	1.00	6.00	12.00”

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### PART III

#### SAVING FOR CERTAIN TRANSFERS OF STOCK OR MARKETABLE SECURITIES

- 20 (1) This Part of this Schedule shall have effect as from 1st August 1974 (but without prejudice to the operation of paragraphs 2 to 4 of this Schedule as regards the period before that date).
- (2) For the purposes of this Part of this Schedule—
- (a) " authorised depository" means a person who is an authorised depository for the purposes of the Exchange Control Act 1947 ; and
  - (b) an authorised depository consisting of a branch of a business shall be treated in all respects as if the branch were a body corporate.
- 21 (1) In the case of a transfer to which this paragraph applies, the enactments relating to stamp duty shall have effect as if paragraphs 2 to 4 of this Schedule and such of the repeals contained in Parts III and IV of Schedule 14 to this Act as are consequential on any of those paragraphs had not been enacted.
- (2) This paragraph applies to any transfer of stock or marketable securities as regards which the following conditions are satisfied, that is to say—
- (a) the transferee—
    - (i) is resident outside the scheduled territories and is not acquiring the stock or securities as a nominee ; or
    - (ii) wherever resident, is acquiring the stock or securities as a nominee for a person who is resident outside the scheduled territories ;
  - (b) the transfer is for full consideration in money or money's worth; and
  - (c) the instrument of transfer or bearer instrument (as the case may be) in respect of which duty is chargeable in connection with the transfer bears or has attached to or otherwise associated with it, in such manner as the Commissioners may direct, a certificate by an authorised depository, in such form as the Commissioners may direct, stating or indicating that the conditions mentioned in sub-paragraphs (a) and (b) above are satisfied as regards the transfer.
- (3) In this paragraph—
- " resident outside the scheduled territories " means, subject to sub-paragraph (4) below, so resident for the purposes of the Exchange Control Act 1947 ; and
  - " the scheduled territories " means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.
- (4) A person who, when acting in his capacity as a trustee of a particular trust, is treated by the Bank of England as resident outside the scheduled territories for the purposes of the Exchange Control Act 1947 shall, when acting in that capacity, be treated likewise for the purposes of this paragraph.
- (5) Section 20(5) of the Exchange Control Act 1947 (meaning of nominee and person for whom another is a nominee) shall apply for the purposes of this paragraph as it applies for the purposes of Part m of that Act.
- (6) In relation to Northern Ireland sub-paragraph (1) above shall have effect with the substitution for the references to paragraphs 2 to 4 of this Schedule of references to paragraphs 12 to 14 thereof.



- 22 (1) An authorised depositary who for the purposes of the preceding paragraph—
- (a) gives with respect to any transfer of stock or marketable securities a certificate containing any statement which is false in a material particular ; or
  - (b) gives with respect to any such transfer a certificate indicating that the conditions mentioned in sub-paragraph (2)(a) and (b) of that paragraph are satisfied when either of those conditions is not satisfied,
- shall be liable to a fine not exceeding the aggregate of £50 and an amount equal to twice the amount by which the stamp duty which ought to be charged in respect of the instrument in respect of which duty is chargeable in connection with the transfer exceeds the stamp duty paid in respect of that instrument.
- (2) In any proceedings for the recovery of a fine under this paragraph it shall be a defence for the defendant to prove that at the time when he gave the certificate in question he had made all such enquiries as he ought reasonably to have made with respect to the matters covered by the certificate and neither knew nor had reason to believe that any of those matters was other than as stated in or indicated by the certificate.
- 23 (1) This paragraph applies to the following documents and records that is to say all books, accounts and other documents and records whatsoever which—
- (a) relate to any transfer of stock or marketable securities with respect to which a certificate has at any time been given by an authorised depositary for the purposes of paragraph 21 of this Schedule ; and
  - (b) are, or have at any time been, documents or records of that depositary.
- (2) Any person who has under his control any documents or records to which this paragraph applies—
- (a) shall, whenever required to do so by an authorised officer of the Commissioners, produce to that officer for inspection all documents and records to which this paragraph applies which that person has under his control, or such of those documents and records as the officer may specify ; and
  - (b) if he has the documents or records in question under his control in connection with any business or profession carried on by him, shall, if so required by the officer, admit the officer to any premises at which that business or profession is carried on and produce them there to the officer for inspection :
- Provided that nothing in this sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.
- (3) Any person who fails to comply with any requirement imposed under the preceding sub-paragraph by an authorised officer of the Commissioners shall be liable to a fine of £50.

## SCHEDULE 12

Section 52.

## SUBSTITUTION OF LOCAL AUTHORITY AS DEFINED IN SECTION 52

- 1 In section 15(2) of the Finance Act 1894 for the words between " university " and " and no " there shall be substituted the words " or local authority (as defined in section 52 of the Finance Act 1974) ".

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- 2 In section 40(2) of the Finance Act 1930 for the words " county council or municipal corporation" there shall be substituted the words " local authority (as defined in section 52 of the Finance Act 1974) " .
- 3 In section 40(1)(b) of the Finance Act 1931 after the words " local authority " there shall be inserted the words " (as defined in section 52 of the Finance Act 1974) " .
- 4 In section 33(5)(e) of the Finance Act 1951 for the words from " means " to the end there shall be substituted the words " has the meaning assigned to it by section 52 of the Finance Act 1974 " .
- 5 In section 8(3)(b) of the Finance Act (Northern Ireland) 1951 the following sub-paragraph shall be substituted for sub-paragraph (i) —  
     “(i) a local authority as defined in section 52 of the Finance Act 1974”.
- 6 In section 74 of the Finance Act 1952—  
     (a) in subsection (1)(b) and in subsection (3) for the words " from any local authority or from another such board or committee " there shall be substituted the words " from another local authority "; and  
     (b) in subsection (4) for the words from " references " to the end there shall be substituted the words "' local authority' has the meaning assigned to it by section 52 of the Finance Act 1974 " .
- 7 In section 29 of the Finance Act 1967 for the words " section 66(2) of the Finance Act 1965 " (which now refer to section 353 of the Taxes Act) there shall be substituted the words " section 52 of the Finance Act 1974 " .
- 8 In section 6(3) of the Finance Act (Northern Ireland) 1967 for the words following "' local authority'" there shall be substituted the words " has the meaning assigned to it by section 52 of the Finance Act 1974 " .
- 9 In section 353 of the Taxes Act subsections (2) and (3) shall be omitted.
- 10 In section 526(5) of the Taxes Act, in the definition of " local authority ", after the words " given by " there shall be inserted the words " section 52 of the Finance Act 1974 and " .
- 11 In section 31 of the Finance Act 1971 subsection (2) shall be omitted.
- 12 In Schedule 25 to the Finance Act 1972 and in Schedule 1 to the Finance (Northern Ireland) Order 1972 after the words " local authority " there shall be inserted the words " as defined in section 52 of the Finance Act 1974 " .

## SCHEDULE 13

Section 53.

### REGIONAL EMPLOYMENT PREMIUMS

#### *The Selective Employment Payments Act 1966*

- 1 For section 1(1) of the Selective Employment Payments Act 1966 there shall be substituted the following subsections—  
     “(1) Where—

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- (a) a person has been employed by an employer for not less than eight hours in a week in an employment to which this section applies and has been remunerated for that employment (whether or not he did any work in that employment in that week); and
- (b) the case falls within subsection (1) of section 26 of the Finance Act 1967,

then, subject to the provisions of subsection (1A) of this section and section 7 of this Act, the Secretary of State shall make to the employer in respect of that person and that week a payment of an amount specified in that section.

(1A) An employer shall not be eligible for a payment under this section in respect of a person in respect of a week if as regards that week he was a party to any arrangements knowingly entered into by him for the sole purpose of enabling himself and one or more other employers each to obtain such a payment in respect of that person and that week.”

2 In section 1(2)(b) of that Act, for the words "employed persons " there shall be substituted the words " employed earners " .

3 In section 3(2) of that Act, for the words from "has paid" to " employed persons " there shall be substituted the words " has had in his employment in any week qualifying persons " .

4 In section 3 of that Act, at the end there shall be added as subsection (5)—

“(5) In this section ' qualifying person', in relation to an employer as regards any week, means a person who has been employed by the employer for not less than eight hours in that week and has been remunerated for that employment (whether or not he did any work in that employment in that week)”.

5 In section 7(1)(b) of that Act, for the words from the second "of" to "respect of" there shall be substituted the words " of remuneration to " .

6 In section 10(1) of that Act, after the definition of " company " there shall be inserted the following—

“" employed earner " and " employer " have the same meanings respectively as they have for the purposes of the Social Security Act 1973 ;”.

#### *The Finance Act 1967*

7 In section 26(2) of the Finance Act 1967, after the word " question" there shall be inserted the words " for not less than eight hours " .

8 In section 26(4) of that Act, after paragraph (b) there shall be added the following paragraphs—

- “(c) of the remuneration paid to that person in respect of that week ; and
- (d) of the date of birth and sex of that person.”

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## SCHEDULE 14

Section 57.

## ENACTMENTS REPEALED

**PART I**

## INTEREST

Chapter	Short Title	Extent of Repeal
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	In section 75, subsections (3) to (5). In Schedule 11, paragraphs 2, 4 and 9.

These repeals do not apply in relation to interest excepted from subsection (3) of section 19 of this Act by subsection (4) of that section.

**PART II**

## SHARE OPTION AND SHARE INCENTIVE SCHEMES

Chapter	Short Title	Extent of Repeal
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	Section 78. In section 79, subsections (2) (a) and (3)(c). Schedule 12, except paragraphs 3 and 5 to 9 of Part VII and, in paragraph 6 of that Part, the definition of " share incentive scheme " and, in paragraphs 7 and 9 of that Part, the words " 78 and " .
<a href="#">1973 c. 51.</a>	The Finance Act 1973.	In section 19 the words "78 and " and the words " and Schedule 12 to " . Section 20. In Schedule 8, in paragraph 5 the words " the principal Schedule " ; in paragraph 7 the words from " either " to " shares ; and " and the words from "in the case of sub-paragraph (a)" to "sub-

These repeals do not affect the cases excepted by section 20 of this Act.

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Chapter	Short Title	Extent of Repeal
		paragraph (b) above"; and paragraphs 8 to 34.

These repeals do not affect the cases excepted by section 20 of this Act.

### PART III

#### STAMP DUTY REPEALS HAVING EFFECT FROM 1ST MAY 1974

Chapter	Short Title	Extent of Repeal
<a href="#">1963 c. 25.</a>	The Finance Act 1963.	Section 56(1) and (2).
<a href="#">1970 c. 24.</a>	The Finance Act 1970.	In Schedule 7, in paragraph 6(2) the words "for ' 6d.' substitute ' Is.' and ", paragraph 6(3), and paragraphs 10 and 11.
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	In section 125, subsection (1) and subsection (3) except paragraph (b).

These repeals have effect as from 1st May 1974.

### PART IV

#### STAMP DUTY REPEALS HAVING EFFECT FROM 1ST AUGUST 1974

Chapter	Short Title	Extent of Repeal
<i>Enactments of the Parliament of the United Kingdom</i>		
<a href="#">10 &amp; 11 Geo. 5. c. 18.</a>	The Finance Act 1920.	1 Section 37(2).
<a href="#">10 &amp; 11 Geo. 6. c. 35.</a>	The Finance Act 1947.	Section 53(4).
<a href="#">1963 c. 25.</a>	The Finance Act 1963.	In section 57(1), the words from "and under" to "115".
<a href="#">1970 c. 24.</a>	The Finance Act 1970.	In Schedule 7, paragraph 13(2).
<i>Provisions extending to Northern Ireland only</i>		
<a href="#">1963 c. 22 (N.I.).</a>	The Finance Act (Northern Ireland) 1963.	Section 5(1) and (2). In section 6(1), the words from "and under" to " 115".
<a href="#">1970 c. 21 (N.I.).</a>	The Finance Act (Northern Ireland) 1970.	In Schedule 2, in paragraph 6(2) the words "for ' 6d.' substitute ' Is.' and,", paragraph 6(3) and paragraphs 10 and 11.

These repeals take effect on 1st August 1974.

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Chapter	Short Title	Extent of Repeal
<a href="#">S.I. 1972/1100.</a>	The Finance (Northern Ireland) Order 1972.	In Article 12, paragraph (1) and paragraph (3) except subparagraph (b).

These repeals take effect on 1st August 1974.

## PART V

### REGIONAL EMPLOYMENT PREMIUMS

Chapter	Short Title	Extent of Repeal
<a href="#">1966 c. 32.</a>	The Selective Employment Payments Act 1966.	In section 7(1) the words " in respect of any employer's insurance contribution paid ", and the word " contribution " in both places where it occurs.
<a href="#">1967 c. 54.</a>	The Finance Act 1967.	In section 10(1), in the paragraph following the definition of " agriculture ", the words " employed person" and " employer ".  In section 26, in subsection (1) as substituted by paragraph 4 of Schedule 27 to the Finance Act 1972, in paragraphs (a), (b), (c) and (d), the words from " treated " to " as ", in subsections (2) and (4) the word " contribution ", and in subsection (4)(a) the word " and ".
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	In section 122(3) the word " contribution" in both places where it occurs, and, in paragraph (a), the word " such ".  In Schedule 27, paragraph 1, in paragraph 2 the words from the first "for" to "and", paragraph 3 and, in paragraph 4, in the subsection there set out, the words from " treated " to " as " in paragraphs (a), (b), (c) and (d).

These repeals take effect on 7th April 1975.

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## PART VI

### MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958.	In section 35(4), paragraph (b).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 122(2), paragraphs (b) and (c) and the " or" preceding them. In section 188(2), paragraph (b) and the words following paragraph (c). In section 280(5), the words from " if" to " group" (where first occurring). In section 335(4), the words from " but " to the end. In section 338(2), the word " registered " . In section 353, subsections (2) and (3). In Schedule 8, in paragraph 6 the words from " and not " to " of office " .
1971 c. 68.	The Finance Act 1971.	Section 15(2). Section 31(2). In Schedule 3, paragraph 12(2).
1972 c. 41.	The Finance Act 1972.	Section 65(1). Section 93(8). Section 123. In Schedule 6, the word " full-time" wherever it occurs in paragraph 7(4) and (5).
1973 c. 51.	The Finance Act 1973.	Section 3. Section 12(1). Section 53(5)(a).

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**PART VII**

## SPENT ENACTMENTS

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 37(3).
1963 c. 25.	The Finance Act 1963.	Section 58.
1968 c. 44.	The Finance Act 1968.	Section 23(3).
1970 c. 9.	The Taxes Management Act 1970.	The proviso to section 47(2).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 15, in Part II of the Table set out in paragraph 11, the entry relating to the Ministerial Salaries and Members' Pensions Act 1965.
1971 c. 68.	The Finance Act 1971.	In section 15, subsections (3) and (4). In Schedule 6, paragraph 69.
1972 c. 41.	The Finance Act 1972.	Section 65(3).