

## SCHEDULES

### SCHEDULE 18

Section 136.

#### EXCHANGE CONTROL

##### *Restriction of borrowing etc. from non-residents*

- 1 (1) Except with the permission of the Treasury, no person resident in the United Kingdom shall borrow any money from a person resident outside the scheduled territories.
- (2) Except with the permission of the Treasury, no person resident in the United Kingdom shall—
- (a) issue, negotiate or transfer to a person resident outside the scheduled territories any instrument to which this sub-paragraph applies ;
  - (b) renew any such instrument which is held by a person resident outside the scheduled territories ; or
  - (c) acquire or renew any such instrument on behalf of a person resident outside the scheduled territories ;
- but a contravention of this sub-paragraph shall not affect the validity of any instrument or the rights of the parties to any transaction.
- (3) Sub-paragraph (2) above does not apply to a banknote or certificate of deposit but, with those exceptions, applies to—
- (a) any bill of exchange (including a cheque), promissory note or similar instrument;
  - (b) any other instrument which confers or evidences a right (whether conditional or unconditional) to be paid or to obtain, or to draw on any person for, a sum of money with or without interest, being a right capable of being transferred by delivery of the instrument with or without endorsement; and
  - (c) any instrument (not being an instrument within paragraph (a) or (b) above) of a description which is for the time being prescribed for the purposes of that sub-paragraph,
- including any such instrument as aforesaid which is governed by the law of a country outside the United Kingdom.

##### *Deposits by borrowers from non-residents etc.*

- 2 (1) Where a person resident in the United Kingdom borrows any money from a person resident outside the scheduled territories or any money, being foreign currency, from a person resident in the scheduled territories the Treasury may, subject to the provisions of this paragraph, give him directions requiring him—
- (a) to deposit with the Bank of England, within such time and in such manner as may be specified in the directions, a sum in sterling of such amount as may be 10 specified; and

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- (b) either so to deposit it free of interest or to pay to the Bank in respect of it a charge or charges at such rate as may be so specified.
- (2) The amount of the sum which directions under this paragraph require a person to deposit in respect of any money borrowed by him shall not exceed the prescribed amount (which may be equal to the amount of the money borrowed or to a proportion of it) and the rate of any charge which the directions require to be paid shall not exceed the prescribed rate.
- (3) Any sum which directions under this paragraph require to be deposited may at any time with the consent of the Treasury be repaid (in whole or in part) by the Bank of England; and any such sum shall, if not previously repaid, be repaid by the Bank of England—
- (a) at the expiration of such period beginning with the date of the deposit as may be specified in the directions; or
- (b) if no period is so specified, when the Bank is satisfied that the borrowed money has been repaid ;
- and where no period is so specified and the Bank is satisfied that a proportion of the borrowed money has been repaid, a corresponding proportion of the sum deposited, so far as not already repaid, shall be repaid by the Bank.
- (4) The period which directions specify for the purposes of sub-paragraph (3)(a) above shall not exceed such maximum, if any, as may be prescribed.
- (5) Where directions given under this paragraph to any person are revoked any sum then held by the Bank of England pursuant to the directions shall be repaid to him.
- (6) Any charge required to be paid by directions under this paragraph may, if not previously paid, be deducted by the Bank of England in making a repayment to the person liable for the charge.
- (7) For the purposes of sub-paragraph (2) above the sterling equivalent of any amount of currency other than sterling shall be determined by reference to the London market spot selling rate for sterling on the last working day before the borrowed money is received or, if there is no such rate, by reference to such rate as may be specified by the Bank of England.

*Deposits by banks etc.*

- 3 (1) Without prejudice to paragraph 2 above but subject to sub-paragraph (2) below, the Treasury may give directions under this paragraph to any person resident in the United Kingdom who holds deposits (in this paragraph referred to as " non-resident deposits ") which are denominated in sterling and were accepted by him from a person resident outside the scheduled territories.
- (2) No directions shall be given under this paragraph to any person other than a recognised bank or licensed institution within the meaning of the Banking Act 1979 unless he is a prescribed person or belongs to a prescribed class.
- (3) The directions given under this paragraph to any person may require him—
- (a) to deposit with the Bank of England, at such time or times and in such manner as may be specified in the directions, a sum or sums in sterling of such amount or amounts as may be determined in accordance with the directions ; and

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- (b) either so to deposit the sum or sums free of interest or to pay to the Bank in respect thereof a charge or charges at such rate, not exceeding the prescribed rate, as: may be so specified.
- (4) The amount of the sum or sums which directions under this paragraph require a person to deposit shall be determined by reference to increases in the level of the non-resident deposits held by that person; and the directions shall provide for repayments to be made to him by the Bank by reference to reductions in that level.
- (5) The method of determining whether there is any, and if so what, increase or reduction in the level of non-resident deposits held by a person shall be such as may be specified in the directions given to him but the directions shall not without his consent be so framed as to take into account any increase over a level determined by reference to any date which is more than forty-two days before the coming into force of this Schedule.
- (6) Different methods may be specified under sub-paragraph (5) above in relation to different persons; and the method specified under that sub-paragraph in relation to any person—
  - (a) may make different provision in relation to different deposits, including provision for leaving particular deposits out of account;
  - (b) may provide for disregarding any increase in whole or in part in cases where it appears to the Bank of England that it is reasonable to do so.
- (7) Any charges which directions under sub-paragraph (3)(b) above require a person to pay to the Bank of England may, if the directions so provide, be deducted by the Bank from the sum for the time being held by it pursuant to the directions, and the directions may require any such deduction to be made good by that person by depositing further sums under sub-paragraph (3)(a) above.
- (8) Directions given to any person under this paragraph may require him to make such returns or give such information to the Bank of England as may be required for establishing whether any, and if so what, sums are to be deposited by or repaid to him under the directions.
- (9) Where directions given under this paragraph to any person are revoked any sum then held by the Bank of England pursuant to the directions shall be repaid to him.
- (10) In this paragraph "deposits", where the reference is to nonresident deposits, means any deposit as defined in section 1 of the Banking Act 1979 except that it includes—
  - (a) any sum excluded from that definition by subsection (5) of that section; and
  - (b) any sum which is paid by one branch of a business to an other and which would be a deposit if the branches were separate persons ;and in paragraph (b) above references to a branch of a business include references to its head office.

#### *Supplementary*

- 4 (1) The Bank of England shall pay to the Treasury sums equivalent to those deposited with it by virtue of paragraphs 2 and 3 above ; and the Treasury shall in respect of the sums paid to it under this sub-paragraph assume a liability to the Bank on such terms as to repayment or otherwise as may be agreed between the Treasury and the Bank but so that no interest on those sums shall accrue to the Bank.

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- (2) Any repayment made by the Bank of England to any person by virtue of those paragraphs shall be made in such manner as may be specified in directions given under those paragraphs.
- (3) Any sums received or deducted by the Bank of England as charges payable by virtue of those paragraphs shall be paid over to the Treasury.
- (4) Any sums received by the Treasury under sub-paragraph (1) or (3) above shall be paid into the National Loans Fund ; and any sums required by the Treasury for making payments to the Bank under sub-paragraph (1) above shall be issued out of that Fund.
- (5) Different rates may be prescribed for charges under paragraph 2 above and for charges under paragraph 3 above.
- (6) Without prejudice to any provision made by an Order in Council under section 43(3) of the Exchange Control Act 1947 (Channel Islands), paragraphs 1 to 3 above shall extend to the Channel Islands with the substitution for any reference to the United Kingdom of a reference to the Channel Islands.