

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1982,
Cross Heading: Acceptance or rejection of new price formula. (See end of Document for details)

SCHEDULES

SCHEDULE 18

ALTERNATIVE VALUATION OF ETHANE USED FOR PETROCHEMICAL PURPOSES

Modifications etc. (not altering text)

C1 See Finance Act 1986 (c. 41), s. 109(5) and Sch. 21

Acceptance or rejection of new price formula

- 7 (1) Subject to sub-paragraph (3) below, the Board shall accept a new price formula specified in a notice under paragraph 5(2) above if they are satisfied that the new formula provides for readily ascertainable market values which correspond, so far as practicable, with those which were intended to be provided for under the original price formula ; and if the Board are not so satisfied they shall reject such a new price formula.
- (2) Subject to sub-paragraph (3) below, sub-paragraphs (1) and (2) of paragraph 2 above and paragraph 3 above shall apply to determine whether the Board shall accept—
- (a) a new price formula contained in a notice under paragraph 6(1)(b) above which has been accepted by the Board under paragraph 6(3) above, or
 - (b) if the Board have given notice under paragraph 6(1)(b) above, a new price formula specified in a notice under paragraph 6(5)(b) above,
- as if the new price formula were specified in an election made at the time the notice under paragraph 6(1)(b) above was given.
- (3) The Board shall reject such a new price formula as is referred to in sub-paragraph (1) or sub-paragraph (2) above if, after receiving notice in writing from the Board, the party or, as the case may be, either of the parties to the election—
- (a) fails to furnish to the Board, before the appropriate date, any information which the Board may reasonably require for the purpose of determining whether the new formula should be accepted in accordance with sub-paragraph (1) or, as the case may be, sub-paragraph (2) above, or
 - (b) fails to make available for inspection, before the appropriate date, by an officer authorised by the Board nay books, accounts or documents in his possession or power which contain information relevant for that purpose.
- (4) Sub-paragraph (4) of paragraph 2 above applies in relation to sub-paragraph (3) above as it applies in relation to sub-paragraph (3) of that paragraph.
- (5) Notice of the acceptance or rejection of a new price formula—
- (a) specified in a notice under paragraph 5(2) or paragraph 6(5)(b) above, or
 - (b) contained in a notice under paragraph 6(1)(b) above which has been accepted by the Board by a notice under paragraph 6(3) above,

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shall be given to the party or, as the case may be, each of the parties to the election concerned before the expiry of the period of three months beginning on the relevant date (as defined in sub-paragraph (6) below), and if no notice of acceptance or rejection is in fact given as required by this sub-paragraph, the Board shall be deemed to have accepted the formula and to have given notice of their acceptance on the last day of that period.

- (6) In sub-paragraph (5) above “the relevant date” means—
- (a) if a notice has been given under sub-paragraph (3) above relating to the price formula in question, the date or, as the case may be, the last date which is the appropriate date, within the meaning of that sub-paragraph, in relation to such a notice; and
 - (b) if no such notice has been given, then—
 - (i) in relation to a new price formula falling within paragraph (a) of sub-paragraph (5) above, the date on which the notice referred to in that paragraph was received by the Board; and
 - (ii) in relation to a new price formula falling within paragraph (b) of that sub-paragraph, the date of the notice from the Board under paragraph 6(3) above.
- 8 (1) Where the Board give notice to any person or persons—
- (a) under paragraph 4 above, rejecting an election; or
 - (b) under paragraph 5 above, that the value of any ethane has ceased or is ceasing to be readily ascertainable; or
 - (c) under paragraph 6(1)(b) above, that a price formula is no longer realistic; or
 - (d) under paragraph 6(3) above, rejecting a notice given under paragraph 6(1)(b) above; or
 - (e) under paragraph 7(5) above, rejecting a new price formula;
- that person or, as the case may be, those persons acting jointly may appeal ^{F1}... against the notice.
- (2) An appeal under sub-paragraph (1) above shall be made by notice in writing given to the Board within thirty days after the date of the notice in respect of which the appeal is brought.
- (3) Where at any time after the giving of notice of appeal under this paragraph and before the determination of the appeal by the [^{F2}tribunal], the Board and the appellant agree that the notice in respect of which the appeal is brought should be accepted or withdrawn or varied, the same consequences shall ensue as if the [^{F2}tribunal] had determined the appeal to that effect.
- (4) [^{F3}If an appeal under this paragraph is notified to the tribunal and the tribunal determines] that the appeal should be allowed [^{F4}it] shall allow the appeal and—
- (a) where the appeal is against a notice of rejection of an election or proposed new price formula, [^{F5}the tribunal shall] substitute a notice of acceptance of the election or price formula without modification or with such modifications as [^{F6}the tribunal thinks] fit;
 - (b) where the appeal is against a notice under paragraph 5 or paragraph 6(1)(b) above, [^{F7}the tribunal may direct] that the price formula in question shall continue to have effect as if the notice had not been given; and

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- (c) where the appeal is against a notice under paragraph 6(3) above rejecting a notice under paragraph 6(1)(b) above, the [^{F8}tribunal] shall substitute a notice of acceptance.
- (5) Sub-paragraphs (2), (8) and (11) of paragraph 14 of Schedule 2 to the principal Act^{F9}, and paragraphs 14A to 14I of that Schedule] shall apply in relation to an appeal against any such notice as is referred to in sub-paragraph (1) above as they apply in relation to an appeal against any such notice as is referred to in sub-paragraph (1) above as they apply in relation to an appeal against an assessment or determination made under the principal Act, but with the substitution, for any reference to the participator, of a reference to the person or persons who gave notice of appeal under sub-paragraph (2) above [^{F10}and, in the case of paragraphs 14A to 14I of Schedule 2, with such other modifications as may be necessary].
- (6) Where notice of appeal is duly given against a notice given by the Board under paragraph 5 or paragraph 6(1)(b) above, the period of three months referred to in paragraph 5(2)(a) or, as the case may be, paragraph 6(5)(b) above shall not begin to run until the appeal is withdrawn or finally determined.
- (7) Any reference in section 134 of this Act or the preceding provisions of this Schedule to an election accepted by the Board shall be construed as including a reference to an election accepted in pursuance of an appeal under this paragraph.

Textual Amendments

- F1** Words in Sch. 18 para. 8(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(2)**
- F2** Word in Sch. 18 para. 8(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(3)**
- F3** Words in Sch. 18 para. 8(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(a)(i)**
- F4** Word in Sch. 18 para. 8(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(a)(ii)**
- F5** Words in Sch. 18 para. 8(4)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(b)(i)**
- F6** Words in Sch. 18 para. 8(4)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(b)(ii)**
- F7** Words in Sch. 18 para. 8(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(c)**
- F8** Word in Sch. 18 para. 8(4)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(4)(d)**
- F9** Words in Sch. 18 para. 8(5) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(5)(a)**
- F10** Words in Sch. 18 para. 8(5) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 101(5)(b)**

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