



# Finance Act 1985

## 1985 CHAPTER 54

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. [25th July 1985]

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

#### CHAPTER I

#### CUSTOMS AND EXCISE

#### *The rates of duty*

#### **1 Spirits, beer, wine, made-wine and cider**

- (1) In section 5 of the Alcoholic Liquor Duties Act 1979 (excise duty on spirits) for "£15.48" there shall be substituted " £15.77".

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- (2) In section 36 of that Act (excise duty on beer) for "£24.00" and "£0.80" there shall be substituted " £25.80 " and " £0.86 " respectively.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.
- (4) With respect to wine or made-wine imported into or produced in the United Kingdom on or after 29th July 1985, Schedule 1 to this Act shall have effect with the substitution—
  - (a) for the words " of less than 15 ", in each place where they occur, of the words " not exceeding 15 "; and
  - (b) for the words " of not less than 15 " of the words " exceeding 15 ".
- (5) In section 62(1) of that Act (excise duty on cider) for "£14.28 " there shall be substituted " £15.80".
- (6) This section and Schedule 1 to this Act shall be deemed to have come into force on 20th March 1985.

## 2 Tobacco products

- (1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

“TABLE

1. Cigarettes	An amount equal to 21 per cent, of the retail price plus £26-95 per thousand cigarettes.
2. Cigars	£47-05 per kilogram.
3. Hand-rolling tobacco	£43-73 per kilogram.
4. Other smoking tobacco and chewing tobacco.	£24-95 per kilogram.”

- (2) This section shall be deemed to have come into force on 22nd March 1985.

## 3 Hydrocarbon oil

- (1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil) for " £0.1716 " (light oil) and " £0.1448 " (heavy oil) there shall be substituted " £0.1794 " and " £0.1515 " respectively.
- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1985.

## 4 Vehicles excise duty

- (1) The Vehicles (Excise) Act 1971 and the Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.
- (2) For the provisions of Part II of Schedules 1 to 5 to each of those Acts (annual rates of duty) there shall be substituted the provisions set out in Part I of Schedule 2 to this Act.

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- (3) The provisions of Part I of Schedule 4 to each of those Acts (annual rates of duty on goods vehicles: general provisions) shall have effect subject to the amendments made by Part II of Schedule 2 to this Act.
- (4) In section 2(1)(b) of each of those Acts (six month licence for vehicles with annual rate exceeding £18) for " £18 " there shall be substituted " £35".
- (5) In section 16 of the Act of 1971 (rates of duty for trade licences) in subsection (5), including that subsection as set out in paragraph 12 of Part I of Schedule 7 to that Act, for " £44" there shall be substituted " £46".
- (6) In section 16 of the Act of 1972 (rates of duty for trade licences) in subsection (6), including that subsection as set out in paragraph 12 of Part I of Schedule 9 to that Act, for " £44 " there shall be substituted " £46".
- (7) In the heading of Schedule 1 to each of those Acts and in paragraph 1 of Part I of each of those Schedules (annual rates of duty on certain vehicles not exceeding 425 kilograms) for " 425 KG." and " 425 kilograms " there shall be substituted respectively " 450KG. " and " 450 kilograms ".
- (8) This section applies in relation to licences taken out after 19th March 1985.

#### *Other provisions*

### **5 Blending of certain wines to constitute production of wine**

- (1) In section 54 of the Alcoholic Liquor Duties Act 1979 (charge of excise duty on wine) at the end of subsection (3) there shall be inserted the following subsections: —

“(3A) For the purposes of this Act, the process of blending or otherwise mixing two or more wines (in this subsection referred to as " the constituent wines ") constitutes the production of wine if—

- (a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others ; and
- (b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines ; and
- (c) the blending or other mixing is with a view to dealing wholesale in the wine which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under subsection (1) above on its importation into the United Kingdom or, as the case may be, on its production as mentioned in paragraph (b) of that subsection.

- (3B) Where, by virtue of subsection (3A) above, wine is produced in the United Kingdom, duty shall be chargeable on that wine by virtue of paragraph (b) of subsection (1) above whether or not duty was previously charged on all or any of the constituent wines by virtue of paragraph (a) or paragraph (b) of that subsection; but nothing in this subsection shall affect the operation of any regulations under section 56 below giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.”

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- (2) Subsection (1) above has effect in relation to the blending or otherwise mixing of wines on or after 26th March 1985.

## **6 Miscellaneous amendments relating to spirits and beer**

- (1) The Alcoholic Liquor Duties Act 1979 shall have effect subject to the amendments in Schedule 3 to this Act (being amendments relating to spirits and beer).
- (2) Paragraphs 3 and 4 of Schedule 3 to this Act shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and a different day may be so appointed for each of those paragraphs.

## **7 Hydrocarbon oil: mixing etc.**

- (1) Schedule 4 to this Act (which contains provisions about mixing hydrocarbon oil etc.) shall have effect.
- (2) That Schedule shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

## **8 Gaming machine licence duty**

- (1) The Betting and Gaming Duties Act 1981 (in this section referred to as " the 1981 Act") shall have effect subject to the amendments in Part I of Schedule 5 to this Act, being amendments designed—
- (a) to enable the type of gaming machine licence which may be granted and the amount of duty payable thereon to be determined by reference to the value of the maximum prize obtainable by a successful player of the machine; and
  - (b) to extend to Northern Ireland the provisions of the 1981 Act relating to gaming machine licence duty.
- (2) Part II of Schedule 5 to this Act shall have effect for the purpose of extending to Northern Ireland certain subordinate legislation made under the 1981 Act.
- (3) Nothing in Schedule 5 to this Act has effect with respect to licences granted or to be granted for any period beginning before 1st October 1985.
- (4) In consequence of the extension to Northern Ireland referred to in subsection (1)(b) above, no gaming machine licence shall be issued under Part V of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 in respect of any period beginning on or after 1st October 1985.

## **9 Vehicles excise duty: fees**

- (1) In section 13 of the Vehicles (Excise) Act 1971 (temporary licences) the following subsection shall be inserted after subsection (2)—
- “(2A) Where an application for a vehicle licence is made to a body authorised by the Secretary of State to act as his agent for the purpose of issuing licences, then, before the body issues a licence under subsection (1)(a) above, it may require the applicant to pay to it in connection with the issue a fee of £2 or such other sum as may be prescribed.”

- (2) In section 37(2) of that Act (cases where fees may be prescribed without Treasury approval) after "made by" there shall be inserted " section 13 (2A) or".

## **10 Computer records etc.**

- (1) Any provision made by or under any enactment which requires a person, in connection with any assigned matter,—
- (a) to produce, furnish or deliver any document, or cause any document to be produced, furnished or delivered, or
  - (b) to permit the Commissioners of Customs and Excise (in this section referred to as " the Commissioners ") or a person authorised by them—
    - (i) to inspect any document, or
    - (ii) to make or take extracts from or copies of or remove any document,shall have effect as if any reference in that provision to a document were a reference to a document within the meaning of Part I of the Civil Evidence Act 1968 ; and, accordingly, any reference in such a provision to a copy of a document shall be construed in accordance with section 10(2) of that Act.
- (2) In connection with any assigned matter, a person authorised by the Commissioners to exercise the powers conferred by this subsection—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies ; and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.
- (3) Subsection (2) above applies to any document, within the meaning of Part I of the Civil Evidence Act 1968, which, in connection with any assigned matter, a person is or may be required by or under any enactment—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered ; or
  - (b) to permit the Commissioners or a person authorised by them to inspect, make or take extracts from or copies of or remove.
- (4) Any person who—
- (a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or
  - (b) without reasonable excuse fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,
- shall be liable on summary conviction to a penalty of level 4 on the standard scale (as defined in section 75 of the Criminal Justice Act 1982).
- (5) In each of the enactments mentioned in subsection (6) below (which create offences in relation, among other matters, to false documents) " document" shall have the same meaning as in Part I of the Civil Evidence Act 1968.

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- (6) The enactments referred to in subsection (5) above are—
- (a) paragraph 4(1) of Schedule 1 to the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (false statements and documents in connection with pool betting duty);
  - (b) paragraph 8(1) of Schedule 2 to that Act (false statements and documents in connection with general betting duty);
  - (c) section 167 of the Customs and Excise Management Act 1979 (untrue declarations etc.);
  - (d) section 168 of that Act (counterfeit documents etc.);
  - (e) section 15 of the Customs and Excise Duties (General Reliefs) Act 1979 (false statements and documents in connection with reliefs);
  - (f) paragraph 13(3) of Schedule 1 to the Betting and Gaming Duties Act 1981 (false statements and documents in connection with betting duty);
  - (g) paragraph 7(3) of Schedule 2 to that Act (false statements and documents in connection with gaming licence duty);
  - (h) paragraph 8(2) of Schedule 1 to the Car Tax Act 1983 (false documents etc.).
- (7) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the Civil Evidence Act 1968 and section 10(2) of that Act shall be construed—
- (a) in the case of Scotland, as references to Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 and section 17(4) of that Act respectively, and
  - (b) in the case of Northern Ireland, as references to Part I of the Civil Evidence Act (Northern Ireland) 1971 and section 6(2) of that Act respectively.
- (8) In this section " assigned matter " means any matter which is an assigned matter for the purposes of the Customs and Excise Management Act 1979.

## CHAPTER II

### VALUE ADDED TAX

#### *Newspaper advertisements*

#### **11 Newspaper advertisements**

With respect to supplies made on or after 1st May 1985, Schedule 5 to the principal Act shall have effect with the omission of Group 5 (newspaper advertisements).

#### *Offences etc.*

#### **12 Offences and penalties in criminal proceedings**

- (1) Section 39 of the principal Act (offences and penalties) shall be amended in accordance with the following provisions of this section; but any increased penalty provided for by those provisions does not apply to an offence committed on or before the date this Act is passed.

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(2) In subsections (1)(b), (2)(ii) and (3)(b) (maximum of 2 years imprisonment on indictment) for " 2 " there shall be substituted " 7".

(3) After subsection (1) there shall be inserted the following subsection: —

“(1A) Any reference in subsection (1) above or subsection (3) below to the evasion of tax includes a reference to the obtaining of—

- (a) a payment under section 14(5) above; or
- (b) a refund under section 21 or section 22 above; or
- (c) a repayment under section 23 above ; and any reference in those subsections to the amount of the tax shall be construed,—

- (i) in relation to tax itself or a payment falling within paragraph (a) above, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and

- (ii) in relation to a refund or repayment falling within paragraph (b) or paragraph (c) above, as a reference to the amount falsely claimed by way of refund or repayment.”

(4) In subsection (2)(i) (penalty on summary conviction for certain offences relating to false documents or false information) after the words " statutory maximum " there shall be inserted " or, where subsection (2A) or subsection (2B) below applies, to the alternative penalty specified in that subsection if it is greater".

(5) After subsection (2) there shall be inserted the following subsections: —

“(2A) In any case where—

- (a) the document referred to in subsection (2) (a) above is a return required under this Act, or
- (b) the information referred to in subsection (2) (b) above is contained in or otherwise relevant to such a return,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.

(2B) In any case where—

- (a) the document referred to in subsection (2)(a) above is a claim for a refund under section 21 or section 22 above or for a repayment under section 23 above, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the amount falsely claimed.

(2C) The reference in subsection (2) (a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

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- (2D) Any reference in subsection (2) (a) or subsection (20) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.”
- (6) After subsection (3) there shall be inserted the following subsection: —
- “(3A) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.”
- (7) The following provisions shall cease to have effect—
- (a) in subsection (5), paragraph (a) and the words from " or, if greater " onwards ;
  - (b) subsection (6); and
  - (c) subsection (7).
- (8) In subsection (8)—
- (a) for the words " the failure referred to in subsection (7) above " there shall be substituted " a person's failure to comply with any regulations made under this Act"; and
  - (b) for the words from " that subsection " to " (if it is greater) " there shall be substituted " that person shall be liable on summary conviction to a penalty of level 3 on the standard scale, together with a penalty of whichever is the greater of £10 and";
- but that subsection, as so amended, shall not apply to a failure which begins on or after such day as the Treasury may by order made by statutory instrument appoint.
- (9) In accordance with the provisions of subsections (1) to (7) above, section 39 of the principal Act, excluding subsection (8), shall have effect as set out in Schedule 6 to this Act.

### *Civil penalties*

## **13 Tax evasion: conduct involving dishonesty**

- (1) In any case where,—
- (a) for the purpose of evading tax, a person does any act or omits to take any action, and
  - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable, subject to subsections (4) and (7) below, to a penalty equal to the amount of tax evaded or, as the case may be, sought to be evaded, by his conduct.
- (2) The reference in subsection (1)(a) above to evading tax includes a reference to obtaining any of the following sums,—
- (a) a payment under section 14(5) of the principal Act,
  - (b) a refund under section 21 or section 22 of that Act, and
  - (c) a repayment under section 23 of that Act,
- in circumstances where the person concerned is not entitled to that sum.



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- (3) The reference in subsection (1) above to the amount of the tax evaded or sought to be evaded by a person's conduct shall be construed,—
- (a) in relation to tax itself or a payment under section 14(5) of the principal Act, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated ; and
  - (b) in relation to the sums referred to in paragraphs (b) and (c) of subsection (2) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (4) If a person liable to a penalty under this section has cooperated with the Commissioners in the investigation of his true liability for tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection ; and in determining the extent of any reduction under this subsection, the Commissioners or tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Commissioners in their investigation.
- (5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (6) below by reason only that it has been drawn to his attention—
- (a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
  - (b) that the Commissioners or, on appeal, a value added tax tribunal have power to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (6) The proceedings mentioned in subsection (5) above are—
- (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and
  - (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.
- (7) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence (whether under the principal Act or otherwise), that conduct shall not also give rise to liability to a penalty under this section.

#### **14 Serious misdeclaration or neglect resulting in understatements or overclaims**

- (1) In any case where, for a prescribed accounting period beginning after the day appointed under subsection (8) below,—
- (a) a return is made which understates a person's liability to tax or overstates his entitlement to a payment under section 14(5) of the principal Act, or

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- (b) an assessment is made which understates a person's liability to tax and, at the end of the period of thirty days beginning on the date of the assessment, he has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,
- and the circumstances are as set out in paragraph (a) or paragraph (b) of subsection (2) below, the person concerned shall be liable, subject to subsections (6) and (7) below, to a penalty equal to 30 per cent, of the tax which would have been lost if the inaccuracy had not been discovered.
- (2) The circumstances referred to in subsection (1) above are as follows—
- (a) that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered—
- (i) equals or exceeds 30 per cent, of the true amount of tax for that period, or
- (ii) equals or exceeds whichever is the greater of £10,000 and 5 per cent, of the true amount of tax for that period ; or
- (b) that the condition in subsection (3) below is fulfilled with respect to the period concerned and that, during any period of four years beginning not more than six years before the end of that period, there were at least two earlier prescribed accounting periods beginning after the day appointed under subsection (8) below in respect of each of which—
- (i) either there was made such a return as is referred to in paragraph (a) of subsection (1) above or there was such an assessment as is referred to in paragraph (b) of that subsection and the person concerned did not, within the period there referred to, take all such steps as were reasonable to draw the understatement to the attention of the Commissioners; and
- (ii) the condition in subsection (3) below was fulfilled.
- (3) The condition referred to in subsection (2)(b) above is that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered equals or exceeds 15 per cent, of the true amount of tax for that period.
- (4) The references in subsections (1) to (3) above to the tax for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
- (a) the amount (if any) by which credit for input tax for that period was overstated; and
- (b) the amount (if any) by which output tax for that period was understated;
- but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the tax for that period which would have been so lost.
- (5) In subsections (2) (a) and (3) above " the true amount of tax ", in relation to a prescribed accounting period, means the amount of tax which was due from the person concerned for that period or, as the case may be, the amount of the payment (if any) to which he was entitled under section 14(5) of the principal Act for that period.
- (6) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section nor be taken into account under subsection (2) (b) above if—
- (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the conduct, or

- (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy concerned.
- (7) Where, by reason of conduct falling within subsection (1) above,—
  - (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
  - (b) a person is assessed to a penalty under section 13 above,that conduct shall not also give rise to liability to a penalty under this section and shall not be taken into account under subsection (2)(b) above.
- (8) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

## **15 Failures to notify and unauthorised issue of invoices**

- (1) In any case where—
  - (a) a person fails to comply with any of paragraphs 3, 4 and 11(2) of Schedule 1 to the principal Act (duty to notify liability for registration or change in nature of supplies etc. by a person exempted from registration), or
  - (b) an unauthorised person issues an invoice showing an amount as being tax or as including an amount attributable to tax,he shall be liable, subject to subsections (4) and (5) below, to a penalty equal to 30 per cent, of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £50.
- (2) In subsection (1)(b) above, " an unauthorised person " means anyone other than—
  - (a) a person registered under the principal Act; or
  - (b) a body corporate treated for the purposes of section 29 of that Act as a member of a group ; or
  - (c) a person treated as a taxable person under regulations made under section 31(4) of that Act; or
  - (d) a person authorised to issue an invoice under regulations made under paragraph 2(6) of Schedule 7 to that Act; or
  - (e) a person acting on behalf of the Crown.
- (3) In subsection (1) above " relevant tax " means,—
  - (a) in relation to a person's failure to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act, the tax (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on the date on which the Commissioners received notification of, or otherwise discovered, his liability to be registered ; and
  - (b) in relation to a person's failure to comply with sub-paragraph (2) of paragraph 11 of Schedule 1 to the principal Act, the tax (if any) for which, but for any exemption from registration, he would be liable for the period beginning on the date of the change or alteration referred to in that sub-paragraph and ending on the date on which the Commissioners received notification of, or otherwise discovered, that change or alteration ; and

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- (c) in relation to the issue of such an invoice as is referred to in subsection (1) (b) above, the amount which is shown on the invoice as tax or which is to be taken as representing tax.
- (4) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for his conduct.
- (5) Where, by reason of conduct falling within subsection (1) above,—
  - (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
  - (b) a person is assessed to a penalty under section 13 above,
 that conduct shall not also give rise to liability to a penalty under this section.
- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sum for the time being specified in subsection (1) above such other sum as appears to them to be justified by the change.
- (7) An order under subsection (6) above shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.
- (8) A statutory instrument under subsection (6) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## **16 Breaches of walking possession agreements**

- (1) This section applies where—
  - (a) in accordance with regulations under paragraph 6(4) of Schedule 7 to the principal Act, a distress is authorised to be levied on the goods and chattels of a person (in this section referred to as a " person in default") who has refused or neglected to pay any tax due or any amount recoverable as if it were tax due; and
  - (b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a " walking possession agreement" means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
  - (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession ; and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the tax or other amount referred to in subsection (1)(a) above.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the breach in question.

(5) This section does not extend to Scotland.

## **17 Breaches of regulatory provisions**

- (1) If any person fails to comply with a requirement imposed under—
- (a) paragraph 7 of Schedule 1 to the principal Act (notification of cessation of taxable supplies), or
  - (b) paragraph 7(1) or paragraph 8 of Schedule 7 to that Act (records and information, etc.), or
  - (c) any regulations or rules made under that Act, other than rules made under paragraph 9 of Schedule 8 thereto (procedural rules for tribunals),
- he shall be liable, subject to subsections (9) and (10) and section 21(6) below, to a daily penalty at the prescribed rate for each day on which the failure continues.
- (2) If any person fails to comply with a requirement to preserve records imposed under paragraph 7(2) of Schedule 7 to the principal Act, he shall be liable, subject to the following provisions of this section, to a penalty of £500.
- (3) Subject to subsection (4) below, in relation to a failure to comply with any such requirement as is referred to in subsection (1) above, the prescribed rate shall be determined by reference to the number of occasions in the period of two years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be,—
- (a) if there has been no such previous occasion in that period, £10;
  - (b) if there has been only one such occasion in that period, £20; and
  - (c) in any other case, £30.
- (4) For the purposes of subsection (3) above—
- (a) a failure to comply with any such requirement as is referred to in subsection (1) above shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 19 below ;
  - (b) a previous failure to comply with any such requirement shall be disregarded if it occurred before the passing of this Act;
  - (c) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began ;
  - (d) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
  - (e) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of tax, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the tax due in respect of any period within the time required by regulations under section 14(1) of the principal Act, or
  - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 7 to that Act,
- the failure shall be disregarded for the purposes of that subsection and subsections (3) and (4) above unless it begins on or after the day appointed under section 12(8) above

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but, subject to that, in relation to such a failure the prescribed rate shall be whichever is the greater of that which is appropriate under paragraphs (a) to (c) of subsection (3) above and an amount equal to one-sixth, one-third or one-half of 1 per cent, of the tax due in respect of that period, the appropriate fraction being determined according to whether paragraph (a), paragraph (b) or paragraph (c) of subsection (3) above is applicable.

- (6) For the purposes of subsection (5) above, the tax due,—
- (a) if the person concerned has furnished a return, shall be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) in any other case, shall be taken to be such tax as has been assessed for that period and notified to him under paragraph 4(1) of Schedule 7 to the principal Act.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sums for the time being specified in subsection (2) and paragraphs (a) to (c) of subsection (3) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A statutory instrument made under subsection (7) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) A failure by any person to comply with any such requirement as is referred to in subsection (1) or subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the failure ; and a failure in respect of which the Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.
- (10) Where, by reason of conduct falling within subsection (1) or subsection (2) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
  - (b) a person is assessed to a penalty under section 13 or section 14 above, or
  - (c) a person is assessed to a surcharge under section 19 below,
- that conduct shall not also give rise to liability to a penalty under this section.

#### *Interest, surcharges and supplements*

### **18 Interest on tax etc. recovered or recoverable by assessment**

- (1) Subject to section 21(6) below, where an assessment is made under any provision of paragraph 4 of Schedule 7 to the principal Act and, in the case of an assessment under subparagraph (1) of that paragraph, at least one of the following conditions is fulfilled, namely,—
- (a) the assessment relates to a prescribed accounting period in respect of which either—
    - (i) a return has previously been made, or

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- (ii) an earlier assessment has already been notified to the person concerned,
  - (b) the assessment relates to a prescribed accounting period which exceeds three months and begins on the date with effect from which the person concerned was, or was required to be, registered,
  - (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under paragraph 11(1)(a) of Schedule 1 to the principal Act,

the tax or other amount assessed shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (2) In any case where—
  - (a) a person fails to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act (notification of liability to registration) or, being a person exempted from registration under sub-paragraph (1)(a) of paragraph 11 of that Schedule, fails to comply with sub-paragraph (2) of that paragraph (notice of circumstances affecting entitlement to exemption), and
  - (b) the Commissioners, rather than assessing the amount of tax due, require him to make a return for the period beginning on the date with effect from which he was required to be registered or, as the case may be, on which it appears to the Commissioners that he should no longer have been exempt from registration and ending on a date specified by the Commissioners, and
  - (c) that period exceeds three months, and
  - (d) the tax due for that period is paid without the need for an assessment. that tax shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (3) If, in a case where subsection (2) above does not apply,—
  - (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
  - (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),

that tax or other amount shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until the date on which it was paid.
- (4) Where the amount assessed or paid as mentioned in any of subsections (1) to (3) above relates to a particular prescribed accounting period which does not exceed three months, interest under this section shall run on the whole of that amount from the reckonable date.
- (5) Where subsection (4) above does not apply, the Commissioners shall, to the best of their judgment, attribute different parts of the amount assessed or paid to different parts of the period to which that amount relates; and interest under this section on the part of an amount which is attributed to a particular part of a period shall run from the date which, if that part were a prescribed accounting period, would be the reckonable date.
- (6) Where an unauthorised person, as defined in section 15(2) above, issues an invoice showing an amount as being tax or as including an amount attributable to tax, the amount which is shown as tax or, as the case may be, is to be taken as representing tax shall carry interest at the prescribed rate from the date of the invoice until payment.
- (7) The references in subsections (4) and (5) above to the reckonable date shall be construed as follows—

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- (a) where the amount assessed or paid is such an amount as is referred to in sub-paragraph (2)(a) or sub-paragraph (2)(b) of paragraph 4 of Schedule 7 to the principal Act (incorrect repayment of tax or payment in respect of excess credit), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
- (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under the principal Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates ; and
- (c) in the case of an amount assessed under paragraph 4(6) of Schedule 7 to the principal Act (assessments in respect of goods which cannot be accounted for) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;

and interest under this section shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the Bills of Exchange Act 1882.

- (8) In this section " the prescribed rate " means such rate as may be prescribed by order made by the Treasury; and such an order—
  - (a) may prescribe different rates for different purposes;
  - (b) shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) Interest under this section shall be paid without any deduction of income tax.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint and any reference in this section to a prescribed accounting period is a reference to a period which begins on or after the day so appointed.

## **19 The default surcharge**

- (1) If, by the last day on which a taxable person is required in accordance with regulations under the principal Act to furnish a return for a prescribed accounting period, being a day falling on or after the day appointed under subsection (10) below,—
  - (a) the Commissioners have not received that return, or
  - (b) the Commissioners have received that return but have not received the amount of tax shown on the return as payable by him in respect of that period,
 then that person shall be regarded for the purposes of this section as being in default in respect of that period.
- (2) Subject to subsections (8) and (9) below, subsection (4) below applies in any case where—
  - (a) a taxable person is in default in respect of any two prescribed accounting periods; and
  - (b) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one ; and



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- (c) the Commissioners serve notice on the taxable person (in this section referred to as a " surcharge liability notice ") specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the later period referred to in paragraph (b) above and beginning, subject to subsection (3) below, on the date of the notice.
- (3) If a surcharge liability notice is served by reason of defaults in respect of two prescribed accounting periods and the second of those periods ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (6) to (9) below, if a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, he shall be liable to a surcharge equal to whichever is the greater of—
- (a) the specified percentage of his outstanding tax for that period; and
  - (b) £30;
- and the reference in paragraph (a) above to a person's outstanding tax for a prescribed accounting period is a reference to so much of the tax for which he is liable in respect of that period as has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period.
- (5) Subject to subsections (6) to (9) below, the specified percentage referred to in subsection (4) (a) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period, so that,—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 5 per cent.;
  - (b) in relation to the second such period, the specified percentage is 10 per cent.;
  - and
  - (c) in relation to each subsequent such period the specified percentage is increased by a further 5 per cent, up to a maximum of 30 per cent, for the sixth and any later period.
- (6) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a value added tax tribunal that, in the case of a default which is material to the surcharge,—
- (a) the return or, as the case may be, the tax shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or tax not having been so despatched,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (7) For the purposes of subsection (6) above, a default is material to a surcharge if—

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- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge ; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (8) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within subsection (1) of section 17 above, and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (9) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

## **20 Repayment supplement in respect of certain delayed payments**

- (1) In any case where—
- (a) a person is entitled to a payment under section 14(5) of the principal Act in respect of a prescribed accounting period, and
  - (b) the return for that period which is required in accordance with regulations under the principal Act is received by the Commissioners not later than one month after the last day on which, in accordance with those regulations, it is required to be furnished, and
  - (c) a written instruction directing the making of the payment due under the said section 14(5) is not issued by the Commissioners within the period of thirty days beginning on the day following the end of that prescribed accounting period or, if it is later, on the date of the receipt by the Commissioners of the return referred to in paragraph (b) above, and
  - (d) the amount shown on that return as due by way of payment under the said section 14(5) is not more than £100 in excess of the payment which was in fact due,
- the amount which, apart from this section, would be due by way of that payment shall be increased by the addition of a supplement equal to 5 per cent, of that amount or £30, whichever is the greater.
- (2) Regulations may provide that, in computing the period of thirty days referred to in subsection (1)(c) above, there shall be left out of account periods determined in accordance with the regulations and referable to—
- (a) the raising and answering of any reasonable inquiry relating to the return referred to in subsection (1)(b) above,
  - (b) the correction by the Commissioners of any errors or omissions in that return,
  - (c) any such continuing failure to submit returns or pay tax as is referred to in section 14(7) of the principal Act, and

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- (d) compliance with any such condition as is referred to in paragraph 5(1) of Schedule 7 to that Act (production of documents or giving of security as a condition of payment).
- (3) Except for the purpose of determining the amount of the supplement, a supplement paid to any person under subsection (1) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act.
- (4) This section shall have effect with respect to any prescribed accounting period ending on or after such day as the Treasury may by order made by statutory instrument appoint.
- (5) If the Treasury by order made by statutory instrument so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of thirty days referred to in subsection (1)(c) above.

*Assessments, records and information*

**21 Assessment of amounts due by way of penalty, interest or surcharge**

- (1) Where any person is liable—
  - (a) to a penalty under any of sections 13 to 17 above, or
  - (b) for interest under section 18 above, or
  - (c) to a surcharge under section 19 above,the Commissioners may assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 13 to 17 above may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.
- (2) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as "the relevant period",—
  - (a) in the case of a penalty under section 13 above relating to the evasion of tax, the relevant period is the prescribed accounting period for which the tax evaded was due;
  - (b) in the case of a penalty under section 13 above relating to the obtaining of a payment under section 14(5) of the principal Act, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
  - (c) in the case of a penalty under section 14 above, the relevant period is the prescribed accounting period for which liability to tax was understated or, as the case may be, for which entitlement to a payment under section 14(5) of the principal Act was overstated ;
  - (d) in the case of interest under section 18 above, the relevant period is the prescribed accounting period in respect of which the tax (or amount assessed as tax) was due; and
  - (e) in the case of a surcharge under section 19 above, the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises.

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- (3) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to tax which was not paid at the time it should have been and that tax (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of the principal Act and this Part of this Act as tax due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the tax and penalty, interest or surcharge.
- (4) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (2) above and is also assessed under sub-paragraph (1), sub-paragraph (2) or sub-paragraph (6) of paragraph 4 of Schedule 7 to the principal Act for the prescribed accounting period which is the relevant period under subsection (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.
- (5) In the case of an amount due by way of penalty under section 17 or interest under section 18 above—
  - (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated; and
  - (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (6) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 17 above or for interest under section 18 above,—
  - (a) a failure falling within section 17(1) above is remedied, or
  - (b) the tax or other amount referred to in section 18(1) above is paid,it shall be treated for the purposes of section 17 or, as the case may be, section 18 above as remedied or paid on the date specified as mentioned in subsection (5)(a) above.
- (7) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were tax due from him.
- (8) Sub-paragraph (10) of paragraph 4 of Schedule 7 to the principal Act (notification to personal representatives etc.) shall apply for the purposes of this section as it applies for the purposes of that paragraph.

## **22 Assessments: time limits and supplementary assessments**

- (1) Subject to the following provisions of this section, an assessment—
  - (a) under any provision of paragraph 4 of Schedule 7 to the principal Act, or
  - (b) under section 21 above,shall not be made more than six years after the end of the prescribed accounting period or importation concerned or, in the case of an assessment under section 21 above of an amount due by way of a penalty which is not among those referred to in subsection (2) of that section, six years after the event giving rise to the penalty.
- (2) Subject to subsection (5) below, an assessment under section 21 above of an amount due by way of any penalty, interest or surcharge referred to in subsection (2) of that

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section may be made at any time before the expiry of the period of two years beginning when the amount of tax due for the prescribed accounting period concerned has been finally determined.

- (3) In relation to an assessment under section 21 above, any reference in subsection (1) or subsection (2) above to the prescribed accounting period concerned is a reference to that period which, in the case of the penalty, interest or surcharge concerned, is the relevant period referred to in subsection (2) of that section.
- (4) Subject to subsection (5) below, if tax has been lost—
  - (a) as a result of conduct falling within section 13(1) above or for which a person has been convicted of fraud, or
  - (b) in circumstances giving rise to liability to a penalty under section 15 above, an assessment may be made as if, in subsection (1) above, each reference to six years were a reference to twenty years.
- (5) Where, after a person's death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge,—
  - (a) the assessment shall not be made more than three years after the death ; and
  - (b) if the circumstances are as set out in subsection (4) above, the modification of subsection (1) above contained in that subsection shall not apply but any assessment which (from the point of view of time limits) could have been made immediately after the death may be made at any time within three years after it.
- (6) Sub-paragraphs (7) and (8) of paragraph 4 of Schedule 7 to the principal Act (which are superseded by the preceding provisions of this section) shall cease to have effect.
- (7) If, otherwise than in circumstances falling within subparagraph (5) (b) of paragraph 4 of Schedule 7 to the principal Act (further evidence relating to an assessment under subparagraph (1) or sub-paragraph (2) of that paragraph), it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that paragraph or under section 21 above exceeds the amount which was so assessed, then,—
  - (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made, the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

## **23 Amendments of Schedule 7 to the principal Act**

Schedule 7 to the principal Act (administration, collection and enforcement) shall be amended in accordance with Schedule 7 to this Act.

### *Appeals*

## **24 Amendments of section 40 of the principal Act**

- (1) In section 40 of the principal Act (appeals), at the end of subsection (1) (decisions which are appealable) there shall be added the following paragraphs—

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- “(o) any liability to a penalty or surcharge by virtue of any of sections 13 to 17 and 19 of the Finance Act 1985;
- (p) the amount of any penalty, interest or surcharge specified in an assessment under section 21 of that Act;
- (q) the making of an assessment on the basis set out in section 22(4) of that Act.”

(2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Without prejudice to section 13(4) of the Finance Act 1985, nothing in subsection (Dip) above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 13 to 19 of that Act.”

(3) In subsection (2) of that section (appeals not to be entertained unless all required returns have been made and the amounts payable have been paid) after the word " and " there shall be inserted " except in the case of an appeal against a decision with respect to the matter mentioned in subsection (1)(n) above, unless he".

(4) In subsection (3) of that section, for the words "paragraph (b) or (m) " there shall be substituted " any of paragraphs (b), (m), (o) and (p)".

(5) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) Where, on an appeal against a decision with respect to any of the matters mentioned in paragraph (m) above,—

(a) it is found that the amount specified in the assessment is less than it ought to have been, and

(b) the tribunal gives a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.”

## **25 Settling appeals by agreement**

(1) Subject to the provisions of this section, where a person gives notice of appeal under section 40 of the principal Act and, before the appeal is determined by a value added tax tribunal, the Commissioners and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated—

- (a) as upheld without variation, or
- (b) as varied in a particular manner, or
- (c) as discharged or cancelled,

the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement (including any terms as to costs).

(2) Subsection (1) above shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioners that he desires to repudiate or resile from the agreement.

(3) Where an agreement is not in writing—

- (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Commissioners to the appellant or by the appellant to the Commissioners; and
  - (b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.
- (4) Where
- (a) a person who has given a notice of appeal notifies the Commissioners, whether orally or in writing, that he desires not to proceed with the appeal; and
  - (b) thirty days have elapsed since the giving of the notification without the Commissioners giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,
- the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the Commissioners had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.
- (5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

## **26 Certain appeals to lie directly to the Court of Appeal**

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal as may be prescribed by the order, and
  - (b) subject to the consent of the parties and to such other conditions as may be so prescribed,
- an appeal from a value added tax tribunal shall lie to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that section 13 of the Tribunals and Inquiries Act 1971 (which provides for appeals to the High Court from, among other tribunals, a value added tax tribunal) shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order ; and
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) This section does not extend to Scotland.

## **27 Procedural rules governing appeals**

- (1) On an appeal against an assessment to a penalty under section 13 above, the burden of proof as to the matters specified in paragraphs (a) and (b) of subsection (1) of that section shall lie upon the Commissioners.
- (2) Paragraph 9 of Schedule 8 to the principal Act (rules with respect to procedure to be followed on appeals to value added tax tribunals) shall be amended as follows—
- (a) after the words " on appeals to " there shall be inserted " and in other proceedings before";

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- (b) in paragraph (d) the words " and produce documents " shall be omitted;
  - (c) at the end of paragraph (d) there shall be inserted the following paragraph—
    - “(dd) for discovery and for requiring persons to produce documents”; and
  - (d) at the end of paragraph (e) there shall be added the words " or producing documents".
- (3) On and after such day as the Lord Chancellor may by order made by statutory instrument appoint—
- (a) the power to make rules under paragraph 9 of Schedule 8 to the principal Act shall be exercisable by the Lord Chancellor, after consultation with the Lord Advocate, instead of by the Commissioners;
  - (b) any rules under that paragraph which are in force immediately before the day appointed under this subsection shall have effect as if made as mentioned in paragraph (a) above ; and
  - (c) a statutory instrument by which the power referred to in paragraph (a) above is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In section 45 of the principal Act (orders, rules and regulations) in subsection (2) (statutory instruments to be subject to annulment by the Commons House of Parliament) after the words " subsection (3) below" there shall be inserted " and section 27(3)(c) of the Finance Act 1985".

#### *Miscellaneous*

### **28 Penalty for failure to comply with directions etc. of tribunal**

At the end of paragraph 9 of Schedule 8 to the principal Act (procedural rules for tribunals) there shall be added the following paragraph—

- “10 (1) A person who fails to comply with a direction or summons issued by a value added tax tribunal under rules made under paragraph 9 above shall be liable to a penalty not exceeding £1000.
- (2) A penalty for which a person is liable by virtue of sub-paragraph (1) above may be awarded summarily by a tribunal notwithstanding that no proceedings for its recovery have been commenced.
- (3) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of a penalty under this paragraph, and on such an appeal the court may either confirm or reverse the decision of the tribunal or reduce or increase the sum awarded.
- (4) A penalty awarded by virtue of this paragraph shall be recoverable as if it were tax due from the person liable for the penalty.”

### **29 Enforcement of certain decisions of tribunal**

- (1) If the decision of a value added tax tribunal in England and Wales on an appeal under section 40 of the principle Act is registered by the Commissioners in accordance with rules of court, payment of—



- (a) any amount which, as a result of the decision, is, or is recoverable as, tax due from any person, and
  - (b) any costs awarded to the Commissioners by the decision,may be enforced by the High Court as if that amount or, as the case may be, the amount of those costs were an amount due to the Commissioners in pursuance of a judgment or order of the High Court.
- (2) If the decision of a value added tax tribunal in Scotland on an appeal under section 40 of the principal Act—
  - (a) confirms or varies an amount which is, or is recoverable as, tax due from any person, or
  - (b) awards costs to the Commissioners,the decision may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.
- (3) Subsection (4) below shall apply in relation to the decision of a value added tax tribunal in Northern Ireland on an appeal under section 40 of the principal Act where—
  - (a) any amount is, or is recoverable as, tax due from any person, as a result of the decision, whether with or without an award of costs to the Commissioners ; or
  - (b) any costs are awarded to the Commissioners by the decision.
- (4) Where this subsection applies—
  - (a) payment of the amount mentioned in paragraph (a) of subsection (3) above or, as the case may be, the amount of the costs mentioned in paragraph (b) of that subsection may be enforced by the Enforcement of Judgments Office; and
  - (b) a sum equal to any such amount shall be deemed to be payable under a money judgment within the meaning of Article 2(2) of the Judgments Enforcement (Northern Ireland) Order 1981, and the provisions of that Order shall apply accordingly.
- (5) Any reference in this section to a decision of a value added tax tribunal includes a reference to an order (however described) made by a tribunal for giving effect to a decision.

### **30 Appointments to and administration of tribunals**

- (1) Schedule 8 to this Act shall have effect with respect to appointments to and the administration of value added tax tribunals.
- (2) This section shall come into operation on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) No provision of Schedule 8 to this Act shall affect the appointment of any person who, immediately before that provision comes into operation, holds office as President, or as a chairman or other member of value added tax tribunals.

### **31 Insolvency**

At the end of subsection (4) of section 31 of the principal Act (power by regulations to make provisions for persons who carry on a business of a taxable person who has become bankrupt or incapacitated etc.) there shall be added the following subsection—

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“(5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or incapacitated shall be construed as a reference to its being in liquidation or receivership or to an administration order being in force in relation to it.”

## **32 Refund of tax in cases of bad debts**

(1) For section 22 of the principal Act there shall be substituted the following section—

### **“22 Refund of tax in cases of bad debts.**

(1) Where

- (a) a person has supplied goods or services for a consideration in money and has accounted for and paid tax on that supply; and
- (b) the person liable to pay any outstanding amount of the consideration has become insolvent,

then, subject to subsections (4) and (5) below and to regulations under this section, the first-mentioned person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of tax chargeable by reference to the outstanding amount

(2) An individual becomes insolvent for the purposes of this section if—

- (a) in England and Wales, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors, a composition or scheme proposed by him is approved under Chapter I of Part III of the Insolvency Act 1985 or, after his death, his estate falls to be administered in accordance with an order under Part IV of that Act;
- (b) in Scotland, sequestration of his estate is awarded, he signs a trust deed for his creditors or, after his death, a judicial factor is appointed under section 11A of the Judicial Factors (Scotland) Act 1889 to administer his estate;
- (c) in Northern Ireland, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors, a resolution of his creditors is approved by the court under section 5 of the Bankruptcy Amendment Act (Northern Ireland) 1929 or, after his death, the court makes an order for the administration in bankruptcy of his estate; or
- (d) in the Isle of Man, he is adjudged bankrupt, a deed of arrangement is made for the benefit of his creditors or, after his death, the court makes an order for the administration in bankruptcy of his estate.

(3) A company becomes insolvent for the purposes of this section if—

- (a) it goes into liquidation in the United Kingdom or the Isle of Man at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up ; or
- (b) a person who has been appointed in Great Britain to act as its administrator or administrative receiver issues a certificate of his opinion that, if it went into liquidation, the assets of the company would be insufficient to cover the payment of any dividend in respect of debts which are neither secured nor preferential.

(4) A person shall not be entitled to a refund under this section unless—

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- (a) the value of the supply is equal to or less than its open market value; and
  - (b) in the case of a supply of goods, the property in the goods has passed to the person to whom they were supplied or to a person deriving title from, through or under that person.
- (5) A person shall not be entitled to a refund under this section in a case where the insolvency arises otherwise than by virtue of such a certificate as is mentioned in subsection (3) (b) above unless he has proved in the insolvency for the requisite amount, that is to say, the outstanding amount of the consideration less the amount of his claim.
- (6) If regulations under this section so provide in relation to insolvencies of any description, this section shall have effect in relation to insolvencies of that description as if—
  - (a) subsection (5) above were omitted ; or
  - (b) the reference in that subsection to proving in the insolvency for the requisite amount were a reference to the taking of the prescribed steps in relation to that amount.
- (7) Regulations under this section may—
  - (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations ;
  - (b) require a claim to be evidenced and quantified by reference to such records and other documents preserved for such period, not exceeding six years from the making of the claim, as may be so specified;
  - (c) make provision for determining what amount (if any) is the outstanding amount of the consideration in particular cases, such as those involving part payment or mutual debts;
  - (d) require the repayment of a refund under this section where any requirement of the regulations is not complied with ;
  - (e) require the repayment of such a refund where the claimant subsequently proves for or takes the prescribed steps in relation to an amount which (taken with the amount for which he has previously proved or in relation to which he has previously taken the prescribed steps) exceeds the requisite amount; and
  - (f) make different provision for different circumstances.
- (8) In this section "administrative receiver" has the same meaning as in Part II of the Insolvency Act 1985 and references to an individual include, in relation to Scotland, references to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985."
- (2) This section applies where the person liable to pay the outstanding amount of the consideration becomes insolvent on or after such day as the Treasury may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.

### **33 Interpretation and construction of Chapter II**

- (1) In this Chapter " the principal Act" means the Value Added Tax Act 1983.

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- (2) For the purpose of any provision of this Chapter which refers to a reasonable excuse for any conduct,—
- (a) an insufficiency of funds to pay any tax due is not a reasonable excuse; and
  - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.
- (3) In relation to a prescribed accounting period, any reference in this Chapter to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from tax due.
- (4) In any case where—
- (a) an amount is due from the Commissioners to any person under section 14(5) of the principal Act, and
  - (b) that person is liable to pay a sum assessed by way of penalty, interest or surcharge,
- the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.
- (5) This Chapter shall be construed as one with the principal Act except that—
- (a) references in section 39(9) of that Act (application of certain provisions to offences and penalties) to penalties do not include references to penalties under sections 13 to 17 above ; and
  - (b) section 45 of that Act (orders, rules and regulations) does not apply in relation to orders under any provision of this Chapter.

## PART II

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

## CHAPTER I

### GENERAL

#### **34 Charge of income tax for 1985-86**

Income tax for the year 1985-86 shall be charged at the basic rate of 30 per cent.; and in respect of so much of an individual's total income as exceeds the basic rate limit (£16,200) at such higher rates as are specified in the Table below:

TABLE

<i>Higher rate bands</i>	<i>Higher rate</i>
The first (£3,000)	40 per cent.
The second (£5,200)	45 per cent.
The third (£7,900)	50 per cent.

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<i>Higher rate bands</i>	<i>Higher rate</i>
The fourth (£7,900)	55 per cent.
The fifth	60 per cent.

and paragraphs (a) and (b) of subsection (1) of section 32 of the Finance Act 1971 (charge of tax at the basic and higher rates) shall have effect accordingly.

### **35 Rate of advance corporation tax for financial year 1985**

The rate of advance corporation tax for the financial year 1985 shall be three-sevenths.

### **36 Personal reliefs**

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1985-86.
- (2) In section 8 of the Taxes Act (personal reliefs)—
  - (a) in subsection (1)(a) (married) for " £3,155 " there shall be substituted " £3,455";
  - (b) in subsections (1)(b) (single) and (2) (wife's earned income relief) for " £2,005 " there shall be substituted " £2,205";
  - (c) in subsection (1A) (age allowance) for "£3,955 " and "£2,490" there shall be substituted " £4,255 " and " £2,690 " respectively ; and
  - (d) in subsection (1B) (income limit for age allowance) for " £8,100 " there shall be substituted " £8,800".

### **37 Relief for interest**

- (1) For the year 1985-86 the qualifying maximum referred to in paragraphs 5(1) and 24(3) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) shall be £30,000.
- (2) In paragraph 5 of Schedule 7 to the Finance Act 1982 (loans over the tax relief limit) in sub-paragraph (2) (which excludes interest on such loans unless the qualifying lender has given notice to bring them within the deduction scheme) after the word " unless " there shall be inserted—
  - “(a) the loan is made on or after 6th April 1987 ; or
  - (b)”.
- (3) In sub-paragraph (4) of the said paragraph 5 (interest on a limited loan can be relevant interest only to the extent that it qualifies for tax relief) for the words " notice has been given as mentioned in sub-paragraph (2) above" there shall be substituted " the condition in paragraph (a) or paragraph (b) of subparagraph (2) above is fulfilled".
- (4) In paragraph 14(2) of the said Schedule 7 (power by order to prescribe qualifying lenders for the purposes of the deduction scheme) for the words from " with effect" onwards there shall be substituted " with effect from such date as may be so specified".

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### **38 Interest paid on deposits with banks etc.**

- (1) Schedule 8 to the Finance Act 1984 (interest paid on deposits with banks etc.) shall be amended as follows.
- (2) In paragraph 2 (meaning of "deposit-taker"), for the word " section ", in paragraph (f) of sub-paragraph (1), there shall be substituted the word " sub-paragraph " and for subparagraph (2) there shall be substituted the following subparagraph—
- “(2) An order under sub-paragraph (1)(f) above may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order”.
- (3) In paragraph 3(2), after paragraph (a) (person beneficially entitled to interest must be an individual), there shall be inserted the following paragraph—
- “(ad) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals ; or”.
- (4) In paragraph 3(3) (deposits which are not relevant deposits), the following paragraphs shall be inserted after paragraph (d)—
- “(dd) it is a general client account deposit;
- “(ddd) it forms part of a premiums trust fund (within the meaning of paragraph 16 of Schedule 10 to the Taxes Act) of an underwriting member of Lloyd's”.
- (5) In paragraph 3, after sub-paragraph (4), there shall be inserted the following sub-paragraph—
- “(4A) A declaration under sub-paragraph (3)(h) shall be in such form as may be prescribed or authorised, and; contain such information as may reasonably be required, by the Board”.
- (6) In paragraph 3(8) (interpretation), the following definition shall be inserted after the definition of " appropriate person " —
- “'general client account deposit' means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account”.
- (7) After paragraph 3 there shall be inserted the following paragraph—
- “3A (1) The Treasury may by order made by statutory instrument make amendments in this Schedule providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-taker as may be so specified.
- (2) The Board may by regulations made by statutory instrument make provision—
- (a) requiring any declaration under paragraph 3 (3)(h)(ii) above which does not give the address of the person making it, to be supported by a certificate given by the deposit-taker concerned—

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- (i) in such form as may be prescribed or authorised by the Board ; and
  - (ii) containing such information as may reasonably be required by the Board ; and
- (b) generally for giving effect to the principal section and this Schedule.
- (3) Any order or regulations made under this paragraph may contain such incidental and consequential provision as appears to the Treasury or, as the case may be, Board to be appropriate.
- (4) A statutory instrument made in the exercise of the power conferred by this paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (8) Subject to paragraph 6(1) of Schedule 8 to the Finance Act 1984 (deposits denominated in a foreign currency not to be treated as relevant deposits before 6th April 1986), subsections (3), (4) and (6) above apply in relation to payments of interest made or credited after 5th April 1985.
- (9) There shall be made such assessments, or reductions of assessments, or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsections (3), (4), (6) and (8) above.
- (10) The words " Regulations under paragraph 3A of Schedule 8 to the Finance Act 1984 " shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.).

### **39 Group relief: modifications**

- (1) Section 258 and the following sections of Chapter I of Part XI of the Taxes Act (the enactments relating to group relief) shall have effect subject to Part I of Schedule 9 to this Act.
- (2) Section 263 of the Taxes Act (exclusion of double allowances etc.) shall be amended in accordance with Part II of Schedule 9 to this Act and in that Part—
  - (a) paragraphs 9, 10 and 13 have effect in relation to any claim with respect to an accounting period of the surrendering company which begins on or after 1st August 1985; and
  - (b) paragraphs 11 and 12 have effect in relation to any claim with respect to an accounting period of the claimant company which begins on or after that date.
- (3) In subsection (2) above " the surrendering company " and " the claimant company " have the meaning assigned by section 258 of the Taxes Act.

### **40 Building societies**

- (1) Section 343 of the Taxes Act (arrangements for building societies to account for tax on dividends and interest etc.) shall be amended in accordance with this section.
- (2) In subsection (1), after the words " year of assessment" there shall be inserted " ending before 6th April 1986".
- (3) After subsection (1) there shall be inserted the following subsections—

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“(1A) The Board may by regulations made by statutory instrument make provision with respect to the year 1986-87 and any subsequent year of assessment requiring building societies, on such sums as may be determined in accordance with the regulations, to account for and pay an amount representing income tax calculated in part at the basic rate and in part at the reduced rate determined for the year of assessment concerned under section 26(1)(a) of the Finance Act 1984; and any such regulations may contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.

(1B) A statutory instrument made in the exercise of the power conferred by subsection (1A) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”

- (4) In subsection (2), for the words from the beginning to " this section" there shall be substituted " For any year of assessment to which regulations under subsection (1A) above apply "; for the words " the society ", in the first place where they occur, there shall be substituted " a building society " ; in paragraph (a) for the words " total profits of the society " there shall be substituted " income of the society from the trade carried on by it " ; and in paragraph (b) the words from " except that" to the end shall be omitted.
- (5) In subsection (3), for the words preceding paragraph (a) there shall be substituted " Except in so far as regulations under subsection (1A) above otherwise provide, for any year of assessment to which such regulations apply"; in paragraph (a) for the words " that society " there shall be substituted " a building society " ; and paragraphs (iii) and (iv) of the proviso shall be omitted.
- (6) In subsection (4), for the words from the beginning to "this Act" there shall be substituted " Notwithstanding anything in Part II of this Act, for any year of assessment to which regulations under subsection (1A) above apply " and for the words " the society" there shall be substituted " a building society".
- (7) In subsection (7), for the words following " dividend " there shall be substituted " has the meaning assigned to it by regulations under subsection (1A) above".
- (8) Subsections (6), (8A), (8B) and (9) shall be omitted.
- (9) Subsections (4) to (8) above have effect for the year 1986-87 and subsequent years of assessment.
- (10) The Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.) shall be amended as follows—
  - (a) in the first column, after the words " Schedule 6, paragraph 10 ", and
  - (b) in the second column, after the words " Regulations under section 204 of the principal Act," there shall, in each case, be inserted " Regulations under section 343(1 A) of the principal Act".

#### **41 Friendly societies**

- (1) In section 64 of the Friendly Societies Act 1974 (maximum benefits for members of friendly societies) at the end of subsection (2) there shall be added the following subsections—



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“(2A) In applying the limits in this section in accordance with section 73(6)(b) of the Finance Act 1984 (that is to say, in relation to the aggregate of the benefits secured by contracts made after 13th March 1984 and those secured by contracts made on or before that day), any contract for an annuity which was made before 1st June 1984 by a new society, as defined in section 337(3) of the Income and Corporation Taxes Act 1970, shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent, of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of seventy-five years.

(2B) If, on or after 19th March 1985, a person becomes in breach of the limits in this section, the policy effected by that contract which causes those limits to be exceeded shall not be a qualifying policy, within the meaning of Part I of Schedule 1 to the Income and Corporation Taxes Act 1970; and in any case where—

- (a) the limits in this section are exceeded as a result of the aggregation of the sums assured under two or more contracts, and
- (b) at a time immediately before one of those contracts was entered into (but not immediately after it was entered into) the sums assured by the contract or contracts which were then in existence did not exceed the limits in this section,

only those policies effected by contracts made after that time shall be treated as causing the limits to be exceeded.”

(2) Section 64 of the Friendly Societies Act 1974 (as amended by subsection (1) above)—

- (a) shall have effect as if contained within sections 332 to 336 of the Taxes Act, instead of within the said Act of 1974; and
- (b) shall extend to Northern Ireland;

and in consequence of paragraph (b) above, section 55 of the Friendly Societies Act (Northern Ireland) 1970 shall cease to have effect.

(3) With respect to life or endowment business carried on on or after 1st June 1984, section 333 of the Taxes Act (distinction between old and new societies) shall have effect with the omission—

- (a) in subsection (1), of paragraph (b) and the word " or " immediately preceding it; and
- (b) of subsections (2) and (3).

(4) With respect to—

- (a) policies issued in respect of insurances made on or after 19th March 1985, and
- (b) policies issued in respect of insurances made before that date which are varied on or after that date,

section 7(3) of the Friendly Societies Act 1974 (societies not entitled to registration if in breach of the statutory limits) shall not apply and for paragraph 3 of Schedule 1 to the Taxes Act (qualifying friendly society policies) there shall be substituted the paragraphs set out in Part I of Schedule 10 to this Act.

(5) Part II of Schedule 10 to this Act shall have effect with respect to policies issued in respect of insurances made on or after 1st June 1984 and before 19th March 1985; and,

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with respect to business carried on on or after 19th March 1985 by friendly societies which are not new societies,—

- (a) Part III of that Schedule shall have effect; and
  - (b) subsections (2) to (5) of section 335 of the Taxes Act (conditions for tax exempt business) shall not apply.
- (6) With respect to business carried on on or after 19th March 1985, section 334 of the Taxes Act (conditions for tax exempt business) shall be amended as follows—
- (a) in subsection (1) after the words " apply to " there shall be inserted " so much of the " and for the words from " unless " onwards there shall be substituted "as is attributable to a policy which, by virtue of section 64(2B) of the Friendly Societies Act 1974,—
    - (a) is not a qualifying policy ; and
    - (b) would not be a qualifying policy if all policies with other friendly societies were left out of account"; and
  - (b) in subsection (2), in paragraph (a) for the words " the payment of the first premium" there shall be substituted " the making of the insurance or, where the contract provides for the term to begin on a date not more than three months earlier than the making of the insurance, that date " and the words following paragraph (c) shall be omitted ;
  - (c) at the end of paragraph (a) of subsection (3) there shall be added the words " and, for the purposes of this paragraph, if the term begins on a date earlier than the making of the insurance, any premium paid in respect of a period before the making of the insurance, or in respect of that period and a subsequent period, shall be treated as having been payable on that date";
  - (d) at the end of paragraph (c) of subsection (4) there shall be added "and
    - (d) may make provision for the waiver of premiums by reason of a person's disability."
- (7) Section 337 of the Taxes Act (interpretation of provisions relating to registered friendly societies) shall be amended as follows—
- (a) in subsection (1) for the words following " interpretation of " there shall be substituted—
    - “(a) sections 332 to 336 above and the following provisions of this section,
    - (b) paragraphs 3 and 3A of Schedule 1 to this Act, and
    - (c) section 41 of and Parts II and III of Schedule 10 to the Finance Act 1985”;
  - (b) in subsection (2) (definition of " life or endowment business ") for the words from " within " to " period)" there shall be substituted " within any of paragraphs (1), (2), (4) and (5) of Schedule 1 to the Friendly Societies Act 1974 " );
  - (c) for paragraph (a) of subsection (2) there shall be substituted—
    - “(a) shall not include the issue of a policy affording provision for sickness or other infirmity (whether bodily or mental) unless—
      - (i) it also affords assurance for a gross sum independent of sickness or other infirmity; and

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- (ii) not less than sixty per cent, of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity ; and
    - (iii) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum”;
  - (d) in subsection (3) (general definitions) after the definition of " life assurance business " there shall be inserted—
    - “ new society ' means a friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business”;and after the words " said provisions " there shall be inserted " (including this subsection)";
  - (e) in subsection (4) (amalgamated societies) in paragraph (a) of the proviso for the words " a society not within section 333(1)(6) above" there shall be substituted " not a new society"; and
  - (f) in subsection (4), paragraph (b) of the proviso shall be omitted;and this subsection has effect with respect to business carried on on or after 19th March 1985 except that paragraphs (d) and (e) above also have effect with respect to business carried on on or after 1st June 1984.
- (8) In section 393 of the Taxes Act (the introductory provision to the " chargeable events " legislation affecting insurance policies, contracts for life annuities etc.) at the end of the definition of " life annuity " in subsection (3) there shall be added the words " and any annuity the contract for which is made on or after 1st June 1984 by a friendly society or branch thereof in the course of life or endowment business, as defined in section 337 of this Act".
- (9) Where, under section 395 or section 397 of the Taxes Act, a gain is to be treated as arising in connection with a policy issued by a friendly society in the course of tax exempt life or endowment business, section 399 of that Act (method of charging gain to tax) shall have effect in relation to the gain as if subsection (4) (exclusion of basic rate tax) were omitted.
- (10) In section 27 of the Finance Act 1974 (control of certain societies registered after 31st May 1973) in subsection (3) (notice of intention to withdraw certain tax advantages) for the words from " such date " onwards there shall be substituted " the date of the notice".

## **42 Relief for Class 4 contributions**

- (1) An individual making a claim in that behalf shall be entitled, in computing his total income for any year of assessment beginning on or after 6th April 1985, to deduct one-half of any amount (as finally settled) which is determined under subsection (2) of section 9 of the Social Security Act 1975 or of the Social Security (Northern Ireland) Act 1975 and which he is liable to pay in respect of that year by way of Class 4 contributions under either of those sections.
- (2) In paragraph 3(2) of Schedule 2 to each of those Acts, there shall be inserted after paragraph (e) “and
  - (f) section 42 of the Finance Act 1985 (relief for Class 4 contributions).”

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#### **43 Business entertaining expenses**

- (1) In subsection (8)(b) of section 411 of the Taxes Act (which limits expenses on gifts for which deductions may be made) for " £2 " there shall be substituted " £10".
- (2) This section applies to expenses incurred after 5th April 1985.

#### **44 Business expansion scheme**

- (1) Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades) shall be amended as follows.
- (2) The following paragraph shall be inserted after paragraph 2—

*“Modification of paragraph 2 for research and development companies*

- 2A (1) Where eligible shares in a company are issued for the purpose of enabling the company to raise money—
- (a) for research and development from which it intends to derive a qualifying trade which it will carry on; or
  - (b) both for any such research and development and for the resulting trade;

paragraph 2 above shall apply in relation to the company with the modifications set out in this paragraph.

- (2) For paragraph (b) of sub-paragraph (1) there shall be substituted—

“(b) those shares are issued to him for the purpose of raising money—

- (i) for research and development which is being carried on at the time when the shares are issued, or begins immediately thereafter, and from which the company intends to derive a qualifying trade which will be carried on by it; or
- (ii) both for any such research and development and the resulting trade.”

- (3) For sub-paragraph (4) there shall be substituted the following—

“(4) The relief shall be given on a claim and shall not be allowed unless and until the company has carried on the research and development for four months.”

- (4) In sub-paragraph (5), for the word ' trade ' there shall be substituted the words ' research and development '.

- (5) In sub-paragraph (7)(b), for the words from 'either' to the end there shall be substituted the words 'three years after that date'.”

- (3) In paragraph 6(2) (trades which are excluded from being qualifying trades) after the word " or " there shall be inserted the words " of property development or".
- (4) In paragraph 6, after sub-paragraph (2A), there shall be inserted the following sub-paragraph—

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- “(2AA) A trade shall not be treated as failing to comply with this paragraph by reason only that at any time after 19th March 1985 it consists to a substantial extent of receiving royalties or licence fees if—
- (a) the company carrying on the trade is engaged in research and development throughout the relevant period; and
  - (b) all royalties and licence fees received by it in that period are attributable to research and development which it has carried out.”
- (5) In paragraph 6(2B) (interpretation), the following definitions shall be inserted after the definition of " film " —
- “ 'property development' means the development of land, by a company which has, or at any time has had, an interest in the land, with the sole or main object of realising a gain from disposing of the land when developed ;
- ' 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—
- (a) 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
  - (b) in Scotland, the interest of a creditor in a charge or security of any kind over land.”
- (6) In paragraph 20(2) (interpretation) the following definition shall be inserted after the definition of " the relevant period " —
- “ 'research and development' means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program.”
- (7) Subsection (2) has effect in relation to shares issued on or after 6th April 1985 and subsections (3) and (5) have effect in relation to shares issued after 19th March 1985.

#### **45 Profit sharing schemes**

- (1) Chapter III of Part III of the Finance Act 1978 (profit sharing schemes) shall be amended in accordance with this section.
- (2) In subsection (6) of section 54 of that Act (definition of " the release date ") for the words " seventh anniversary " (which were substituted by section 46(4) of the Finance Act 1980) there shall be substituted " fifth anniversary".
- (3) In subsection (7) of that section (definition of " the appropriate percentage ")—
- (a) in paragraph (c)(i) for the words " sixth anniversary " there shall be substituted " fifth anniversary " and the final word " or " shall be omitted ; and
  - (b) paragraphs (c)(ii) and (d) shall be omitted.
- (4) In subsection (6) of section 56 of that Act (capital receipts in respect of scheme shares)
- (a) for " £140 " there shall be substituted " £100"; and
  - (b) for " 7 years " there shall be substituted " 5 years".

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- (5) The amendments made by subsection (4) above have effect for the year 1986-87 and subsequent years of assessment.

#### **46 Deep discount securities**

Schedule 11 to this Act (deep discount securities) shall have effect in relation to any deep discount security issued on or after 19th March 1985; and " deep discount security" and " issued " have the same meanings here as in that Schedule.

#### **47 Partnerships: basis of assessment**

- (1) This section applies where—
- (a) a trade, profession or vocation is carried on by persons in partnership,
  - (b) there is a change in those persons as a result of which section 154(1) of the Taxes Act treats the trade, profession or vocation as discontinued and a new trade, profession or vocation as set up and commenced, and
  - (c) a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be engaged in carrying it on in partnership immediately after the change, but no election is made under section 154(2) to disapply section 154(1).
- (2) In a case where this section applies, the Taxes Act shall have effect as if—
- (a) the section set out in subsection (3) below were substituted for section 116 (special basis at commencement), and
  - (b) section 117 (special basis for two years following commencement) were amended as mentioned in subsection (4) below.
- (3) The substitute for section 116 is this—

##### **“116 Special basis at commencement.**

The computation of the profits or gains chargeable to income tax under Case I or Case II of Schedule D for the year of assessment in which the new trade, profession or vocation is treated as having been set up and commenced, and for each of the three years of assessment following that year of assessment, shall be made on the full amount of the profits or gains arising in the year of assessment in question.”

- (4) The amendments of section 117 are these—
- (a) in subsection (1) for " second ", " third ", " next after " and "next but one after" there shall be substituted (respectively) " fifth " , " sixth " , " next but three after " and " next but four after " ;
  - (b) in subsections (2) and (3) for " second " and " third " there shall be substituted (respectively and throughout) " fifth " and " sixth " .
- (5) This section has effect in relation to any change which takes place after 19th March 1985 in the persons engaged in carrying on a trade, profession or vocation in partnership.

#### **48 Limited partners: restriction of reliefs**

- (1) Schedule 12 to this Act (restriction in case of limited partners and others of reliefs in respect of losses, interest and charges and of allowances for expenditure) shall have effect where the chargeable period—
  - (a) in which the loss in question is sustained or incurred, or the interest or charges in question paid, or
  - (b) for which the allowance in question falls to be made,begins after 19th March 1985.
- (2) That Schedule shall also have effect where that period begins on or before that date and ends after it if the person sustaining or incurring the loss or paying the interest or charges, or to whom the allowance falls to be made, begins after that date to carry on as a limited partner the trade—
  - (a) in which, or in connection with which, the loss is sustained or incurred or the interest or charges paid, or
  - (b) in taxing which, or by reason of participation in which, the allowance falls to be made,and it is immaterial whether or not he was carrying on the trade otherwise than as a limited partner on or before that date.

#### **49 Covenanted payments to charity: increase of exemption from excess tax liability**

- (1) In section 457 of the Taxes Act (settlements made on or after 7th April 1965) in subsection (1A) (covenanted payments to charity: first £5,000 exempt from excess liability) for " £5,000 " there shall be substituted " £10,000".
- (2) In Schedule 16 to the Finance Act 1972 (apportionment of income of close companies) in paragraph 5, in sub-paragraph (5A) (total income reduced by amount of covenanted payments to charities subject to the £5,000 limit) for " £5,000 " there shall be substituted " £10,000".
- (3) This section has effect for the year 1985-86 and subsequent years of assessment in relation to payments made after 5th April 1985.

#### **50 Agents acting for non-residents**

- (1) Section 78 of the Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsections (2) and (3) below, and the amendments made by those subsections shall have effect—
  - (a) for the year 1985-86 and subsequent years of assessment, in the case of profits or gains chargeable to income tax; and
  - (b) for accounting periods ending on or after 1st April 1985, in the case of profits or gains chargeable to corporation tax.
- (2) After the words " Subject to" there shall be inserted " subsection (2) below and".
- (3) At the end of the section there shall be inserted the following subsections—
  - “(2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—

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- (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
- (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and
- (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
- (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;

and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.

- (3) In subsection (2) above 'investment transactions' means—
- (a) transactions in shares, stock or securities of any other description, excluding commodity or financial futures,
  - (b) transactions on a recognised futures exchange, within the meaning of the Capital Gains Tax Act 1979, and
  - (c) the placing of money at interest,
- and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.
- (4) Subsection (2) above does not apply to profits or gains which constitute income of an offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984.
- (5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each others within the terms of section 533 of the principal Act.”

## **51 Offshore life assurance: chargeable events**

- (1) In Part III of Schedule 15 to the Finance Act 1984 (modifications of chargeable events legislation in relation to new non-resident policies and new offshore capital redemption policies) at the beginning of sub-paragraph (1) of paragraph 8 (reduction of gain so as to reflect only that part of the period of the policy during which the policy holder is resident in the United Kingdom) there shall be inserted the words " Subject to sub-paragraph (3) below".
- (2) At the end of sub-paragraph (2) of the said paragraph 8 there shall be inserted the following sub-paragraph—
- “(3) If, on the happening of the chargeable event referred to in sub-paragraph (1) above or at any time during the period referred to in paragraph (a) of that sub-paragraph, the policy is or was held by a trustee resident outside the United Kingdom or by two or more trustees any of whom is or was so resident, no reduction shall be made under that sub-paragraph unless—



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- (a) the policy was issued in respect of an insurance made on or before 19th March 1985 ; and
- (b) on that date the policy was held by a trustee who was so resident or, as the case may be, by two or more trustees any of whom was so resident.”

## **52 London Regional Transport: tax losses**

In computing for the purposes of corporation tax the profit or loss of London Regional Transport for any accounting period beginning on or after 1st April 1985, the loss of the London Transport Executive for any earlier accounting period shall be computed as if section 16(1)(b) of the Finance Act 1970 (grants to the Executive to be left out of account in computing profits chargeable to corporation tax) had not been enacted.

## **53 Valuation for corporation and income tax purposes of oil appropriated in certain circumstances**

- (1) In section 14 of the Oil Taxation Act 1975 (valuation of oil disposed of or appropriated in certain circumstances) after subsection (4) there shall be inserted the following subsection—

“(4A) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of this Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income,—

- (a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in sub-paragraphs (i) and (ii) of that subsection; and
- (b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil at the material time in the calendar month in which it was appropriated.”

- (2) In subsection (5) of that section—

- (a) for the words " preceding subsection ", in each place where they occur, there shall be substituted " subsections (4) and (4A) above " ;
- (b) in paragraph (a), in the version of paragraph 2(2)(c) of Schedule 3 to the Oil Taxation Act 1975 which is there set out, for the words from " section 14(4)" onwards there shall be substituted " subsection (4) or subsection (4A) of section 14 of this Act, and of no other oil; and, for the avoidance of doubt, it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm's length of oil of the kind in question".

- (3) Subsections (1) and (2) above have effect with respect to oil appropriated on or after 19th March 1985 and subsection (2)(b) above also has effect with respect to oil disposed of on or after that date.

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## **54 Withdrawal of right of certain non-resident companies to payment of tax credits**

- (1) This section applies to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state and, at any time when it or its associated company has such a qualifying presence, is entitled by virtue of arrangements having effect under section 497(1) of the Taxes Act (relief by agreement with other countries) to a tax credit under section 86 of the Finance Act 1972 (tax credit for certain recipients of qualifying distributions) in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions.
- (2) Schedule 13 to this Act has effect to supplement the provisions of this section.
- (3) Notwithstanding anything to the contrary in the arrangements referred to above and subject to paragraph 2 of the said Schedule, a company to which this section applies shall not be entitled to claim under subsection (4) of the said section 86 to have the tax credit referred to in subsection (1) above set against the income tax chargeable on its income for the year of assessment in which the distribution is made or, where the credit exceeds that income tax, to have the excess paid to it.
- (4) A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 1½ per cent, or more in value of the property, payroll or sales of such members situated in, attributable to or derived from the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.
- (5) For the purposes of subsection (4) above—
  - (a) 7½ per cent, or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under subsection (4) of the said section 86, the claimant proves otherwise to the satisfaction of the Board, and
  - (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (6) In this section " the relevant date " means the date on which this section comes into force or, if earlier, the earliest date on which a distribution could have been made in relation to which the provisions of this section are applied by an order made under this section.
- (7) This section shall come into force on such date as the Treasury may by order made by statutory instrument appoint and the Treasury may in addition by order made by statutory instrument—
  - (a) prescribe that the provisions of this section shall apply in relation to distributions made on or after a date before that on which the order bringing them into force is made, being a date not earlier than 1st April 1985,
  - (b) prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of this section, and

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- (c) prescribe that for subsections (4) and (5) of this section (or for those subsections as they have effect at any time) there shall be substituted either the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it is subject to tax in such a state for any period ending after the relevant date for which that state charges tax.

(5) For the purposes of subsection (4) above a company shall be regarded as subject to tax in a unitary state if it is liable there to a tax charged on its income or profits by whatever name called and shall be treated as so charged unless it proves otherwise to the satisfaction of the Board.”,

or the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.

(5) For the purposes of subsection (4) above—

(a) a company shall be treated as having its principal place of business in a unitary state unless it proves otherwise to the satisfaction of the Board, and

(b) the principal place of business of a company shall include both the place where the central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”

- (8) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.

## CHAPTER II

### CAPITAL ALLOWANCES

#### **55 Capital allowances in respect of machinery and plant: the revised code**

- (1) With respect to capital expenditure incurred on or after 1st April 1985, in sections 41(1)(a) and 44(1)(a) of the Finance Act 1971 (which provide for first-year and writing-down allowances in respect of capital expenditure incurred on the provision of machinery and plant for the purposes of trade) after the words " machinery or plant" there shall be inserted " wholly and exclusively".
- (2) With respect to any chargeable period where that period or its basis period ends on or after 1st April 1985, the Finance Act 1971 shall have effect with the omission of—
- (a) section 41(2) (which provides for the withdrawal of a first-year allowance where the machinery or plant is disposed of without being brought into use), and
- (b) paragraph (c) of subsection (1) of section 44 (which makes it a condition for a writing-down allowance that the machinery or plant must be or have been in use for the purposes of the trade) and the word " and " immediately preceding that paragraph.

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- (3) The enactments specified in Schedule 14 to this Act shall be amended in accordance with that Schedule,—
- (a) as to those in Part I, with respect to capital expenditure incurred as mentioned in subsection (1) above ; and
  - (b) as to those in Part II, with respect to any such chargeable period as is referred to in subsection (2) above.

## **56 Time when capital expenditure is incurred**

- (1) The provisions of this section have effect to determine when capital expenditure is to be taken to be incurred for the purposes of—
- (a) Parts I and II of the Capital Allowances Act 1968 ;
  - (b) Chapter I of Part III of the Finance Act 1971 (machinery and plant);
  - (c) any enactment which falls to be construed (or is expressed to have effect) as if it were contained in any of those enactments; and
  - (d) Schedule 12 to the Finance Act 1982 (dwelling-houses let on assured tenancies).

- (2) Subject to subsections (3) to (5) below, an amount of capital expenditure is to be taken to be incurred on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).

- (3) If, under or by virtue of any agreement,—
- (a) as a result of the issue of a certificate or some other event, an obligation to pay an amount of capital expenditure on the provision of an asset becomes unconditional, and
  - (b) at a time before that obligation becomes unconditional, the asset becomes the property of or is otherwise under the contract attributed to the person having that obligation,

then, in a case where the obligation referred to in paragraph (a) above becomes unconditional within the period of one month beginning at the end of a chargeable period or its basis period but the time referred to in paragraph (b) above falls at or before the end of that chargeable period or its basis period, subsection (2) above shall apply as if the obligation became unconditional immediately before the expiry of that period.

- (4) Where, under or by virtue of any agreement, the whole or any part of an amount of capital expenditure is required to be paid on (or not later than) a date which is more than four months after the date on which the obligation to pay that amount becomes unconditional, so much of that expenditure as is required to be so paid shall be taken to be incurred on the date on or before which it is required to be so paid.

- (5) In any case where—
- (a) under or by virtue of any agreement, an obligation to pay an amount of capital expenditure becomes unconditional on a date earlier than that which accords with normal commercial usage, and
  - (b) the sole or main benefit which (apart from this subsection) might have been expected to be obtained from the obligation becoming unconditional on that earlier date is that, by virtue of subsection (2) above, the expenditure would be

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taken to be incurred in a chargeable period or its basis period which is earlier than would otherwise have been the case,

then, in relation to that amount of expenditure, subsection (2) above shall have effect as if, for the words from " on which " onwards there were substituted " on or before which it is required to be paid " ; and, accordingly, subsection (4) above shall be disregarded.

- (6) Subject to subsection (7) below, the preceding provisions of this section have effect with respect to any chargeable period or its basis period ending on or after 18th December 1984 and, accordingly, the following provisions shall not have effect with respect to any such period, namely,—
- (a) section 82(3) of the Capital Allowances Act 1968; and
  - (b) in subsection (4) of section 50 of the Finance Act 1971, the words from the beginning to " payable; and ".
- (7) In relation to Part II of the Capital Allowances Act 1968 (scientific research), the preceding provisions of this section have effect with respect to any chargeable period (within the meaning of that Part) ending on or after 1st April 1985.
- (8) In so far as (apart from subsections (2) to (6) above) any provision of the Capital Allowances Act 1968, Chapter I of Part XIV of the Taxes Act (patents and know-how) or the Finance Act 1971 would have the effect that any expenditure would for any purpose fall to be treated as incurred on a date which is later than that which would result from the application of those subsections, nothing in this section shall affect the continuing operation of that provision.

## **57 Election for certain machinery or plant to be treated as short-life assets**

- (1) The provisions of this section apply where—
- (a) a person carrying on a trade (in this section referred to as " the trader ") incurs capital expenditure on or after 1st April 1986 on the provision of machinery or plant wholly and exclusively for the purposes of the trade; and
  - (b) the machinery or plant is not of a description specified in Schedule 15 to this Act; and
  - (c) the trader makes an election under this section requiring the machinery or plant to be treated as a short-life asset;
- and any machinery or plant to which an election under this section applies is in the following provisions of this section referred to as a " short-life asset".
- (2) An election under this section—
- (a) shall be made in writing to the inspector;
  - (b) shall specify the short-life asset, the capital expenditure concerned and the date on which it was incurred;
  - (c) may not be made more than two years; after the end of the chargeable period or its basis period in which the capital expenditure was incurred ; and
  - (d) shall be irrevocable;
- and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of paragraph (c) above.
- (3) Where an election is made under this section, it shall be assumed for the purposes of section 44 of the Finance Act 1971 (in the following provisions of this section referred to as " section 44 ")—

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- (a) that the trader incurred the expenditure on the provision of the short-life asset wholly and exclusively for the purposes of a trade (in the following provisions of this section referred to as " the notional trade ") carried on by him separately from the trade referred to in subsection (1) above (in those provisions referred to as his " actual trade ") and from any other trade which he in fact carries on or is assumed for any other purpose to carry on; and
  - (b) that, without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of section 44, the notional trade is permanently discontinued when the short-life asset begins to be used wholly or partly for purposes other than those of the actual trade.
- (4) Any allowance or charge which, on the assumptions in subsection (3) above, would fall to be made for any chargeable period in the case of the notional trade shall be made for that period in the case of the actual trade; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to an election under this section.
- (5) If the disposal value of a short-life asset does not fall to be brought into account in accordance with section 44 for any of the chargeable periods ending on or before the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned or, as the case may be, the first part of that expenditure, then,—
  - (a) in the first chargeable period ending after that fourth anniversary or, as the case may be, in its basis period, the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
  - (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period referred to in paragraph (a) above in respect of the notional trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
- (6) If, at a time before the notional trade would otherwise be permanently discontinued for the purposes of section 44, the short-life asset begins to be used otherwise than for a qualifying purpose, within the meaning of section 64 of the Finance Act 1980 (leased assets used for certain purposes) and the occasion of its beginning to be so used falls within the requisite period, within the meaning of that section, then at that time—
  - (a) the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof, and
  - (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period in which, or in the basis period for which, the asset began to be so used shall for the purposes of section 44 (as it has effect in accordance with section 65 of the Finance Act 1980) be added to the trader's qualifying expenditure for that chargeable period in respect of the separate trade referred to in subsection (2) of the said section 65.
- (7) Subject to subsection (8) below, if, at a time before the notional trade is permanently discontinued for the purposes of section 44, the trader disposes of a short-life asset to a person with whom he is connected within the terms of section 533 of the Taxes Act,—
  - (a) the disposal shall be treated for the purposes of section 44 (in its application both to the trader and to the connected person) as a sale of the short-life asset at a price equal to the amount of the trader's qualifying expenditure in respect of the notional trade for the chargeable period related to the disposal;

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- (b) nothing in paragraph 3 of Schedule 8 to the Finance Act 1971 (sales between connected persons etc.) shall apply in relation to the disposal;
  - (c) immediately after his acquisition of the short-life asset, the connected person shall be taken to have made an election under this section (so that, in his hands, the machinery or plant concerned is also a short-life asset for the purposes of this section); and
  - (d) in relation to the connected person, subsection (5) above shall have effect as if any reference to the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned were a reference to the date which was (or which, by virtue of the previous operation of this paragraph, had effect as) that fourth anniversary in relation to the trader.
- (8) Paragraphs (a) and (b) of subsection (7) above do not apply in relation to a disposal unless, by notice in writing given to the inspector not more than two years after the end of the chargeable period or its basis period in which the disposal occurred, the trader and the connected person so elect.
- (9) In the application of subsection (6) of section 44 (disposal value) where a short-life asset is disposed of at a price lower than that which it would have fetched if sold in the open market, paragraph (b)(i) (which excludes open market value where the buyer is entitled to allowances) shall not apply unless an election is made under subsection (8) above.
- (10) Any reference in Schedule 15 to this Act to expenditure in respect of which the making of a first-year allowance is precluded by any enactment shall be construed without regard to paragraph 2 of Schedule 12 to the Finance Act 1984 (which terminates first-year allowances in respect of expenditure incurred on the provision of machinery or plant on or after 1st April 1986).

## **58 Allowances for ships**

- (1) With respect to expenditure incurred on or after 1st April 1985, paragraph 8 of Schedule 8 to the Finance Act 1971 (first-year allowances for new ships) shall have effect in relation to ships which are not new as well as in relation to new ships and accordingly—
- (a) the word " new ", wherever appearing, shall be omitted ; and
  - (b) sub-paragraph (5) (previous ownership disregarded in certain cases in determining whether ship is new) shall also be omitted.
- (2) After the said paragraph 8 there shall be inserted the paragraphs set out in Schedule 16 to this Act, being provisions relating to writing-down allowances for ships.

## **59 Entitlement to allowances for machinery and plant which are fixtures**

- (1) The provisions of Schedule 17 to this Act apply to determine entitlement to an allowance under Chapter I of Part III of the Finance Act 1971 in respect of expenditure on the provision of machinery or plant which is so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land ; and at any time when, by virtue of that Schedule, any machinery or plant is treated as belonging to any person, no other person shall be entitled to such an allowance in respect of it.

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- (2) Schedule 17 to this Act applies to expenditure incurred after 11th July 1984, unless that expenditure—
- (a) consists of the payment of sums payable under a contract entered into on or before that date; or
  - (b) is incurred pursuant to an obligation contained in a lease or agreement for a lease entered into on or before that date.
- (3) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of Schedule 17 to this Act.
- (4) Where any question arises as to whether any machinery or plant has become, in law, part of a building or other land and that question is material with respect to the liability to tax (for whatever period) of two or more persons, that question shall be determined, for the purposes of the tax of all those persons, by the Special Commissioners who shall determine the question in like manner as if it were an appeal, except that, for the purposes of the determination, all those persons shall be entitled to appear and be heard by, or to make representations in writing to, the Special Commissioners.
- (5) In subsection (2) of section 46 of the Finance Act 1971 (lessee required to provide machinery or plant under the terms of his lease) after the word "Where " there shall be inserted " (a) " and after the words " terms of the lease " there shall be inserted "and
- (b) the machinery or plant is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land,
- then, if the machinery or plant would not otherwise belong to him”.
- (6) The amendments made by subsection (5) above have effect in relation to any lease entered into after 11th July 1984, unless it was entered into pursuant to an agreement made on or before that date.
- (7) This section and Schedule 17 to this Act shall be construed as if they were contained in Chapter I of Part III of the Finance Act 1971, except that expenditure shall not be treated for the purposes of that Schedule as having been incurred after the date on which it was in fact incurred by reason only of so much of section 50(4) of that Act as relates to expenditure incurred before a trade begins.
- (8) Nothing in subsection (1) above affects the entitlement of any person to an allowance by virtue of section 85 of the Capital Allowances Act 1968 (allowances in respect of contributions of a capital nature) and, accordingly, in paragraph 15(6) of Schedule 8 to the Finance Act 1971 (modification of the operation of section 85 in relation to allowances for machinery and plant) after the words " the said Chapter I ", where they last occur, there shall be inserted " or Schedule 17 to the Finance Act 1985".

## **60 Carry-back by companies of losses referable to capital allowances**

- (1) In section 177(3A) of the Taxes Act (which provides that where one or more first-year allowances fall to be made to a company for an accounting period in which the company incurs a loss in a trade, so much of the loss as would not have been incurred if the allowance or allowances had been totally disclaimed or postponed may be carried back for three years) for the words from " would not" to " postponed " there shall be substituted " does not exceed the allowance or allowances which are so made".



- (2) This section has effect with respect to accounting periods ending after 13th March 1984.

## **61 Dredging**

- (1) No initial allowance shall be made under section 67 of the Capital Allowances Act 1968 (dredging) in respect of capital expenditure incurred on or after 1st April 1986 unless that expenditure—
- (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
  - (b) is incurred before 1st April 1987.
- (2) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

## **62 Agricultural land and buildings**

- (1) With respect to capital expenditure incurred on or after 1st April 1986, other than expenditure which—
- (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
  - (b) is incurred before 1st April 1987,
- section 68 of the Capital Allowances Act 1968 (allowances for capital expenditure relating to agricultural land and buildings etc.) shall be amended in accordance with subsections (2) and (3) below.
- (2) For paragraphs (a) and (b) of subsection (1) (which provide for an initial allowance equal to one-fifth, followed by writing-down allowances over eight years equal to four-fifths) there shall be substituted the words " during a writing-down period of twenty-five years beginning with the chargeable period relating to the incurring of that expenditure, writing-down allowances of an aggregate amount equal to that expenditure".
- (3) Subsection (3A) (special provisions as to initial allowances) shall cease to have effect.
- (4) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

## **63 Allowances for capital expenditure on scientific research**

- (1) In section 91 of the Capital Allowances Act 1968 (allowances for capital expenditure on scientific research) after subsection (1) there shall be inserted the following subsections—
- “(1A) No allowance shall be made under subsection (1) above in respect of expenditure on the acquisition of, or of rights in or over, any land except in so far as, on a just apportionment, that expenditure is referable to the acquisition of, or of rights in or over, or of machinery or plant which forms part of, a building or other structure already constructed on that land.
- (1B) For the purposes of this section, expenditure on the provision of a dwelling is not scientific research expenditure ; but where part of a building is used for scientific research and part consists of a dwelling and the capital expenditure

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which it is just to apportion to the construction or acquisition of the dwelling is not more than one quarter of the capital expenditure which is referable to the construction or acquisition of the whole building, the whole of the building shall be treated for the purposes of this Part of this Act as used for scientific research.”

- (2) In section 92 of that Act (termination of use of assets provided for scientific research) in subsection (1) after the word " representing " there shall be inserted " allowable " and for the words from " be used" onwards there shall be substituted " belong to him; and the occasion of that asset ceasing to belong to him is in the following provisions of this section referred to as ' the relevant event'".
- (3) In subsections (2) and (3) of that section for the words " the sale " in each place where they occur there shall be substituted " the relevant event " and—
  - (a) in subsection (2)(a) for the words "proceeds of sale" there shall be substituted " disposal value of the asset"; and
  - (b) in subsection (3) for the words " proceeds of sale are " there shall be substituted " disposal value of the asset is".
- (4) After subsection (3) of that section there shall be inserted the following subsection—
 

“(3A) For the purposes of this section the disposal value of an asset depends upon the nature of the relevant event, and—

  - (a) if that event is the actual sale of the asset at a price not lower than that which it would have fetched if sold in the open market, equals the proceeds of that sale;
  - (b) if that event is the deemed sale of the asset under subsection (4) below, equals the deemed proceeds of sale under that subsection ; and
  - (c) in any other event, equals the price which the asset would have fetched if sold in the open market.”
- (5) In subsection (4) of that section, in paragraph (b) for the words from " unless " to " be used for " there shall be substituted " unless, prior to its demolition, the asset had begun to be used for purposes other than".
- (6) In subsection (5) of that section for the words " sale if the sale " there shall be substituted " relevant event if that event".
- (7) This section has effect with respect to capital expenditure incurred on or after 1st April 1985 unless that expenditure—
  - (a) is incurred before 1st April 1987, and
  - (b) consists of the payment of sums under a contract entered into on or before 19th March 1985 by the person incurring the expenditure.

#### **64 Writing-down allowances for expenditure on patent rights**

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 378 of the Taxes Act (writing-down allowances for capital expenditure on purchase of patent rights) shall be amended as follows,—
  - (a) for the words from " there shall " to " allowances " there shall be substituted " then, in accordance with Part I of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him";
  - (b) the words from " during " to " defined " shall be omitted; and

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- (c) in the proviso the words " writing-down " shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part I of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 378 of the Taxes Act;
  - (b) in subsection (2) of that section for the words from the beginning to the end of paragraph (b) of the proviso there shall be substituted " For the purposes of this section and Part I of Schedule 18 to the Finance Act 1985 " and the words " for the purposes of this subsection " shall be omitted ;
  - (c) subsection (3) of that section and section 379 of the Taxes Act shall not apply ;
  - (d) in subsection (1) of section 385 of the Taxes Act for the words " under section 378 or section 379 of this Act " there shall be substituted " falling to be made in accordance with Part I of Schedule 18 to the Finance Act 1985 ";
  - (e) in each of subsections (2) and (3) of section 385 of the Taxes Act for the words " under section 378, 379 or " there shall be substituted " in accordance with Part I of Schedule 18 to the Finance Act 1985, or under section ";
  - (f) in subsection (4) of section 385 of the Taxes Act, for the words " section 379 of this Act " there shall be substituted " Part I of Schedule 18 to the Finance Act 1985 ";
  - (g) in section 388(1) of the Taxes Act, in paragraph (b) of the definition of " income from patents " for the words " section 379(3) " there shall be substituted " paragraph 1(3) of Schedule 18 to the Finance Act 1985 or " ; and
  - (h) notwithstanding the provisions of section 387 of the Taxes Act relating to the application of provisions of the Capital Allowances Act 1968, Schedule 7 to that Act shall not apply.
- (3) Schedule 18 to this Act shall be construed as if it were contained in Chapter I of Part XIV of the Taxes Act (patents and know-how).

## **65 Writing-down allowances for acquisition of know-how**

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 386 of the Taxes Act (writing-down allowances for expenditure on acquisition of know-how) shall be amended as follows,—
- (a) the words " after 19th March 1968 " shall be omitted; and
  - (b) for the words " writing-down allowances " there shall be substituted " then, in accordance with Part II of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him " ; and
  - (c) the words from " shall be made " to " discontinuance " shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part II of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 386 of the Taxes Act; and
  - (b) subsection (9) of that section shall not apply.
- (3) With respect to consideration received in respect of the disposal of know-how on or after 1st April 1986—

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- (a) in subsection (2) of section 386 of the Taxes Act for the word " not" there shall be substituted " neither brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor"; and
- (b) in subsection (4) of that section after the word " neither " there shall be inserted " brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor".

## 66 Hotels

- (1) No initial allowance shall be made in respect of capital expenditure incurred on or after 1st April 1986 in respect of a qualifying hotel (within the meaning of section 38 of the Finance Act 1978) unless that expenditure—
  - (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
  - (b) is incurred before 1st April 1987.
- (2) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968 except that—
  - (a) expenditure shall not be treated for the purposes of that subsection as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before a trade begins); and
  - (b) expenditure falling within subsection (1)(b) of section 5 of that Act (purchase price of building bought unused) shall be treated for the purposes of that subsection as having been incurred at the latest time when any expenditure falling within subsection (1)(a) of that section (expenditure on the construction of the building) was incurred.

## CHAPTER III

### CAPITAL GAINS

## 67 Exemption for gilt-edged securities and qualifying corporate bonds

- (1) In section 67 of the Capital Gains Tax Act 1979 (gains on disposals of gilt-edged securities and corporate bonds held for 12 months not to be chargeable gains)—
  - (a) in subsection (1) the words from " except " to the end of the subsection shall not apply if the disposal occurs on or after 2nd July 1986 ; and
  - (b) subsections (2) and (3) shall not apply in relation to disposals on or after that date.
- (2) With respect to disposals occurring on or after 2nd July 1986—
  - (a) in section 270 of the Taxes Act (charge to tax on certain disposals of United Kingdom securities) at the end of subsection (6) there shall be added the words " or qualifying corporate bonds, within the meaning of section 64 of the Finance Act 1984";
  - (b) in section 84 of the Capital Gains Tax Act 1979 (compensation stock), in subsection (4) for paragraphs (a) and (b) there shall be substituted the following paragraphs—

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- “(a) shall, so far as possible, be identified with securities which were issued to him as mentioned in subsection (1) above rather than with other securities of that kind, and
- (b) subject to paragraph (a) above, shall be identified with securities issued at an earlier time rather than with those issued at a later time”; and
- (c) in Part II of Schedule 13 to the Finance Act 1984 (reorganisations etc. involving qualifying corporate bonds) in paragraph 10(1)(c) for the words from " if " to " that section " there shall be substituted " on that subsequent disposal section 67 of the principal Act".

## **68 Modification of indexation allowance**

- (1) Subject to subsection (2) below, with respect to disposals of assets on or after 6th April 1985 or, in the case of disposals by companies, 1st April 1985, the provisions of Chapter III of Part III of the Finance Act 1982 shall have effect subject to the amendments in Part I of Schedule 19 to this Act, being amendments designed—
  - (a) to remove the twelve month qualifying period for the indexation allowance; and
  - (b) to extend the indexation allowance to cases where there is a loss on a disposal; and
  - (c) to make provisions supplementary to those matters.
- (2) In the case of securities within the meaning of Chapter IV of this Part of this Act, the amendments in Part I of Schedule 19 to this Act—
  - (a) shall not have effect with respect to disposals of gilt edged securities as defined in Schedule 2 to the Capital Gains Tax Act 1979 or qualifying corporate bonds as defined in section 64 of the Finance Act 1984 ; and
  - (b) shall have effect with respect to disposals of other securities on or after 28th February 1986.
- (3) In Schedule 19 to this Act—
  - (a) Part II shall have effect with respect to holdings of securities to which Part II of Schedule 13 to the Finance Act 1982 applied (share pools in existence on 1st or 6th April 1982);
  - (b) Part III shall have effect with respect to other holdings of securities held on or acquired after the 1985 date;
  - (c) Part IV shall have effect with respect to the identification of securities disposed of on or after the 1985 date;
  - (d) Part V has effect with respect to securities in respect of which elections have been or could be made under Schedule 6 to the Finance Act 1983 ; and
  - (e) Part VI contains consequential provisions relating to assets forming part of a premiums trust fund ;and in that Schedule and paragraphs (b) and (c) above "the 1985 date" means 1st April 1985 in the case of holdings or disposals by companies and 6th April 1985 in any other case.
- (4) For the purpose of computing the indexation allowance on a disposal of an asset to which this subsection applies where, on 31st March 1982, the asset was held by the person making the disposal, it shall be assumed that on that date the asset was sold

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by the person making the disposal and immediately reacquired by him at its market value on that date.

- (5) Subsection (4) above applies to a disposal—
- (a) which occurs on or after 6th April 1985 or, in the case of a disposal by a company, 1st April 1985; and
  - (b) in respect of which a claim is made that subsection (4) above should apply ; and a claim under paragraph (b) above shall be made within the period of two years beginning at the end of the year of assessment or accounting period in which the disposal occurs or within such longer period as the Board may by notice in writing allow.
- (6) Where, after 31st March 1982, an asset which was held on that date has been merged or divided or has changed its nature or rights in or over the asset have been created, then, subject to subsection (5) above, subsection (4) above shall have effect to determine for the purposes of section 36 of the Capital Gains Tax Act 1979 (assets derived from other assets) the amount of the consideration for the acquisition of the asset which was so held.
- (7) Subsection (8) below applies to a disposal of an asset which is not a no gain/no loss disposal if—
- (a) the person making the disposal acquired the asset after 31st March 1982; and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal;
- and for the purposes of this subsection a no gain /no loss disposal is one on which, by virtue of section 267 or section 273 of the Taxes Act, section 44 of the Capital Gains Tax Act 1979, section 148 of the Finance Act 1982 or section 7(4) of the Finance (No. 2) Act 1983, neither a gain nor a loss accrues to the person making the disposal.
- (8) Where this subsection applies to a disposal—
- (a) the person making the disposal shall be treated for the purpose referred to in subsection (4) above as having held the asset on 31st March 1982; and
  - (b) for the purpose of determining any gain or loss on the disposal, the consideration which, apart from this subsection, that person would be treated as having given for the asset shall be taken to be reduced by deducting therefrom any indexation allowance brought into account by virtue of Part I of Schedule 13 to the Finance Act 1982 on any disposal falling within subsection (7) (b) above.
- (9) In paragraphs (b) and (c) of subsection (3) above and in Parts III and IV of Schedule 19 to this Act " securities " does not include relevant securities as defined in section 88(9) of the Finance Act 1982 (as amended by paragraph 3(3) of Schedule 19 to this Act) but, subject to that, means—
- (a) shares or securities of a company; and
  - (b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.
- (10) Shares or securities of a company shall not be treated for the purposes of subsection (9) above or Part III of Schedule 19 to this Act as being of the same class unless they are so treated by the practice of the Stock Exchange or would be so treated if dealt with on the Stock Exchange.

## **69 Relief for disposals by individuals on retirement from family business**

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where a material disposal of business assets is made by an individual who, at the time of the disposal,—
- (a) has attained the age of 60, or
  - (b) has retired on ill-health grounds below the age of 60,
- and sections 124 and 125 of the Capital Gains Tax Act 1979 shall not apply to any disposal made on or after 6th April 1985 unless it is a disposal in respect of which, by virtue only of paragraph 5(1) of Schedule 20 to this Act, relief in accordance with that Schedule cannot be given.
- (2) For the purposes of this section and Schedule 20 to this Act, a disposal of business assets is—
- (a) a disposal of the whole or part of a business, or
  - (b) a disposal of one or more assets which, at the time at which a business ceased to be carried on, were in use for the purposes of that business, or
  - (c) a disposal of shares or securities of a company (including a disposal of an interest in shares which a person is treated as making by virtue of section 72 of the Capital Gains Tax Act 1979—capital distributions),
- and the question whether such a disposal is a material disposal shall be determined in accordance with the following provisions of this section.
- (3) A disposal of the whole or part of a business is a material disposal if, throughout a period of at least one year ending with the date of the disposal, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time the business is owned by the individual making the disposal or—
- (a) the business is owned by a company—
    - (i) which is a trading company, and
    - (ii) which is either that individual's family company or a member of a trading group of which the holding company is that individual's family company ; and
  - (b) that individual is a full-time working director of that company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.
- (4) A disposal of assets such as is mentioned in subsection (2)(b) above is a material disposal if—
- (a) throughout a period of at least one year ending with the date on which the business ceased to be carried on the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time either the business was owned by the individual making the disposal or paragraphs (a) and (b) of subsection (3) above apply; and
  - (b) on or before the date on which the business ceased to be carried on, the individual making the disposal had either attained the age of 60 or retired on ill-health grounds below that age; and
  - (c) the date on which the business ceased to be carried on falls within the permitted period before the date of the disposal.
- (5) A disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in subsection (2)(c) above) is a material disposal if, throughout a period of at least one year ending with the operative date, the relevant

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conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time—

- (a) the individual making the disposal owns the business which, at the date of the disposal, is owned by the company or, if the company is the holding company of a trading group, by any member of the group ; or
- (b) the company is the individual's family company and is either a trading company or the holding company of a trading group and the individual is a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association ;

and, except where subsection (6) or subsection (7) below applies, the operative date for the purposes of this subsection is the date of the disposal.

(6) In any case where—

- (a) within the permitted period before the date of the disposal referred to in subsection (5) above, the company concerned either ceased to be a trading company without continuing to be or becoming a member of a trading group or ceased to be a member of a trading group without continuing to be or becoming a trading company, and
- (b) on or before the date of that cessation, the individual making the disposal attained the age of 60 or retired on ill-health grounds below that age. then, subject to subsection (7) below, the operative date for the purposes of subsection (5) above is the date of the cessation referred to in paragraph (a) above; and, where this subsection applies, the reference in subsection (5)(a) above to the date of the disposal shall also be construed as a reference to the date of that cessation.

(7) If, throughout a period which ends on the date of the disposal referred to in subsection (5) above or, if subsection (6) above applies, on the date of the cessation referred to in paragraph (a) of that subsection and which begins when the individual concerned ceased to be a full-time working director of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association,—

- (a) the company concerned was his family company and either a trading company or the holding company of a trading group, and
- (b) he was a director of the company concerned or, as the case may be, of one or more members of the group or association and, in that capacity, devoted at least ten hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the operative date for the purposes of subsection (5) above is the date on which the individual ceased to be a full-time working director as mentioned above.

(8) For the purposes of this section—

- (a) any reference to the disposal of the whole or part of a business by an individual includes a reference to the disposal by him of his interest in the assets of a partnership carrying on the business; and
- (b) subject to paragraph (a) above, at any time when a business is carried on by a partnership, the business shall be treated as owned by each individual who is at that time a member of the partnership.

(9) Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.



## **70 Relief for other disposals associated with retirement**

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where an individual—
- (a) who has attained the age of 60, or
  - (b) who has retired on ill-health grounds below the age of 60,
- makes a relevant disposal of the whole or part of the assets provided or held for the purposes of an office or employment exercised by him ; and, if he ceases to exercise that office or employment before the date of the relevant disposal, the date on which he ceased to exercise it is in subsection (2) below referred to as the " prior cessation date ".
- (2) For the purposes of subsection (1) above, a disposal of the whole or part of the assets provided or held as mentioned in that subsection is a relevant disposal if—
- (a) throughout a period of at least one year ending with the date of the disposal or, where applicable, the prior cessation date, the office or employment was the full-time occupation of the individual making the disposal; and
  - (b) that office or employment is other than that of director of a company which is either the family company of the individual concerned or is a member of a trading group of which the holding company is his family company; and
  - (c) where there is a prior cessation date, the individual either had attained the age of 60 on or before that date or on that date retired on ill-health grounds below that age; and
  - (d) where there is a prior cessation date, the disposal takes place within the permitted period after the cessation date.
- (3) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, where—
- (a) the trustees of a settlement dispose of—
    - (i) shares or securities of a company, or
    - (ii) an asset used or previously used for the purposes of a business, being, in either case, part of the settled property; and
  - (b) the conditions in subsection (4) or, as the case may be, subsection (5) below are fulfilled with respect to a beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities or the asset referred to in paragraph (a) above, but excluding, for this purpose, an interest for a fixed term ; and in those subsections that beneficiary is referred to as " the qualifying beneficiary ".
- (4) In relation to a disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in section 69(2)(c) above), the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the company was the qualifying beneficiary's family company and either a trading company or the holding company of a trading group ; and
  - (b) that, throughout a period of at least one year ending as mentioned in paragraph (a) above, the qualifying beneficiary was a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association ; and

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- (c) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to be a full-time working director as mentioned in paragraph (b) above, having attained the age of 60 or retired on ill-health grounds below that age.
- (5) In relation to a disposal of an asset, the conditions referred to in subsection (3) (b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the asset was used for the purposes of a business carried on by the qualifying beneficiary ; and
  - (b) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to carry on the business referred to in paragraph (a) above; and
  - (c) that, on or before the date of the disposal or, if it was earlier, the date on which the qualifying beneficiary ceased to carry on that business, he attained the age of 60 or retired on ill-health grounds below that age.
- (6) In any case where—
- (a) by virtue of section 69 above, relief falls to be given, in accordance with Schedule 20 to this Act, in respect of a material disposal of business assets which either consists of the disposal by an individual of his interest in the assets of a partnership or is of a description falling within subsection (5) of that section, and
  - (b) the individual making that material disposal makes an associated disposal of assets, as defined in subsection (7) below,
- relief from capital gains tax shall also be given, subject to and in accordance with that Schedule, in respect of the associated disposal.
- (7) In relation to a material disposal of business assets, a disposal of an asset is an associated disposal if—
- (a) it takes place as part of a withdrawal of the individual concerned from participation in the business carried on by the partnership referred to in subsection (6) (a) above or, as the case may be, by the company which owns the business as mentioned in subsection (5)(a) of section 69 above ; and
  - (b) immediately before the material disposal or, if it was earlier, the cessation of the business mentioned in paragraph (a) above, the asset was in use for the purposes of that business ; and
  - (c) during the whole or part of the period in which the asset has been in the ownership of the individual making the disposal the asset has been used—
    - (i) for the purposes of the business mentioned in paragraph (a) above (whether or not carried on by the partnership or company there referred to); or
    - (ii) for the purposes of another business carried on by the individual or by a partnership of which the individual concerned was a member; or
    - (iii) for the purposes of another business in respect of which the conditions in paragraphs (a) and (b) of subsection (3) of section 69 above were fulfilled.
- (8) In subsections (6) and (7) above "material disposal of business assets " has the same meaning as in section 69 above and Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.

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(9) In consequence of the provisions of this section and section 69 above, with respect to disposals on which relief falls to be given under Schedule 20 to this Act, section 126 of and Schedule 4 to the Capital Gains Tax Act 1979 (gifts of business assets) shall be amended as follows—

- (a) in subsection (2)(b) of section 126 for the words " the proportion" there shall be substituted " the appropriate proportion"; for the words " subsection (5)(b) of section 124 above " there shall be substituted " paragraph 7(2) or paragraph 8(2) of Schedule 20 to the Finance Act 1985"; and for the words " that section " there shall be substituted " that Schedule";
- (b) in subsection (7)(a) of section 126 for the words " section 124(8) above " there shall be substituted " paragraph 1 of Schedule 20 to the Finance Act 1985";
- (c) in paragraph 8(4) of Schedule 4 for the words "the proportion determined under subsection (5)(b) of section 124 of this Act" there shall be substituted " the appropriate proportion determined under Schedule 20 to the Finance Act 1985"; and
- (d) for the words " section 124 above " or " section 124 of this Act", in any other place where they occur, there shall be substituted " Schedule 20 to the Finance Act 1985";

and, with respect to disposals (and associated acquisitions) made on or after 6th April 1985, in section 120 of the Capital Gains Tax Act 1979 (roll-over relief etc,—trade carried on by family company) in paragraph (b) for the words " section 124 below " there shall be substituted " Schedule 20 to the Finance Act 1985".

(10) In consequence of the provisions referred to in subsection (9) above, the words " Schedule 20 to the Finance Act 1985 " shall be substituted—

- (a) for the words " section 124 of the said Act of 1979 " in section 79(3) of the Finance Act 1980 (general relief for gifts); and
- (b) for the words " section 124 of that Act" in paragraph 1(2)(g) of Schedule 11 to the Finance Act 1984 (furnished holiday lettings);

and, in consequence of paragraph (b) above, in paragraph 1(2)(h) of Schedule 11 to the Finance Act 1984 for the words "that Act" there shall be substituted " the Capital Gains Tax Act 1979".

## **71 Assets disposed of in a series of transactions**

(1) For the purposes of the Capital Gains Tax Act 1979 (in this section referred to as " the principal Act"), in any case where,—

- (a) by way of two or more material transactions which are linked (in this section referred to as a series of linked transactions), one person disposes of assets to another person with whom he is connected or to two or more other persons with each of whom he is connected, and
- (b) the original market value of the assets disposed of by any of the transactions in the series, as determined under Schedule 21 to this Act, is less than the appropriate portion of the aggregate market value of the assets disposed of by all the transactions in the series, as so determined,

then, subject to subsection (2) below, the disposal effected by any linked transaction in the series in respect of which the condition in paragraph (b) above is fulfilled shall be deemed to be for a consideration equal to the appropriate portion referred to in that paragraph.

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- (2) Where the disposal effected by a material transaction is one to which section 44 of the principal Act applies (disposals of assets between husband and wife) nothing in subsection (1) above shall affect the amount which, for the purposes of the principal Act, is the consideration for that disposal.
- (3) Subject to subsections (6) to (8) below, any reference in this section to a material transaction is a reference to a transaction by way of gift or otherwise which takes place after 19th March 1985 ; and for the purposes of this section two or more material transactions are linked if they occur within the period of six years ending on the date of the last of them.
- (4) This section shall apply or, as the case may be, shall again apply—
- (a) when a second material transaction causes a series of linked transactions to come into being ; and
  - (b) whenever, on the occurrence of a further material transaction, an existing series is extended by the inclusion of that transaction (whether or not an earlier transaction ceases to form part of the series);
- and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section on each such occasion.
- (5) In consequence of the preceding provisions of this section, any gift or other transaction which occurs after 19th March 1985 shall be disregarded for the purposes of section 151 of the principal Act (the previous code for assets disposed of in a series of transactions).
- (6) Where a member of a group of companies disposes of an asset to another member of the group in circumstances such that, by virtue of section 273 of the Taxes Act, both companies are treated, so far as relates to corporation tax on chargeable gains, as if the consideration for the disposal were of such an amount as would secure that neither a gain nor a loss would accrue, the transaction by which that disposal is effected is not a material transaction; and a disposal in these circumstances is in this section referred to as an " inter-group transfer ".
- (7) In any case where—
- (a) a company (in this subsection referred to as " company A ") disposes of an asset by way of a material transaction, and
  - (b) company A acquired the asset after 19th March 1985 by way of an inter-group transfer, and
  - (c) the disposal by company A is to a person who is connected with another company (in this subsection referred to as " company B ") which at some time after 19th March 1985 disposed of the asset by way of an inter-group transfer, and
  - (d) either the disposal by way of inter-group transfer which is referred to in paragraph (c) above was the occasion of the acquisition referred to in paragraph (b) above or, between that disposal and that acquisition, there has been no disposal of the asset which was not an inter-group transfer,

then, for the purpose of determining whether subsection (1) above applies in relation to a series of linked transactions, the disposal by company A shall be treated as having been made by company B; but any increase in the consideration for that disposal resulting from the application of subsection (1) above shall have effect with respect to company A.

- (8) In any case where one or more transactions occur on or before 19th March 1985 and one or more transactions occur after that date in circumstances such that—
- (a) if all the transactions had occurred before that date, section 151 of the principal Act would have applied in relation to them, and
  - (b) if all the transactions occurred after that date, subsection (1) above would apply to them,
- such of the transactions which occurred on or before that date as occurred not more than two years before the first of the transactions occurring after that date shall be treated as material transactions.

## **72 Commodity and financial futures and traded options**

- (1) If, apart from this subsection, gains arising to any person in the course of dealing in commodity or financial futures or in traded options would constitute, for the purposes of the Tax Acts, profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, then, on and after 6th April 1985 —
- (a) his outstanding obligations under any futures contract entered into in the course of that dealing and any traded option granted or acquired in the course of that dealing shall be regarded as assets to the disposal of which the Capital Gains Tax Act 1979 (in this section referred to as " the principal Act") applies; and
  - (b) any gain arising in the course of that dealing shall not be chargeable to tax under Schedule D and any loss so arising shall not be allowable against profits or gains which are so chargeable.
- (2) In subsection (1) above— (a) " commodity or financial futures " means commodity futures or financial futures which are for the time being dealt in on a recognised futures exchange, within the meaning of the principal Act; and
- (b) "traded option" has the meaning given by section 137(9) of that Act.
- (3) For the purposes of the principal Act, where, in the course of dealing in commodity or financial futures, a person who has entered into a futures contract closes out that contract by entering into another futures contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall constitute the disposal of an asset (namely, his outstanding obligations under the first-mentioned contract) and, accordingly,—
- (a) any money or money's worth received by him on that transaction shall constitute consideration for the disposal ; and
  - (b) any money or money's worth paid or given by him on that transaction shall be treated as incidental costs to him of making the disposal.
- (4) In any case where,—
- (a) a person who, in the course of dealing in financial futures, has entered into a futures contract does not close out that contract (as mentioned in subsection (3) above), and
  - (b) the nature of the futures contract is such that, at its expiry date, the person concerned is entitled to receive or liable to make a payment in full settlement of all obligations under that contract,
- then, for the purposes of the principal Act, he shall be treated as having disposed of an asset (namely, his outstanding obligations under the futures contract) and the payment

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received or made by him shall be treated as consideration for that disposal or, as the case may be, as incidental costs to him of making the disposal.

- (5) In section 137(9) of the principal Act (options and forfeited deposits) for the words " the London International Financial Futures Exchange " there shall be substituted " a recognised futures exchange".
- (6) In section 155 of the principal Act (interpretation) after subsection (3) there shall be inserted the following subsections—
- “(3A) In this Act ' recognised futures exchange ' means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of this Act by order made by the Board.
- (3B) An order made by the Board under subsection (3A) above—
- (a) may designate a futures exchange by name or by reference to any class or description of futures exchanges, including, in the case of futures exchanges in a country outside the United Kingdom, a class or description framed by reference to any authority or approval given in that country; and
- (b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient.”
- (7) Nothing in subsection (1) above affects the operation of section 312 of the Taxes Act (annuity business of insurance companies: separate charge on profits).

## CHAPTER IV

### SECURITIES

#### *The accrued income scheme*

#### **73 Deemed sums and reliefs on transfers**

- (1) This section applies where securities are transferred on or after 28th February 1986; and references to a period are to the interest period in which the settlement day falls.
- (2) If they are transferred with accrued interest—
- (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount, and
- (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
- (3) If they are transferred without accrued interest—
- (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount, and
- (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.
- (4) In subsection (2) above " the accrued amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the

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- securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for. and
- (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.
- (5) In subsection (3) above " the rebate amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day. an amount equal to the amount (if any) of gross interest so accounted for, and
- (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.
- (6) The accrued proportion is—
- $$\frac{\mathbf{A}}{\mathbf{B}}$$
- (7) The rebate proportion is—
- $$\frac{\mathbf{B}-\mathbf{A}}{\mathbf{B}}$$
- (8) In this section—
- A is the number of days in the period up to (and including) the settlement day, and
- B is the number of days in the period.

#### **74 Treatment of deemed sums and reliefs**

- (1) Subsection (2) below applies if a person is treated as entitled under section 73 above to a sum on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to relief on securities of that kind in the period, or
- (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 73 above to relief on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to a sum on securities of that kind in the period, or
- (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.

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- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) or (6) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which falls due on the securities at the end of the interest period, and is taken into account in computing tax charged for the chargeable period in which the interest period ends, shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance.
- (6) But if the period is one which does not end with an interest payment day, the person shall be treated as becoming, in the next interest period, entitled under section 73 above to relief on the securities of an amount equal to the amount of the allowance.
- (7) Where but for this subsection a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

## **75 Exceptions from preceding provisions**

- (1) Section 73 (2) (a) or (3) (a) above (as the case may be) does not apply if—
  - (a) the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade,
  - (b) the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000,
  - (c) the securities transferred form part of the estate of a deceased person, the transferor is his personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000,
  - (d) the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000,
  - (e) the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period,
  - (f) the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 99 of the Taxes Act (securities free of income tax for residents abroad),
  - (g) the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period, or
  - (h) the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under



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Case IV or Case V of Schedule D and computed on the amount of sums received in the United Kingdom.

- (2) Section 73(2)(b) or (3)(b) above (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade, or
  - (b) subsection (1)(b), (c), (d), (e), (f), (g) or (h) above would apply if " transferor " read " transferee " .
- (3) For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (4) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor), or
  - (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee),
- but the provisions in this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.
- (5) For the purposes of this section " disabled person's trusts " means trusts falling within paragraph 5(1) of Schedule 1 to the Capital Gains Tax Act 1979, " branch or agency " has the meaning given by section 12(3) of that Act, and the place where securities are situated shall be determined in accordance with section 18(4) of that Act.
- (6) For the purposes of this section " FOTRA securities " means securities issued with the condition mentioned in section 22(1) of the Finance (No. 2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940.

#### *Deemed interest on certain securities*

### **76 Deemed interest**

Schedule 22 to this Act (which relates to securities held between certain dates) shall have effect.

#### *Further provisions*

### **77 Further provisions**

Schedule 23 to this Act (which contains provisions relating to interpretation and other matters) shall have effect.

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## PART III

### STAMP DUTY

#### 78 Takeovers

- (1) Subsection (2) below applies where a company (company A) issues relevant securities (but issues or transfers no other property) in exchange for shares in another company (company B) and company A—
  - (a) has control of company B, or
  - (b) will have such control in consequence of the exchange or of a general offer as a result of which the exchange is made.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B by way of the exchange.
- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) by way of the exchange, the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B by way of the exchange.
- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the general offer or other arrangement providing for the exchange make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the exchange is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange.
- (6) References in this section to shares in company B include references to convertible loan capital of the company ; and " convertible loan capital " means loan capital mentioned in section 126(2) of the Finance Act 1976.
- (7) For the purposes of this section company A has control of company B if company A has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (8) In this section " general offer " means an offer made to the members of company B or any class of them, and—
  - (a) includes an offer made with exceptions for persons connected with company A, but
  - (b) excludes an offer made with exceptions for persons who are not connected with company A,
 and a person is connected with a company if he would be so connected for the purposes of the Capital Gains Tax Act 1979.
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with

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the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

- (10) An instrument in respect of which reduced stamp duty Part III is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) The preceding provisions of this section apply to—
- (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (12) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) An instrument to which this subsection applies shall be taken to be duly stamped in accordance with the law in force at the time when it was executed—
- (a) if it is treated by the Commissioners as if stamp duty were not chargeable on it and if, had it been executed on or after 26th March 1985, stamp duty under the heading mentioned in subsection (2) above would by virtue of that subsection not have been chargeable on it, or
  - (b) if it is stamped with duty of an amount no less than the reduced duty with which, had it been so executed, it would have been chargeable under that heading by virtue of subsection (3) above ;
- and the instruments to which this subsection applies are instruments executed on or after 28th July 1984 and before 26th March 1985, other than instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (14) This section shall be deemed to have come into operation on 26th March 1985.

## **79 Voluntary winding-up: transfer of shares**

- (1) Subsection (2) below applies where a company is Voluntary being wound up altogether voluntarily and there is an arrangement under section 287 of the Companies Act 1948, section 582 of the Companies Act 1985 or section 257 of the Companies Act (Northern Ireland) 1960 whereby—
- (a) its liquidator transfers to another company (company A) shares in a company (company B) which is a subsidiary of the company being wound up,
  - (b) company A issues relevant securities (but issues or transfers no other property) to the liquidator or a member or members of the company being wound up, and
  - (c) company A acquires control of company B in consequence of the transfer of shares in company B.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B to company A.

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- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B to company A.
- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the arrangement make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the arrangement is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the liquidator or member concerned of the company being wound up.
- (6) References in this section to shares in company B include references to convertible loan capital of the company; and " convertible loan capital " means loan capital mentioned in section 126(2) of the Finance Act 1976.
- (7) For the purposes of this section company A has control of company B if company A has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (8) In this section " subsidiary " has the same meaning as in the Companies Act 1948, the Companies Act 1985 or the Companies Act (Northern Ireland) 1960 (as the case may be).
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty. ;
- (10) An instrument in respect of which reduced stamp duty is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) This section applies to—
  - (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (12) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) This section shall be deemed to have come into operation on 26th March 1985.

## **80 Takeovers and winding-up: modifications**

- (1) This section modifies the operation of sections 78 and 79 above as they apply to instruments executed on or after 1st August 1985.
- (2) In sections 78 and 79 " shares " includes stock.
- (3) References in sections 78 and 79 to shares in company B include references to excessive return capital of the company; and " excessive return capital" means loan capital to which section 126(1) of the Finance Act 1976 does not apply by virtue of section 126(3).
- (4) The terms of a general offer or other arrangement shall be disregarded for the purposes of sections 78(4) and 79(4) to the extent that they provide for the sale of securities to a person other than company A.
- (5) Section 78(5) shall have effect as if for the words from " unless " to the end there were substituted " unless—
  - (a) they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange, or
  - (b) they are registered, in such a register, in the name of company B and are held on trust for the person so transferring."
- (6) In section 78(8) the reference to members of company B includes a reference to persons entitled to the company's convertible loan capital (within the meaning of section 78(6)) or to its excessive return capital (within the meaning of subsection (3) above).

## **81 Renounceable letters of allotment etc.**

- (1) Subsection (2) below applies where there is an arrangement whereby—
  - (a) rights under an instrument are renounced in favour of a person (A).
  - (b) the rights are rights to shares in a company (company B), and
  - (c) A, or a person connected with A, or A and such a person together, has or have control of company B or will have such control in consequence of the arrangement.
- (2) The instrument shall not be exempt by virtue of section 65(1) of the Finance Act 1963 (renounceable letters of allotment etc.) or section 14(1) of the Finance Act (Northern Ireland) 1963 (corresponding provision for Northern Ireland) from stamp duty under or by reference to the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891.
- (3) References in this section to shares in company B include references to its loan capital to which section 126(1) of the Finance Act 1976 does not apply by virtue of section 126(2) or (3) (convertible loan capital and excessive return capital).
- (4) In this section " shares " includes stock.
- (5) For the purposes of this section a person has control of company B if he has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.

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- (6) For the purposes of this section one person is connected with another if he would be so connected for the purposes of the Capital Gains Tax Act 1979.
- (7) This section applies to instruments if rights are renounced under them on or after 1st August 1985, except where the arrangement concerned includes an offer for the rights and on or before 27th June 1985 the offer became unconditional as to acceptances.

## **82 Gifts inter vivos**

- (1) The stamp duty chargeable by virtue of section 74 of the Finance (1909-10) Act 1910 (gifts inter vivos) is abolished.
- (2) In section 58(7) of the Stamp Act 1891 (valuation by reference to value for purposes of section 74 of 1910 Act) for the words from " the value " to the end there shall be substituted " the value at any time of any property, that value shall be taken to be the price which the property might reasonably be expected to fetch on a sale at that time in the open market. "
- (3) In section 90(5) of the Finance Act 1965 (which relates to valuation for the purposes of subsection (1) of that section and of section 74 of the 1910 Act) for " either of those provisions " there shall be substituted " that subsection";  
and in section 4(5) of the Finance Act (Northern Ireland) 1965 (which makes similar provision) for " either of those provisions " there shall be substituted " that subsection".
- (4) In section 15(1) of the Finance (No. 2) Act 1983 (relief from duty under section 74 of the 1910 Act for local constituency associations) for the words from " 7 above " to the end there shall be substituted " 7 above, section 57 of the Stamp Act 1891 shall not apply in relation to a conveyance or transfer by which the disposal or, in the case of paragraph (b), either of the disposals referred to in that paragraph is effected. "
- (5) An instrument—
  - (a) in respect of which stamp duty would be chargeable by virtue of section 74 of the 1910 Act apart from this section, and
  - (b) on which stamp duty is not chargeable under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891,
 shall not be deemed to be duly stamped unless it has, in accordance with section 12 of the 1891 Act, been stamped with a particular stamp denoting that it is duly stamped or that it is not chargeable with any duty.
- (6) This section applies to—
  - (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (7) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (6) (b) above shall be deemed to be that as varied in accordance with this section.
- (8) The preceding provisions of this section shall be deemed to have come into operation on 26th March 1985.

- (9) Subsection (5) above does not apply to an instrument which is required by regulations under section 87(1) or (2) below to be certified.

### **83 Transfers in connection with divorce etc.**

- (1) Stamp duty under the heading "Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument by which property is conveyed or transferred from one party to a marriage to the other if the instrument—
- (a) is executed in pursuance of an order of a court made on granting in respect of the parties a decree of divorce, nullity of marriage or judicial separation, or
  - (b) is executed in pursuance of an order of a court which is made in connection with the dissolution or annulment of the marriage or the parties' judicial separation and which is made at any time after the granting of such a decree, or
  - (c) is executed at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or their judicial separation.
- (2) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of that subsection shall be chargeable under this subsection with stamp duty of 50p.
- (3) This section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.

### **84 Death: varying dispositions, and appropriations**

- (1) Where, within the period of two years after a person's death, any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied by an instrument executed by the persons or any of the persons who benefit or would benefit under the dispositions, stamp duty under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the instrument.
- (2) Subsection (1) above does not apply where the variation is made for any consideration in money or money's worth other than consideration consisting of the making of a variation in respect of another of the dispositions.
- (3) Subsection (1) above applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.
- (4) Where property is appropriated by a personal representative in or towards satisfaction of a general legacy of money, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (5) Where on an intestacy property is appropriated by a personal representative in or towards satisfaction of any interest of a surviving husband or wife in the intestate's estate, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (6) The reference in subsection (5) above to an interest in the intestate's estate—

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- (a) includes a reference to the capital value of a life interest which the surviving husband or wife has under the Intestates' Estates Act 1952 elected to have redeemed, and
  - (b) in Scotland, includes a reference to prior rights (within the meaning of the Succession (Scotland) Act 1964) but, without prejudice to subsection (7) below, not to such rights as are mentioned in that subsection.
- (7) Where in Scotland, on an intestacy or otherwise, property is appropriated by a personal representative in or towards satisfaction of the right of a husband to jus relictii, of a wife to jus relictiae or of issue to legitim, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (8) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of subsection (1), (4), (5) or (7) above shall be chargeable under this subsection with stamp duty of 50p.
- (9) But an instrument which is chargeable under subsection (8) above shall not be treated as duly stamped unless it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (10) Subject to subsection (11) below, this section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.
- (11) Subsections (5) to (7) above and, so far as it relates to subsection (5) or (7), subsection (8) above apply to instruments executed on or after 1st August 1985.

## **85 Repeal of certain fixed duties**

- (1) The headings which are specified in Schedule 1 to the Stamp Act 1891 and are mentioned in Schedule 24 to this Act shall be omitted.
- (2) In section 7 of the Finance Act 1907 (stamping of hire-purchase agreements) for the words from "shall only be charged" to the end there shall be substituted " shall not be charged with any stamp duty. "
- (3) This section and that Schedule apply to—
  - (a) instruments executed on or after 26th March 1985, and
  - (b) instruments executed on or after 19th March 1985 which are not stamped before 26th March 1985.
- (4) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (3)(b) above shall be deemed to be that as varied in accordance with this section.
- (5) This section and that Schedule shall be deemed to have come into operation on 26th March 1985.

## **86 Abolition of duty on contract notes**

- (1) Subsections (1) and (2) of section 77 of the Finance (1909-10) Act 1910 (duty on contract notes) shall cease to have effect.



- (2) This section applies to contract notes made and executed on or after 26th March 1985, and shall be deemed to have come into operation on that date.

## **87 Certificates**

- (1) The Commissioners may make regulations providing that an instrument which is of a kind specified in them—
- (a) shall be certified to be an instrument of that kind, and
  - (b) shall not be treated as duly stamped if it is not so certified.
- (2) The Treasury may make regulations providing that an instrument which is of a kind specified in them, and which would apart from this subsection be chargeable with stamp duty of a fixed amount under any provision so specified, shall not be charged with such duty under that provision if it is certified to be an instrument of that kind.
- (3) Certification under this section shall be by such method as the regulations may specify, and in particular they may provide for a certificate to be borne by or attached to or otherwise associated with an instrument in such manner as they may specify.
- (4) A certificate under this section shall be in such form and signed by such person as the regulations may specify.
- (5) Regulations under this section may contain such incidental or consequential provisions as the Commissioners or Treasury (as the case may be) think fit.
- (6) Regulations under this section may make different provision for different cases or descriptions of case.
- (7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

## **88 Exchange rates**

Section 12 of the Finance Act 1899 (fixed exchange rate for foreign currency) shall not apply to instruments executed on or after 1st August 1985, and section 6 of the Stamp Act 1891 (exchange rate at date of instrument) shall apply to instruments to which section 12 of the 1899 Act would apply if this Act had not been passed.

## **89 Exemption from section 28 of Finance Act 1931**

- (1) Section 28 of the Finance Act 1931 (production to Commissioners of instruments transferring land and furnishing of particulars) shall not apply in relation to any instrument (an "exempt instrument") which falls within any class prescribed for the purposes of this section by regulations made by the Commissioners.
- (2) Regulations under this section may—
- (a) provide that the particulars mentioned in Schedule 2 to the 1931 Act shall be furnished to the Commissioners, in accordance with the requirements of the regulations, in respect of exempt instruments or such descriptions of exempt instruments as may be prescribed by the regulations;
  - (b) make different provision in relation to different cases or kinds of case and in respect of different parts of Great Britain.

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- (3) Any person who fails to comply with any requirement imposed by regulations made under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (as defined in section 75 of the Criminal Justice Act 1982).
- (4) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Section 35 (x) of the 1931 Act (which gives power by regulations to exempt certain instruments in Scotland where particulars are obtained through the General Register of Sasines and which is superseded by the power given by this section) shall cease to have effect.
- (6) Regulations made under section 35(x) shall have effect after the commencement of this section as if they were made under this section and as if they imposed on the Keeper of the Registers of Scotland the duty mentioned in section 35 (x).

## PART IV

### OIL TAXATION

#### **90 Limitations on relief for exploration and appraisal expenditure**

- (1) With respect to expenditure incurred on or after 19th March 1985, section 5A of the Oil Taxation Act 1975 (allowance of exploration and appraisal expenditure) shall be amended in accordance with subsections (3) to (5) below.
- (2) With respect to expenditure incurred on or after 1st April 1986. in subsection (2) of the said section 5A (the purposes for which expenditure is to be incurred to qualify for relief), for the words "the United Kingdom, the territorial sea thereof", in each place where they occur, there shall be substituted " the territorial sea of the United Kingdom".
- (3) After subsection (2) there shall be inserted the following subsection—
 

“(2A) Any reference in subsection (2) above to a designated area does not include a sector which, by virtue of subsection (3)(6) of section 107 of the Finance Act 1980 (transmedian fields), is deemed to be a designated area.”
- (4) In subsection (5) (which modifies the application of certain provisions of section 5 of the Oil Taxation Act 1975 in relation to section 5A) in paragraph (c) (which excludes certain receipts from being taken into account under subsection (6) of section 5 of that Act and thereby prevents the expenditure which qualifies for relief being reduced on account of those receipts) for the words from " does not include " onwards there shall be substituted—
  - “(i) includes a reference to a sum received, or treated by virtue of subsection (5A) below as received, from the disposal of oil won in the course of operations carried out for any of the purposes in paragraphs (a) to (c) of subsection (2) of this section ; but
  - (ii) does not include a reference to a sum received for the assignment of any of the rights conferred by a licence or of any interest in a licensed area”.

(5) After subsection (5) there shall be inserted the following subsections—

“(5A) Subsection (5B) below applies in any case where—

- (a) oil which is won as mentioned in paragraph (c)(i) of subsection (5) above is either disposed of otherwise than in sales at arm's length or appropriated to refining or to any use except for production purposes of an oil field, and
- (b) if that oil had been disposed of in a sale at arm's length, then, by virtue of section 5(6) of this Act as applied by subsection (5) above, certain expenditure would have been reduced by reference to the receipt of a sum from that disposal.

(5B) Where this subsection applies, the oil concerned shall be treated for the purposes of subsection (5)(c)(i) above and section 5(6) of this Act as having been disposed of for a sum equal to its market value at the material time in the calendar month in which it was disposed of or appropriated as mentioned in subsection (5A)(a) above and, accordingly, for those purposes—

- (a) a sum equal to that market value shall be treated as having been received from that disposal; and
- (b) no account shall be taken of any sum actually received from the disposal of any of that oil.

(5C) In the application of Schedule 3 to this Act for the purpose of ascertaining the market value of oil as mentioned in subsection (5B) above,—

- (a) in paragraph 2, in paragraph (c) of sub-paragraph (2) for the words from the beginning to "paragraph in question " there shall be substituted " the contract is for the sale of the whole quantity of oil whose market value falls to be ascertained for the purposes of section 5A(5B) of this Act " ;
- (b) sub-paragraphs (3) and (4) of paragraph 2 shall be omitted; and
- (c) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in subsection (5A)(a) above.”

## **91 Chargeable periods relevant to limit on tax payable and expenditure supplement**

(1) In subsection (1A) of section 9 of the Oil Taxation Act 1975 (the chargeable periods in respect of which the tax payable is limited under that section) in paragraph (b) (chargeable periods after the net profit period), for the words " included in paragraph (a) above " there shall be substituted " which are included in paragraph (a) above and in which the amount of oil won and saved from the field exceeds 1,000 metric tonnes";

and at the end of that subsection there shall be added the words " and for the purposes of paragraph (b) above 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere shall be counted as equivalent to one metric tonne".

(2) The amendment made by subsection (1) above has effect with respect to any oil field in respect of which the first chargeable period ends after 30th June 1985.

(3) In section 111 of the Finance Act 1981 (restriction of expenditure supplement by reference to net profit period), in subsection (1) for the words from "in which" onwards

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there shall be substituted “which is the earliest chargeable period ending after a development decision has been made for the field in which—

- (a) the amount of oil won and saved from the field exceeds 1,000 metric tonnes (counting 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and (pressure of one atmosphere as equivalent to one metric tonne); and
- (b) a net profit from the field accrues to the participator;

and subsection (7) of section 5A of the principal Act (time when development decision is made) shall apply for the purposes of this subsection as it applies for the purposes of subsection (1)(c) of that section.”

- (4) The amendment made by subsection (3) above has effect with respect to chargeable periods ending after 30th June 1985.

## **92 Qualifying assets: exclusion of land and certain buildings**

- (1) In subsection (1) of section 8 of the Oil Taxation Act 1983 (meaning of " qualifying asset") after the word " means " there shall be inserted " subject to subsection (1 A) below".

- (2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Notwithstanding anything in subsection (1) above, the following assets are not qualifying assets for the purposes of this Act, namely,—

- (a) land or an interest in land ; and
- (b) a building or structure which is situated on land and which does not fall within any of sub-paragraphs (i) to (iv) of paragraph (c) of subsection (4) of section 3 of the principal Act.”

- (3) In section 15(3) of the Oil Taxation Act 1983 (interpretation) in the definition of " qualifying asset" for the words " section 8(1) " there shall be substituted " section 8".

- (4) In paragraph 4 of Schedule 2 to that Act (cases where all the oil is exempt gas) at the end of sub-paragraph (2) (modifications of section 8(1)) there shall be inserted the following subparagraph—

“(2A) In any case where this paragraph applies, paragraph (b) of subsection (1A) of section 8 of this Act shall have effect in relation to the participator as if—

- (a) for the words "does not" there were substituted " would not " ; and
- (b) at the end there were added the words " even if section 10(2) of the principal Act were disregarded".”

- (5) This section has effect for determining whether any consideration which is received or receivable after 19th March 1985 constitutes tariff receipts or disposal receipts within the meaning of the Oil Taxation Act 1983.

## PART V

### MISCELLANEOUS AND SUPPLEMENTARY

#### **93 Abolition of development land tax and tax on development gains**

- (1) Development land tax shall not be charged in respect of any disposal taking place on or after 19th March 1985; and for this purpose "disposal" includes a deemed disposal within the meaning of the Development Land Tax Act 1976 (in this section referred to as "the 1976 Act") and any other event which, but for the repeals effected by Part X of Schedule 27 to this Act, would constitute a disposal of an interest in land for the purposes of that Act.
- (2) Without prejudice to subsection (1) above, no realised development value, within the meaning of the 1976 Act, shall accrue to any person on or by reason of any event occurring on or after 19th March 1985.
- (3) In any case where, immediately before 19th March 1985, liability for development land tax stands for the time being deferred as mentioned in section 27 of the 1976 Act, that liability shall be extinguished with effect from that date.
- (4) In any case where—
  - (a) by virtue of paragraph 52 of Schedule 8 to the 1976 Act (postponement of tax on incorporation disposal) an amount of tax is not payable until a time determined in accordance with sub-paragraphs (4) to (6) of that paragraph, and
  - (b) that amount of tax has not become payable before 19th March 1985,that amount of tax shall be remitted with effect from that date.
- (5) Part I of Schedule 25 to this Act shall have effect for supplementing the preceding provisions of this section.
- (6) No part of a chargeable gain which accrues to any person on the disposal of an interest in land on or after 19th March 1985 shall be a development gain by virtue of Chapter 1 of Part III of the Finance Act 1974; and for this purpose "disposal of an interest in land" means any event which, but for the repeals effected by Part X of Schedule 27 to this Act, would be (or be deemed to be) a disposal of an interest in land to which section 38 of that Act would apply.
- (7) In consequence of the preceding provisions of this section and of the repeals effected by Part X of Schedule 27 to this Act, the enactments specified in Part II of Schedule 25 to this Act shall have effect subject to the amendments in that Part; but those amendments do not affect the operation of the enactments concerned in relation to—
  - (a) a disposal, as defined in subsection (1) above, taking place before 19th March 1985; or
  - (b) a disposal of an interest in land, as defined in subsection (6) above, taking place before that date.

#### **94 Capital transfer tax: conditional exemption**

- (1) Schedule 26 to this Act (which contains amendments about conditional exemption) shall have effect.
- (2) Those amendments have effect in relation to events on or after 19th March 1985.

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

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## **95 The national heritage: transfer of Treasury functions to Board**

- (1) The functions of the Treasury under—
- (a) Part II, and section 76 of, and Schedules 3 to 5 to, the Capital Transfer Tax Act 1984 (exempt transfers);
  - (b) section 147 of the Capital Gains Tax Act 1979 (works of art etc.);
  - (c) the enactments re-enacted by those provisions ;
- and the corresponding functions of the Treasury under any earlier enactments relating to capital transfer tax or estate duty, are hereby transferred to the Commissioners of Inland Revenue (" the Board").
- (2) This section shall not affect the validity of anything done by or in relation to the Treasury before the passing of this Act; and anything which at that date is in the process of being done by or in relation to the Treasury may, if it relates to functions transferred by this section to the Board, be continued by or in relation to the Board.
- (3) Any authorisation, designation, direction, approval, determination, or other thing given, made or done by the Treasury in connection with functions transferred by this section shall have effect as if given, made or done by the Board in so far as that is required for continuing its effect after the passing of this Act.
- (4) Any enactment passed or instrument or other document made before the coming into operation of this section shall have effect, so far as may be necessary, for the purpose or in consequence of the transfer of functions effected by this section as if any reference to the Treasury were or included a reference to the Board.

## **96 European Communities and Investment Bank: exemptions**

- (1) In section 126 of the Finance Act 1984 (tax exemptions in relation to designated international organisations) the following shall be inserted after subsection (3)—
- “(4) The Treasury may, by order made by statutory instrument, designate any of the Communities or the European Investment Bank for the purposes of this section, and references in subsections (2) and (3) above to an organisation designated for the purposes of this section include references to a body so designated by virtue of this subsection.
- (5) Subsection (3) above, as it applies by virtue of subsection (4) above, shall be read as if the words " under the heading " Bearer Instrument" in Schedule 1 to the Stamp Act 1891 " were omitted.”
- (2) An order made by virtue of subsection (4) of section 126 of the Finance Act 1984 may revoke or vary the European Communities (Loan Stock) (Stamp Duties) Order 1972 (which provides for exemption from stamp duty in respect of issues and transfers of loan stock of the bodies referred to in that subsection, other than the Economic Community).

## **97 Extension of Provisional Collection of Taxes Act 1968 to reduced and composite rates**

In section 1 of the Provisional Collection of Taxes Act 1968, after subsection (1) there shall be inserted the following subsection—

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“(1A) The reference in subsection (1) above to income tax includes a reference to any amount payable as representing income tax—

- (a) under section 343 of the Income and Corporation Taxes Act 1970 (dividends and interest payable by building societies); or
- (b) under section 27 of the Finance Act 1984 (interest paid on deposits with banks etc.).”

**98 Short title, interpretation, construction and repeals**

- (1) This Act may be cited as the Finance Act 1985.
- (2) In this Act " the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) Part II of this Act, 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 the Capital Gains Tax Act 1979.
- (4) Part III of this Act shall be construed as one with the Stamp Act 1891.
- (5) Part IV of this Act shall be construed as one with Part I of the Oil Taxation Act 1975.
- (6) The enactments specified in Schedule 27 to 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.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Description of wine or made-wine	Rates of duty per hectolitre
	£
Wine or made-wine of a strength of less than 15 per cent, and not being sparkling	98.00
Sparkling wine or sparkling made-wine of a strength of less than 15 per cent	161.80
Wine or made-wine of a strength of not less than 15 per cent, but not exceeding 18 per cent	169.00
Wine or made-wine of a strength exceeding 18 per cent, but not exceeding 22 per cent	194.90
Wine or made-wine of a strength exceeding 22 per cent	194.90 plus £15.77 for every 1 per cent, or part of 1 per cent, in excess of 22 per cent.

### SCHEDULE 2

Section 4.

#### VEHICLES EXCISE DUTY

### PART I

#### PROVISIONS SUBSTITUTED IN PART II OF SCHEDULES 1 TO 5 TO THE VEHICLES (EXCISE) ACT 1971 AND THE VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

- 1 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 1—

Description of vehicle	Rate of duty
	£
1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	10.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed	20.00



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Description of vehicle	Rate of duty
250 cubic centimetres ; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger	
3. Bicycles and tricycles not in the foregoing paragraphs	40.00

2 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 2—

Description of vehicle	Rate of duty
Hackney carriages	£ 50.00 with an additional 1.00 for each person above 20 (excluding the driver) for which the vehicle has seating capacity.

3 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 3—

Description of vehicle	Weight unladen of vehicle		Rate of duty	
	1. Exceeding	2. Not exceeding	4. Initial	5. Additional for each ton or part of a ton in excess of the weight in column 2
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines; fishermen's tractors .....	—	—	£ 16.00	£ —
2. Haulage vehicles, being	—	7 ¼ tons	151.00	—
	7 ¼ tons	8 tons	180.00	—

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1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each ton or part of a ton in excess of the weight in column 2
showmen's vehicles	8 tons	10 tons	212.00	—
	10 tons	—	212.00	32.50
3. Haulage vehicles, not being showmen's vehicles	—	2 tons	179.00	—
	2 tons	4 tons	322.00	—
	4 tons	6 tons	465.00	—
	6 tons	7 ¼ tons	608.00	—
	7 ¼ tons	8 tons	743.00	—
	8 tons	9 tons	869.00	—
	9 tons	10 tons	995.00	—
	10 tons	11 tons	1,138.00	—
	11 tons	—	1,138.00	142.00

4 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 4—

TABLE A

RATES OF DUTY ON RIGID GOODS VEHICLES  
EXCEEDING 12 TONNES PLATED GROSS WEIGHT

## GENERAL RATES

Plated gross weight of vehicle		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	410.00	320.00	320.00
13	14	570.00	340.00	340.00
14	15	740.00	340.00	340.00
15	17	1,030.00	340.00	340.00
17	19	—	490.00	340.00
19	21	—	660.00	340.00
21	23	—	900.00	490.00

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

Plated gross weight of vehicle			Rate of duty	
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
23	25	—	1,610.00	690.00
25	27	—	—	1,000.00
27	29	—	—	1,470.00
29	30.49	—	—	2,420.00

TABLE A(1)

RATES OF DUTY ON RIGID GOODS VEHICLES  
 EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR FARMERS' GOODS VEHICLES

Plated gross weight of vehicle			Rate of duty	
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	175.00	145.00	145.00
13	14	215.00	150.00	150.00
14	15	255.00	150.00	150.00
15	17	335.00	160.00	150.00
17	19	—	190.00	150.00
19	21	—	240.00	160.00
21	23	—	295.00	195.00
23	25	—	475.00	245.00
25	27	—	—	325.00
27	29	—	—	445.00
29	30-49	—	—	725.00

TABLE A(2)

RATES OF DUTY ON RIGID GOODS VEHICLES  
 EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR SHOWMEN'S GOODS VEHICLES

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

Plated gross weight of vehicle		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	105.00	90.00	90.00
13	14	145.00	90.00	90.00
14	15	185.00	90.00	90.00
15	17	260.00	90.00	90.00
17	19	—	125.00	90.00
19	21	—	165.00	90.00
21	23	—	225.00	125.00
23	25	—	405.00	175.00
25	27	—	—	250.00
27	29	—	—	370.00
29	30-49	—	—	605.00

TABLE B

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
VEHICLES OVER 12 TONNES USED FOR DRAWING  
TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

## GENERAL RATES

Gross weight of trailer		Duty supplement
Exceeding	Not exceeding	
tonnes	tonnes	£
4	8	80.00
8	10	100.00
10	12	130.00
12	14	180.00
14	—	355.00

TABLE B(1)

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
VEHICLES OVER 12 TONNES USED FOR DRAWING  
TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

## RATES FOR FARMERS' GOODS VEHICLES

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

Gross weight of trailer		Duty supplement	
Exceeding	Not exceeding		
tonnes	tonnes	£	
4	8	80.00	
8	10	100.00	
10	12	130.00	
12	14	180.00	
14	—	355.00	

TABLE B(2)

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
 VEHICLES OVER 12 TONNES USED FOR DRAWING  
 TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

RATES FOR SHOWMEN'S GOODS VEHICLES

Gross weight of trailer		Duty supplement	
Exceeding	Not exceeding		
tonnes	tonnes	£	
—	—	80.00	

TABLE C

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

GENERAL RATES

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	470.00	420.00	420.00
14	16	590.00	440.00	440.00
16	18	690.00	440.00	440.00

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
18	20	810.00	440.00	440.00
20	22	940.00	550.00	440.00
22	23	1,000.00	620.00	440.00
23	25	1,150.00	780.00	440.00
25	26	1,150.00	870.00	530.00
26	28	1,150.00	1,090.00	720.00
28	29	1,210.00	1,210.00	820.00
29	31	1,680.00	1,680.00	1,050.00
31	33	2,450.00	2,450.00	1,680.00
33	34	2,450.00	2,450.00	2,250.00
34	36	2,750.00	2,750.00	2,750.00
36	38	3,100.00	3,100.00	3,100.00

TABLE C(1)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

RATES FOR FARMERS' GOODS VEHICLES

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	190.00	175.00	175.00

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
14	16	225.00	180.00	180.00
16	18	250.00	180.00	180.00
18	20	280.00	180.00	180.00
20	22	310.00	205.00	180.00
22	23	325.00	225.00	180.00
23	25	370.00	265.00	185.00
25	26	370.00	285.00	210.00
26	28	370.00	345.00	260.00
28	29	380.00	380.00	285.00
29	31	525.00	525.00	355.00
31	33	755.00	755.00	550.00
33	34	990.00	990.00	950.00
34	36	1,155.00	1,155.00	1,155.00
36	38	1,300.00	1,300.00	1,300.00

TABLE C(2)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

RATES FOR SHOWMEN'S GOODS VEHICLES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	120.00	105.00	105.00
14	16	150.00	110.00	110.00
16	18	175.00	110.00	110.00
18	20	205.00	110.00	110.00
20	22	235.00	140.00	110.00
22	23	250.00	155.00	110.00
23	25	290.00	195.00	110.00
25	26	290.00	220.00	135.00
26	28	290.00	275.00	180.00
28	29	305.00	305.00	205.00
29	31	420.00	420.00	265.00
31	33	615.00	615.00	420.00
33	34	615.00	615.00	565.00
34	36	690.00	690.00	690.00
36	38	775.00	775.00	775.00

TABLE D

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

GENERAL RATES



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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	420.00	420.00	420.00
14	20	440.00	440.00	440.00
20	22	550.00	440.00	440.00
22	23	620.00	440.00	440.00
23	25	780.00	440.00	440.00
25	26	870.00	440.00	440.00
26	28	1,090.00	440.00	440.00
28	29	1,210.00	520.00	440.00
29	31	1,680.00	640.00	446.00
31	33	2,450.00	970.00	440.00
33	34	2,450.00	1,420.00	550.00
34	36	2,450.00	2,030.00	830.00
36	38	2,730.00	2,730.00	1,240.00

TABLE D(1)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

RATES FOR FARMERS' GOODS VEHICLES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	175.00	175.00	175.00
14	20	180.00	180.00	180.00
20	22	205.00	180.00	180.00
22	23	225.00	180.00	180.00
23	25	265.00	180.00	180.00
25	26	285.00	185.00	180.00
26	28	345.00	200.00	190.00
28	29	380.00	225.00	200.00
29	31	525.00	270.00	220.00
31	33	755.00	405.00	240.00
33	34	805.00	595.00	300.00
34	36	935.00	855.00	455.00
36	38	1,145.00	1,145.00	680.00

TABLE D(2)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

RATES FOR SHOWMEN'S GOODS VEHICLES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semitrailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semitrailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	105.00	105.00	105.00
14	18	110.00	110.00	110.00
18	20	110.00	110.00	110.00
20	22	140.00	110.00	110.00
22	23	155.00	110.00	110.00
23	25	195.00	110.00	110.00
25	26	220.00	110.00	110.00
26	28	275.00	110.00	110.00
28	29	305.00	130.00	110.00
29	31	420.00	160.00	110.00
31	33	615.00	245.00	110.00
33	34	615.00	355.00	140.00
34	36	615.00	510.00	210.00
36	38	685.00	685.00	310.00

5 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 5—

Description of vehicle	Rate of duty
	£
1. Any vehicle first registered under the Roads Act 1920 before 1st January 1947, or which, if its first registration for taxation purposes had been effected in Northern Ireland, would have been so first registered under the Act as in force in Northern Ireland	60.00
2. Other vehicles	100.00

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

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## PART II

### AMENDMENT OF PART I OF SCHEDULE 4 TO THE VEHICLES (EXCISE) ACT 1971 AND THE VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

- 6 In the Act of 1971 and the Act of 1972, in paragraph 6(1) of Part I of Schedule 4, for " £67 " there shall be substituted " £75".
- 7 The following shall be substituted for paragraph 6(2) of Part I of Schedule 4 to the Act of 1971—
- “(2) If a farmer's goods vehicle or a showman's goods vehicle has a plated gross weight or a plated train weight, the annual rate of duty applicable to it shall be—
- (a) if that weight does not exceed 7.5 tonnes, £90 ;
  - (b) if that weight exceeds 7.5 tonnes but does not exceed 12 tonnes, £135 in the case of a farmer's goods vehicle and £90 in the case of a showman's goods vehicle; and
  - (c) if that weight exceeds 12 tonnes, the appropriate Part II rate.”
- 8 The following shall be substituted for paragraph 6(2) of Part I of Schedule 4 to the Act of 1972—
- “(2) If a farmer's goods vehicle or a showman's goods vehicle has a relevant maximum weight or a relevant maximum train weight, the annual rate of duty applicable to it shall be—
- (a) if that weight does not exceed 7.5 tonnes, £90 ;
  - (b) if that weight exceeds 7.5 tonnes but does not exceed 12. tonnes, £135 in the case of a farmer's goods vehicle and £90 in the case of a showman's goods vehicle; and
  - (c) if that weight exceeds 12 tonnes, the appropriate Part II rate.”
- 9 In the Act of 1971 and the Act of 1972, in paragraph 7 of Part I of Schedule 4, for " £90 " there shall be substituted " £100".

## SCHEDULE 3

Section 6.

### AMENDMENTS OF ALCOHOLIC LIQUOR DUTIES ACT 1979

#### *Manufacture of spirits during the recovery of beer*

- 1 In section 13 (regulations and directions relating to manufacture of spirits) after subsection (2) there shall be inserted the following subsection—
- “(2A) If the Commissioners so direct, spirits manufactured by a process to which a direction under subsection (2) above applies shall be treated as not being within the charge of duty on spirits under section 5 above.”

#### *Spirits: attenuation charge*

- 2 In section 14 (the attenuation charge) at the end of subsection (6) (which empowers the Commissioners to make an allowance where the charge arises wholly or partly

from certain specified causes) there shall be added the words " or from some other legitimate cause".

*Determination of beer duty*

- 3 (1) In section 38 (duty on beer brewed by brewers for sale in subsection (8) (which provides that duty becomes payable immediately it is charged by the proper officer) for the words from " payable " onwards there shall be substituted " chargeable in respect of duty shall be determined and become due in accordance with regulations made under section 49 below".
- (2) In subsection (9) of that section (which enables duty to be charged at the close of each month in respect of all the brewings during the month) for the words "cause the charge to be made up" there shall be substituted " permit the duty chargeable to be determined".
- (3) In section 49(1) (regulations of the Commissioners) after paragraph (b) there shall be inserted the following paragraph—
- “(bb) for determining the duties chargeable and the due dates for payment”.

*Restrictions on adding substances to beer*

- 4 (1) In section 52 (offences by brewers for sale) for subsection (2) (which restricts the substances which may be added to beer) there shall be substituted the following subsections—
- “(2) A brewer for sale may, on his entered premises and in accordance with regulations under section 49 above, add to beer brewed on those premises—
- (a) water;
- (b) finings for the purpose of clarification ; and
- (c) such other substances as may be sanctioned by the Commissioners.
- (2A) Except as provided by subsection (2) above, a brewer for sale who adds anything to beer on his entered premises shall be liable on summary conviction to a penalty of level 3 on the standard scale.”
- (2) After section 71 there shall be inserted the following section

**“71A Restrictions on adding substances to beer.**

- (1) The Commissioners may by regulations provide that, except in such cases and subject to such conditions as may be specified by or under the regulations, no substance may be added to beer at any time—
- (a) after it leaves the entered premises on which it was brewed, or
- (b) in the case of beer brewed outside the United Kingdom, after it is imported into the United Kingdom,
- and before it is sold by retail or otherwise supplied for consumption.
- (2) Regulations under this section may regulate the transportation of beer at any such time as is referred to in subsection (1) above; and the conditions referred to in that subsection may include conditions as to—

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

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- (a) the keeping and production of samples of the product of any process of addition to beer ; and
  - (b) the keeping and production of records.
- (3) Any person who contravenes or fails to comply with regulations under this section (including any conditions imposed by such regulations) shall be liable on summary conviction to a penalty of level 3 on the standard scale, and any beer in respect of which the offence was committed shall be liable to forfeiture.”
- (3) In section 72 (offences by wholesalers or retailers of beer) subsections (1) and (2) (which relate to the addition of substances to, and the dilution of, beer) shall cease to have effect on the coming into operation of regulations under section 71A of the Alcoholic Liquor Duties Act 1979.

#### SCHEDULE 4

Section 7.

##### HYDROCARBON OIL: MIXING ETC

- 1 The following shall be substituted for section 20 of the Hydrocarbon Oil Duties Act 1979 (contaminated or accidentally mixed oil)-

**“20 Contaminated or accidentally mixed oil.**

- (1) This section applies where it is shown to the satisfaction of the Commissioners-
  - (a) that hydrocarbon oil has been delivered for home use, that since it was so delivered it has become contaminated, and that at the time it became contaminated it was oil on which the appropriate duty of excise had been paid, or
  - (b) that hydrocarbon oils of different descriptions have been delivered for home use, that since they were so delivered they have become accidentally mixed with each other, and that at the time of mixing they were oils on which the appropriate duty of excise had been paid.
- (2) Subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, they may make to such person as they see fit a payment in accordance with subsection (3) below.
- (3) The payment shall be of an amount appearing to the Commissioners to be equal to the excise duty which would have been payable if—
  - (a) the oil had been delivered for home use (uncontaminated) at the time it became contaminated (where subsection (1)(a) above applies), or
  - (b) the oils had been delivered for home use (unmixed) at the time they became mixed (where subsection (1)(b) above applies).”

- 2 The following shall be inserted after section 20 of that Act (as substituted by paragraph 1 above)—

*“Mixing: adjustment of duty*

**20A Mixing: adjustment of duty.**

- (1) In this section "new oil" means hydrocarbon oil which after it has been charged under section 6 above as oil of one description becomes oil of a different description as a result of approved mixing in a pipe-line with other hydrocarbon oil which has been so charged; and "approved mixing" has the meaning given by subsection (5) below.
- (2) Where the Commissioners are of opinion that, if the new oil had fallen to be charged under section 6 above as oil of the different description, the amount of duty would have been greater or less than that actually charged, then—
  - (a) if in their opinion the amount would have been greater, they may charge under this section a duty of excise on the oil of an amount equal to the difference, and
  - (b) if in their opinion the amount would have been less, they may make under this section an allowance equal to the difference.
- (3) In determining the amount of duty which would have been charged if the new oil had fallen to be charged under section 6 above as oil of the different description, the rates to be applied are those effective at the time when in the Commissioners' opinion the oil became oil of the different description.
- (4) Where the Commissioners have made a charge or allowance under subsection (2) above, then, for the purposes of this Act, any relief or rebate which was permitted or allowed at the time of the charge under section 6 above shall be disregarded.
- (5) The Commissioners may make regulations—
  - (a) enabling them to grant to persons (whether individually or of a specified class) permission to mix in a pipe-line different descriptions of hydrocarbon oil (whether generally or in the case of specified descriptions only), and to withdraw permission for reasonable cause ;
  - (b) enabling permission to be granted subject to conditions and conditions to be varied for reasonable cause,and in this section "approved mixing" means mixing in accordance with permission under the regulations.
- (6) The Commissioners may make regulations—
  - (a) for prescribing the method of charging the duty under this section;
  - (b) for determining the form of the allowance under this section (which may be by way of repayment or otherwise) and the time the allowance may be made.
- (7) Regulations under this section may make different provision for different circumstances.”

3 In section 27(3) of that Act (expressions have meanings given by certain other Acts), in the list of expressions defined in the Management Act, after the entry relating to "officer" and "proper" there shall be inserted " pipe-line".

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

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- 4 In paragraph 11 of Schedule 3 to that Act (securing and collecting duty on oil produced in the United Kingdom) the words " produced in the United Kingdom " shall cease to have effect.

## SCHEDULE 5

Section 8.

### GAMING MACHINE LICENCE DUTY

#### PART I

##### AMENDMENTS OF BETTING AND GAMING DUTIES ACT 1981

- 1 (1) In section 21 (gaming machine licences) in subsection (1) for the words " Great Britain " there shall be substituted " the United Kingdom".
- (2) In subsection (3) of that section the following entry shall be inserted in the Table after item 3(d)—

“(e) The fifth region	Twelve months beginning with 1st October”
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and in the words following the Table for the words " Great Britain " there shall be substituted " the United Kingdom"; and at the end there shall be added the words " but, until the Commissioners designate otherwise, the fifth region shall be Northern Ireland. "

- 2 (1) In section 21A (special licences) at the end of subsection (1) there shall be added the words " and no special licence shall authorise a machine which is not a small-prize machine. "
- (2) In subsection (3) of that section the words from "either that" to " Acts or " shall be omitted.
- 3 (1) In section 22 (gaming machine licence duty) in subsection (1) for sub-paragraph (i) of paragraph (a) there shall be substituted the following sub-paragraph—
- “(i) to whether or not the licence authorises the provision of a small-prize machine, and”.
- (2) For subsections (2) to (4) of that section there shall be substituted the following subsections—
- “(2) For the purposes of this Act a gaming machine is a small-prize machine if the value or aggregate value of the benefits in money or money's worth, which any player who is successful in a single game played by means of the machine may receive, cannot exceed £3.
- (3) The Commissioners may by order substitute for the sum for the time being mentioned in subsection (2) above such higher sum as may be specified in the order, with effect from a date so specified.”
- 4 (1) In section 23 (amount of duty) in paragraph (a) of subsection (1) for the words from " where " to " Acts " there shall be substituted " which authorise the provision only of small-prize machines".



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

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- (2) In Tables A and B in subsection (1) of that section the words "*Premises with local authority approval*" and "*Premises without local authority approval*" shall be omitted.
- 5 In section 24(5) (provision of gaming machine in contravention of restrictions) for the words " a penalty of £500 " there shall be substituted " a penalty of level 5 on the standard scale. "
- 6 In section 26(2) (interpretation of provisions relating to gaming machine licence duty), for the entry relating to Great Britain there shall be substituted the following entries—  
“United Kingdom' includes the territorial waters of the United Kingdom;  
' small-prize machine ' has the meaning given by section 22(2) above.”
- 7 In section 33(1) (general interpretation provisions) at the end of the definition of "the prescribed sum" there shall be inserted the words “and  
(c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.”
- 8 In section 35(3) (extent) at the beginning there shall be inserted the words " Except as provided by subsection (4) below " and after that subsection there shall be inserted the following subsection—  
“(4) The following provisions of this Act extend to Northern Ireland—  
(a) sections 21 to 26 ;  
(b) section 27 in its application to an offence under paragraph 16 of Schedule 4 ;  
(c) section 31 in its application to the enactments relating to the duty on gaming machine licences ;  
(d) sections 32 and 33 and this section ; and  
(e) Schedule 4, except paragraph 15.”
- 9 (1) In Schedule 4 (gaming machine licence duty), in paragraph 4 (no licence required for months preceding and following a summer licence) for the words from " gaming machine ", in the second place where they occur, to " Acts " there shall be substituted " small-prize machine on any premises".  
(2) In paragraph 16 of that Schedule (failure to comply with provisions etc. as to gaming machine licence duty) in sub-paragraph (1) for the words " a penalty of £500 " there shall be substituted " a penalty of level 5 on the standard scale. "

## PART II

### EXTENSION TO NORTHERN IRELAND OF CERTAIN SUBORDINATE LEGISLATION

- 10 Any orders or regulations made under any provision of Schedule 4 to the Betting and Gaming Duties Act 1981, in so far as they have effect immediately before 1st August 1985, shall have effect on and after that day in relation to Northern Ireland as if—  
(o) that Act extended to Northern Ireland at the time when the orders or regulations were made, and

- (b) the orders or regulations were made in relation to Northern Ireland as well as Great Britain.

## SCHEDULE 6

Section 12.

### SECTION 39 OF THE PRINCIPAL ACT, AS AMENDED, EXCLUDING SUBSECTION (8)

#### “39 Offences and penalties.

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both ; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (1A) Any reference in subsection (1) above or subsection (3) below to the evasion of tax includes a reference to the obtaining of—
- (a) a payment under section 14(5) above ; or
  - (b) a refund under section 21 or section 22 above; or
  - (c) a repayment under section 23 above;
- and any reference in those subsections to the amount of the tax shall be construed,—
- (i) in relation to tax itself or a payment falling within paragraph (a) above, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated ; and
  - (ii) in relation to a refund or repayment falling within paragraph (b) or paragraph (c) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (2) If any person—
- (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
  - (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- he shall be liable—
- (i) on summary conviction, to a penalty of the statutory maximum or, where subsection (2A) or subsection (2B) below applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (2A) In any case where—
- (a) the document referred to in subsection (2)(a) above is a return required under this Act, or

- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a return,
- the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.
- (2B) In any case where—
- (a) the document referred to in subsection (2)(a) above is a claim for a refund under section 21 or section 22 above or for a repayment under section 23 above, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a claim,
- the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the amount falsely claimed.
- (2C) The reference in subsection (2)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.
- (2D) Any reference in subsection (2)(a) or subsection (2C) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.
- (3) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—
- (a) on summary conviction, to a penalty of the statutory maximum or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both; or
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (3A) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.
- (4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.
- (5) If any person supplies goods or services in contravention of paragraph 5(2) of Schedule 7 to this Act, he shall be liable on summary conviction to a penalty of level 5 on the standard scale.
- (9) Sections 145 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly

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in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.”

## SCHEDULE 7

Section 23.

### AMENDMENTS OF SCHEDULE 7 TO THE PRINCIPAL ACT

- 1 (1) In paragraph 4 (power of Commissioners to assess tax due), in sub-paragraph (2) (assessments of certain amounts as tax due) for the words " in the prescribed accounting period " there shall be substituted " for the prescribed accounting period".
- (2) In sub-paragraph (6) (assessment on failure to prove availability or loss or destruction of goods) after the words " supplied by him " there shall be inserted " or have been exported from the United Kingdom otherwise than by way of supply".
- (3) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraph—
- “(6A) In any case where,—
- (a) as a result of a person's failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under sub-paragraph (1) above for that period, and
- (b) the tax assessed has been paid but no proper return has been made for the period to which the assessment related, and
- (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in sub-paragraph (4) above, the Commissioners find it necessary to make another assessment under sub-paragraph (1) above,
- then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of tax greater than that which they would otherwise have considered to be appropriate.”
- 2 In paragraph 7(2) (records to be preserved for a period not exceeding three years) for " three " there shall be substituted " six".
- 3 (1) In paragraph 8 (furnishing of information and production of documents) for sub-paragraphs (2) and (3) there shall be substituted the following sub-paragraphs—
- “(2) Every person who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business or to whom such a supply is made and every person who is concerned (in whatever capacity) in the importation of goods in the course or furtherance of a business shall—
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or services or to the supply or importation as the Commissioners may reasonably specify; and
- (b) upon demand made by an authorised person, produce or cause to be produced for inspection by mat person,—

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- (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
    - (ii) at such time as the authorised person may reasonably require,
  - any documents relating to the goods or services or to the supply or importation.
- (3) Where, by virtue of sub-paragraph (2) above, an authorised person has power to require the production of any documents from any such person as is referred to in that sub-paragraph, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.”
- (2) In sub-paragraph (4) of that paragraph for the words from " goods " to " services " there shall be substituted " goods or services or the importation of goods".
- (3) After sub-paragraph (4) there shall be inserted the following sub-paragraphs—
  - “(4A) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (2) or sub-paragraph (3) above.
  - (4B) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (2) or sub-paragraph (3) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (3) above, the removal of the document under this sub-paragraph shall not be regarded as breaking the lien. (4Q Where a document removed by an authorised person under sub-paragraph (4B) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.”
- 4 After paragraph 9 there shall be inserted the following paragraph—
  - “Power to require opening of gaming machines*

9A An authorised person may at any reasonable time require a person making such a supply as is referred to in subsection (1) of section 13 of this Act or any person acting on his behalf—

    - (a) to open any gaming machine, within the meaning of that section; and
    - (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with subsection (2) of that section, is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.”
- 5 (1) In paragraph 10 (entry and search of premises and persons) in sub-paragraph (3) (search warrants)—

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- (a) for the words " an offence in connection with the tax " there shall be substituted " a fraud offence which appears to be of a serious nature";
- (b) after the word " authorising " there shall be inserted " subject to sub-paragraphs (5) and (6) below";
- (c) in paragraph (b) for the words " such an offence" there shall be substituted " a fraud offence which appears to him to be of a serious nature"; and
- (d) in paragraph (c) the words " to have committed or to be about to commit such an offence or " shall be omitted.

(2) At the end of the paragraph there shall be added the following sub-paragraphs—

“(4) In sub-paragraph (3) above ' a fraud offence' means an offence under any provision of subsections (1) to (3) of section 39 of this Act.

(5) The powers conferred by a warrant under this paragraph shall not be exercisable—

- (a) by more than such number of authorised persons as may be specified in the warrant; nor
- (b) outside such times of day as may be so specified ; nor
- (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(6) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows: —

- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier ;
- (b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person ; and
- (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.”

6 After paragraph 10 there shall be inserted the following paragraphs—

*“Order for access to recorded information, etc.*

10A (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—

- (a) that an offence in connection with the tax is being, has been or is about to be committed, and
- (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this paragraph.

(2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

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- (a) give an authorised person access to it, and
  - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,  
not later than the end of the period of seven days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 8 and 10 above.

*Procedure where documents etc. are removed*

- 10B (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 10 or 10A above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be granted access to anything which—
- (a) has been removed by an authorised person, and
  - (b) is retained by the Commissioners for the purpose of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
  - (b) photograph or copy it, or cause it to be photographed or copied.

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- (5) Where anything is photographed or copied under subparagraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.
  - (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
  - (7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
    - (a) that investigation;
    - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
    - (c) any criminal proceedings which may be brought as a result of—
      - (i) the investigation of which he is in charge, or
      - (ii) any such investigation as is mentioned in paragraph (b) above.
  - (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.
- 10C
- (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 10B above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
  - (2) An application under sub-paragraph (1) above shall be made,—
    - (a) in the case of a failure to comply with any of the requirements imposed by sub-paragraphs (1) and (2) of paragraph 10B above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
    - (b) in any other case, by the person who had such custody or control.
  - (3) In this paragraph " the appropriate judicial authority" means—
    - (a) in England and Wales, a magistrates' court;
    - (b) in Scotland, the sheriff; and
    - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates' Courts (Northern Ireland) Order 1981.
  - (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph."



## SCHEDULE 8

Section 30.

### VALUE ADDED TAX TRIBUNALS

#### *Interpretation*

- 1 In this Schedule " Schedule 8 " means Schedule 8 to the principal Act (constitution and procedure of value added tax tribunals).

#### *The President*

- 2 (1) In paragraph 2 of Schedule 8, in sub-paragraph (2) after the words " Lord Chancellor ", there shall be inserted " after consultation with the Lord Advocate".

- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—

“(3) Subject to paragraph 3 below, the appointment of the President shall be for such term and subject to such conditions as may be determined by the Lord Chancellor, after consultation with the Lord Advocate, and a person who ceases to hold the office of President shall be eligible for re-appointment thereto.”

- 3 (1) In paragraph 3 of Schedule 8, in sub-paragraph (1) after the word "office", in the second place where it occurs, there shall be inserted " (a) " and at the end of the sub-paragraph there shall be added “or

(b) if sub-paragraph (1A) below applies, on the date on which he attains the age of seventy-five.”.

- (2) After sub-paragraph (1) of that paragraph there shall be inserted the following sub-paragraph—

“(1A) If the Lord Chancellor, after consultation with the Lord Advocate, considers it desirable in the public interest to do so, he may authorise the President to continue in office after the end of the completed year of service mentioned in subparagraph (1)(a) above.”

- (3) In sub-paragraph (2) of that paragraph after the word " fit" there shall be inserted " and after consultation with the Lord Advocate".

- (4) At the end of sub-paragraph (3) of that paragraph there shall be added the words " after consultation with the Lord Advocate".

- (5) In sub-paragraph (4) of that paragraph for the words "the Treasury may " there shall be substituted " the Lord Chancellor may with the approval of the Treasury".

- (6) In sub-paragraph (5) of that paragraph for the words "the Treasury", where they first occur, there shall be substituted " the Lord Chancellor " and for the words " the Treasury may " there shall be substituted " the Lord Chancellor may with the approval of the Treasury".

#### *Sittings of tribunals*

- 4 In paragraph 4 of Schedule 8—

(a) for the words "the President" there shall be substituted " the Lord Chancellor or, in relation to Scotland, the Secretary of State";

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- (b) the words " with the consent of the Treasury" shall be omitted ; and
- (c) for the word " he" there shall be substituted " the Lord Chancellor or, as the case may be, the Secretary of State".

*Membership of tribunals*

- 5 (1) In paragraph 7 of Schedule 8, in sub-paragraph (3), after the word " made ", when it first occurs, there shall be inserted " by the appropriate authority, that is to say " and in each of paragraphs (a) to (c) the word " by " shall be omitted.
- (2) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraphs—
- “(3A) No person may be appointed to a panel of chairmen of tribunals for England and Wales or Northern Ireland unless he is a barrister or solicitor of not less than seven years' standing ; and no person may be appointed to a panel of chairmen of tribunals for Scotland unless he is an advocate or solicitor of not less than seven years' standing.
- (3B) Subject to the following provisions of this paragraph, the appointment of a chairman of value added tax tribunals shall be for such term and subject to such conditions as may be determined by the appropriate authority, and a person who ceases to hold the office of chairman shall be eligible for re-appointment thereto.
- (3C) A chairman of value added tax tribunals may resign his office at any time and shall vacate his office—
- (a) at the end of the completed year of service in which he attains the age of seventy-two ; or
  - (b) if sub-paragraph (3D) below applies in his case, on the date on which he attains the age of seventy-five.
- (3D) If the appropriate authority considers it desirable in the public interest to do so, he may authorise a chairman of value added tax tribunals to continue in office after the end of the completed year of service mentioned in sub-paragraph (3C)(a) above.
- (3E) The appropriate authority may, if he thinks fit, remove a chairman of value added tax tribunals from office on the ground of incapacity or misbehaviour.”
- (3) In sub-paragraph (4) of that paragraph for the words " the Treasury may", in both places where they occur, there shall be substituted " the Lord Chancellor may with the approval of the Treasury".
- (4) In sub-paragraph (5) of that paragraph for the words " the Treasury ", where they first occur, there shall be substituted " the Lord Chancellor " and for the words " the Treasury may " there shall be substituted " the Lord Chancellor may with the approval of the Treasury".

*Administration*

- 6 (1) Officers and staff may be appointed under section 27 of the Courts Act 1971 (court staff) for carrying out the administrative work of value added tax tribunals in England and Wales.

- (2) The Secretary of State may make available such officers and staff as he may consider necessary for carrying out the administrative work of value added tax tribunals in Scotland.

## SCHEDULE 9

Section 39.

### GROUP RELIEF

#### PART I

##### GENERAL MODIFICATIONS

###### *Interpretation*

- 1 In this Part of this Schedule—
- (a) a "company owned by a consortium" means either such a trading company as is referred to in paragraph (a) or paragraph (b) of subsection (2) of section 258 of the Taxes Act or such a holding company as is referred to in paragraph (c) of that subsection (companies owned directly or indirectly by consortia);
  - (b) a "consortium claim" means a claim for group relief made by virtue of subsection (2) of section 258 of the Taxes Act;
  - (c) a "group claim" means a claim for group relief made by virtue of subsection (1) of that section ;
  - (d) a "group/consortium company" means a company which is both a member of a group of companies and a company owned by a consortium ;
  - (e) "relevant accounting period" means an accounting period beginning on or after 1st August 1985 ; and
  - (f) other expressions have the same meaning as in section 258 and the following sections of Chapter I of Part XI of the Taxes Act.

###### *Claims for losses etc. of a group /consortium company*

- 2 (1) For the purpose of a consortium claim in respect of the loss or other amount of any relevant accounting period of a group/ consortium company, that loss or other amount shall be treated as reduced (or, as the case may be, extinguished) by first deducting therefrom the potential relief attributable to group claims.
- (2) Subject to sub-paragraph (3) below, in relation to the loss or other amount of a relevant accounting period of a group/consortium company, the potential relief attributable to group claims is the aggregate amount of group relief that would be claimed if every company which, as a member of the same group of companies as the group /consortium company, could make a group claim in respect of that loss or other amount made such a claim for an amount which, when set against the claimant company's total profits for its corresponding accounting period, would equal those profits.
- (3) Where for any accounting period another member of the group of companies of which the group/consortium company is a member has a loss or other amount

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available for relief and one or more group claims is or are in fact made in respect of that loss or other amount, account shall be taken of the relief so claimed before determining (in relation to the loss or other amount of the group/consortium company) the potential relief attributable to group claims under sub-paragraph (2) above.

*Claims for relief by a group/consortium company*

- 3 (1) In any case where—
- (a) a consortium claim is made by a group/consortium company in respect of a loss or other amount of an accounting period of a member of the consortium, and
  - (b) the corresponding accounting period of the group/consortium company is a relevant accounting period,
- the total profits of that accounting period of the group/consortium company, against a fraction of which that loss or other amount may be set off (in accordance with section 259(8)(b) of the Taxes Act), shall be treated as reduced (or, as the case may be, extinguished) by deducting therefrom the potential relief available to the group/consortium company by way of group claims.
- (2) Subject to sub-paragraph (3) below, in relation to a relevant accounting period of a group/consortium company, the potential relief available to the company by way of group claims is the maximum amount of group relief that could be claimed by the company for that accounting period on group claims relating to the losses or other amounts available for relief of other members of the group of companies of which the group/consortium company is a member.
- (3) Where another member of the group of companies of which the group/consortium company is a member in fact makes one or more group claims in respect of losses or other amounts of other members of the group, account shall be taken of the relief already claimed by that company in determining the potential relief available to the group/consortium company by way of group claims under sub-paragraph (2) above.

*Trading losses to be set against profits before group relief*

- 4 (1) Where a company owned by a consortium—
- (a) has in any relevant accounting period incurred such a loss as is referred to in section 259(1) of the Taxes Act, and
  - (b) has profits (of whatever description) of that accounting period against which that loss could be set off under subsection (2) of section 177 of that Act,
- the amount of that loss which is available to any member of the consortium on a consortium claim shall be determined on the assumption that the company owned by the consortium has made a claim under that subsection requiring the loss to be so set off.
- (2) Where the company referred to in sub-paragraph (1) above is a group/consortium company, the amount of the loss shall be determined under that sub-paragraph before any reduction is made under paragraph 2 above.

*Extension of scope of consortium relief*

- 5 (1) This paragraph applies where—

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- (a) a company (in this paragraph referred to as "the link company") which is a member of a consortium is also a member of a group of companies; and
    - (b) the link company could (disregarding any deficiency of profits) make a consortium claim in respect of the loss or other amount eligible for relief of a relevant accounting period of a company owned by the consortium.
  - (2) Subject to sub-paragraphs (3) and (4) below, a company (in this paragraph referred to as a group member") which is a member of the group referred to in sub-paragraph (1)(a) above but is not itself a member of the consortium may make any consortium claim which could be made by the link company ; and the fraction which is appropriate under section 259(8) of the Taxes Act where a group member is the claimant company shall be the same as that which would be appropriate if the link company were the claimant company.
  - (3) A group member may not, by virtue of sub-paragraph (2) above, make a consortium claim in respect of the loss or other amount of any relevant accounting period of a company owned by the consortium unless the claimant company was a member of the group concerned throughout the whole of the accounting period or, as the case may be, each accounting period of the link company which, if that company were making the claim, would be a corresponding accounting period in relation to the relevant accounting period concerned.
  - (4) The maximum amount of relief which, in the aggregate, may be claimed by group members and the link company by consortium claims relating to the loss or other amount of any relevant accounting period of a company owned by the consortium shall not exceed the relief which could have been claimed by the link company (disregarding any deficiency of profits) if this paragraph had not been enacted.
- 6 (1) This paragraph applies where—
- (a) a company (in this paragraph referred to as "the link company") which is a member of a consortium is also a member of a group of companies ; and
  - (b) a company which is a member of that group of companies but is not itself a member of the consortium has for any relevant accounting period a loss or other amount available for relief;
- and, in relation to the link company, any reference in this paragraph to a group member is a reference to a company falling within paragraph (b) above.
- (2) Subject to the following provisions of this paragraph, a company owned by the consortium may make any consortium claim in respect of the loss or other amount referred to in sub-paragraph (1)(b) above which it could make if the group member were a member of the consortium at all times when the link company was such a member, but not at any other time.
  - (3) The fraction which is appropriate under section 259(8) of the Taxes Act in relation to a consortium claim made by virtue of subparagraph (2) above shall be the same as that which would be appropriate if the link company were the surrendering company, except that the accounting period in respect of which the member's share in the consortium is to be ascertained shall be that of the group member which is in fact the surrendering company.
  - (4) A company owned by the consortium may not, by virtue of sub-paragraph (2) above, make a consortium claim in respect of the loss or other amount of any relevant accounting period of a group member unless, throughout the whole of that accounting

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period, the group member was a member of the group of companies referred to in sub-paragraph (1) above.

- (5) For any accounting period of a company owned by the consortium (in this sub-paragraph referred to as "the claimant company's accounting period"), the maximum amount of relief which, in the aggregate, may be claimed by that company by consortium claims relating to the losses or other amounts of accounting periods of the link company and group members shall not exceed that fraction of the total profits of the claimant company's accounting period which would be brought into account under section 259(8)(b) of the Taxes Act on a consortium claim in respect of which—
- (a) the link company was the surrendering company ; and
  - (b) the link company's accounting period was the same as the claimant company's accounting period.

*Restriction on consortium claims where companies join or leave consortium*

- 7 (1) In any case where—
- (a) a consortium claim is made in respect of the loss or other amount of a relevant accounting period of a company owned by a consortium (in this paragraph that claim is referred to as "the primary claim", that company is re-referred to as "the principal surrendering company" and that accounting period is referred to as "the principal accounting period"), and
  - (b) the company making the primary claim or, if that claim is made by virtue of paragraph 5 above, the company which is the link company for the purposes of that paragraph was not a member of the consortium throughout the whole of the principal accounting period, and
  - (c) on or after the date on which the primary claim is made, a consortium claim is made which falls within sub-paragraph (2) below,
- no relief shall be allowed on the primary claim or, as the case may be, any relief which was so allowed shall be withdrawn.
- (2) A consortium claim is to be taken into account under subparagraph (1)(c) above if—
- (a) it is in respect of the loss or other amount of an accounting period of a surrendering company (being a company owned by the consortium referred to in sub-paragraph (1) above); and
  - (b) it is made by the company making the primary claim or, if that claim or the claim mentioned in this sub-paragraph is made by virtue of paragraph 5 above, by any other member of the group referred to in sub-paragraph (1) (a) of that paragraph; and
  - (c) at any time during the principal accounting period the surrendering company is a member of the same group of companies as the principal surrendering company ; and
  - (d) the accounting period to which the claim relates falls, in whole or in part, within the principal accounting period.
- (3) Where any relief which has been allowed is withdrawn by virtue of sub-paragraph (1) above, all such adjustments shall be made, whether by way of assessment or otherwise, as may be necessary in consequence of that withdrawal.
- 8 (1) In any case where—
- (a) a company owned by a consortium makes a consortium claim (in this paragraph referred to as "the primary claim") in respect of the loss or other

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amount of a relevant accounting period of a member of the consortium or, if the primary claim is made by virtue of paragraph 6 above, of a company which, in relation to that member of the consortium, is a group member, within the meaning of that paragraph, and

(b) the member of the consortium concerned (whether as the surrendering company or the link company, within the meaning of paragraph 6 above) was not a member of the consortium throughout the whole of the relevant accounting period referred to in paragraph (a) above, and

(c) on or after the date on which the primary claim is made, a consortium claim is made which falls within sub-paragraph (2) below,

no relief shall be allowed on the primary claim or, as the case may be, any relief which was so allowed shall be withdrawn.

(2) A consortium claim is to be taken into account under subparagraph (1)(c) above if—

(a) it is made by a company owned by the consortium referred to in subparagraph (1) above ; and

(b) the company making the claim is a member of the same group of companies as the company making the primary claim; and

(c) the claim relates to the loss or other amount of an accounting period of the consortium member referred to in sub-paragraph (1) above or of a company which, in relation to that consortium member, is a group member, within the meaning of paragraph 6 above ; and

(d) the accounting period referred to in paragraph (c) above falls, in whole or in part, in the relevant accounting period referred to in subparagraph (1)(a) above.

(3) Where any relief which has been allowed is withdrawn by virtue of subparagraph (1) above, all such adjustments shall be made, whether by way of assessment or otherwise, as may be necessary in consequence of that withdrawal.

## PART II

### AMENDMENTS OF SECTION 263 OF TAXES ACT

9 (1) At the beginning of subsection (3) there shall be inserted the words " Subject to subsections (3A) and (3B) below".

(2) In that subsection for the words from " are made " to " relate to " there shall be substituted the words " relating to".

(3) In that subsection after the words "surrendering company ", in the first place where they occur, there shall be inserted " are made by two or more claimant companies which themselves are members of a group of companies".

10 After subsection (3) there shall be inserted the following subsections : —

“(3A) If companies which are members of different groups make claims falling within subsection (3) above, that subsection shall apply separately in relation to the companies in each group.

(3B) For the purposes of subsection (3) above, there shall be left out of account a claim made by a company if—

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- (a) the claimant company joins or leaves a group of companies at the same time as the surrendering company ; and
  - (b) both before and after that time either the claimant company is a 75 per cent, subsidiary of the surrendering company or the surrendering company is a 75 per cent, subsidiary of the claimant company or both companies are 75 per cent, subsidiaries of another company.”
- 11 (1) In subsection (4) for the words "If claims for group relief " there shall be substituted " Subject to subsection (4A) below, if claims as respects two or more surrendering companies which themselves are members of a group of companies".
- (2) In that subsection the words " as respects more than one surrendering company " shall be omitted.
- 12 After subsection (4) there shall be inserted the following subsections : —
- “(4A) If claims falling within subsection (4) above are made as respects surrendering companies which are members of different groups, that subsection shall apply separately in relation to claims as respects the surrendering companies in each group.
- (4B) For the purposes of subsection (4) above, there shall be left out of account a claim made as respects a surrendering company if—
- (a) the surrendering company joins or leaves the group of companies concerned at the same time as the claimant company ; and
  - (b) both before and after that time either the surrendering company is a 75 per cent, subsidiary of the claimant company or the claimant company is a 75 per cent, subsidiary of the surrendering company or both companies are 75 per cent, subsidiaries of another company.”
- 13 For subsection (5) there shall be substituted the following subsection : —
- “(5) References in subsections (3) to (4A) above to claims for group relief do not include references to consortium claims, that is to say, claims made by virtue of section 258(2) above.”.

## SCHEDULE 10

Section 41.

## FRIENDLY SOCIETIES

**PART I**

## PARAGRAPHS TO BE SUBSTITUTED FOR PARAGRAPH 3 OF SCHEDULE 1 TO THE TAXES ACT

- “3 (1) Paragraphs 1 and 2 above do not apply to a policy issued by a registered friendly society in the course of tax exempt life or endowment business, but such a policy shall not be a qualifying policy unless,—
- (a) in the case of a policy for the assurance of a gross sum or annuity, the conditions in subsections (2) to (4) of section 334 of this Act are fulfilled with respect to it; and
  - (b) in the case of a policy for the assurance of a gross sum, the conditions in sub-paragraphs (2) to (8) below are fulfilled with respect to it; and



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- (c) in the case of a policy issued by a new society, the contract for the insurance was made by a member of the society over the age of eighteen.
- (2) Where the policy secures a capital sum which is payable only on death or only on death occurring after the attainment of a specified age not exceeding sixteen, that capital sum must not be less than 75 per cent, of the total premiums that would be payable if the death of the relevant beneficiary occurred at the age of seventy-five.
- (3) Where the policy secures a capital sum which is payable only on survival for a specified term, that capital sum must be not less than 75 per cent, of the total premiums which would be payable if the policy were to run for that term.
- (4) Where the policy secures a capital sum which is payable on survival for a specified term or on earlier death, or on earlier death or disability (including a policy securing the sum on death only if occurring after the attainment of a specified age not exceeding sixteen), the capital sum payable on death, whenever that event occurs, must not be less than 75 per cent, of the total premiums which would be payable if the policy were to run for that term, except that if, at the beginning of that term, the age of the relevant beneficiary exceeds fifty-five, that capital sum may, for each year of tie excess, be less by 2 per cent, of that total than 75 per cent, thereof.
- (5) For the purposes of sub-paragraphs (2) to (4) above—
  - (a) " the relevant beneficiary " means—
    - (i) if the capital sum concerned is payable on the death of the first to die of two persons, the older of them;
    - (ii) if that capital sum is payable on the death of the survivor of two persons, the younger of them ; and
    - (iii) in any other case, the person on whose death that capital sum is payable; and
  - (b) in determining the total premiums payable in any circumstances,—
    - (i) where those premiums are payable otherwise than annually, and the policy is issued by a new society, there shall be disregarded an amount equal to 10 per cent, of those premiums ;
    - (ii) where the policy is issued by a society other than a new society, there shall be disregarded an amount equal to £10 for each year for which account is taken of those premiums; and
    - (iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved shall be disregarded ; and
  - (c) in determining the capital sum payable on any event, there shall be disregarded any provision of the policy under which, on the ground referred to in paragraph (b)(iii) above, any sum may become chargeable as a debt against that capital sum.
- (6) If the policy does not secure a capital sum in the event of death occurring before the age of sixteen or some lower age, it must not provide for the payment in that event of an amount exceeding the total premiums previously paid under it.
- (7) References in this paragraph to a capital sum payable on any event include references to a capital sum or series of capital sums payable by reason of that event, but where what is so payable is either an amount consisting of one sum or an amount made up of two or more sums, any reference in sub-paragraphs (2) to (4) above to 75 per cent, of the total premiums payable in any circumstances shall be compared with the smaller or smallest amount so payable ; and for the purposes of those sub-

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paragraphs a policy secures a capital sum payable either on death or on disability notwithstanding that the amount may vary with the event

- (8) For the purposes of sub-paragraphs (2), (3), (4) and (7) above, in the case of a policy which provides for any such payments as are referred to in section 334(3) of the Taxes Act (in this sub-paragraph referred to as "interim payments"), the amount of the capital sum which is payable on any event shall be taken to be increased,—
- (a) in the case of a policy which secures such a capital sum as is referred to in sub-paragraph (2) above, by the total of the interim payments that would be payable if the death of the relevant beneficiary (within the meaning of that sub-paragraph) occurred at the age of seventy-five ; and
  - (b) in the case of a policy which secures such a capital sum as is referred to in sub-paragraph (3) or sub-paragraph (4) above, by the total of the interim payments that would be payable if the policy were to run for the specified term referred to in that paragraph.
- 3A (1) The provisions of this paragraph have effect notwithstanding anything in paragraph 3 above.
- (2) In determining whether a policy—
- (a) which affords provision for sickness or other infirmity (whether bodily or mental), and
  - (b) which also affords assurance for a gross sum independent of sickness or other infirmity, and
  - (c) under which not less than sixty per cent, of the amount of the premiums is attributable to the provision referred to in paragraph (a) above,
- is a qualifying policy, the conditions referred to in paragraph 3(1)(b) above shall be deemed to be fulfilled with respect to it.
- (3) If there is such a variation of the terms of a policy falling within sub-paragraph (1) of paragraph 3 above that any of the conditions referred to in that sub-paragraph ceases to be fulfilled, the policy shall cease to be a qualifying policy.
- (4) If a policy for any purpose falling within paragraph (1) of Schedule 1 to the Friendly Societies Act 1974 was issued by a new society, that policy shall cease to be a qualifying policy if the rights conferred by it are surrendered in whole or in part.”

## PART II

### INSURANCES MADE BETWEEN 1ST JUNE 1984 AND 19TH MARCH 1985

- 1 (1) If, with respect to a policy for the assurance of a gross sum which is issued as mentioned in section 40(5) of this Act, there is—
- (a) an infringement of any of the conditions in sub-paragraphs (2) to (7) of the paragraph 3 which is set out in Part I of this Schedule (including an infringement occurring before that paragraph comes into force as part of the Taxes Act), or
  - (b) an infringement of the conditions in subsection (2) of section 334 of the Taxes Act,
- section 332(1) of that Act shall not apply to so much as is attributable to that policy of the profits of the registered friendly society or branch concerned which arise from tax exempt life or endowment business, as defined in section 337 of that Act.

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- (2) With respect to policies falling within sub-paragraph (1) above, that sub-paragraph has effect in place of section 334(1) of the Taxes Act.
- (3) Nothing in sub-paragraph (1) above shall be taken to affect the status of a policy as a qualifying policy within the meaning of Part I of Schedule 1 to the Taxes Act.

### PART III

#### CONTROL OF BUSINESS DONE BY OLD SOCIETIES

- 2 In this Part of this Schedule " old society " means a friendly society which is not a new society (as defined in section 337(3) of the Taxes Act).
- 3 (1) This Part of this Schedule applies if, on or after 19th March 1985, an old society—
  - (a) begins to carry on tax exempt life or endowment business; or
  - (b) in the opinion of the Board begins to carry on such business on an enlarged scale or of a new character.
- (2) If it appears to the Board, having regard to the restrictions placed on qualifying policies issued by new societies by paragraphs 3(b)(1), 3(1)(c) and 3A(3) of Schedule 1 to the Taxes Act (as set out in Part I of this Schedule), that for the protection of the revenue it is expedient to do so, the Board may give a direction to the old society under paragraph 4 below.
- 4 A direction under this paragraph is that (and has the effect that) the old society to which it is given is to be treated for the purposes of the Taxes Act as a new society with respect to business carried on after the date of the direction.
- 5 An old society to which a direction is given may, within thirty days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
  - (a) it has not begun to carry on business as mentioned in paragraph 3(1)(a) or paragraph 3(1)(b) above ; or
  - (b) that the direction is not necessary for the protection of the revenue.

## SCHEDULE 11

Section 46.

### DEEP DISCOUNT SECURITIES

#### *Introduction*

- 1 (1) This sub-paragraph applies to deep discount securities issued by a company where one or both of the following applies—
  - (a) immediately before the issue the assets held by the company included relevant securities with a value equal to at least 75 per cent, of the value of all the assets held by it;
  - (b) the terms of issue of the deep discount securities are determined by the company by reference to (though not necessarily in such a way that they reflect) the terms of issue of relevant securities which are held by the company when the deep discount securities are issued or which it intends to acquire later.

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- (2) This sub-paragraph applies to deep discount securities issued by a company where—
- (a) sub-paragraph (1) above would apply if the references to relevant securities included references to United Kingdom corporate bonds, and
  - (b) the company acquired those bonds on or after their issue (by another company) in circumstances where sub-paragraph (1) above would have applied if they had been deep discount securities.
- (3) This sub-paragraph applies to deep discount securities of a particular kind issued by a company and in the case of which—
- (a) neither of the preceding sub-paragraphs applies, and
  - (b) at any time in the first income period of the securities of that kind the assets held by the company include relevant securities with a value equal to at least 75 per cent, of the value of all the assets held by it.
- (4) This sub-paragraph applies to deep discount securities issued by a company where either—
- (a) they are issued on a conversion to which section 82 of the Capital Gains Tax Act 1979 applies of old securities, or
  - (b) they are issued by a company in exchange for old securities in circumstances in which section 85(3) of that Act applies or are treated as so issued by virtue of section 86(1) of that Act,
- and in this sub-paragraph "old securities" means deep discount securities to which sub-paragraph (1), (2) or (3) above or this subparagraph applies, except that securities to which sub-paragraph (3) above applies are not old securities unless sub-paragraph (3)(b) has been fulfilled in their case by the time the conversion or exchange concerned takes place.
- (5) In the following provisions of this Schedule "chargeable security" means a deep discount security to which any of the preceding sub-paragraphs applies.
- (6) In this paragraph—
- "deep discount securities" has the same meaning as in section 36 of the Finance Act 1984,
  - "income period" has the meaning given by paragraph 1(7) of Schedule 9 to that Act,
  - "issued" shall be construed in accordance with section 36(4) of that Act,
  - "relevant securities" means securities within the meaning of Chapter IV of this Part of this Act, but excluding United Kingdom corporate bonds,
  - "terms of issue" includes terms relating to amounts payable on redemption or by way of interest, or to times of payment of such amounts, and
  - "value" in relation to assets means the price they might reasonably be expected to fetch on a sale in the open market.
- (7) For the purposes of this paragraph a company holds assets if it has a beneficial interest in them and acquires them if it acquires an interest in them.
- (8) For the purposes of this paragraph securities are of the same kind if they are treated as being of the same kind by the practice of a stock exchange, or would be so treated if dealt with on a stock exchange.
- (9) In this paragraph "United Kingdom corporate bonds" means securities—
- (a) issued by a company resident in the United Kingdom at the time of issue,

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- (b) the debt on which represents and has at all times represented a normal commercial loan, as denned in paragraph 1(5) of Schedule 12 to the Finance Act 1973, and
  - (c) which are expressed in sterling and in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.
- (10) For the purposes of sub-paragraph (9)(c) above—
- (a) a security shall not be regarded as expressed in sterling if the amount of sterling falls to be determined by reference to the value at any time of any other currency or asset; and
  - (b) a provision for redemption in a currency other than sterling but at the rate of exchange prevailing at redemption shall be disregarded.

#### *The charge*

- 2 (1) Where a person acquires a chargeable security, the chargeable amount shall be treated as income chargeable to tax under Case III or (as the case may be) Case IV of Schedule D on each of the following occasions—
- (a) the end of each income period to fall within the period of ownership;
  - (b) the end of any income period which ends but does not begin in the period of ownership.
- (2) In sub-paragraph (1) above " the chargeable amount" means—
- (a) where paragraph (a) applies, an amount equal to the income element for the income period;
  - (b) where paragraph (b) applies, an amount equal to the income element for the part of the income period falling within the period of ownership.
- (3) The income chargeable shall (notwithstanding anything in sections 119 to 121 or, as the case may be, 122 to 124 of the Taxes Act) be taken into account in computing tax charged for the year of assessment in which the occasion concerned occurs.
- (4) Where the person disposes of the security, or paragraph 8(2)(a) of Schedule 9 to the Finance Act 1984 treats him as disposing of it, any amount (or the aggregate of any amounts) treated as income by virtue of this paragraph shall be deducted from the income chargeable by virtue of paragraph 1(1)(a) of that Schedule.
- (5) Paragraph 8(3) of that Schedule shall not apply in the case of a chargeable security which is converted or exchanged.
- (6) Sub-paragraph (4) above shall not affect the references in paragraphs 1(1)(c) and 9 of that Schedule to the amount mentioned in paragraph 1(1)(a) of that Schedule; and the references in paragraph 8(2)(b) and (c) of that Schedule to the amount on which he is chargeable shall be construed as references to the amount on which he would be chargeable apart from sub-paragraph (4) above.
- (7) Where an amount is (or amounts are) treated as income by virtue of this paragraph, then, in arriving at the accrued income attributable to the period between the person's acquisition and redemption for the purposes of paragraph 7(2) of that Schedule, that amount (or the aggregate of those amounts) shall be deducted from such income found under paragraph 7(2) apart from this sub-paragraph.

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- (8) Section 360(2) of the Taxes Act (exemption for charities from tax on chargeable gains) shall apply in relation to tax chargeable by virtue of this paragraph as it applies in relation to tax on chargeable gains.
- (9) In this paragraph, expressions which are also used in paragraph 1 of Schedule 9 to the Finance Act 1984 have the same meanings as in that paragraph.

*Information*

- 3 Every company which issues a chargeable security to which paragraph 1(1), (2) or (4) above applies shall cause to be shown on fee certificate of each such security the fact that tax is chargeable under this Schedule.

*Minor amendment*

- 4 In paragraph 1(7) of Schedule 9 to the Finance Act 1984, in paragraph (b) of the definition of " income period ", after " begins on " there shall be inserted " the issue or on".

SCHEDULE 12

Section 48.

LIMITED PARTNERS : RESTRICTION OF RELIEFS

*Introduction*

- 1 In section 48 of this Act and this Schedule "limited partner" means—
- (a) a person who is carrying on a trade as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907,
  - (b) a person who is carrying on a trade as a general partner in a partnership, who is not entitled to take part in the management of the trade and who is entitled to have his liabilities, or his liabilities beyond a certain limit, for debts or obligations incurred for the purposes of the trade discharged or reimbursed by some other person, or
  - (c) a person who carries on a trade jointly with others and who, under the law of any territory outside the United Kingdom, is not entitled to take part in the management of the trade and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the trade.

*Individuals as limited partners*

- 2 (1) This paragraph applies to an amount which may be given or allowed to an individual under any of the enactments specified in sub-paragraph (3) below—
- (a) in respect of a loss sustained by him in a trade, or of interest paid by him in connection with the carrying on of a trade, in a relevant year of assessment, or
  - (b) as an allowance falling to be made to him for a relevant year of assessment either in taxing a trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in a trade.
- (2) Such an amount may be given or allowed otherwise than against income consisting of profits or gains arising from the trade only to the extent that the amount given or

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allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

(3) The enactments are—

- (a) section 168 of the Taxes Act;
- (b) section 30 of the Finance Act 1978 ;
- (c) section 71 of the Capital Allowances Act 1968 ; and
- (d) section 75 of the Finance Act 1972.

(4) In this paragraph—

" relevant year of assessment " means a year of assessment at any time during which the individual carried on the trade as a limited partner;

"the aggregate amount" means the aggregate of any amounts given or allowed to him at any time under any of the enactments specified in sub-paragraph (3) above—

- (a) in respect of a loss sustained by him in the trade, or of interest paid by him in connection with carrying it on, in any relevant year of assessment, or
- (b) as an allowance falling to be made to him for any relevant year of assessment either in taxing the trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in the trade ;

" the relevant sum " means the amount of his contribution to the trade as at the appropriate time ; and

" the appropriate time " is the end of the relevant year of assessment in which the loss is sustained or the interest paid, or for which the allowance falls to be made (except that where he ceased to carry on the trade during that year of assessment it is the time when he so ceased).

(5) To the extent that an allowance is taken into account in computing profits or gains or losses in the year of loss by virtue of section 169(1) of the Taxes Act it shall, for the purposes of section 48 of this Act and this paragraph, be treated as falling to be made in the year of loss (and not the year of assessment for which the year of loss is the basis year).

#### *Companies as limited partners*

3 (1) This paragraph applies to an amount which may be given or allowed under any of the enactments specified in sub-paragraph (3) below—

- (a) in respect of a loss incurred by a company in a trade, or of charges paid by a company in connection with the carrying on of a trade, in a relevant accounting period, or
- (b) as an allowance falling to be made to a company for a relevant accounting period either in taxing a trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in a trade ;

and in this paragraph such a company is referred to as "the partner company " .

(2) Such an amount may be given or allowed to the partner company otherwise than against profits or gains arising from the trade, or to another company, only to the extent that the amount given or allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

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(3) The enactments are-

- (a) section 177(2) of the Taxes Act;
- (b) section 74 of the Capital Allowances Act 1968 ;
- (c) section 248 of the Taxes Act; and
- (d) subsections (1), (2) and (6) of section 259 of the Taxes Act.

(4) In this paragraph—

"relevant accounting period" means an accounting period of the partner company at any time during which it carried on the trade as a limited partner ;

" the aggregate amount" means the aggregate of any amounts given or allowed to the partner company or another company at any time under any of the enactments specified in sub-paragraph (3) above—

- (a) in respect of a loss incurred by the partner company in the trade, or of charges paid by it in connection with carrying it on, in any relevant accounting period, or
- (b) as an allowance falling to be made to the partner company for any relevant accounting period either in taxing tie trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in the trade;

"the relevant sum" means the amount of the partner company's contribution to the trade as at the appropriate time ; and

" the appropriate time " is the end of the relevant accounting period in which the loss is incurred or the charges paid, or for which the allowance falls to be made (except that where the partner company ceased to carry on the trade during that accounting period it is the time when it so ceased).

#### *Contribution*

4 A person's contribution to a trade at any time is the aggregate Of—

- (a) the amount which he has contributed to it as capital and has not, directly or indirectly, drawn out or received back (other than anything which he is or may be entitled so to draw out or receive back at any time when he carries on the trade as a limited partner or which he is or may be entitled to require another person to reimburse to him), and

(6) the amount of any profits or gains of the trade to which he is entitled but which he has not received in money or money's worth.

### SCHEDULE 13

Section 54.

#### SUPPLEMENTARY PROVISIONS AS TO WITHDRAWAL OF TAX CREDITS

##### *Recovery of tax credits incorrectly paid*

- 1 (1) Where the provisions of section 54 of this Act apply so as to withdraw the entitlement of a company to claim to have a tax credit in respect of a qualifying distribution set against the income tax chargeable on its income and to have the excess of the credit over that income tax paid to it and the company (in this paragraph referred to as " the recipient company ") has either had that excess paid to it, or has received



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an additional amount in accordance with arrangements made under Regulation 2(1) of the Double Taxation Relief (Taxes on Income) (General) (Dividend) Regulations 1973, it shall be liable to a fine for the violation of the provisions of section 54 of this Act equal to twice the amount of the excess or additional amount as the case may be and such fine (in this section referred to as "the recoverable amount") shall be payable to the Board and be treated as having become payable at the date when the excess or additional amount was paid to the recipient company and may be recovered in accordance with sub-paragraphs (2) to (5) below.

- (2) The recoverable amount may be assessed and recovered as if it were unpaid tax and section 30 of the Taxes Management Act 1970 (recovery of overpayment of tax, etc.) shall apply accordingly.
- (3) Any amount which may be assessed and recovered as if it were unpaid tax by virtue of this paragraph shall carry interest at the rate of 9 per cent, per annum from the date when it was payable in accordance with this paragraph until the date it is paid and it is hereby declared that this paragraph applies to a recoverable amount which is paid without the making of an assessment (but is paid after it is due) and that, where the recoverable amount is charged by any assessment (whether or not any part of it has been paid when the assessment is made), this paragraph applies in relation to interest running before, as well as after, the making of the assessment.
- (4) Where the recoverable amount is not paid by the recipient company within six months from the date on which it became payable—
  - (a) the recoverable amount may at any time within six years from the date on which it became payable be assessed and recovered as if it were unpaid tax due from any person who is or was at any time prior to the expiration of the said six year period connected with the recipient company, or would have been connected on the assumption that all the facts and circumstances relating to the recipient company at the time the excess or additional amount as the case may be was paid continued to apply for six years thereafter, and section 30 of the Taxes Management Act 1970 shall apply accordingly, and
  - (b) as respects its accounting periods beginning with that in which the excess or additional amount referred to in subparagraph (1) above was paid and ending with that following that in which the recoverable amount is paid in accordance with the provisions of this paragraph, the company which made the qualifying distribution in respect of which the recipient company received the excess or additional amount shall not be entitled to set any advance corporation tax paid by it against its liability to corporation tax for such periods in accordance with section 85 of the Finance Act 1972 (payments of advance corporation tax to be set against company's liability to corporation tax on its income) nor to surrender the benefit of the whole or any part of any amount of advance corporation tax to a subsidiary in accordance with section 92 of that Act (setting of company's surplus advance corporation tax against subsidiary's liability) in such periods.
- (5) Where a recoverable amount is assessed and recovered from a person connected with the recipient company in accordance with sub-paragraph (4)(a) above, that person shall be liable for the interest payable in accordance with sub-paragraph (3) above and, until the interest is so paid, sub-paragraph (4)(b) above shall apply as if the words "the interest due in accordance with sub-paragraph (3) above is paid" were substituted for the words "the recoverable amount is paid in accordance with the provisions of this paragraph"

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- (6) Interest payable under this paragraph shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (7) Where under the law in force in a territory outside the United Kingdom interest is payable subject to a deduction in respect of taxation and such deduction applies to an amount of interest paid in accordance with sub-paragraph (3) above, the reference to the rate of 9 per cent, per annum in that sub-paragraph shall be deemed to be a reference to such rate of interest as after such deduction shall be equal to the rate of 9 per cent, per annum.

*Claims to payment of tax credits following remedial legislation in unitary states*

- 2 (1) This paragraph has effect where a company to which section 54 applies has a qualifying presence in a province, state or other part of a territory outside the United Kingdom which has been prescribed as a unitary state for the purposes of that section and, at the time when a qualifying distribution is made to that company by a company which is resident in the United Kingdom, that state has enacted legislation the effect of which is that, as from a future date which shall not be later than 31st December 1986, it will cease to be a unitary state within the meaning of the definition in paragraph 5(1) below, notwithstanding that it remains prescribed as such for the purposes of that section.
- (2) In the circumstances described in sub-paragraph (1) above the company in receipt of the qualifying distribution shall be entitled on or after the effective date to claim to have the tax credit to which it is entitled in respect of the distribution set against its liability to income tax and to have the excess (if any) of the credit over that liability paid to it; but, if payment of the excess or of the additional amount referred to in Regulation 2(1) of the Double Taxation Relief (Taxes on Income) (General) (Dividend) Regulations 1973 is made before the effective date, the provisions of paragraph 1 above shall apply in relation to that payment regardless of the enactment of the legislation referred to in sub-paragraph (1) above.
- (3) For the purposes of this paragraph the effective date shall be deemed to be the date (not to be later than 31st December 1986) on which the legislation referred to in sub-paragraph (1) above actually becomes effective in the province, state or other part of the territory outside the United Kingdom which has been prescribed as a unitary state for the purposes of section 54, irrespective of the date, if any, specified in that legislation.

*Avoidance of provision withdrawing tax credits*

- 3 (1) In any case where arrangements are made, whether before or after section 54 comes into force, as a result of which interest is paid or a discount is allowed by or through a person who is resident in the United Kingdom, or carries on business in the United Kingdom through a branch or agency, and it is reasonable to suppose that, if such payment or allowance had not been made, a qualifying distribution would have been made by the person by or through whom the payment or allowance is made, or by another company resident in the United Kingdom, to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state at the time when the payment or allowance is made, then—

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- (a) no person who receives that payment or allowance shall be entitled to relief from income tax or corporation tax thereon by virtue of arrangements having effect under section 497(1) of the Taxes Act, and
  - (b) the payment or allowance shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (2) Without prejudice to the generality of sub-paragraph (1) above, where a payment or allowance is not of itself a payment or allowance to which sub-paragraph (1) above applies, but is made in conjunction with other payments of whatever nature and taken together with those payments has substantially similar effect to a distribution, then, for the purposes of sub-paragraph (1) above, it shall be treated as a payment or allowance within that sub-paragraph.
- (3) Any company which has received such a payment of interest as is referred to in sub-paragraph (1) above, from which income tax has not been deducted by the person making the payment, and has a qualifying presence in a unitary state at the time of the payment, shall be treated for the purposes of paragraph 1 above as a company from which the entitlement to claim payment of the excess of a tax credit over the income tax chargeable on its income has been withdrawn by section 54(1) and which has had paid to it such an excess in an amount equal to the income tax which should have been deducted from the payment of interest.

*Power to inspect documents of non-resident companies*

- 4 (1) Where it appears to the Board that the provisions of section 54 and this Schedule may apply to a company resident outside the United Kingdom (in this paragraph referred to as a "foreign parent"), the Board may, by notice in writing given to the foreign parent or any associated company of that foreign parent, require that company within such time (not being less than thirty days) as may be specified in the notice to make available for inspection any books, accounts, or other documents or records whatsoever of that company where in the opinion of the Board it is proper that they should inspect such documents for the purposes of ascertaining whether the said provisions apply to the foreign parent or such associated company notwithstanding that in the opinion of the person to whom the notice is given those provisions do not apply to that company or any associated company of that company.
- (2) In the Table to section 98 of the Taxes Management Act 1970 (penalties) at the end of the first column there shall be added—

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“Paragraph 4 of Schedule 13 to the Finance Act 1985”.

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*Meaning of "unitary state", etc.*

- 5 (1) In this Schedule and section 54 of this Act—
- "group" and "member of a group" shall be construed in accordance with section 272 (1) of the Taxes Act (definition of groups of companies) with the omission of the restriction in paragraph (a) of that subsection and the substitution of the words "51 per cent." for the words "75 per cent." wherever they occur,
  - "qualifying distribution" has the same meaning as in Part V of the Finance Act 1972 (taxation of companies and company distributions),

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" unitary state" means a province, state or other part of a territory outside the United Kingdom with the government of which the arrangements referred to in subsection (1) of section 54 have been made which, in taxing the income or profits of companies from sources within that province, state or other part, takes into account, or is entitled to take into account, income, receipts, deductions, outgoings or assets of such companies, or of associated companies of such companies, arising, expended or situated as the case may be outside that territory and which has been prescribed under subsection (7) of that section as a unitary state for the purposes of that section ; but no such province, state or other part shall be so prescribed which only takes into account such income, receipts, deductions, outgoings or assets—

- (a) if the associated company was incorporated under the law of the territory, or
- (b) for the purpose of granting relief in taxing dividends received by companies.

(2) For the purposes of this Schedule and section 54 of this Act—

- (a) section 533 of the Taxes Act (connected persons) applies; and
- (b) section 302 of the Taxes Act (meaning of " associated company " and " control") applies with the substitution of the words " six years " for " one year " in subsection (1) of that section.

## SCHEDULE 14

Section 55.

### ALLOWANCES AND CHARGES IN RESPECT OF MACHINERY AND PLANT

#### PART I

##### AMENDMENTS WITH RESPECT TO EXPENDITURE INCURRED ON OR AFTER 1ST APRIL 1985

- 1 In section 46 of the Finance Act 1971 (machinery and plant on lease) after subsection (1) there shall be inserted the following subsection—
 

“(1A) Where subsection (1) above applies, the question whether the provision of the machinery or plant is to be treated as being wholly and exclusively or only partly for the purposes of the trade referred to in paragraph (a) of that subsection shall be determined according to whether the machinery or plant was in fact provided wholly and exclusively for the purpose of letting otherwise than in the course of a trade or only partly for that purpose.”
- 2 In paragraph 5 of Schedule 8 to that Act (use partly for trade purposes and partly for other purposes) in sub-paragraph (1) (first-year allowances)—
  - (a) for the words from " that, during" to " used for other purposes " there shall be substituted " that the provision of the machinery or plant is partly for purposes other than those of a trade carried on by him";
  - (b) for the words " machinery or plant were to be used only " there shall be substituted " provision of the machinery or plant were wholly and exclusively"; and
  - (c) the words " during that period " shall be omitted.

## PART II

### AMENDMENTS WITH RESPECT TO CHARGEABLE PERIODS ETC. ENDING ON OR AFTER 1ST APRIL 1985

#### *The Finance Act 1971*

- 3 (1) At the end of subsection (2A) of section 44 of the Finance Act 1971 (which was inserted by section 59 of the Finance Act 1984) there shall be added the words " and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this subsection".
- (2) In subsection (4) of that section (definition of "qualifying expenditure ") in paragraph (a), for the words from " which is in use " to " those purposes ", where those words secondly occur, there shall be substituted " being expenditure incurred in the chargeable period in question or its basis period or at any previous time, and "
- (3) In subsection (5) of that section (which among other matters requires, as a condition for bringing disposal value into account, that the machinery or plant has been in use for the purposes of the trade) for the words from " on the provision of which " to the end of paragraph (c) there shall be substituted—
- “(a) on the provision of which for the purposes of the trade he has incurred capital expenditure; and
  - (b) which belongs to him at some time in the chargeable period or its basis period ; and
  - (c) in respect of which, in the chargeable period or its basis period, one of the following events occurs, namely—
    - (i) the machinery or plant ceases to belong to him ;
    - (ii) he loses possession of the machinery or plant in circumstances where it is reasonable to assume that the loss is permanent;
    - (iii) the machinery or plant ceases to exist as such (as a result of destruction, dismantling or otherwise);
    - (iv) the machinery or plant begins to be used wholly or partly for purposes which are other than those of the trade;
    - (v) the trade is permanently discontinued (or is treated by virtue of any provision of the Tax Acts as permanently discontinued);
- and that is the first such event to occur”.
- 4 In subsection (1) of section 46 of that Act (machinery and plant on lease) for paragraph (6) there shall be substituted the following paragraph—
- “(b) at the time when the lessor permanently ceases to let the machinery or plant otherwise than in the course of a trade, the machinery or plant shall be treated for the purposes of this Chapter as being used wholly for purposes other than those of the trade referred to in paragraph (a) above”.
- 5 (1) In Schedule 8 to that Act (supplementary provisions) in paragraph 4 (disposal before bringing into use) in sub-paragraph (1) for the words from " the following provisions " onwards there shall be substituted " where—
- (a) a first-year allowance is made in respect of capital expenditure on the provision of machinery or plant, and

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- (b) in the chargeable period related to the incurring of that expenditure, the disposal value of that machinery or plant falls to be brought into account in accordance with subsection (5) of section 44 of this Act,  
that expenditure shall not, by virtue of sub-paragraph (ii) of paragraph (a) of subsection (4) of that section, be excluded from the capital expenditure referred to in that paragraph ".
- (2) In sub-paragraph (2) of that paragraph for the words " referred to in " there shall be substituted " by reason of which disposal value falls to be brought into account as mentioned in "and for the words from " (a) paragraph (a) " to " referred to were " there shall be substituted " section 44 of this Act, as modified by that subparagraph, shall have effect as if any reference in subsection (4)(a) of that section to capital expenditure incurred were a reference to".
- 6 In paragraph 5 of that Schedule (use partly for trade etc. purposes and partly for other purposes) for sub-paragraphs (2) to (5) there shall be substituted the following sub-paragraphs—
- “(2) Where a person carrying on a trade incurs capital expenditure on the provision of machinery or plant partly for the purposes of that trade (in sub-paragraphs (4) to (6) below referred to as "the actual trade") and partly for other purposes, it shall be assumed for the purposes of section 44 of this Act that he incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade (in sub-paragraphs (4) to (6) below referred to as "the notional trade ") carried on by him separately from the actual trade and any other trade carried on by him.
- (3) If, for any chargeable period, a person who has incurred expenditure on the provision of machinery or plant for the purposes of a trade (in sub-paragraphs (4) to (6) below referred to as "the actual trade ") is required to bring the disposal value of the machinery or plant into account by reason of it beginning in that chargeable period or its basis period to be used partly, but not wholly, for purposes other than those of the actual trade, it shall be assumed for the purposes of section 44 of this Act that, immediately after the beginning of that chargeable period or its basis period, he incurs capital expenditure equal to that disposal value on the provision of the machinery or plant wholly and exclusively for the purposes of a trade (in sub-paragraphs (4) to (6) below referred to as "the notional trade ") carried on by him separately from the actual trade and any other trade carried on by him.
- (4) Without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of section 44 of this Act, it shall be assumed for the purposes of that section that the notional trade is permanently discontinued on the machinery or plant beginning to be used wholly for purposes other than those of the actual trade.
- (5) The allowance or charge under section 44 of this Act which, on the above assumptions, and having regard to subparagraph (6) below, would fall to be made for any chargeable period in the case of the notional trade—
- (a) shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which the machinery or plant was used

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- in that chargeable period or its basis period otherwise than for the purposes of the actual trade ; and
- (b) shall, as so reduced, be made for that chargeable period in the case of the actual trade.
- (6) If an allowance under section 44 of this Act falling to be made by virtue of this paragraph for any chargeable period in the case of the actual trade is not claimed or is disclaimed under subsection (2A) of that section, or is reduced in amount in accordance with a requirement under the proviso of subsection (2) of that section or under subsection (2A) of that section then, in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the notional trade, any allowance falling to be made in the case of that trade for the first-mentioned chargeable period shall be treated as not claimed or as disclaimed or, as the case may require, as proportionately reduced.”
- 7 (1) In paragraph 6 of that Schedule (effect of subsidies towards wear and tear) in sub-paragraph (4),—
- (a) for the words from the beginning to " in respect thereof " there shall be substituted " If an allowance has been made under section 44 of this Act for a chargeable period prior to that in which or, as the case may be, in the basis period of which the first sum is so paid in respect of the machinery or plant"; and
- (b) for the words " permanently ceased to be used for the purposes " there shall be substituted " begun to be used wholly for purposes other than those".
- (2) In sub-paragraph (5) of that paragraph—
- (a) in paragraph (a) for the words "the machinery or plant is brought into use" there shall be substituted " capital expenditure was incurred on providing the machinery or plant wholly and exclusively";
- (b) in paragraph (b) for the words from " it ceases " to " with " there shall be substituted " the notional trade is treated by virtue of paragraph (c) below as permanently discontinued " and for the word " being " there shall be substituted " are";
- (c) in paragraph (c) after the word "that" there shall be inserted " without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of that section " and for the words from " ceasing " onwards there shall be substituted " beginning to be used wholly or partly for purposes other than those of the actual trade"; and
- (d) paragraph (d) shall be omitted.
- (3) In sub-paragraph (6) of that paragraph—
- (a) after the word " claimed ", in the first place where it occurs, there shall be inserted " or is disclaimed under subsection (2A) of that section";
- (b) after the words " proviso to subsection (2) of that section " there shall be inserted " or under subsection (2A) of that section"; and
- (c) for the words from " claimed ", in the last place where it occurs, onwards there shall be substituted " claimed or as disclaimed or, as the case may require, as proportionately reduced".
- 8 (1) In paragraph 7 of that Schedule (effect of use for purposes of trade where no allowances previously available), in: paragraph (a) of sub-paragraph (1) for the words from " but" to " circumstances " there shall be substituted " for purposes which were".

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- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) Where sub-paragraph (1) above applies, the question whether the provision of the machinery or plant is to be taken to be wholly and exclusively or only partly for the purposes of the trade shall be determined according to whether the use referred to in paragraph (a) or, as the case may be, paragraph (b) of that sub-paragraph is wholly and exclusively or only partly for those purposes.”
- 9 (1) In paragraph 10 of that Schedule (expensive motor cars), in sub-paragraph (2)—
- (a) in paragraph (a) the words from "immediately" to "the expenditure " shall be omitted and for the words " brings the motor car into use " there shall be substituted " incurred the expenditure on the provision of the motor car wholly and exclusively";
- (b) paragraph (b), except the final word " and", shall be omitted; and
- (c) in paragraph (c), after the word " that" there shall be inserted " without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of that section " and for the words from " ceases " onwards there shall be substituted " begins to be used wholly or partly for purposes other than those of the actual trade".
- (2) In sub-paragraph (4) of that paragraph, for the words from the beginning to " applies " there shall be substituted " Where the disposal value of the motor car falls to be taken into account by reason of an event falling within section 44(5)(c)(i) of this Act and that event is such a sale or the performance of such a contract as is referred to in paragraph 3 of this Schedule".
- 10 In paragraph 15(3) of that Schedule (application of provisions of section 48 of the Capital Allowances Act 1968 relating to successions to trades) after the words "by substituting" there shall be inserted—
- “(a) in subsection (1), for the words 'in use', in each place where they occur, the words 'either in use or provided and available for use'; and
- (b) in subsection (2), for the word 'used' the words 'either used or provided and available for use'; and
- (c)”.

*The Finance Act 1974*

- 11 In section 17(1) of the Finance Act 1974 (expenditure on fire safety) the words " and had been in use for the purposes of the trade " shall be omitted.

*The Finance Act 1975*

- 12 In section 14(1) of the Finance Act 1975 (expenditure on thermal insulation) the words " and had been in use for the purposes of the trade " shall be omitted.

*The Finance (No. 2) Act 1975*

- 13 In section 49(1) of the Finance (No. 2) Act 1975 (expenditure on safety at sports grounds) the words " and had been in use for the purposes of the trade " shall be omitted.



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*The Finance Act 1980*

- 14 (1) In section 65 of the Finance Act 1980 (writing-down allowances etc in case of leased assets), in subsection (2),—
- (a) in paragraph (a) the words from " immediately " to " brought into use " shall be omitted and for the words " brings the machinery or plant into use " there shall be substituted " incurred the expenditure on the provision of the machinery or plant wholly and exclusively";
  - (b) paragraph (b), except the final word " and", shall be omitted; and
  - (c) in paragraph (c), after the word "that" there shall be inserted " without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of that section " and for the words from " ceases " onwards there shall be substituted " begins to be used wholly or partly for purposes other than those of the actual trade".
- (2) In subsection (3) of that section,—
- (a) after the word " claimed ", in the first place where it occurs, there shall be inserted " or is disclaimed under subsection (2A) of that section"; and
  - (b) after the words " proviso to subsection (2) of that section " there shall be inserted " or under subsection (2A) of that section"; and
  - (c) for the words from "claimed", in the last place where it occurs, onwards there shall be substituted " claimed or as disclaimed or, as the case may require, as proportionately reduced".
- (3) In subsection (4) of that section, for the words from "cease" onwards there shall be substituted " begin to be used wholly or partly for purposes other than those of the actual trade".
- 15 In section 71(1) of that Act (expenditure on quarantine premises) the words "and had been in use for the purposes of the trade " shall be omitted.

*The Finance Act 1984*

- 16 In Schedule 16 to the Finance Act 1984 (assumptions for certain calculations relating to foreign companies) in paragraph 10 (capital allowances) for the words from " section 44 " to " balancing adjustments), not" there shall be substituted " Chapter I of Part JJI of the Finance Act 1971 to have been provided for purposes wholly other than those of the trade and not

SCHEDULE 15

Section 57.

MACHINERY AND PLANT EXCLUDED FROM TREATMENT AS SHORT-LIFE ASSETS

- 1 Ships.
- 2 Any vehicle which is of such a description that section 43 of the Finance Act 1971 (exclusion of certain road vehicles) precludes the making of a first-year allowance in respect of capital expenditure incurred on its provision.
- 3 Machinery or plant to which section 46 of that Act applies (machinery or plant let by any person otherwise than in the course of a trade).

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- 4 Machinery or plant falling within paragraph 5(2) of Schedule 8 to that Act (machinery or plant used partly for trade purposes and partly for other purposes).
- 5 Machinery or plant where the capital expenditure on its provision is expenditure to which paragraph 6 of that Schedule applies (subsidies towards wear and tear).
- 6 Machinery or plant falling within paragraph 7(1)(a) or paragraph 7(1)(b) of that Schedule (user after user not attracting capital allowances or after receipt by way of gift).
- 7 Motor cars falling within paragraph 10 of that Schedule.
- 8 Machinery or plant which is used in such a way that section 64 of the Finance Act 1980 (leased assets) precludes the making of a first-year allowance in respect of expenditure incurred on the provision of it for leasing.
- 9 Machinery or plant which is leased to two or more persons jointly in such circumstances that section 68 of the Finance Act 1980 precludes the making of a first-year allowance in respect of the whole or part of the capital expenditure incurred on its provision.
- 10 Television sets in respect of which the amount of a first-year allowance falls to be determined in accordance with paragraph 8 of Schedule 12 to the Finance Act 1980.
- 11 Machinery or plant in respect of expenditure on which section 70 of the Finance Act 1982 (assets leased outside the United Kingdom) provides for only a 10 per cent, writing-down allowance.
- 12 Machinery or plant in respect of which first-year allowances continue to be available by virtue of paragraph 2(2) of Schedule 12 to the Finance Act 1984 (contracts entered into on or before 13th March 1984) or paragraph 4 of that Schedule (expenditure qualifying for regional development grants etc.)

## SCHEDULE 16

Section 58.

### WRITING-DOWN ALLOWANCES FOR SHIPS: PARAGRAPHS FOR INSERTION INTO SCHEDULE 8 TO FINANCE ACT 1971

- “8A (1) This paragraph and paragraphs 8B and 8C below apply in any case where,—
- (a) after the relevant date, a person (in this paragraph referred to as " the shipowner") carrying on a trade incurs expenditure on the provision of a ship for the purposes of that trade (in this paragraph referred to as his " actual trade ");
  - (b) the expenditure is not such that section 64 of the Finance Act 1980 (which applies to leased assets used for certain purposes) precludes (or but for the provisions of paragraph 2 of Schedule 12 to the Finance Act 1984 would preclude) the making of a first-year allowance in respect of it and is not expenditure falling within subsection (1) of section 70 of the Finance Act 1982 (which provides for only a 10 per cent, writing-down allowance for assets leased outside the United Kingdom); and
  - (c) the actual trade is not a separate trade which the ship owner is treated as carrying on by virtue of section 46(1) of this Act (machinery or plant let otherwise than in the course of a trade).

- (2) In sub-paragraph (1)(a) above " the relevant date " means, in the case of expenditure on the provision of a new ship, 13th March 1984 and, in the case of expenditure on the provision of a ship which is not new, 31st March 1985 ; and for this purpose a ship which is not new is nevertheless to be regarded as a new ship if, at any time after 13th March 1984, it fell to be treated as a new ship for the purposes of paragraph 8 above (by virtue of sub-paragraph (5) of that paragraph).
- (3) Subject to paragraphs 8B and 8C below, it shall be assumed for the purposes of section 44 of this Act and the following provisions of this paragraph—
- (a) that the shipowner incurred the expenditure on the provision of the ship wholly and exclusively for the purposes of a trade (in this paragraph referred to as a " single ship trade ") carried on by him separately from his actual trade and from any other trade which he may in fact carry on or is assumed for any purpose to carry on; and
  - (b) that, without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of the said section 44, the single ship trade is permanently discontinued when the ship begins to be used wholly or partly for purposes other than those of the actual trade or, if it is earlier, at a time within the requisite period, within the meaning of section 64 of the Finance Act 1980, when the ship begins to be used otherwise than for a qualifying purpose within the meaning of that section;
- and subject to the following provisions of this paragraph, any allowance or charge which, on those assumptions, would fall to be made for any chargeable period in the case of the single ship trade shall be made for that period in the case of the actual trade.
- (4) The shipowner may, by notice in writing given to the inspector not later than two years after the end of a chargeable period for which he has qualifying expenditure in respect of his single ship trade, require the postponement of the whole of the writing-down allowance to be made to him for that period or of so much of it as is specified in the notice.
- (5) Where notice has been given under sub-paragraph (4) above in respect of a chargeable period,—
- (a) the writing-down allowance which would otherwise have been made to the shipowner for that period in respect of his single ship trade shall not be made or, as the case may be, shall be made only to the extent that the notice does not require it to be postponed ; and
  - (b) the amount of any writing-down allowance falling to be made to the shipowner for any subsequent chargeable period of his single ship trade shall be determined as if the writing-down allowance referred to in paragraph (a) above had been made (or, as the case may be, had been made in full) for the chargeable period concerned; and
  - (c) on a claim made by the shipowner, the whole or part of the amount of that allowance or, as the case may be, of so much of it as was not made to him shall be treated as a writing-down allowance to be made to him for any subsequent chargeable period in which his actual trade is carried on (whether or not his single ship trade is treated as carried on in that period), and, where a claim under paragraph (c) above relates to only part of the amount postponed, a further claim or claims may be made under that paragraph in relation to the balance or any part thereof until the aggregate of the amounts claimed equals the amount postponed.

- (6) A claim under sub-paragraph (5)(c) above shall not affect any right of the shipowner to (or the determination of the amount of) any writing-down allowance to which, apart from the claim, he is entitled for the chargeable period to which the claim relates.
- (7) For any chargeable period of the single ship trade for which the amount of a writing-down allowance is reduced by virtue of a requirement—
- (a) in a claim made by virtue of the proviso in subsection (2) of section 44 of this Act, or
  - (b) in a notice under subsection (2A) of that section,
- any reference in sub-paragraphs (4) to (6) above to the writing-down allowance is a reference to the reduced amount of the allowance, as specified in the claim or notice concerned.
- (8) For any chargeable period of the single ship trade for which the disposal value of the ship falls to be brought into account in accordance with section 44 of this Act, no balancing allowance or balancing charge shall be made to or on the shipowner in respect of that trade but, in such a case,—
- (a) if, apart from this sub-paragraph, a balancing allowance would have fallen to be made to the shipowner, an amount equal to that allowance shall for the purposes of section 44 of this Act be added to the shipowner's qualifying expenditure for that period in respect of his actual trade; and
  - (b) if, apart from this sub-paragraph, a balancing charge would have fallen to be made on the shipowner, an amount equal to that on which the charge would have been made shall be brought into account for that chargeable period as an item of disposal value referable to machinery or plant which, in respect of that chargeable period, falls within subsection (5) of section 44 of this Act
- (9) In any case where sub-paragraph (8) above applies by reason of the ship beginning to be used otherwise than for a qualifying purpose, within the meaning of section 64 of the Finance Act 1980 —
- (a) any reference in that sub-paragraph to section 44 of this Act shall be construed as a reference to that section as it has effect in accordance with section 65 of that Act; and
  - (b) any reference therein to the shipowner's actual trade shall be construed as a reference to the separate trade referred to in subsection (2) of that section.
- (10) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this paragraph and paragraphs 8B and 8C below.
- (11) An allowance which is postponed by virtue of this paragraph shall not by reason of the postponement fall within the references to allowances or amounts carried forward from an earlier year or period in section 169(4)(d), 174(6) and 259(2) of the Taxes Act (loss relief and group relief).
- 8B (1) If the ship ceases to belong to the shipowner without having in fact been brought into use for the purposes of his actual trade, then,—
- (a) on that event, the single ship trade shall be treated as permanently discontinued, but paragraph 4 above shall not apply;

- (b) any writing-down allowances which, by virtue of paragraph 8A above, have previously been made to the shipowner or have been postponed by him shall be withdrawn; and
    - (c) without prejudice to the operation of paragraph 8A(8) above, an amount equal to any writing-down allowances withdrawn by virtue of paragraph (b) above shall be added to the shipowner's qualifying expenditure in respect of his actual trade for the chargeable period related to that event.
  - (2) In this paragraph " the shipowner ", " actual trade " and " single ship trade " have the same meaning as in paragraph 8A above.
- 8C
- (1) The shipowner may, by notice in writing given to the inspector not later than two years after the end of a chargeable period of a single ship trade, not being the chargeable period relating to the permanent discontinuance of that trade, require that, with effect from the beginning of that chargeable period, paragraph 8A above shall not or, as the case may be, shall no longer apply.
  - (2) Where a notice under sub-paragraph (1) above is given before any writing-down allowance has been made to the shipowner in respect of the expenditure referred to in sub-paragraph (1) of paragraph 8A above, the provisions of that paragraph shall be deemed never to have applied with respect to that expenditure.
  - (3) If a notice under sub-paragraph (1) above is given after any writing-down allowance has been so made, then, for the purposes of section 44 of this Act and paragraph 8A above,—
    - (a) the single ship trade shall be treated as permanently discontinued in the chargeable period to which the notice relates or, as the case may be, in its basis period but no balancing allowance or charge shall be made to or on the shipowner by reason thereof ; and
    - (b) the amount which, apart from this paragraph, would be the shipowner's qualifying expenditure for that chargeable period in respect of the single ship trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
  - (4) The shipowner may, by notice in writing given to the inspector not later than two years after the end of a chargeable period of a single ship trade, require that an amount of expenditure specified in the notice, being less than the amount which, apart from this sub-paragraph, would be his qualifying expenditure for that period in respect of the single ship trade, shall be attributed to his actual trade.
  - (5) If a notice is given under sub-paragraph (4) above, then, for the purposes of section 44 of this Act and paragraph 8A above,—
    - (a) the shipowner's qualifying expenditure for that period in respect of the single ship trade shall be reduced by deducting therefrom the amount specified in the notice ; and
    - (b) the amount specified in the notice shall be added to his qualifying expenditure for that period in respect of his actual trade.
  - (6) In this paragraph " the shipowner ", " actual trade " and "single ship trade" have the same meaning as in paragraph 8A above."

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

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## SCHEDULE 17

Section 59.

## CAPITAL ALLOWANCES FOR FIXTURES

*Interpretation*

- 1 (1) In this Schedule—
- " allowance " means an allowance under Chapter I of Part III of the Finance Act 1971 ;
  - " fixture " means any such machinery or plant as is referred to in section 59(1) of this Act;
  - " interest in land " and " lease " shall be construed in accordance with subparagraph (2) below;
  - " material purposes " means the purposes of Chapter I of Part III of the Finance Act 1971 ; and
  - " relevant land ", in relation to a fixture, means the building or other description of land of which the fixture becomes part.
- (2) In this Schedule " interest in land " means—
- (a) the fee simple estate in the land or an agreement to acquire that estate;
  - (b) in Scotland, 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 any agreement to acquire such an estate or interest;
  - (c) any leasehold estate in, or in Scotland lease of, the land (whether in the nature of a head-lease, sub-lease or underlease) and any agreement to acquire such an estate or, in Scotland, lease;
  - (d) an easement or servitude or any agreement to acquire an easement or servitude; and
  - (e) a licence to occupy land ;
- and, except in the context of leasing machinery or plant, any reference in the following provisions of this Schedule to a lease is a reference to such a leasehold estate or, in Scotland, lease as is mentioned in paragraph (c) above or to such an agreement as is mentioned in that paragraph (and, in relation to such an agreement, the expression " grant" shall be construed accordingly).
- (3) If an interest in land is conveyed or assigned by way of security and subject to a right of redemption, then, so long as such a right subsists, the interest held by the creditor shall be treated for the purposes of this Schedule as held by the person having that right.
- (4) Any reference in the following provisions of this Schedule to a person being entitled to an allowance in respect of any capital expenditure incurred on the provision of a fixture is a reference to a case where
- (a) that person is, for any chargeable period, entitled to a first-year allowance in respect of that expenditure, or
  - (b) that expenditure is taken into account in determining his qualifying expenditure for a chargeable period for the purposes of subsections (2) and (3) of section 44 of the Finance Act 1971 (whether or not an allowance is made to him for that period),
- and any reference to a chargeable period for which a person is so entitled is a reference—

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- (i) to the chargeable period referred to in paragraph (a) above; or
- (ii) to the chargeable period referred to in paragraph (b) above; or
- (iii) to any chargeable period which is subsequent to that referred to in paragraph (b) above but is not later than the chargeable period in which he is required to bring the disposal value of the fixture concerned into account for the purposes mentioned in paragraph (.b) above.

*Expenditure incurred by holder of interest in land*

- 2 (1) Subject to sub-paragraph (2) below, in any case where—
- (a) a person incurs capital expenditure on the provision of machinery or plant either for the purposes of a trade carried on by him or for leasing otherwise than in the course of a trade, and
  - (b) the machinery or plant becomes a fixture, and
  - (c) at the time the machinery or plant becomes a fixture he has an interest in the relevant land,

then, subject to paragraphs 3 and 7 below, on and after that time the fixture shall be treated for material purposes as belonging to the person concerned in consequence of his incurring the expenditure.

- (2) If, in respect of the same fixture, there are two or more persons with different interests in the relevant land to whom, by virtue of sub-paragraph (1) above, the fixture would (apart from" this sub-paragraph), be treated as belonging for material purposes, the only interest which shall be taken into account under that subparagraph is,—
- (a) if one of the interests is an interest falling within paragraph 1(2)(d) above, that interest;
  - (b) if paragraph (a) above does not apply but one of the interests is an interest falling within paragraph 1(2)(e) above, that interest; and
  - (c) in any other case,—
    - (i) except in Scotland, that interest which is not in reversion (at law or in equity and whether directly or indirectly) on any other interest in the relevant land which is held by any of the persons referred to above; and
    - (ii) in Scotland, that of whichever of those persons has, or last had, the right of use of the relevant land.

*Expenditure incurred by equipment lessor*

- 3 (1) In any case where—
- (a) a person (in this Schedule referred to as " the equipment lessor") incurs capital expenditure on the provision of machinery or plant for leasing, and
  - (b) an agreement is entered into for the lease, directly or indirectly from the equipment lessor, of the machinery or plant (otherwise than as part of the relevant land) to another person (in this Schedule referred to as " the equipment lessee") for the purposes of a trade carried on by the equipment lessee or for leasing otherwise than in the course of a trade, and
  - (c) the machinery or plant becomes a fixture, and
  - (d) if the expenditure referred to in paragraph (a) above had been incurred by the equipment lessee, the fixture would, by virtue of paragraph 2 above, have

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been treated for material purposes as belonging to him in consequence of his incurring the expenditure, and

- (e) the equipment lessor and the equipment lessee elect that this paragraph should apply,

then, subject to paragraph 7 below, on and after the time at which the expenditure is incurred the fixture shall be treated for material purposes as belonging to the equipment lessor in consequence of his incurring the expenditure.

- (2) An election under this paragraph shall be made by notice in writing to the inspector given before the expiry of the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure referred to in sub-paragraph (1)(a) above ; but no election may be made under this paragraph if the equipment lessor and the equipment lessee are connected with each other within the terms of section 533 of the Taxes Act.
- (3) Where an election has been made under this paragraph with respect to a fixture, nothing in paragraph 2 above shall have the effect of treating the fixture for material purposes as belonging to the equipment lessee.
- (4) In the following provisions of this Schedule " equipment lease " means such an agreement as is mentioned in sub-paragraph (1)(b) above or a lease entered into pursuant to such an agreement.

*Expenditure included in consideration for acquisition of existing interest in land*

- 4 (1) In any case where,—
- (a) after any machinery or plant has become a fixture, a person (in this paragraph referred to as " the purchaser ") acquires an interest in the relevant land, being an interest which was in existence prior to his acquisition of it, and
- (b) the consideration which the purchaser gives for that interest is or includes a capital sum which, in whole or in part, falls to be treated for material purposes as expenditure on the provision of the fixture, and
- (c) at the time of the purchaser's acquisition of his interest in the relevant land, either no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture or, if any person has become so entitled, that person has been or is required to bring the disposal value of the fixture into account under section 44 of the Finance Act 1971,

then, subject to paragraph 7 below, on and after the purchaser's acquisition of his interest in the relevant land, the fixture shall be treated for material purposes as belonging to him in consequence of his incurring expenditure as mentioned in paragraph (b) above.

- (2) If, in a case where paragraph (a) of sub-paragraph (1) above applies,—
- (a) the machinery or plant was, prior to the purchaser's acquisition of the interest in the relevant land, let under an equipment lease, and
- (b) in connection with the acquisition of the interest in the relevant land, the purchaser pays a capital sum to discharge the obligations of the equipment lessee under the equipment lease,

sub-paragraph (1) above shall apply as if that capital sum were such a capital sum as is referred to in paragraph (b) of that sub-paragraph.



*Expenditure incurred by incoming lessee : election to transfer right to allowances*

- 5 (1) In any case where—
- (a) after any machinery or plant has become a fixture, a person (in this paragraph referred to as " the lessor ") who has an interest in the relevant land grants a lease, and
  - (b) apart from paragraph 7 below, the lessor would be entitled, for the chargeable period related to the grant of the lease, to an allowance in respect of expenditure incurred on the provision of the fixture, and
  - (c) the consideration which the lessee gives for the lease is or includes a capital sum which, in whole or in part, falls to be treated for material purposes as expenditure on the provision of the fixture, and
  - (d) the lessor and the lessee make an election under this paragraph,
- then, subject to paragraph 7 below, on and after the grant of the lease, the fixture shall be treated for material purposes as belonging to the lessee in consequence of his incurring expenditure as mentioned in paragraph (c) above.
- (2) If in any case the lessor is not within the charge to tax. it shall be assumed that he is within that charge for the purpose of determining whether the condition in sub-paragraph (1)(b) above is fulfilled.
- (3) An election under this paragraph shall be made by notice in writing to the inspector given within two years after the date on which the lease takes effect.
- (4) No election may be made under this paragraph if—
- (a) the lessor and the lessee are connected with each other within the terms of section 533 of the Taxes Act; or
  - (b) it appears that the sole or main benefit which may be expected to accrue to the lessor from the grant of the lease and the making of an election is the obtaining of an allowance or deduction or a greater allowance or deduction or the avoidance or reduction of a charge under Chapter I of Part III of the Finance Act 1971.

*Expenditure incurred by incoming lessee: lessor not entitled to allowances*

- 6 In any case where—
- (a) after any machinery or plant has become a fixture, a person (in this paragraph referred to as " the lessor ") who has an interest in the relevant land grants a lease, but paragraph 5(1)(b) above does not apply in his case, and
  - (b) the consideration which the lessee gives for the lease is or includes a capital sum which, in whole or in part, falls to be treated for material purposes as expenditure on the provision of the fixture, and
  - (c) at the time of the grant of the lease, no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture, and
  - (d) the fixture has not before that time been used for the purposes of a trade by the lessor or any person connected with him within the terms of section 533 of the Taxes Act,
- then, subject to paragraph 7 below, on and after the grant of the lease, the fixture shall be treated for material purposes as belonging to the lessee in consequence of his incurring expenditure as mentioned in paragraph (b) above.

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*Cases where fixture is to be treated as ceasing to belong to particular person*

- 7 (1) The provisions of this paragraph and paragraph 8 below are without prejudice to any other circumstances in which the disposal value of a fixture falls to be brought into account in accordance with section 44 of the Finance Act 1971.
- (2) Subject to sub-paragraph (4) below, if at any time the person to whom a fixture is treated for material purposes as belonging by virtue of any of paragraphs 2, 4, 5 and 6 above ceases (whether by reason of the transfer, surrender, or expiry of the interest or otherwise) to have the qualifying interest, the fixture shall be treated for those purposes as ceasing to belong to him at that time.
- (3) In this paragraph and paragraph 9 below, "the qualifying interest" means—
- (a) where paragraph 2 or paragraph 4 above applies, the interest in the relevant land referred to in that paragraph ; and
  - (b) where paragraph 5 or paragraph 6 above applies, the lease referred to in that paragraph ;
- but if the qualifying interest is an agreement to acquire an interest in land and that interest in land is subsequently transferred or granted to the person referred to in sub-paragraph (2) above, the interest so transferred or granted shall be treated as the same interest as the qualifying interest.
- (4) For the purposes of sub-paragraph (2) above,—
- (a) if the qualifying interest ceases to exist by reason of its merger in another interest acquired by the person referred to in that sub-paragraph, that other interest shall be treated as the same interest as the qualifying interest;
  - (b) if the qualifying interest is a lease and, on its termination, a new lease of the relevant land (with or without other land) is granted to the lessee, the new lease shall be treated as the same interest as the qualifying interest;
  - (c) if the qualifying interest is a licence and, on its termination, a new licence to occupy the relevant land (with or without other land) is granted to the licensee, the new licence shall be treated as the same interest as the qualifying interest;
  - (d) if the qualifying interest is a lease and, with the consent of the lessor, the lessee remains in possession of the relevant land after the termination of the lease but without a new lease being granted to him, the qualifying interest shall be treated as continuing to subsist so long as the lessee remains in possession of the relevant land.
- (5) At the time at which, by virtue of paragraph 5 above, the fixture concerned begins to be treated for material purposes as belonging to the lessee, it shall be treated for those purposes as ceasing to belong to the lessor (as defined in that paragraph).
- (6) Where, by virtue of sub-paragraph (2) above, on the termination of a lease or licence, a fixture is treated for material purposes as ceasing to belong to the outgoing lessee or licensee, it shall, on that termination, be treated for material purposes as beginning to belong to the person who, immediately before the termination, was the lessor under the lease or, as the case may be, the licensor under the licence.
- (7) If at any time a fixture is permanently severed from the relevant) land (so that it ceases to be a fixture) and, immediately before that time it was treated for material purposes as belonging to any person by virtue of any of the preceding provisions of this Schedule or sub-paragraph (2) or sub-paragraph (4) of paragraph 8 below, then,

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unless on its severance the fixture does in fact belong to that person, it shall be treated for those purposes as ceasing to belong to him at that time.

*Special provisions as to equipment lessors*

- 8 (1) If, by virtue of an election under paragraph 3 above, a fixture is treated for material purposes as belonging to the equipment lessor and either,—
- (a) the equipment lessor at any time assigns his rights under an equipment lease, or
  - (b) the financial obligations of the equipment lessee under an equipment lease are at any time discharged, on the payment of a capital sum or otherwise,
- then, at that time (or, as the case may be, at the earliest of those times) the fixture shall be treated for material purposes as ceasing to belong to the equipment lessor by reason of a sale by him of the fixture.
- (2) If paragraph (a) of sub-paragraph (1) above applies, then, on and after the time of the assignment referred to in that paragraphs the fixture to which the agreement in question relates shall be treated for material purposes as belonging to the assignee and the consideration given by him for the assignment shall be treated for those purposes—
- (a) as the price received for the sale of the fixture by the assignor; and
  - (b) as expenditure incurred by the assignee on acquiring the fixture.
- (3) On and after an assignment falling within paragraph (a) of sub-paragraph (1) above, that sub-paragraph shall have effect as if the machinery or plant (as a fixture) were treated for material purposes as belonging to the assignee by virtue of an election under paragraph 3 above and, accordingly, as if the assignee were the equipment lessor, as defined in that paragraph.
- (4) Where a capital sum is paid as mentioned in paragraph (b) of sub-paragraph (1) above, that capital sum shall be treated for material purposes—
- (a) as the price received for the sale of the fixture by the equipment lessor; and
  - (b) if that capital sum is paid by the equipment lessee, as expenditure incurred by him on the provision of the fixture ;
- and, where paragraph (b) above applies, on and after the time of that payment, the fixture shall be treated for material purposes as belonging to the equipment lessee.
- (5) Where the financial obligations of the equipment lessee under an equipment lease have become vested in any other person (by assignment, operation of law or otherwise) any reference in sub-paragraph (1)(b) or sub-paragraph (4) above to the equipment lessee shall be construed as a reference to the person in whom those obligations are for the time being vested when the capital sum is paid.

*Disposal value of fixtures in certain cases*

- 9 (1) In any case where—
- (a) by virtue of paragraph 7 above, a fixture is at any time treated for material purposes as ceasing to belong to any person (in this paragraph referred to as "the former owner "), and
  - (b) the qualifying interest continues in existence after that time (whether in the hands of the former owner or any other person) or would so continue but for its becoming merged in another interest, and

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- (c) the occasion of the fixture ceasing to belong to the former owner is not its permanent severance from the relevant land (whether on disposal, demolition, destruction or otherwise),  
the fixture shall be treated for material purposes as sold at that time by the former owner for a price determined in accordance with sub-paragraphs (2) to (6) below.
- (2) Subject to sub-paragraph (6) below, if the occasion of the fixture ceasing to belong to the former owner is the sale of the qualifying interest, the price referred to in sub-paragraph (1) above is that portion of the sale price of the qualifying interest which falls (or, if the purchaser were entitled to an allowance, would fall) to be treated for material purposes as expenditure incurred by the purchaser on the provision of the fixture.
- (3) If the fixture ceases to belong to the former owner by virtue of sub-paragraph (5) of paragraph 7 above, the price referred to in sub-paragraph (1) above is so much of the capital sum referred to in sub-paragraph (1)(c) of paragraph 5 above as falls to be treated for material purposes as expenditure by the lessee on the provision of the fixture.
- (4) If neither sub-paragraph (2) nor sub-paragraph (3) above applies, the price referred to in sub-paragraph (1) above is that portion of the price which, on a sale of the qualifying interest in the open market, would fall to be treated for material purposes as expenditure by the purchaser on the provision of the fixture.
- (5) The sale referred to in sub-paragraph (4) above shall be assumed to take place immediately before the event which causes the fixture to be treated for material purposes as ceasing to belong to the former owner ; but that event shall be disregarded in determining the open market price on that sale.
- (6) If the sale referred to in sub-paragraph (2) above is at a price lower than that which the qualifying interest would have fetched if sold in the open market, that sub-paragraph shall not apply unless the purchaser's expenditure on the acquisition of the fixture can be taken into account as mentioned in section 44(6)(b)(i) of the Finance Act 1971.
- (7) If the occasion of the fixture ceasing to belong to the former owner is the expiry of the qualifying interest, then, except in so far as the former owner receives any capital sum, by way of compensation or otherwise, by reference to the fixture, the disposal value of the fixture which falls to be brought into account under section 44 of the Finance Act 1971 shall be nil.
- (8) In any case where—
- (a) the disposal value of a fixture falls to be brought into account in accordance with section 44 of the Finance Act 1971 on the permanent discontinuance of the trade in circumstances where that value falls to be determined under paragraph (e) of subsection (6) of that section, and
- (b) before the occurrence of the later event referred to in that paragraph, the fixture is not permanently severed from the relevant land,
- that paragraph shall apply as if the reference therein to paragraph (a) and paragraph (b) of that subsection were omitted; but if the event which follows the discontinuance of the trade is the sale of the qualifying interest, the disposal value of the fixture to be brought into account under that section shall be that portion of the sale price referred to in sub-paragraph (2) above.

- (9) If the disposal value of the fixture falls to be brought into account in accordance with section 44 of the Finance Act 1971 on its beginning to be used wholly or partly for purposes which are other than those of the trade, paragraph (f) of subsection (6) of that section shall apply as if the reference to the price which the machinery or plant would have fetched if sold on the open market were a reference to that portion of the price referred to in subparagraph (2) above.
- (10) If, on the occasion of the fixture being treated, by virtue of paragraph 7 above, as ceasing to belong to the former owner, another person incurs expenditure on the provision of the fixture, there shall be disregarded for material purposes so much (if any) of that expenditure as exceeds the disposal value which the former owner is required to bring into account in accordance with section 44 of the Finance Act 1971.

## SCHEDULE 18

Sections 64 and 65.

### WRITING-DOWN ALLOWANCES ETC. IN RESPECT OF PATENT RIGHTS AND KNOW-HOW

#### PART I

##### EXPENDITURE ON PURCHASE OF PATENT RIGHTS

- 1 (1) For any chargeable period for which a person within subsection (1) of section 378 of the Taxes Act has qualifying expenditure (as defined in paragraph 2 below) which exceeds any disposal value to be brought into account by him in accordance with paragraph 3 below, there shall be made to him,—
- (a) except where paragraph (b) or paragraph (c) below applies, a writing-down allowance of an amount equal, subject to sub-paragraph (2) below, to—
    - (i) 25 per cent, of the excess, or
    - (ii) a proportionately reduced percentage of the excess if the period is part only of a year, or if, in a case where the period is a year of assessment and the allowance falls to be made in taxing a trade, the trade has been carried on for part only thereof;
  - (b) if an allowance falls to be made to that person in taxing his trade and the period is the chargeable period related to the permanent discontinuance of the trade, a balancing allowance equal to the whole of the excess ; and
  - (c) if paragraph (b) above does not apply but the period is the chargeable period in which the last of the relevant patent rights comes to an end without any of those rights being revived, a balancing allowance equal to the whole of the excess.
- (2) For the purposes of sub-paragraph (1)(c) above, the " relevant patent rights " at any time are those—
- (a) on the purchase of which the person concerned has incurred capital expenditure which has been taken into account in determining his qualifying expenditure for any chargeable period ; and
  - (b) which he has not wholly disposed of.
- (3) For any chargeable period for which a person's qualifying expenditure is less than the disposal value which he is to bring into account, there shall be made on him a

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balancing charge and the amount on which the charge is made shall be an amount equal to the difference.

- 2 For the purposes of paragraph 1 above, a person's qualifying expenditure for a chargeable period is the aggregate of the following amounts—
- (a) any capital expenditure incurred by him on the purchase of patent rights, being expenditure incurred during the chargeable period or its basis period or at any previous time, other than expenditure which, or any part of which, has formed part of his qualifying expenditure for any previous chargeable period; and
  - (b) if, for the chargeable period immediately preceding the chargeable period in question, there was an excess of qualifying expenditure over disposal value, the balance of that excess after deducting any writing-down allowance under paragraph 1(1)(a) above made by reference thereto.
- 3 (1) If, in any chargeable period or its basis period, a person sells the whole or any part of any patent rights on the purchase of which he has incurred capital expenditure, then, for the purposes of paragraphs 1 and 2 above, he is required to bring into account for that chargeable period disposal value equal, subject to sub-paragraphs (2) and (3) below, to the net proceeds to him of that sale.
- (2) The disposal value to be brought into account by any person in respect of any patent rights as a result of one or more sales falling within sub-paragraph (1) above shall not (or, as the case may be, shall not in the aggregate) exceed the capital expenditure incurred by him on the purchase of those rights.
- (3) Where the person mentioned in sub-paragraph (2) above has acquired the patent rights as a result of a transaction which was, or a series of transactions each of which was, between persons who are connected with each other within the terms of section 533 of the Taxes Act, that sub-paragraph shall have effect as if it referred to the capital expenditure on the purchase of the rights incurred by whichever party to that transaction, or to any of those transactions, incurred the greatest such expenditure.
- 4 Where a person incurs capital expenditure on the purchase of patent rights and either—
- (a) he and the seller are connected with each other within the terms of section 533 of the Taxes Act, or
  - (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, but for this paragraph, might have been expected to accrue to the parties was the obtaining of an allowance under section 378 of the Taxes Act,
- there shall be disregarded for the purposes of paragraphs 1 and 2 above so much (if any) of that expenditure as exceeds the disposal value to be brought into account by virtue of paragraph 3 above by reason of the sale.

## PART II

### EXPENDITURE ON ACQUIRING KNOW-HOW

- 5 (1) For any chargeable period for which a person within subsection (1) of section 386 of the Taxes Act has qualifying expenditure (as defined in paragraph 6 below) which exceeds any disposal value to be brought into account by him in accordance with paragraph 7 below, there shall be made to him—

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- (a) unless the period is the chargeable period related to the permanent discontinuance of the trade referred to in that subsection, a writing-down allowance of an amount equal, subject to sub-paragraph (2) below, to—
    - (i) 25 per cent of the excess, or
    - (ii) a proportionately reduced percentage of the excess if the period is part only of a year, or if the period is a year of assessment but the trade has been carried on for part only thereof; and
  - (b) if the period is the chargeable period related to the permanent discontinuance of the trade, a balancing allowance equal to the whole of the excess.
- (2) For any chargeable period for which a person's qualifying expenditure is less than the disposal value which he is to bring into account, there shall be made on him a balancing charge and the amount on which the charge is made shall be an amount equal to the difference.
- 6 For the purposes of paragraph 5 above, a person's qualifying expenditure for a chargeable period is the aggregate of the following amounts—
- (a) any capital expenditure incurred by him on the acquisition of know-how, being expenditure incurred during the chargeable period or its basis period or at any previous time, other than expenditure which, or any part of which, has formed part of his qualifying expenditure for any previous chargeable period; and
  - (b) if, for the chargeable period immediately preceding the chargeable period in question, there was an excess of qualifying expenditure over disposal value, the balance of that excess after deducting any writing-down allowance under paragraph 5(1)(a) above made by reference thereto.
- 7 If, in any chargeable period or its basis period, a person sells any know-how, on the acquisition of which for use in a trade carried on by him he has incurred expenditure falling within subsection (1) of section 386 of the Taxes Act, then, for the purposes of paragraphs 5 and 6 above, he is required to bring into account for that chargeable period disposal value equal to the net proceeds to him of that sale.
- 8 Subsections (7) and (8) of section 386 of the Taxes Act (meaning of "know-how" and treatment of certain consideration) apply for the purposes of this Part of this Schedule as they apply for the purposes of that section.

## SCHEDULE 19

Section 68.

### INDEXATION

#### PART I

##### AMENDMENTS OF FINANCE ACT 1982

- 1 (1) In section 86, in subsection (1), paragraphs (b) and (c) and the word " and " at the end of paragraph (a) shall be omitted.
- (2) In subsection (2) of that section, for paragraph (a) there shall be substituted—
- “(a) " the unindexed gain or loss " means the amount of the gain or loss on the disposal computed in accordance with Chapter II of Part II

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of the Capital Gains Tax Act 1979 and, if there is neither a gain nor a loss on the disposal as so computed, the unindexed gain or loss shall be nil ;”.

and in paragraph (by for the words " gross gain " there shall be substituted " unindexed gain or loss ".

- (3) In subsection (4) of that section for the words from " allowed " to " extinguish it" there shall be substituted " set against the unindexed gain or, as the case may be, added to the unindexed loss so as to give the gain or loss for the purposes of the Capital Gains Tax Act 1979 as follows,—
- (a) if there is an unindexed gain, the indexation allowance shall be deducted from the gain and, if the allowance exceeds the unindexed gain, the excess shall constitute a loss ;
  - (b) if there is an unindexed loss, the indexation allowance shall be added to it so as to increase the loss ; and
  - (c) if the unindexed gain or loss is nil, there shall be a loss equal to the indexation allowance ".
- (4) Subsection (5) of that section shall be omitted.
- 2 (1) In section 87, in subsection (2) in the definition of " RI" the words " which is the twelfth month after that" shall be omitted.
- (2) In subsection (3) of that section, for paragraph (a) there shall be substituted—
- “(a) the expenditure is attributable to the acquisition of relevant securities, within the meaning of section 88 below, which are disposed of within the period of ten days beginning on the day on which the expenditure was incurred, or”.
- 3 (1) In section 88, in each of subsections (1) to (5) and (7) and (8) for the word " securities " (or " Securities ") where it first occurs there shall be substituted " relevant securities " (or " Relevant securities").
- (2) The following provisions of that section shall be omitted—
- (a) in subsection (1) the words "and section 89 below" and " section 89 below " ; and
  - (b) subsection (5A).
- (3) In subsection (9) of that section, for the words from " securities ", where that word first occurs, to the end of paragraph (b) there shall be substituted
- “" relevant securities " means—
- (a) securities, within the meaning of Chapter IV of Part II of the Finance Act 1985 ;
  - (b) deep discount securities, within the meaning of section 36 of the Finance Act 1984 ; and
  - (c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter VII of Part II of that Act”.
- 4 Section 89 (identification of securities: special rules) shall be omitted.
- 5 (1) In Schedule 13, in paragraph 1(a), for the words "gross gain " there shall be substituted " unindexed gain or loss".



- (2) In paragraph 2 of that Schedule, in sub-paragraph (1) the words "subsection (5)(b) of that section or" shall be omitted and in sub-paragraph (3)—
  - (a) the words "and which falls within subsection (1)(b) of section 86 of this Act" shall be omitted ; and
  - (b) in paragraph (b) for the words " a gross gain " there shall be substituted the words " an unindexed gain".
- (3) Paragraph 3 of that Schedule shall be omitted.
- (4) In paragraph 4(1) of that Schedule, the words " occurring after the beginning of the qualifying period " shall be omitted.
- (5) In paragraph 6 of that Schedule—
  - (a) in sub-paragraph (1)(b) for the words "qualifying period" there shall be substituted " period of twelve months beginning on the date of the issue of the shares, securities or debentures"; and
  - (b) in sub-paragraph (2)(a) for the words " qualifying period" there shall be substituted " period referred to in sub-paragraph (1)(b) above".
- (6) In paragraph 7 of that Schedule, sub-paragraph (2) shall be omitted.

## PART II

### PRE-APRIL 1982 SHARE POOLS

- 6 (1) Subject to sub-paragraphs (2) and (3) below, a holding of securities, as it exists immediately before the 1985 date, is for the purposes of this Part of this Schedule a 1982 holding if, by virtue of paragraph 8(2) of Schedule 13 to the Finance Act 1982, it is regarded for the purposes of the Capital Gains Tax Act 1979 as a single asset.
- (2) If the holding of securities referred to in sub-paragraph (1) above is " the reduced holding ", within the meaning of paragraph 9 of Schedule 13 to the Finance Act 1982, then, for the purposes of this Part of this Schedule, the 1982 holding is the aggregate of—
  - (a) the reduced holding, (as it exists immediately before the 1985 date); and
  - (b) such of the separate assets (derived from the same holding as the reduced holding) which, by virtue of sub-paragraph (3)(6) of the said paragraph 9, constitute separate assets as have not been disposed of before that date.
- (3) If a person so elects, quoted securities, as defined in paragraph 8 of Schedule 5 to the Capital Gains Tax Act 1979 (assets held on 6th April 1965) which are covered by the election—
  - (a) shall be treated as an accretion to an existing 1982 holding or, as the case may be, as constituting a new 1982 holding; and
  - (b) shall be excluded from paragraph 2 of that Schedule (restriction of gain or loss by reference to actual cost);and the relevant allowable expenditure (as defined in relation to a disposal to which section 86 of the Finance Act 1982 applies) which is attributable to that 1982 holding shall be adjusted or determined accordingly.
- (4) Paragraphs 4 to 8 of the said Schedule 5 (except paragraph 4(1)) shall apply in relation to an election under sub-paragraph (3) above as they apply in relation to

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an election under paragraph 4 of that Schedule, but with the substitution for any reference to 19th March 1968 of a reference to 31st March 1985 in the case of holdings or disposals by companies and 5th April 1985 in any other case.

- 7
- (1) For the purposes of the Capital Gains Tax Act 1979, on and after the 1985 date, a 1982 holding shall continue to be regarded or, if it comes into being by virtue of paragraph 6 above, shall begin to be regarded as a single asset (but one which cannot grow by the acquisition of additional securities of the same class).
  - (2) In a case where the 1982 holding is determined by paragraph 6(2) above, for all purposes of capital gains tax the relevant allowable expenditure attributable to the securities comprised in the 1982 holding shall be taken to be the aggregate of—
    - (a) the amount which, by virtue of sub-paragraph (2) of paragraph 10 of Schedule 13 to the Finance Act 1982, would for those purposes be regarded as the relevant allowable expenditure attributable to the reduced holding referred to in paragraph 6(2)(a) above on a disposal of the whole of it immediately before the 1985 date ; and
    - (b) the amount which, by virtue of that sub-paragraph, would for those purposes be regarded as the relevant allowable expenditure attributable to the separate assets referred to in paragraph 6(2)(b) above on a disposal of them immediately before that date.
  - (3) For the purposes of section 87(5) of the Finance Act 1982 (indexation of allowable expenditure) the relevant allowable expenditure which by virtue of sub-paragraph (2) above is attributable to the securities comprised in a 1982 holding shall be deemed to be expenditure falling within section 32(1)(a) of the Capital Gains Tax Act 1979.

### PART III

#### POOLING OF OTHER SECURITIES

- 8
- (1) In this Part of this Schedule—
    - (a) " the principal Act" means the Capital Gains Tax Act 1979 ;
    - (b) " the 1982 Act" means the Finance Act 1982 ; and
    - (c) " relevant allowable expenditure " has the meaning assigned to it by subsections (2)(b) and (3) of section 86 of the 1982 Act.
  - (2) This Part of this Schedule shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, this Part of this Schedule shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
  - (3) Nothing in this Part of this Schedule shall be taken as affecting the manner in which the market value of any securities is to be ascertained.
- 9
- (1) Any number of securities of the same class which—
    - (a) were held by the same person in the same capacity immediately before the 1985 date, and
    - (b) were acquired on or after 6th April 1982 or, in the case of a company, 1st April 1982,

shall for the purposes of the principal Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.

- (2) Any number of securities of the same class which—
- (a) are acquired by the same person in the same capacity on or after the 1985 date, and
  - (b) do not form part of a single asset by virtue of sub-paragraph (1) above,
- shall for the purposes of the principal Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.
- (3) A holding of securities which, by virtue of sub-paragraph (1) or sub-paragraph (2) above, is to be regarded as a single asset is in this Part of this Schedule referred to as a " new holding ".

10 Without prejudice to the generality of paragraph 9 above, a disposal of securities in a new holding, other than a disposal of the whole of it, is a disposal of part of an asset and the provisions of the principal Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.

11 (1) In relation to a disposal of a new holding, the following provisions of this Part of this Schedule have effect in place of the provisions of section 87 of the 1982 Act for the purpose of computing the indexation allowance.

- (2) On any disposal of a new holding, other than a disposal of the whole of it,—
- (a) the qualifying expenditure and the indexed pool of expenditure shall each be apportioned between the part disposed of and the remainder in the same proportions as, under the principal Act, the relevant allowable expenditure is apportioned; and
  - (b) the indexation allowance is the amount by which the portion of the indexed pool which is attributed to the part disposed of exceeds the portion of the qualifying expenditure which is attributed to that part.

(3) On a disposal of the whole of a new holding, the indexation allowance is the amount by which the indexed pool of expenditure at the time of the disposal exceeds the qualifying expenditure at that time.

12 In relation to a new holding, the qualifying expenditure is at any time the amount which would be the aggregate of the relevant allowable expenditure in relation to a disposal of the whole of the holding occurring at that time.

13 (1) The provisions of this paragraph have effect, subject to paragraph 15 below, for determining, in relation to a new holding, the indexed pool of expenditure at any time.

- (2) In the case of a new holding falling within paragraph 9(1) above, the indexed pool of expenditure shall come into being immediately before the 1985 date and shall at that time consist of the aggregate of—
- (a) the qualifying expenditure at that time ; and
  - (b) any indexation allowance which, in accordance with section 87 of the 1982 Act, would have applied to a disposal at that time of all of the securities comprised in the holding, on the assumption that the amendments made by paragraphs 1 and 2 above had always had effect.

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- (3) In the case of any other new holding, the indexed pool of expenditure shall come into being at the time that the holding comes into being or, if it is earlier, when any of the qualifying expenditure is incurred and shall at the time it comes into being be the same as the qualifying expenditure at that time.
- (4) Any reference in the following provisions of this Part of this Schedule to an operative event is a reference to any event (whether a disposal or otherwise) which has the effect of reducing or increasing the qualifying expenditure referable to the new holding.
- (5) Whenever an operative event occurs,—
- (a) there shall be added to the indexed pool of expenditure the indexed rise, as calculated under paragraph 14 below, in the value of the pool since the last operative event or, if there has been no previous operative event, since the pool came into being; and
  - (b) if the operative event results in an increase in the qualifying expenditure then, in addition to any increase under paragraph (a) above, the same increase shall be made to the indexed pool of expenditure; and
  - (c) if the operative event is a disposal resulting in a reduction in the qualifying expenditure, the indexed pool of expenditure shall be reduced in the same proportion as the qualifying expenditure is reduced ; and
  - (d) if the operative event results in a reduction in the qualifying expenditure but is not a disposal, the same reduction shall be made to the indexed pool of expenditure.
- (6) Where the operative event is a disposal—
- (a) any addition under paragraph (a) of sub-paragraph (5) above shall be made before the calculation of the indexation allowance under paragraph 11 above ; and
  - (b) the reduction under paragraph (c) of that sub-paragraph shall be made after that calculation.
- 14 (1) At the time of any operative event, the indexed rise in the indexed pool of expenditure is a sum produced by multiplying the value of the pool immediately before the event by a figure expressed as a decimal and determined, subject to sub-paragraph (2) below, by the formula—
- $$\frac{\text{RE-RL}}{\text{RL}}$$
- where—
- RE is the retail prices index for the month in which the operative event occurs; and
- RL is the retail prices index for the month in which occurred the immediately preceding operative event or, if there has been no such event, in which the indexed pool of expenditure came into being.
- (2) If RE, as defined in sub-paragraph (1) above, is equal to or less than RL, as so defined, the indexed rise is nil.

*Consideration for options*

- 15 (1) If, in a case where sub-paragraph (5)(6) of paragraph 13 above applies, the increase in the qualifying expenditure is, in whole or in part, attributable to the cost of

acquiring an option binding the grantor to sell (in this paragraph referred to as "the option consideration"), then, in addition to any increase under paragraph (a) or paragraph (b) of sub-paragraph (5) of paragraph 13 above, the indexed pool of expenditure shall be increased by an amount equal to the indexed rise in the option consideration, as determined under sub-paragraph (2) below.

- (2) The indexed rise in the option consideration is a sum produced by multiplying the consideration by a figure expressed as a decimal and determined, subject to sub-paragraph (3) below, by the formula—

$$\frac{RO-RA}{RA}$$

where—

RO is the retail prices index for the month in which falls the date on which the option is exercised ; and

RA is the retail prices index for the month in which falls the date in which the option was acquired or, if it is later, March 1982.

- (3) If RO, as defined in sub-paragraph (2) above, is equal to or less than RA, as so defined, the indexed rise is nil.

## PART IV

### IDENTIFICATION OF SECURITIES ETC

- 16 (1) This Part of this Schedule applies where a person dispose\* of securities on or after the 1985 date, and in such a case the securities disposed of shall be identified in accordance with the provisions of this Part of this Schedule with securities of the same class acquired by him which could be comprised in that disposal.
- (2) The provisions of this Part of this Schedule apply notwithstanding that securities disposed of are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of securities in one capacity, they shall not be identified with securities which he holds or can dispose of only in some other capacity).
- (3) Notwithstanding anything in sub-paragraphs (1) and (2) above, the provisions of this Part of this Schedule do not apply to shares in respect of which relief under Part I of Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades) has been given and not withdrawn.
- 17 (1) Part III of this Schedule shall have effect with respect to securities in place of section 65 of the Capital Gains Tax Act 1979 (pooling) but subject to—
- (a) section 66 of that Act (disposals on or before day of acquisition) ; and
- (b) section 58 of the Finance (No. 2) Act 1975 (disposal of certain shares and securities within prescribed period of acquisition).
- (2) In relation to disposals of securities on or after the 1985 date, section 66 of the Capital Gains Tax Act 1979 shall have effect-
- (a) as if the reference in subsection (2)(a) to provisions of Schedule 5 to that Act included a reference to paragraph 19(3) below; and
- (b) as if the reference in subsection (2)(b) to section 65 of that Act were a reference to Part III of this Schedule.

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- 18 (1) Without prejudice to section 66 of the Capital Gains Tax Act 1979 if, within a period of ten days, a number of securities are acquired and subsequently a number of securities are disposed of and, apart from this paragraph,—
- (a) the securities acquired would increase the size of, or constitute a new holding, and
  - (b) the securities disposed of would decrease the size of, or extinguish, the same new holding,
- then, subject to sub-paragraphs (2) and (3) below, the securities disposed of shall be identified with the securities acquired and none of them shall be regarded as forming part of an existing new holding or constituting a new holding.
- (2) If, in a case falling within sub-paragraph (1) above, the number of securities acquired exceeds the number disposed of,—
- (a) the excess shall be regarded as forming part of an existing new holding or, as the case may be, as constituting a new holding; and
  - (b) if the securities acquired were acquired at different times (within the ten days referred to in sub-paragraph (1) above) the securities disposed of shall be identified with securities acquired at an earlier time rather than with securities acquired at a later time.
- (3) If, in a case falling within sub-paragraph (1) above, the number of securities disposed of exceeds the number acquired, the excess shall not be identified in accordance with that sub-paragraph.
- (4) Securities which, by virtue of this paragraph, do not form part of or constitute a new holding shall be treated for the purposes of section 87(3) of the Finance Act 1982 (cases where indexation allowance is nil) as relevant securities within the meaning of section 88 of that Act.
- 19 (1) The identification rules set out in sub-paragraphs (2) and (3) below have effect subject to section 66 of the Capital Gains Tax Act 1979 but, subject to that, have priority according to the order in which they are so set out.
- (2) Securities disposed of shall be identified with securities forming part of a new holding, within the meaning of Part III of this Schedule, rather than with other securities.
- (3) Securities disposed of shall be identified with securities forming part of a 1982 holding, within the meaning of Part II of this Schedule, rather than with other securities and, subject to that, shall be identified with securities acquired at a later time rather than with securities acquired at an earlier time.

## PART V

### PARALLEL POOLING

- 20 (1) Where an election has been made under Schedule 6 to the Finance Act 1983 (parallel pooling) that election may be revoked by notice in writing to the inspector not later than 31st March 1987 or within such further time as the Board may allow.
- (2) At the end of paragraph 2(2)(b) of the said Schedule 6 (elections to be irrevocable) there shall be added the words " except in accordance with Part V of Schedule 19 to the Finance Act 1985".

- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required in consequence of a revocation under sub-paragraph (1) above.
- 21 (1) An election under Schedule 6 to the Finance Act 1983 shall not have effect with respect to any disposal on or after 1st April 1985.
- (2) The Treasury may by regulations make such provisions as are referred to in sub-paragraph (3) below in relation to qualifying securities, within the meaning of the said Schedule 6,—
- (a) in respect of which an election under that Schedule has been made and not revoked under paragraph 20 above; and
- (b) which, immediately before 1st April 1985, were regarded as indistinguishable parts of a single asset by virtue of paragraph 3 of that Schedule.
- (3) The provisions referred to in sub-paragraph (2) above are such as appear to the Treasury to be appropriate to enable section 68 of this Act and the preceding provisions of this Schedule to take full effect in relation to the securities concerned.
- (4) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## PART VI

### UNDERWRITER'S PREMIUMS TRUST FUNDS

- 22 This Part of this Schedule has effect with respect to premiums trust funds, within the meaning of Schedule 16 to the Finance Act 1973 (underwriters), and any reference in paragraph 23 below to a fund is a reference to such a premiums trust fund.
- 23 (1) Subject to the following provisions of this paragraph, the enactments relating to indexation shall apply with any necessary modifications in relation to assets forming part of a fund as they apply in relation to other assets.
- (2) In this paragraph " the enactments relating to indexation" means—
- (a) sections 86 to 88 of and Schedule 13 to the Finance Act 1982; and
- (b) section 68 of this Act and Parts I to III of this Schedule.
- (3) For the purposes of the application of the enactments relating to indexation in accordance with sub-paragraph (1) above, it shall be assumed—
- (a) that assets forming part of a fund are disposed of and immediately reacquired on the last day of each accounting period; and
- (b) that the indexation allowance computed for that accounting period is allocated to the corresponding underwriting year in the same proportion as the gains or losses referred to in paragraph 6(2) of the said Schedule 16.

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## SCHEDULE 20

Sections 69 and 70.

## RETIREMENT RELIEF ETC

## PART I

## INTERPRETATION

- 1 (1) This paragraph and paragraphs 2 and 3 below have effect for the purposes of this Schedule and sections 69 and 70 of this Act.
- (2) In the provisions referred to above—
- " commercial association of companies " means a company together with such of its associated companies, within the meaning of section 302 of the Taxes Act, as carry on businesses which are of such a nature that the businesses of the company and the associated companies taken together may be reasonably considered to make up a single composite undertaking;
- " family company " means, in relation to an individual, a company the voting rights in which are—
- (a) as to not less than 25 per cent, exercisable by the individual, or
- (b) as to more than 50 per cent, exercisable by the individual or a member of his family and, as to not less than 5 per cent, exercisable by the individual himself;
- " family " means, in relation to an individual, the husband or wife of the individual and a relative of the individual or of the individual's husband or wife and, for this purpose, " relative " means brother, sister, ancestor or lineal descendant ;
- " full-time working director ", in relation to one or more companies, means a director who is required to devote substantially the whole of his time to the service of that company or, as the case may be, those companies taken together, in a managerial or technical capacity;
- " group of companies " means a company which has one or more 51 per cent subsidiaries, together with those subsidiaries ;
- " holding company " means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 51 per cent subsidiaries ;
- " permitted period " means a period of one year or such longer period as the Board may, in any particular case, by notice in writing allow;
- " trade ", " profession ", " vocation ", " office " and " employment " have the same meaning as in the Income Tax Acts ;
- " trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades ;
- " trading group " means a group of companies the business of whose members, taken together, consists wholly or mainly of the carrying on of a trade or trades.
- (3) For the purposes of sub-paragraph (2) above, voting rights exercisable by trustees of a settlement are to be treated as voting rights exercisable by a member of the family of an individual if—
- (a) the individual or any member of his family is a beneficiary under the settlement; and



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- (b) no one, other than the individual or a member of his family, is for the time being entitled under the settlement to receive any capital or income of the settled property ; and
    - (c) the terms of the settlement are such that no one other than the individual or a member of his family can become entitled to capital or income except upon the failure (for whatever reason) of the individual or a member of his family to become so entitled.
  - (4) Any reference in sub-paragraph (3) above to a person being or becoming entitled to any capital or income of the settled property includes a reference to a person—
    - (a) whose entitlement is subject to a power which could be so exercised as to require all or any of the capital or income in question to be paid to some other person ; or
    - (b) whose entitlement depends upon his exercising a power in his own favour.
- 2 (1) For the purposes of the provisions referred to in paragraph 1(1) above, where, as part of a reorganisation, within the meaning of section 77 of the Capital Gains Tax Act 1979, there is a disposal of shares or securities of a company and, apart from this sub-paragraph, the shares disposed of and the new holding (as defined in that section) would fall to be treated, by virtue of section 78 of that Act, as the same asset, the said section 78 shall not apply if the individual concerned so elects or, in the case of a trustees' disposal, if the trustees and the individual concerned jointly so elect; and an election under this sub-paragraph shall be made by notice in writing given to the Board not more than two years after the end of the year of assessment in which the disposal occurred.
- (2) In sub-paragraph (1) above, the reference to a reorganisation, within the meaning of section 77 of the Capital Gains Tax Act 1979, includes a reference to an exchange of shares or securities which is treated as such a reorganisation by virtue of section 85(3) of that Act.
- 3 (1) A person who has been concerned in the carrying on of a business shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
  - (a) that he has ceased to be engaged in and, by reason of ill health, is incapable of engaging in work of the kind which he previously undertook in connection with that business ; and
  - (b) that he is likely to remain permanently so incapable.
- (2) In sub-paragraph (1) above, the reference to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership carrying on the business; and the business which is relevant for the purposes of the provisions referred to in paragraph 1(1) above is that referred to—
  - (a) in subsection (3) or subsection (4) of section 69 of this Act in relation to a material disposal of business assets ;
  - (b) in subsection (5) of section 70 of this Act in relation to a trustees' disposal; and
  - (c) in subsection (7) of section 70 of this Act in relation to an associated disposal.
- (3) A person who has been a full-time working director of a company or of two or more companies shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—

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- (a) that he has ceased to serve and, by reason of ill-health, is incapable of serving that company or, as the case may be, those companies in a managerial or technical capacity ; and
  - (b) that he is likely to remain permanently incapable of serving in such a capacity that company or those companies (as the case may be) or any other company engaged in business of a kind carried on by that company or those companies.
- (4) In relation to an employee's disposal, a person who has been exercising any office or employment shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to exercise and, by reason of ill-health, is incapable of exercising that office or employment; and
  - (b) that he is likely to remain permanently so incapable.
- 4 (1) In this Schedule-
- (a) " material disposal of business assets " has the same meaning as in section 69 of this Act;
  - (b) " employee's disposal" means a disposal falling within subsection (1) of section 70 of this Act;
  - (c) " trustees' disposal" means a disposal falling within subsection (3) of section 70 of this Act and, in relation to such a disposal, " the qualifying beneficiary " has the meaning assigned to it by paragraph (b) of that subsection;
  - (d) " associated disposal" has the meaning assigned to it by section 70(7) of this Act;
- and " qualifying disposal " means any of the disposals referred to in paragraphs (a) to (d) above.
- (2) Any reference in this Schedule to the qualifying period is a reference to the period of at least one year which,—
- (a) in relation to a material disposal of business assets, is referred to in subsection (3), subsection (4)(a) or subsection (5) (as the case may require) of section 69 of this Act;
  - (b) in relation to an employee's disposal, is referred to in section 70(2)(a) of this Act;
  - (c) in relation to a trustees' disposal, is referred to in subsection (4) or subsection (5) (as the case may require) of section 70 of this Act;
- and, in relation to an associated disposal, any reference in this Schedule to the qualifying period is a reference to that period which is the qualifying period in relation to the material disposal of business assets with which the associated disposal is associated in accordance with section 70(7) of this Act.
- (3) In relation to a qualifying disposal, any reference in this Schedule to the amount available for relief is a reference to the amount determined in accordance with paragraphs 13 to 16 below.

## PART II

### THE OPERATION OF THE RELIEF

#### *Disposals on which relief may be given*

- 5 (1) Relief in accordance with this Schedule shall not be given in respect of any disposal unless the qualifying period relating to that disposal ends on or after 6th April 1985.
- (2) Except in the case of a disposal which is made by an individual who has attained the age of 60, relief in accordance with this Schedule shall be given only on the making of a claim not later than two years after the end of the year of assessment in which the disposal occurred.
- (3) In the case of a trustees' disposal, relief in accordance with this Schedule shall be given only on a claim made jointly by the trustees and the beneficiary concerned.
- (4) Where a claim for relief in accordance with this Schedule is dependent upon an individual having retired on ill-health grounds below the age of 60, the claim shall be made to the Board.

#### *Gains qualifying for relief*

- 6 Subject to paragraphs 9 and 10 below, in the case of any qualifying disposal other than one of shares or securities of a company, the gains accruing to the individual or, in the case of a trustees' disposal, the trustees on the disposal of chargeable business assets comprised in the qualifying disposal shall be aggregated, and only so much of that aggregate as exceeds the amount available for relief shall be chargeable gains (but not so as to affect liability in respect of gains accruing on the disposal of assets other than chargeable business assets).
- 7 (1) Subject to paragraphs 9 to 11 below, in the case of a qualifying disposal of shares or securities of a trading company which is not a holding company,—
- (a) the gains which on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated, and
- (b) of the appropriate proportion of the aggregated gains, only so much as exceeds the amount available for relief shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the aggregated gains).
- (2) For the purposes of sub-paragraph (1)(b) above, " the appropriate proportion " is that which that part of the value of the company's chargeable assets immediately before the end of the qualifying period which is attributable to the value of the company's chargeable business assets bears to the whole of that value, but, in the case of a company which has no chargeable assets, " the appropriate proportion " is the whole.
- (3) For the purposes of this paragraph, every asset is a chargeable asset except one, on the disposal of which by the company immediately before the end of the qualifying period, no gain accruing to the company would be a chargeable gain.
- 8 (1) Subject to paragraphs 9 to 11 below, in the case of a qualifying disposal of shares or securities of a holding company,—
- (a) the gains which on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated, and

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- (b) of the appropriate proportion of the aggregated gains, only so much as exceeds the amount available for relief shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the aggregated gains).
- (2) For the purposes of sub-paragraph (1)(b) above, " the appropriate proportion " is that which that part of the value of the trading group's chargeable assets immediately before the end of the qualifying period which is attributable to the value of the trading group's chargeable business assets bears to the whole of that value ; but, in the case of a trading group which has no chargeable assets, " the appropriate proportion " is the whole.
- (3) For the purposes of sub-paragraph (2) above,—
- (a) any reference to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group ; and
  - (b) subject to paragraph (c) below, every asset is a chargeable asset except one, on the disposal of which by the member of the group concerned immediately before the end of the qualifying period no gain accruing to that member would be a chargeable gain ; and
  - (c) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.
- (4) Where the whole of the ordinary share capital of a 51 per cent, subsidiary of the holding company is not owned directly or indirectly by that company, then, for the purposes of sub-paragraph (2) above, the value of the chargeable assets and chargeable business assets of that subsidiary shall be taken to be reduced by multiplying it by a fraction of which the denominator is the whole of the ordinary share capital of the subsidiary and the numerator is the amount of that share capital owned, directly or indirectly, by the holding company.
- (5) Expressions used in sub-paragraph (4) above have the same meaning as in section 532(1) of the Taxes Act (subsidiaries).
- 9 (1) If, in the case of a trustees' disposal, there is, in addition to the qualifying beneficiary, at least one other beneficiary who, at the end of the qualifying period, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares, securities or asset which is the subject matter of the disposal, only the relevant proportion of the gain which accrues to the trustees on the disposal shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.
- (2) For the purposes of sub-paragraph (1) above, the relevant proportion is that which, at the end of the qualifying period, the qualifying beneficiary's interest in the income of the part of the settled property comprising the shares, securities or asset in question bears to the interests in that income of all the beneficiaries (including the qualifying beneficiary) who then have interests in possession in that part.
- (3) The reference in sub-paragraph (2) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.
- 10 (1) If, in the case of an associated disposal,—

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- (a) the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act for only part of the period in which it was in the ownership of the individual making the disposal, or
    - (b) for any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act, the individual making the disposal was not concerned in the carrying on of that business (whether personally, as a member of a partnership or as a full-time working director of any such company as is referred to in section 69(3)(b) of this Act), or
    - (c) for the whole or any part of the period in which the asset in question was in use for the purposes of a business as mentioned in section 70(7)(c) of this Act, its availability for that use was dependent upon the payment of rent, only such part of the gain which accrues on the disposal as appears to the Board to be just and reasonable shall be brought into account under paragraph 6, paragraph 7 or paragraph 8 above (as the case may require) and the balance of the gain shall, accordingly, be a chargeable gain.
  - (2) In determining how much of a gain it is just and reasonable to bring into account as mentioned in sub-paragraph (1) above, the Board shall have regard to the length of the period the asset was in use as mentioned in that sub-paragraph and the extent to which any rent paid was less than the amount which would have been payable in the open market for the use of the asset.
  - (3) In sub-paragraphs (1) and (2) above "rent" includes any form of consideration given for the use of the asset.
- 11 (1) This paragraph applies where—
- (a) there is a material disposal of business assets or a trustees' disposal which (in either case) consists of a disposal which the individual or trustees is or are treated as making by virtue of section 72 of the Capital Gains Tax Act 1979 in consideration of a capital distribution ; and
  - (b) the capital distribution consists wholly of chargeable business assets of the company or partly of such assets and partly of money or money's worth.
- (2) Where the capital distribution consists wholly of chargeable business assets, no relief shall be given under this Schedule in respect of the gains accruing on the disposal.
  - (3) Where the capital distribution consists only partly of chargeable business assets, the gains accruing on the disposal (aggregated as mentioned in paragraph 7(1)(a) or paragraph 8(1)(a) above) shall be reduced for the purposes of this Schedule by multiplying them by the fraction of which—
    - (a) the numerator is the part of the capital distribution which does not consist of chargeable business assets ; and
    - (b) the denominator is the entire capital distribution ;and it shall be to that reduced amount of aggregated gains that, in accordance with sub-paragraph (1)(b) of paragraph 7 or, as the case may be, paragraph 8 above, the appropriate proportion determined under sub-paragraph (2) of that paragraph shall be applied.
  - (4) Any question whether or to what extent a capital distribution consists of chargeable business assets shall be determined by reference to the status of the assets immediately before the end of the qualifying period.

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- 12 (1) Subject to paragraphs 9 to 11 above, in arriving at the aggregate gains under any of paragraphs 6, 7(1) and 8(1) above,—
- (a) the respective amounts of the gains shall be computed in accordance with the provisions of the Capital Gains Tax Act 1979 fixing the amount of chargeable gains, and
  - (b) any allowable loss which accrues on the qualifying disposal concerned shall be deducted,
- and the provisions of this Schedule shall not affect the computation of the amount of any allowable loss.
- (2) Subject to the following provisions of this paragraph, in paragraphs 6 to 11 above, "chargeable business asset" means an asset (including goodwill but not including shares or securities or other assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—
- (a) the individual concerned ; or
  - (b) that individual's family company ; or
  - (c) a member of a trading group of which the holding company is that individual's family company ; or
  - (d) a partnership of which the individual concerned is a member.
- (3) An asset is not a chargeable business asset if, on the disposal of it, no gain which might accrue would be a chargeable gain.
- (4) In relation to a trustees' disposal, references in sub-paragraph (2) above to the individual shall be construed as references to the beneficiary concerned.
- (5) Sub-paragraph (6) below applies if—
- (a) a qualifying disposal falling within paragraph 7 or paragraph 8 above is a disposal which the individual or trustees concerned is or are treated as making by virtue of section 72 of the Capital Gains Tax Act 1979 in consideration of a capital distribution; and
  - (b) not later than two years after the end of the year of assessment in which the individual or the trustees received the capital distribution, the individual or trustees by notice in writing to the inspector elects or elect that that subparagraph should apply.
- (6) If, in a case where this sub-paragraph applies in relation to a qualifying disposal, any part of the assets of the company concerned consists, as at the end of the qualifying period, of the proceeds of the sale of an asset sold not more than six months before the end of that period, then, sub-paragraph (2) above and paragraph 7 or, as the case may be, paragraph 8 above shall have effect as if, at that time—
- (a) the asset remained the property of the company and was in use for the purposes for which it was used before its sale; and
  - (b) the proceeds of sale of the asset did not form part of the assets of the company.

*The amount available for relief: the basic rule*

- 13 (1) Subject to the following provisions of this Part of this Schedule, on a qualifying disposal by an individual the amount available for relief by virtue of sections 69 and 70 of this Act is a percentage of £100,000 determined according to the length of the qualifying period which is appropriate to the disposal on a scale rising arithmetically

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from 10 per cent, where that period is precisely one year to 100 per cent, where it is ten years.

- (2) The amount available for relief by virtue of section 70 of this Act on a trustees' disposal shall be determined, subject to sub-paragraph (3) below, in accordance with sub-paragraph (1) above on the assumption that the trustees' disposal is a qualifying disposal by the qualifying beneficiary.
- (3) If, on the same day, there is both a trustees' disposal and a material disposal of business assets by the qualifying beneficiary, the amount available for relief shall be applied to the beneficiary's disposal in priority to the trustees' disposal.

*Aggregation, of earlier business periods*

- 14 (1) If, apart from this paragraph, the qualifying period appropriate to a qualifying disposal (in this paragraph referred to as " the original qualifying period ") would be less than ten years but throughout some period (in this paragraph referred to as " the earlier business period ") which—
  - (a) ends not earlier than two years before the beginning of the original qualifying period, and
  - (b) falls, in whole or in part, within the period of ten years ending at the end of the original qualifying period,the individual making the disposal or, as the case may be, the relevant beneficiary was concerned in the carrying on of another business (in this paragraph referred to as the " previous business ") then, for the purpose of determining the amount available for relief on the qualifying disposal, the length of the qualifying period appropriate to that disposal shall be redetermined on the assumptions and subject to the provisions set out below.
  - (2) For the purposes of the redetermination referred to in subparagraph (1) above, it shall be assumed that the previous business is the same business as the business at retirement and, in the first instance, any time between the end of the earlier business period and the beginning of the qualifying period shall be disregarded (so that those two periods shall be assumed to be one continuous period).
  - (3) The reference in sub-paragraph (1) above to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership or, if the business was owned by a company, then as a full-time working director of that company or, as the case may be, of any member of the group or commercial association of which it is a member ; and the reference in subparagraph (2) above to the business at retirement is a reference to that business which, in relation to the qualifying disposal, is referred to—
    - (a) in subsection (3), subsection (4) or subsection (5) of section 69 of this Act where the qualifying disposal is a material disposal of business assets ;
    - (b) in subsection (5) of section 70 of this Act where that disposal is a trustees' disposal; and
    - (c) in subsection (7) of section 70 of this Act where that disposal is an associated disposal.
  - (4) Any extended qualifying period resulting from the operation of sub-paragraph (2) above shall not begin earlier than the beginning of the period of ten years referred to in sub-paragraph (1)(b) above.

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- (5) If the earlier business period ended before the beginning of the original qualifying period, any extended qualifying period which would otherwise result from the operation of the preceding provisions of this paragraph shall be reduced by deducting therefrom a period equal to that between the ending of the earlier business period and the beginning of the original qualifying period.
- (6) Where there is more than one business which qualifies as the previous business and, accordingly, more than one period which qualifies as the earlier business period, this paragraph shall apply first in relation to that one of those businesses in which the individual in question was last concerned and shall then again apply (as if any extended qualifying period resulting from the first application were the original qualifying period) in relation to the next of those businesses and so on.

*Relief given on earlier disposal*

- 15 (1) In any case where—
- (a) an individual makes a qualifying disposal or is the qualifying beneficiary in relation to a trustees' disposal, and
  - (b) relief has been (or falls to be) given under this Schedule in respect of an earlier disposal which was either a qualifying disposal made by the individual or a trustees' disposal in respect of which he was the qualifying beneficiary,
- the amount which, apart from this paragraph, would be the amount available for relief on the disposal mentioned in paragraph (a) above shall not exceed the limit in sub-paragraph (3) below.
- (2) In sub-paragraph (3) below—
- (a) the disposal falling within sub-paragraph (1)(a) above is referred to as " the later disposal" ; and
  - (b) the disposal falling within sub-paragraph (1)(b) above or, if there is more than one such disposal, each of them is referred to as " the earlier disposal" .
- (3) The limit referred to in sub-paragraph (1) above is the difference between—
- (a) the amount which would be available for relief on the later disposal if the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) were extended by the addition of a period equal to so much (if any) of the qualifying period appropriate to the earlier disposal (or, as the case may be, to each of the earlier disposals) as does not already fall within the qualifying period appropriate to the later disposal; and
  - (b) the amount of relief given under this Schedule on the earlier disposal or, as the case may be, the aggregate of the relief so given on all the earlier disposals.
- (4) References in this paragraph to relief given under this Schedule include references to relief given under section 34 of the Finance Act 1965 or section 124 of the Capital Gains Tax Act 1979 ; and—
- (a) in relation to relief given under either of those sections paragraph (b) of sub-paragraph (1) above shall have effect as if, for the words from " which was" onwards, there were substituted " made by the individual"; and
  - (b) in the application of sub-paragraph (3) above where the earlier disposal was a disposal in respect of which relief was given under either of those sections,



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the reference in paragraph (a) to the qualifying period appropriate to the disposal is a reference,—

- (i) if the disposal took place on or before 11th April 1978, to the period of ten years ending with the disposal; and
- (ii) in any other case, to the qualifying period within the meaning of the section in question.

*Aggregation of spouse's interest in the business*

- 16 (1) In any case where—
- (a) an individual makes a material disposal of business assets, and
  - (b) the subject matter of that disposal (whether business, assets or shares or securities) was acquired, in whole or in part, from that individual's spouse, and
  - (c) that acquisition was either under the will or intestacy of the spouse or by way of lifetime gift and in the year of assessment in which occurred the spouse's death or, as the case may be, the lifetime gift, the individual and his spouse were living together, and
  - (d) as a result of the acquisition the individual acquired the whole of the interest in the business, assets, shares or securities concerned which, immediately before the acquisition or, as the case may be, the spouse's death, was held by the spouse, and
  - (e) not later than two years after the end of the year of assessment in which the material disposal occurred, the individual elects that this paragraph should apply,
- the period which, apart from this paragraph, would be the qualifying period appropriate to that disposal shall be extended by assuming that, in the conditions which under section 69 of this Act are the relevant conditions applicable to the disposal, any reference to the individual were a reference either to the individual or his spouse.
- (2) An election under sub-paragraph (1)(e) above shall be made by notice in writing to the inspector.
- (3) Where the acquisition referred to in sub-paragraph (1)(c) above was by way of lifetime gift, the amount available for relief on the material disposal concerned, having regard to the extension of the qualifying period under sub-paragraph (1) above, shall not exceed whichever is the lower of the two limits specified in sub-paragraph (4) below.
- (4) The limits referred to in sub-paragraph (3) above are—
- (a) the amount by which £100,000 exceeds the amount of relief given under this Schedule on disposals made by the spouse up to and including the disposal by way of lifetime gift referred to in sub-paragraph (1)(c) above and on trustees' disposals in respect of which the spouse was the qualifying beneficiary; and
  - (b) the amount which would have been available for relief on the material disposal if—
    - (i) the lifetime gift had not occurred; and
    - (ii) the material disposal had been made by the spouse ; and
    - (iii) anything done by the individual in relation to the business concerned after the lifetime gift was in fact made had been done by the spouse.

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- (5) In sub-paragraph (4)(a) above, the reference to relief given under this Schedule includes a reference to relief given under section 34 of the Finance Act 1965 or section 124 of the Capital Gains Tax Act 1979.

## SCHEDULE 21

Section 71.

### ASSETS DISPOSED OF IN A SERIES OF LINKED TRANSACTIONS

- 1 (1) This Schedule has effect for determining the original market value of assets and the aggregate market value of assets as mentioned in subsection (1)(b) of section 71 of this Act (in this Schedule referred to as " the principal section ").
- (2) Expressions used in this Schedule have the same meaning as in the principal section.
- 2 Where there is a series of linked transactions, the original market value of the assets disposed of by each transaction in the series shall be determined as follows—
- (a) if at the time in question the transaction is the most recent in the series, the original market value of the assets disposed of by that transaction is the market value which, apart from the principal section, would be deemed to be the consideration for that transaction for the purposes of the principal Act; and
- (b) in the case of any other transaction in the series, the original market value of the assets disposed of by that transaction is the value which, prior to the occurrence of the most recent transaction in the series, was or would have been deemed for the purposes of the principal Act to be the consideration for the transaction concerned (whether by virtue of that Act or the previous operation of the principal section).
- 3 (1) Subject to paragraph 4 below, in relation to any transaction in a series of linked transactions,—
- (a) any reference in the principal section or this Schedule to the aggregate market value of the assets disposed of by all the transactions in the series is a reference to what would have been the market value of all those assets for the purposes of the principal Act if, considering all the assets together, they had been disposed of by one disposal occurring at the time of the transaction concerned; and
- (b) any reference in the principal section to the appropriate portion of the aggregate market value of the assets disposed of by all the transactions in the series is a reference to that portion of the market value determined in accordance with paragraph (a) above which it is reasonable to apportion to those of the assets which were actually disposed of by the transaction concerned.
- (2) The reference in sub-paragraph (1)(a) above to considering all die assets together includes a reference not only to considering them as a group or holding or collection of assets retaining their separate identities but also (if it gives a higher market value) to considering them as brought together, physically or in law, so as to constitute either a single asset or a number of assets which are distinct from those which were comprised in each of the transactions concerned.

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- 4 (1) If any of the assets disposed of by all the transactions in a series of linked transactions were acquired after the time of the first of those transactions, then, in the application of paragraph 3 above in relation to each of the transactions in the series,—
- (a) no account shall be taken of any assets which were acquired after the time of that transaction unless they were acquired by way of an inter-group transfer ; and
  - (b) subject to sub-paragraph (2) below, the number of assets of which account is to be taken shall be limited to the maximum number which were held by the person making the disposal at any time in the period beginning immediately before the first of the transactions in the series and ending immediately before the last.
- (2) If, before the first of the transactions referred to in paragraph (b) of sub-paragraph (1) above, the person concerned (being a company) disposed of any assets by way of an inter-group transfer, the maximum number of assets referred to in that paragraph shall be determined as if the inter-group transfer had occurred after that first transaction.
- (3) In the application of sub-paragraph (1) above in a case where the assets disposed of are securities, the assets disposed of by any of the transactions in a series of linked transactions shall be identified with assets acquired on an earlier date rather than with assets acquired on a later date.
- (4) In sub-paragraph (3) above "securities" includes any assets which are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

## SCHEDULE 22

Section 76.

### DEEMED INTEREST ON CERTAIN SECURITIES

#### *Introduction*

- 1 (1) In this Schedule " the first date " means 28th February 1985, " the second date " means 27th February 1986, and " the year " means the period beginning with the first date and ending with the second date.
- (2) In this Schedule—
- " chargeable securities" means the securities held by a person at any time in the year which fall within paragraph 3 below, and
  - " deemed interest" means the interest he would have received in the year in respect of the chargeable securities if he were entitled to receive interest accruing in the period in which he held them in the year and interest had accrued from day to day and been apportioned accordingly.

#### *The charge*

- 2 (1) This paragraph applies where the person has been served with a notice under paragraph 6 below.
- (2) If no interest was received by the person in the year in respect of the chargeable securities, he shall be treated as receiving on the second date annual profits or gains whose amount is equal to the deemed interest.

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- (3) If interest was received by the person in the year in respect of the chargeable securities, and the amount of the deemed interest exceeds an amount equal to 110 per cent, of the amount so received, he shall be treated as receiving on the second date annual profits or gains whose amount is equal to the excess.
- (4) Profits or gains treated as received under sub-paragraph (2) or (3) above shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.

#### *Chargeable securities*

- 3 (1) If the aggregate nominal value of securities held by the person on the second date is not more than the aggregate nominal value of securities held by him on the first date, the securities which fall within this paragraph are all the securities held by him at any time in the year other than those held by him throughout the year.
- (2) If the aggregate nominal value of securities held by the person on the second date (value A) exceeds the aggregate nominal value of securities held by him on the first date (value B) the securities which fall within this paragraph are those mentioned in sub-paragraph (5) below (for the purposes of which sub-paragraphs (3) and (4) below apply).
- (3) If the aggregate nominal value of securities of a particular kind held by the person on the second date exceeds the aggregate nominal value of securities of that kind held by him on the first date, securities which are of that kind, which are of a total nominal value equal to the excess and which were acquired by him in the year shall be taken into account for the purposes of sub-paragraph (4) below.
- (4) Securities (of one or more kinds) which are to be taken into account for the purposes of this sub-paragraph and which are of a total nominal value equal to the excess of value A over value B are excluded securities for the purposes of sub-paragraph (5) below.
- (5) The securities which fall within this paragraph are all the securities held by the person at any time in the year other than—
  - (a) those which are excluded securities, and
  - (b) those held by him throughout the year.
- (6) This is how to ascertain what securities are held by a person throughout the year—
  - (a) find, for securities of each kind held by him at any time in the year, the lowest nominal value held in the year (value Q);
  - (b) take securities of that kind of a total nominal value equal to value C;
  - (c) the securities so ascertained (of one or more kinds) are for the purposes of this paragraph held by him throughout the year.
- (7) In determining under sub-paragraph (3) or (4) above which securities to take into account or (as the case may be) which securities are excluded securities\*—
  - (a) those the person acquired later must be chosen before those he acquired earlier, and
  - (b) as between those acquired on the same day those whose choice produces a smaller charge under paragraph 2 above must be chosen before those whose choice produces a greater charge.

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- (8) In determining under sub-paragraph (6)(b) above which securities to take, those which the person acquired on terms entitling him to receive all interest payable on them on or after the first date must be chosen before others.

*Charge eliminated or reduced*

- 4 (1) if the person makes a claim under this paragraph, then—
- (a) if amount E exceeds or is equal to amount D, he shall not be treated as receiving annual profits or gains under paragraph 2 above;
  - (b) if amount D exceeds amount E, the amount of annual profits or gains he is treated as receiving under paragraph 2(2) or (3) above (as the case may be) shall be, instead of the amount there mentioned, the amount by which amount D exceeds amount E ;
- and amounts D and E shall be determined as mentioned in the following provisions of this paragraph.

- (2) Amount D is the amount the person is treated as receiving under paragraph 2(2) above or (if paragraph 2(3) applies) the amount he would be treated as receiving under paragraph 2(3) if "110" were " 100 " .

- (3) Amount E is to be found by applying the formula—

$$Y \times \frac{1096}{Z \times 3}$$

- (4) Y is the amount of annual profits or gains the person would be treated as having received under this Schedule (ignoring this paragraph) if—

- (a) the references in paragraph 1(1) above to 28th February 1985 and 27th February 1986 were (respectively) to the appropriate day and 27th February 1985, and "the year" were construed accordingly,
- (b) paragraph 2(1) above were omitted,
- (c) in paragraph 2(3) above (where it would apply) " 110 " were " 100 ", and
- (d) in paragraph 5(5) below " 1985-86 " were " 1984-85 " .

- (5) Z is the number of days beginning with the appropriate day and ending with 27th February 1985.

- (6) " The appropriate day " means—

- (a) if the person held no securities on 28th February 1982, the first day (falling after 28th February 1982 and before 28th February 1985) on which he acquired securities, and
- (b) in any other case, 28th February 1982.

*Exceptions*

- 5 (1) For the purposes of this Schedule a person is to be treated as not entitled to securities on a day if he carries on a trade on the day and if, were he to transfer them on that day, that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade.

- (2) Paragraph 2(2) or (3) above (as the case may be) does not apply if—

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- (a) the person is an individual and on no day in the year the nominal value of securities held by him exceeded £5,000,
  - (b) the person is a personal representative and on no day in the year the nominal value of securities held by him as the deceased's personal representative exceeded £5,000,
  - (c) the person is trustee of a settlement of property held on a disabled person's trusts and on no day in the year the nominal value of securities held by him as trustee of the settlement exceeded £5,000, or
  - (d) the person does not fulfil the residence requirement for the year and is not a non-resident United Kingdom trader in the year.
- (3) For the purposes of this Schedule a person is to be treated as not entitled to securities if he is not ordinarily resident in the United Kingdom during the year and, if he became entitled in the year to any interest on the securities, it would not be liable to income tax by virtue of section 99 of the Taxes Act (securities free of income tax for residents abroad).
- (4) For the purposes of this Schedule a person who is not domiciled in the United Kingdom at any time in the year, and is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year, is to be treated as not entitled to securities which are FOTRA securities.
- (5) For the purposes of this Schedule a person who is an individual is to be treated as not entitled to securities in the case of which, if he became entitled in the year of assessment 1985-86 to any interest on them, he would be liable, in respect of the interest, to tax chargeable under Case IV or Case V of Schedule D and computed on the amount of sums received in the United Kingdom.
- (6) Paragraph 2(2) or (3) above (as the case may be) does not apply if the person is an individual who dies in the year.
- (7) Paragraph 2(2) or (3) above (as the case may be) applies, in a case where the person is a company and the second date does not fall within an accounting period of the company, as if the reference to the second date were to the last day which does so fall.
- (8) For the purposes of this paragraph a person fulfils the residence requirement for the year if he is resident in the United Kingdom during any part of the year or is ordinarily resident in the United Kingdom during the year.
- (9) For the purposes of this paragraph a person is a non-resident United Kingdom trader in the year if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency.
- (10) But if (apart from this sub-paragraph) a person who is a non-resident United Kingdom trader in the year would for the purposes of this Schedule be treated as entitled to securities at a time in the year, he is not to be treated as so entitled for those purposes unless the securities were at some time in the year used or held for the purposes of the branch or agency and (except where the person concerned is a company) situated in the United Kingdom.
- (11) For the purposes of this paragraph " disabled person's trusts " means trusts falling within paragraph 5(1) of Schedule 1 to the Capital Gains Tax Act 1979, " branch or agency " has the meaning given by section 12(3) of that Act, and the place where

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securities are situated shall be determined in accordance with section 18(4) of that Act.

- (12) For the purposes of this paragraph " FOTRA securities " means securities issued with the condition mentioned in section 22(1) of the Finance (No. 2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940.

*Information etc.*

- 6 (1) Any person upon whom notice is served by an inspector, requiring the person to furnish a statement of and particulars relating to any securities held by the person at any time in the year, shall furnish such a statement and such particulars in the form and within the time (not being less than 28 days) required by the notice ; and an inspector may serve further notices whenever he considers it necessary for the purposes of this Schedule until complete particulars have been furnished to his satisfaction.
- (2) If a person fails to furnish any statement or particulars required under this paragraph, or if an inspector is not satisfied with any statement or particulars furnished under this paragraph, he may make an estimate of the amount of the annual profits or gains which the person is to be treated as receiving under the preceding provisions of this Schedule.
- (3) In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices etc.) at the end of the first column there shall be inserted—

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“Paragraph 6(1) of Schedule 22 to the Finance Act 1985”.

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*Offshore funds*

- 7 (1) Any amount which, on the assumptions mentioned in subparagraph (2) below, an offshore fund would be treated as receiving as annual profits or gains by virtue of paragraph 2(2) or (3) above (as the case may be) shall for the purposes of Schedule 19 to the Finance Act 1984 be taken to be part of the United Kingdom equivalent profits of the fund for the account period of the fund in which 27th February 1986 falls.
- (2) The assumptions are—
- (a) that the offshore fund is a company which is resident in the United Kingdom during the period beginning with the appropriate day and ending with 27th February 1986,
  - (b) that a notice is served on the fund under paragraph 6(1) above, and
  - (c) that the fund makes a claim under paragraph 4 above.
- (3) In this paragraph " offshore fund ", " United Kingdom equivalent profits " and " account period " have the meanings they have in Schedule 19 to the Finance Act 1984 ; and " the appropriate day " shall be construed in accordance with paragraph 4(6) above.

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## SCHEDULE 23

Section 77.

## SECURITIES: FURTHER PROVISIONS

## PART I

## GENERAL INTERPRETATION

*Securities*

- 1 (1) For the purposes of this Chapter " securities " does not include shares in a company but, subject to sub-paragraph (2) below, includes any loan stock or similar security—
- (a) whether of the Government of the United Kingdom, any other government, any public or local authority in the United Kingdom or elsewhere, or any company or other body, and
  - (b) whether or not secured, whether or not carrying a right to interest of a fixed amount or at a fixed rate per cent, of the nominal value of the securities, and whether or not in bearer form.
- (2) For the purposes of this Chapter " securities " does not include—
- (a) securities on which the whole of the return is a distribution by virtue of paragraph (d)(iv) of section 233(2) of the Taxes Act;
  - (b) national savings certificates (including Ulster savings certificates) ;
  - (c) war savings certificates ;
  - (d) certificates of deposit (which expression has here the same meaning as in section 55 of the Finance Act 1968);
  - (e) any security which fulfils the following conditions, namely, it is redeemable, the amount payable on its redemption exceeds its issue price, and no return other than the amount of that excess is payable on it.
- (3) For the purposes of this Chapter securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange in the United Kingdom or elsewhere, or would be so treated if dealt with on such a stock exchange.

*Transfers, holding etc.*

- 2 (1) This paragraph applies for the purposes of this Chapter.
- (2) "Transfer", in relation to securities, means transfer by way of sale, exchange, gift or otherwise.
- (3) Where an agreement for the transfer of securities is made, they are transferred, and the person to whom they are agreed to be transferred becomes entitled to them, when the agreement is made and not on a later transfer made pursuant to the agreement.
- (4) " Entitled", " transfer" and cognate expressions, except in sub-paragraph (3) above, shall be construed in accordance with that sub-paragraph.
- (5) A person holds securities at a particular time if he is entitled to them at the time.
- (6) A person holds securities on a day if he is entitled to them throughout the day, or he becomes and does not cease to be entitled to them on the day.



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- (7) A person acquires securities when he becomes entitled to them.
- (8) Where—
- (a) one individual holds securities at a particular time, and
  - (b) any interest on them would, if it became payable at that time, be treated for the purposes of the Tax Acts as part of another individual's income,
- then, for the purposes of the provisions mentioned in sub-paragraph (9) below, each of them shall be treated as holding at that time the securities which the other holds as well as those which he actually holds.
- (9) The provisions are—
- (a) section 75(1)(b) of this Act,
  - (b) section 75(2)(b) of this Act, so far as relating to section 75(1)(b), and
  - (c) paragraph 5(2)(a) of Schedule 22 to this Act.
- (10) Where, in Scotland, two or more persons carry on a trade or business in partnership, any partnership dealings shall be treated as dealings by the partners and not by the firm as such and the partners as being entitled to securities held by the firm.

*Interest and related expressions*

- 3 (1) This paragraph applies for the purposes of this Chapter.
- (2) An interest payment day, in relation to securities, is a day on which interest on them is payable; and, in a case where a particular payment of interest may be made on one of a number of days, the interest is for the purposes of this sub-paragraph payable on the first of those days.
- (3) Subject to sub-paragraph (4) below, the following are interest periods in relation to securities—
- (a) the period beginning with the day following that on which they are issued and ending with the first interest payment day to fall;
  - (b) the period beginning with the day following one interest payment day and ending with the next to fall.
- (4) A period which would (apart from this sub-paragraph) be an interest period exceeding 12 months (a long period) is not an interest period, but the following shall apply to it—
- (a) the period of 12 months beginning with the day on which it begins is an interest period ;
  - (b) each successive period (if any) of 12 months falling within it is an interest period ;
  - (c) any period of it which remains after applying paragraphs (a) and (b) above is an interest period.
- (5) Securities are transferred with accrued interest if they are transferred with the right to receive interest payable on—
- (a) the settlement day, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after the settlement day, in any other case,
- and they are transferred without accrued interest if they are transferred without that right.

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- (6) The interest applicable to securities for an interest period is (subject to sub-paragraph (7) below) the interest payable on them on the interest payment day with which the period ends.
- (7) In the case of a period which is an interest period by virtue only of sub-paragraph (4) above or paragraph 26(3) below—
  - (a) the interest applicable to securities for the period is the interest payable on them on the interest payment day with which the long or straddling period concerned ends, and
  - (b) section 73(8) of this Act shall have effect as if the references to the period were to the long or straddling period concerned.
- (8) "Interest" includes dividends and any other return (however described) except a return consisting of an amount by which the amount payable on a security's redemption exceeds its issue price.

*Settlement day*

- 4 (1) This paragraph has effect to determine, for the purposes of this Chapter, the settlement day in relation to a transfer of securities.
- (2) Where the securities are transferred in accordance with the rules of a recognised market the settlement day is the day on which the transferee agrees to settle or, if he may settle on one of a number of days, the day on which he settles; and, where they are transferred otherwise, sub-paragraphs (3) to (5) below apply.
- (3) Where the consideration for the transfer is money alone, and the transferee agrees to pay the whole of it on or before the next (or first) interest payment day to fall after an agreement for transfer is made, the settlement day is the day on which he agrees to make the payment or, if payment may be made on one of a number of days, or on a number of different days, the latest of them to fall.
- (4) Where there is no consideration for the transfer, or the transfer is a transfer by virtue of paragraph 7, 12, 13, 14 or 31 below, the settlement day is the day on which the securities are transferred.
- (5) In any other case, the settlement day is such day as an inspector decides ; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.

*Nominal value*

- 5 For the purposes of this Chapter the nominal value of securities is—
  - (a) where the interest on them is expressed to be payable by reference to a given value, that value, and
  - (b) in any other case, the price of the securities when they were issued.

## PART II

### SPECIAL CASES

#### *Nominees and trustees*

- 6 (1) Where securities are transferred by or to a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability, or for two or more persons who are or would be jointly so entitled, sections 73 and 75 of this Act apply as if references to the transferor or the transferee (as the case may be) were to the person or persons for whom the nominee or trustee disposes or acquires.
- (2) It is hereby declared that for the purposes of sub-paragraph (1) above—
- (a) securities are transferred by a person as trustee for another person absolutely entitled as against the trustee if that other person has immediately before the transfer the exclusive right to direct how the securities shall be dealt with, subject only to satisfying any outstanding charge, lien or other right of the trustee to resort to the securities for payment of duty, taxes, costs or other outgoings, and
  - (b) securities are transferred to a person as trustee for another person so entitled if that other person has that right immediately after the transfer.
- 7 (1) Where a person who is entitled to securities becomes trustee of them, he shall be treated for the purposes of this Chapter as transferring them (in a capacity other than trustee) to himself (in his capacity as trustee), or to himself and any other trustees, at the time he becomes trustee.
- (2) The securities shall be treated as transferred with accrued interest if the person was entitled to receive in respect of them interest payable on—
- (a) the day the transfer is treated as made, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after that day, in any other case,
- and they shall be treated as transferred without accrued interest if he was not so entitled.
- 8 (1) Annual profits or gains which by virtue of any of the provisions mentioned in sub-paragraph (2) below are treated as received in a year of assessment by trustees shall be chargeable to income tax at a rate equal to the sum of the basic rate and the additional rate for that year.
- (2) The provisions are—
- (a) section 74(2) of this Act,
  - (b) paragraph 2(2) or (3) of Schedule 22 to this Act, and
  - (c) paragraph 15(3) below.
- (3) 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 (f) there shall be inserted “and
- (g) the amount of any tax on annual profits or gains treated as received by trustees by virtue of section 74(2) of the Finance Act 1985, paragraph 2(2) or (3) of Schedule 22 to that Act or paragraph 15(3) of Schedule 23 to that Act (securities) and charged at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 8(1) of Schedule 23 to that Act;”.

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- 9 (1) Sub-paragraph (2) below applies where—
- (a) a trustee of a settlement is treated as receiving annual profits or gains under section 74(2) of this Act, or
  - (b) a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls would, at the end of the interest period, have been treated under section 74(2) of this Act as receiving annual profits or gains or annual profits or gains of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period.
- (2) Chapters II to IV of Part XVI of the Taxes Act (settlements) shall have effect as if the amount which the trustee is or would be treated as receiving were income (within Chapter II) or income arising under the settlement (within Chapter III or IV).
- (3) Sub-paragraph (4) below applies where income of a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls consists of interest which falls due at the end of the interest period and which would have been treated under section 74(5) of this Act as reduced by an allowance or an allowance of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period.
- (4) For the purposes of Chapters II to IV of Part XVI of the Taxes Act, the interest shall be treated as being reduced by the amount of the allowance or by the additional amount (as the case may be).
- (5) In this paragraph—
- (a) "settlement" means settlement within the meaning of Chapter II, III or IV of Part XVI of the Taxes Act (as the case may be), and
  - (b) references to a trustee of a settlement are, where there is no trustee of the settlement, to any person entitled to securities comprised in the settlement.

*Foreign currency*

- 10 (1) Sub-paragraphs (2) to (4) below apply where the interest on securities is payable in a currency other than sterling.
- (2) For the purposes of section 73(2) of this Act the accrued amount is to be determined as follows—
- (a) if section 73(4)(a) applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the accrued amount is the sterling equivalent so shown;
  - (b) if section 73(4)(a) applies but sub-paragraph (a) above does not, or if section 73(4)(b) applies, the accrued amount is the sterling equivalent on the settlement day of the amount found by virtue of section 73(4)(a) or (b) (as the case may be).
- (3) For the purposes of section 73(3) of this Act the rebate amount is to be determined as follows—
- (a) if section 73(5)(a) applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the rebate amount is the sterling equivalent so shown;

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- (b) if section 73(5)(a) applies but sub-paragraph (a) above does not, or if section 73(5)(b) applies, the rebate amount is the sterling equivalent on the settlement day of the amount found by virtue of section 73(5)(a) or (b) (as the case may be).
- (4) For the purposes of paragraph 2(3) of Schedule 22 to this Act, the amount of interest! received on any day shall be taken to be the sterling equivalent on that day of the amount actually received.
- (5) Where securities are denominated in a currency other than sterling the amount of the deemed interest for the purposes of paragraph 2(2) and (3) of Schedule 22 to this Act is the sterling equivalent on the second date (within the meaning of that Schedule) of the deemed interest.
- (6) Where, apart from this sub-paragraph, the nominal value of securities would be a value (the foreign value) expressed in a currency other than sterling, then, for the purposes of section 75 of this Act and Schedule 22 to this Act, their nominal value on a particular day is the sterling equivalent on that day of the foreign value.
- (7) For the purposes of sub-paragraphs (2)(b), (3)(b) and (4) to (6) above, the sterling equivalent of an amount or value on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

*Foreign securities: delayed remittances*

- 11
- (1) This paragraph applies where in an interest period a person is treated as entitled to a sum or sums under section 73(2)(a) of this Act in respect of a transfer or transfers of securities of a particular kind which are situated outside the United Kingdom.
  - (2) Subject to sub-paragraph (3) below, the amount of any annual profits or gains which the person is treated under section 74 of this Act as receiving on the day the period ends in respect of securities of that kind shall be reduced—
    - (a) if the amount of the sum or aggregate of the sums exceeds the amount of the profits or gains, to nil, or
    - (b) in any other case, by the amount of the sum or aggregate.
  - (3) No reduction shall be made unless the person makes a claim and shows that the conditions in sub-paragraph (5) below are, so far as applicable, satisfied in the chargeable period in which the profits or gains are treated as received.
  - (4) The claimant (or his personal representatives) shall be charged to tax under Case VI of Schedule D on the amount of the reduction for the chargeable period in which the conditions in sub-paragraph (5) below cease to be satisfied.
  - (5) The conditions are—
    - (a) that the claimant was unable to remit the proceeds of the transfer or transfers to the United Kingdom,
    - (b) that the inability was due to the laws of the territory in which the securities are situated, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory, and
    - (c) that the inability was not due to any want of reasonable endeavours on the part of the claimant.
  - (6) No claim under this paragraph shall be made in respect of a transfer more than six years after the end of the interest period in which the transfer occurred.

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- (7) The personal representatives of a deceased person may make any claim which he might have made under this paragraph if he had not died.
- (8) For the purposes of this paragraph the place where securities are situated shall be determined in accordance with section 18(4) of the Capital Gains Tax Act 1979.

#### *Death*

- 12 (1) Where an individual who is entitled to securities dies, he shall be treated for the purposes of this Chapter as transferring the securities to his personal representatives immediately before his death.
- (2) The securities shall be treated as transferred with accrued interest if the deceased was entitled to receive in respect of them interest payable on—
  - (a) the day of death, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after the day of death, in any other case,
 and they shall be treated as transferred without accrued interest if he was not so entitled.
- (3) Where the securities are transferred with accrued interest by the personal representatives to a legatee in the interest period in which the individual died—
  - (a) section 73 of this Act shall not apply to the transfer, and
  - (b) the transfer of the securities which the individual is treated as making by virtue of sub-paragraph (1) above shall be treated as made to the legatee (and not to the personal representatives).
- (4) In sub-paragraph (3) above "legatee" includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased's property.
- (5) In the case of an individual who dies in an interest period, section 74(2) of this Act shall have effect as if the reference to the day the period ends were to the day he dies.

#### *Trading stock: appropriations*

- 13 (1) Where securities acquired by a person otherwise than as trading stock of a trade carried on by him are appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise), he shall be treated for the purposes of this Chapter as transferring them otherwise than in the course of the trade and re-acquiring them in the course of the trade on the day the appropriation is made.
- (2) Where securities forming part of the trading stock of a person's trade are appropriated by him for any other purpose, or are retained by him on his ceasing to carry on the trade, he shall be treated for the purposes of this Chapter as transferring them in the course of the trade and re-acquiring them otherwise than in the course of the trade on the day the appropriation is made or (as the case may be) he ceases to carry on the trade.

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- (3) Where sub-paragraph (1) or (2) above applies, the securities shall be treated as transferred with accrued interest if the person was entitled to receive in respect of them interest payable on—
- (a) the day the transfer is treated as made, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after that day, in any other case,
- and they shall be treated as transferred without accrued interest if he was not so entitled.

#### *Conversions*

- 14 (1) Where there is a conversion of securities the person who was entitled to them immediately before the conversion shall be treated for the purposes of this Chapter as transferring them on the day of the conversion (if there is no actual transfer).
- (2) The transfer shall be treated as made with accrued interest if the person was entitled to receive in respect of the securities interest payable on—
- (a) the day of the conversion, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after the day of the conversion, in any other case,
- and they shall be treated as transferred without accrued interest if he was not so entitled.
- (3) For the purposes of this Chapter the interest period in which the conversion is made shall be treated as ending on the day on which it would have ended had the conversion not been made.
- (4) In this paragraph " conversion " means conversion within the meaning of section 82 of the Capital Gains Tax Act 1979.

#### *Transfer of unrealised interest*

- 15 (1) This paragraph applies where securities are transferred on or after 28th February 1986 with the right to receive interest (unrealised interest) payable on them on an interest payment day falling before the settlement day.
- (2) Where the settlement day falls within an interest period, section 74 of this Act shall (subject to sub-paragraph (5) below) apply as if the transferor were entitled under section 73 to a sum on them in the period of an amount equal to the unrealised interest (in addition to any other sum to which he may be treated as so entitled).
- (3) Where the settlement day falls after the end of the last interest period in relation to the securities, the transferor shall be treated as receiving on the settlement day annual profits or gains of an amount equal to the unrealised interest; and the profits or gains shall be chargeable to tax under Case VT of Schedule D for the chargeable period in which they are treated as received.
- (4) Where the transferee receives the unrealised interest, and but for this sub-paragraph it would be taken into account in computing tax charged for the chargeable period in which the interest is received, it shall for the purposes of the Tax Acts be left out of account.
- (5) Section 75(1) of this Act applies for the purposes of this paragraph as if the reference to section 73(2)(a) or (3)(a) were to sub-paragraph (2) or (3) above and references to

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the year of assessment in which the interest period ends were to the year in which the settlement day falls.

- (6) Paragraph 6 above applies for the purposes of this paragraph as if the reference to section 73 were to this paragraph.
- (7) Where sub-paragraph (2) or (3) above applies, section 31 of the Capital Gains Tax Act 1979 shall be disregarded in computing for capital gains tax purposes the gain accruing on the disposal concerned, but an amount equal to the amount of the unrealised interest shall be excluded from the consideration mentioned in paragraph 33(4) below.
- (8) Where the unrealised interest is payable in a currency other than sterling its amount is for the purposes of this paragraph the sterling equivalent on the settlement day of the amount it would be apart from this sub-paragraph ; and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for that day.

#### *Insurance companies*

- 16 The references in section 75(1)(a) and (2)(a) of this Act and in paragraph 5(1) of Schedule 22 to this Act to computing the profits or losses of a trade shall not be taken as applying to a computation of income for the purposes of section 305(2) of the Taxes Act (expenses of management of insurance companies).
- 17 Where an insurance company carrying on life assurance business is treated as receiving annual profits or gains under section 74(2) of this Act, paragraph 2 of Schedule 22 to this Act or paragraph 15(3) above in respect of securities held as investments in connection with that business, the profits or gains shall be treated for the purposes of section 310 of the Taxes Act (rate relief: investment income reserved for policy holders) as if they were income from investments held in connection with that business.
- 18 (1) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply if the transferor is an insurance company and the transfer fails to be taken into account in computing its profits or losses for the purposes of section 312 of the Taxes Act (general annuity business or pension business).
- (2) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if sub-paragraph (1) above would apply if " transferor " read " transferee ".
- (3) For the purposes of Schedule 22 to this Act an insurance company is to be treated as not entitled to securities on a day if, were it to transfer them on that day, that transfer would fall to be taken into account in computing its profits or losses for the purposes of section 312 of the Taxes Act.
- 19 (1) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply if the transferor is an insurance company which, if it became entitled to any interest on the securities transferred, would by virtue of section 315(1) of the Taxes Act (foreign life assurance funds) be liable, in respect of the interest, to tax computed by reference to the amount of income received in the United Kingdom.
- (2) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if sub-paragraph (1) above would apply if " transferor " read " transferee ".
- (3) For the purposes of Schedule 22 to this Act an insurance company is to be treated as not entitled to securities in the case of which, if it became entitled to any interest



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on them, it would by virtue of section 315(1) of the Taxes Act be liable, in respect of the interest, to tax computed by reference to the amount of interest received in the United Kingdom.

- (4) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply if the transferor is an insurance company which, if it became entitled to any interest on the securities transferred and applied it for the purposes of its foreign life assurance fund, would by virtue of section 315(2) of the Taxes Act not be liable to tax in respect of the interest.
- (5) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if sub-paragraph (4) above would apply if "transferor " read " transferee " .
- (6) For the purposes of Schedule 22 to this Act an insurance company is to be treated as not entitled to securities in the case of which, if it became entitled to any interest on them and applied it for the purposes of its foreign life assurance fund, it would by virtue of section 315(2) of the Taxes Act not be liable to tax in respect of the interest.
- 20 (1) In section 316(1) of the Taxes Act (income of overseas life insurance companies) " income " does not include annual profits or gains chargeable to tax by virtue of section 74(2) of this Act or paragraph 2(4) of Schedule 22 to this Act or paragraph 15(3) above,
- (2) Where an overseas life insurance company is entitled to an allowance under section 74(4) of this Act, section 74(5) and (6) shall not apply but sub-paragraphs (3) and (4) below shall apply.
- (3) If the company is treated under section 74(2) of this Act as receiving annual profits or gains in an accounting period, the profits or gains shall be treated as reduced by any amount (the deductible amount) equal to the allowance or aggregate of the allowances, as the case may be, to which the company is entitled under section 74(4) of this Act in relation to an interest period or periods ending in the accounting period.
- (4) Where the deductible amount exceeds the amount of those annual profits or gains, the company may claim to have the excess treated as reducing any annual profits or gains the company is treated as receiving under section 74(2) of this Act in the company's next accounting period or, if there is still an excess, the one after (and so on for future accounting periods).
- (5) Sub-paragraphs (2) to (4) above do not apply to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council under section 497 of the Taxes Act (double taxation relief), no charge to corporation tax under Case III of Schedule D arises under section 316 of that Act in respect of any income of the company.
- (6) In this paragraph " overseas life insurance company " has the meaning given by section 323(2) of the Taxes Act (company with head office outside UK but carrying on life assurance business through UK branch or agency).

#### *Underwriters*

- 21 In paragraphs 22 to 28 below " approved association of underwriters ", " business " and " premiums trust fund " have the meanings given by paragraph 16(1) of Schedule 10 to the Taxes Act.

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22 An underwriting member of Lloyd's or of an approved association of underwriters shall be treated for the purposes of this Chapter as absolutely entitled as against the trustees to the securities forming part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.

23 (1) In relation to securities forming part of a premiums trust fund, any reference in Schedule 22 to this Act to a date in the first column in sub-paragraph (3) below shall be read as a reference to that opposite it in the second.

(2) Where securities are transferred by or to the trustees of a premiums trust fund, this Chapter (other than Schedule 22) shall be read in relation to the trustees as if any reference to a date in the first column in sub-paragraph (3) below were a reference to that opposite it in the second, but without being so read in relation to the transferee or transferor (unless in turn constituting trustees of such a fund).

(3) The dates are—

28th February 1982	1st January 1982
27th February 1985	31st December 1984
28th February 1985	1st January 1985
27th February 1986	31st December 1985
28th February 1986	1st January 1986

24 (1) The securities forming part of a premiums trust fund at the beginning of 1st January 1986 or 1st January of any subsequent year shall be treated for the purposes of this Chapter as transferred on 1st January concerned to the trustees of the fund.

(2) In relation to such a transfer, the settlement day is the day preceding that of the transfer (notwithstanding paragraph 4 above).

(3) The securities shall be treated as transferred with accrued interest if the trustees are entitled to receive in respect of them interest payable on—

(a) the day of the transfer, if that is an interest payment day, or

(b) the next (or first) interest payment day to fall after that day, in any other case, and they shall be treated as transferred without accrued interest if they are not so entitled.

(4) This paragraph does not apply as regards securities if the day preceding 1st January concerned is an interest payment day in relation to them.

25 (1) The securities forming part of a premiums trust fund at the end of 31st December 1986 or 31st December of any subsequent year shall be treated for the purposes of this Chapter as transferred on 31st December concerned by the trustees of the fund.

(2) In relation to such a transfer, the settlement day is the day of the transfer (notwithstanding paragraph 4 above).

(3) The securities shall be treated as transferred with accrued interest if the trustees were entitled to receive in respect of them interest payable on the next (or first) interest payment day to fall after the day of the transfer, and they shall be treated as transferred without accrued interest if they were not so entitled.

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- (4) This paragraph does not apply as regards securities if 31st December concerned is an interest payment day in relation to them.
- 26 (1) Where securities are transferred by or to the trustees of a premiums trust fund, this paragraph shall have effect in relation to the trustees, though not in relation to the transferee or transferor (unless in turn constituting trustees of such a fund).
- (2) In this paragraph " straddling period " means a period which would (by virtue of paragraph 3(3) and (4) above and apart from this paragraph) be in relation to the securities an interest period beginning on or before and ending after 31st December 1986 or 31st December of any subsequent year.
- (3) For the purposes of this Chapter a straddling period is not an interest period, but the following shall apply to it—
- (a) the period beginning with the day on which the straddling period begins and ending with 31st December concerned is an interest period, and
- (b) the period beginning with the day following 31st December concerned and ending with the day with which the straddling period ends is an interest period.
- 27 (1) Paragraph 12 above does not apply where the individual concerned is an underwriting member of Lloyd's or of an approved association of underwriters and the securities concerned form part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom the individual's business or any part of it is carried on, to be kept in connection with the business.
- (2) In such a case the deceased's personal representatives shall be treated for the purposes of this Chapter as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.
- 28 (1) This paragraph applies where an underwriting member of Lloyd's or of an approved association of underwriters is entitled to securities forming part of a premiums trust fund or to different securities forming part of different premiums trust funds.
- (2) Where there is one such fund, he shall be treated for the purposes of Schedule 22 to this Act as holding the securities forming part of it as one person and as holding as another person any other securities to which he is entitled.
- (3) Where there is more than one such fund, he shall be treated for those purposes as holding the securities forming part of different funds as different persons and as holding as yet another person any other securities (not forming part of such a fund) to which he is entitled.
- (4) In relation to the securities forming part of such a fund, four of the references in Schedule 22 to this Act to a person (where they would otherwise be to the member) shall be read as references to the underwriting agent through whom the business to which the fund relates is carried on; and the four references are the reference in paragraph 2(1), the first two in paragraph 6(1) and the first in paragraph 6(2).
- (5) Where an underwriting member of Lloyd's or of an approved association of underwriters is entitled to securities forming part of a premiums trust fund, and different securities are attributable to his participation in different syndicates, the securities attributable to different syndicates shall be treated for the purposes of this paragraph as forming part of different premiums trust funds.

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- 29 In paragraph 7(3)(o) of Schedule 10 to the Taxes Act (special reserve funds) "income" includes annual profits or gains chargeable to tax by virtue of section 74(2) of this Act or paragraph 2(4) of Schedule 22 to this Act or paragraph 15(3) above.

*Charities*

- 30 (1) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply where, if the transferor became entitled to any interest on the securities transferred and applied it for charitable purposes only, exemption could be granted under section 360(1)(c) of the Taxes Act (charities) in respect of the interest.
- (2) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if subparagraph (1) above would apply if "transferor" read "transferee".
- (3) For the purposes of Schedule 22 to this Act a person is to be treated as not entitled to securities in the case of which, if he became entitled to any interest on them and applied it for charitable purposes only, exemption could be granted under section 360(1)(c) of the Taxes Act in respect of the interest.
- (4) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply where, if the transferor became entitled to any interest on the securities transferred and applied it for the purposes mentioned in paragraph (d) of section 360(1) of the Taxes Act, exemption could be granted under that paragraph in respect of the interest.
- (5) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if subparagraph (4) above would apply if "transferor" read "transferee".
- (6) For the purposes of Schedule 22 to this Act a person is to be treated as not entitled to securities in the case of which, if he became entitled to any interest on them and applied it for the purposes mentioned in paragraph (d) of section 360(1) of the Taxes Act, exemption could be granted under that paragraph in respect of the interest.
- 31 (1) If securities held on charitable trusts cease to be subject to charitable trusts the trustees shall be treated for the purposes of this Chapter as transferring the securities (in their capacity as charitable trustees) to themselves (in another capacity) at the time when the securities cease to be so subject.
- (2) The securities shall be treated as transferred with accrued interest if the trustees were entitled to receive in respect of them interest payable on—
- (a) the day the transfer is treated as made, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after that day, in any other case,
- and they shall be treated as transferred without accrued interest if they were not so entitled.

*Retirement schemes*

- 32 (1) Section 73(2)(a) or (3)(a) of this Act (as the case may be) does not apply where, if the transferor became entitled to any interest on the securities transferred, exemption could be allowed under section 21(2) of the Finance Act 1970 (exempt approved retirement benefits schemes) in respect of the interest.
- (2) Section 73(2)(b) or (3)(b) of this Act (as the case may be) does not apply if subparagraph (1) above would apply if "transferor" read "transferee".

- (3) For the purposes of Schedule 22 to this Act a person is to be treated as not entitled to securities in the case of which, if he became entitled to any interest on them, exemption could be allowed under section 21(2) of the Finance Act 1970 in respect of the interest.

### PART III

#### MISCELLANEOUS

##### *Capital gains*

- 33 (1) Where securities are transferred, then—
- (a) if section 73(2)(a) or (3)(a) of this Act (as the case may be) applies, section 31 of the Capital Gains Tax Act 1979 shall be disregarded in computing for capital gains tax purposes the gain accruing on the disposal concerned ;
  - (b) if section 73(2)(b) or (3)(b) of this Act (as the case may be) applies, section 33 of the Capital Gains Tax Act 1979 shall be disregarded in computing for capital gains tax purposes the gain accruing to the transferee if he disposes of the securities,
- but the following provisions of this paragraph shall apply.
- (2) Where the securities are transferred with accrued interest, then—
- (a) if section 73(2)(a) of this Act applies, an amount equal to the accrued amount (determined under that section) shall be excluded from the consideration mentioned in subparagraph (4) below;
  - (b) if section 73(2)(b) of this Act applies, an amount equal to that amount shall be excluded from the sums mentioned in sub-paragraph (5) below.
- (3) Where the securities are transferred without accrued interest, then—
- (a) if section 73(3)(a) of this Act applies, an amount equal to the rebate amount (determined under that section) shall be added to the consideration mentioned in sub-paragraph (4) below;
  - (b) if section 73(3)(b) of this Act applies, an amount equal to that amount shall be added to the sums mentioned in subparagraph (5) below.
- (4) The consideration is the consideration, for the disposal of the securities transferred, which is taken into account in the computation for capital gains tax purposes of the gain accruing on the disposal.
- (5) The sums are the sums allowable to the transferee as a deduction from the consideration in the computation for capital gains tax purposes of the gain accruing to him if he disposes of the securities.
- 34 (1) Where—
- (a) there is a disposal of securities for capital gains tax purposes but the disposal is not a transfer for the purposes of this Chapter, and
  - (b) if the disposal were such a transfer one or more of the following paragraphs would apply, namely, paragraphs (a) and (b) of section 73(2) and paragraphs (a) and (b) of section 73(3) of this Act,
- the securities shall be treated for the purposes of this paragraph as transferred on the day of the disposal.

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- (2) The securities shall be treated for those purposes as transferred with accrued interest if the person making the disposal was entitled to receive in respect of the securities interest payable on—
- (a) the day of the disposal, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after that day, in any other case,
- and they shall be treated for those purposes as transferred without accrued interest if he was not so entitled.
- (3) Where the securities are treated for the purposes of this paragraph as transferred with accrued interest, then—
- (a) if section 73(2)(a) of this Act would apply if the disposal were a transfer, an amount equal to the accrued amount (determined under that section) shall be excluded from the consideration mentioned in sub-paragraph (5) below ;
  - (b) if section 73(2)(b) of this Act would apply if the disposal were a transfer, an amount equal to that amount shall be excluded from the sums mentioned in sub-paragraph (6) below.
- (4) Where the securities are treated for the purposes of this paragraph as transferred without accrued interest, then—
- (a) if section 73(3)(a) of this Act would apply if the disposal were a transfer, an amount equal to the rebate amount (determined under that section) shall be added to the consideration mentioned in sub-paragraph (5) below ;
  - (b) if section 73(3)(b) of this Act would apply if the disposal were a transfer, an amount equal to that amount shall be added to the sums mentioned in sub-paragraph (6) below.
- (5) The consideration is the consideration for the disposal of the securities which is taken into account in the computation for capital gains tax purposes of the gain accruing on the disposal.
- (6) The sums are the sums allowable, to the person to whom the disposal is made, as a deduction from the consideration in the computation for capital gains tax purposes of the gain accruing to him if he disposes of the securities.
- 35 (1) In this paragraph " conversion " means conversion within the meaning of section 82 of the Capital Gains Tax Act 1979, and " exchange " means an exchange which by virtue of Chapter II of Part IV of that Act (reorganisations etc.) does not involve a disposal.
- (2) Where on a conversion or exchange of securities a person is treated as entitled to a sum under section 73(2)(a) of this Act, an amount equal to the accrued amount (determined under that section) shall, for capital gains tax purposes, be treated as follows—
- (a) to the extent that it does not exceed the amount of any consideration which the person receives (or is deemed to receive) or becomes entitled to receive on the conversion or exchange (other than his new holding), it shall be treated as reducing that consideration, and
  - (b) to the extent that it does exceed that amount, it shall be treated as consideration which the person gives on the conversion or exchange.
- (3) Where on a conversion or exchange of securities a person is treated as entitled to relief under section 73(3)(a) of this Act, an amount equal to' the rebate amount

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(determined under that section) shall, for capital gains tax purposes, be treated as consideration which the person receives on the conversion or exchange.

- 36 Schedule 22 to this Act shall be disregarded in construing sections 31 and 33 of the Capital Gains Tax Act 1979.

*Double taxation relief*

- 37 (1) This paragraph applies where
- (a) a person is treated under section 74(2) of this Act as receiving annual profits or gains on the day an interest period ends,
  - (b) assuming that, in the chargeable period in which the day falls he were to become entitled to any interest on the securities concerned, he would be liable in respect of the interest to tax chargeable under Case IV or Case V of Schedule D, and
  - (c) he is liable under the law of a territory outside the United Kingdom to tax in respect of interest payable on the securities at the end of the interest period or he would be so liable if he were entitled to that interest.

(2) Credit shall be allowed against any United Kingdom income tax or corporation tax computed by reference to the profits or gains, and shall be treated as if it were allowed under section 498(3) of the Taxes Act.

(3) The credit shall be of an amount equal to the relevant proportion of the profits or gains ; and the relevant proportion is the rate of tax to which the person is or would be liable as mentioned in sub-paragraph (1)(c) above.

- 38 (1) Sub-paragraph (2) below applies where—
- (a) a person is entitled to credit against United Kingdom tax under section 498(3) of the Taxes Act or any corresponding provision of arrangements under section 497 of that Act, and
  - (b) the tax is computed by reference to income consisting of interest which falls due on securities at the end of an interest period and which is treated as reduced by virtue of section 74(5) of this Act.

(2) The amount of the credit shall be a proportion of the amount it would be apart from this sub-paragraph, and the proportion is to be found by applying the formula—

$$\frac{I - R}{I}$$

where I is the amount of the interest and R is the amount by which it is treated as reduced.

(3) Where the person entitled to the credit is an individual, subparagraph (2) above does not apply unless the interest arises from securities to which the person either became or ceased to be entitled during the interest period.

(4) Where section 516(1) of the Taxes Act applies to any income (deduction where no credit allowable) and, if credit were allowable in respect of it the credit would be reduced by virtue of sub-paragraph (2) above, section 516(1) shall have effect in relation to the income as if the reference to any sum paid in respect of tax on it were a reference to the amount which would be the amount of the credit if it were allowable and sub-paragraph (2) above applied.

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*Transfer of assets abroad*

- 39 (1) Sub-paragraph (2) below applies where a person resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls would, at the end of the interest period, have been treated under section 74(2) of this Act as receiving annual profits or gains or annual profits or gains of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period.
- (2) Section 478 of the Taxes Act and section 45 of the Finance Act 1981 (avoidance of tax by transfers abroad) shall have effect as if the amount which the person would be treated as receiving or the additional amount (as the case may be) were income becoming payable to him; and, accordingly, any reference in those enactments to income of (or payable or arising to) such a person shall be read as including a reference to such an amount.
- (3) Sub-paragraph (4) below applies where income of a person resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls consists of interest which falls due at the end of the interest period and which would have been treated under section 74(5) of this Act as reduced by an allowance or an allowance of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period.
- (4) For the purposes of section 478 of the Taxes Act and section 45 of the Finance Act 1981, the interest shall be treated as being reduced by the amount of the allowance or by the additional amount (as the case may be).

*Taxes Act: miscellaneous*

- 40 (1) No notice served under section 30 of the Taxes Act (prevention of tax avoidance by sales cum dividend etc.) may specify a period which includes any time falling after 27th February 1986.
- (2) Where a person is treated as receiving annual profits or gains by virtue of paragraph 2 of Schedule 22 to this Act, section 30 of the Taxes Act shall not apply, in relation to securities in which he has had a beneficial interest, as regards the period beginning with 28th February 1985 and ending with 27th February 1986.
- 41 Subsections (1) and (2) of section 469 of the Taxes Act (sale and repurchase of securities) shall not apply if the owner's agreement to sell or transfer constitutes a transfer to which section 73(2)(a) of this Act applies.
- 42 Section 474 of the Taxes Act (purchase and sale of securities by persons other than dealers in securities) does not apply to the extent that the interest is payable in respect of securities which are securities for the purposes of this Chapter and which are purchased by the first buyer on or after 28th February 1986.
- 43 (1) This paragraph applies where—
- (a) securities are transferred to a person without accrued interest,
  - (b) a contract is made for the sale by that person (the seller) of securities of that kind, and
  - (c) section 477 of the Taxes Act (manufactured dividends) has effect in the case of that contract.
- (2) Where the nominal value of the securities subject to the contract is greater than or equal to that of the securities transferred, the seller shall not be treated as entitled to



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any sum to which, but for this sub-paragraph, he would be treated as entitled under section 73(3)(b) of this Act on the securities transferred.

- (3) Where the nominal value of the securities subject to the contract is less than that of the securities transferred, any sum (or the aggregate of any sums) to which he is treated as entitled under section 73(3)(b) on the securities transferred shall be reduced by the amount of any part of the sum (or aggregate) attributable to securities (relevant securities) of a nominal value equal to that of the securities subject to the contract.
- (4) In determining which of the securities transferred are relevant securities for the purposes of sub-paragraph (3) above, those transferred to the seller earlier must be chosen before those transferred to him later.
- (5) For the purposes of this Chapter the securities which the seller contracts to sell shall not be treated as transferred by him (though treated as transferred to the person to whom he contracts to sell).

#### *Information*

- 44
- (1) In order to obtain for the purposes of this Chapter particulars relating to securities, an inspector may by notice in writing require a return under sub-paragraph (2) or (3) below; and such a notice may specify a period beginning on or after 28th February 1985.
  - (2) A member of the Stock Exchange, other than a jobber, may be required to make a return giving, in relation to any transactions effected by him in the course of his business in the period specified in the notice, such particulars as may be so specified.
  - (3) A person (other than a member of the Stock Exchange) who acts as an agent or broker in the United Kingdom in transactions in securities may be required to make a return giving, in relation to any such transactions effected by him in the period specified in the notice, such particulars as may be so specified.
  - (4) No person shall be required under sub-paragraph (2) or (3) above to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.
  - (5) In order to obtain for the purposes of this Chapter particulars relating to securities, the Board or an inspector may by notice in writing require any person in whose name any securities are registered to state whether or not he is the beneficial owner of those securities and, if he is not the beneficial owner of them or any of them, to furnish the name and address of the person or persons on whose behalf the securities are registered in his name.
  - (6) In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices etc.) at the end of the first column there shall be inserted—

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“Paragraph 44 of Schedule 23 to the Finance Act 1985”.

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## SCHEDULE 24

Section 85.

## STAMP DUTY: HEADINGS OMITTED

- a The heading beginning " Agreement or contract made or entered into pursuant to the Highways Acts ".
- b The headings beginning " Appointment of a new trustee, and appointment in execution of a power of any property ".
- c The heading beginning " Charter of resignation ".
- d The heading beginning " Covenant. Any separate deed of covenant".
- e The heading " Deed of any kind whatsoever, not described in this schedule ".
- f The headings beginning " Letter of allotment and letter of renunciation " and " Scrip certificate, scrip ".
- g The heading beginning " Letter or power of attorney, and commission, factory, mandate ".
- h The heading beginning " Precept of clare constat".
- i The heading " Procuration, deed, or other instrument of ".
- j The heading beginning " Resignation ", together with the heading " instrument of resignation of any lands or other heritable subjects in Scotland not of burgage tenure ".
- k The heading " Revocation of any use or trust of any property by any writing, not being a will ".
- l The heading beginning "Seisin" and the heading "Notarial instrument to be expedited and recorded in any register of sasines ".
- m The heading " Warrant of attorney of any other kind ".
- n The heading beginning " Writ".

## SCHEDULE 25

Section 93.

## ABOLITION OF DEVELOPMENT LAND TAX AND TAX ON DEVELOPMENT GAINS

**PART I**

## PROVISIONS SUPPLEMENTARY TO ABOLITION OF DEVELOPMENT LAND TAX

- 1 (1) In this Part of this Schedule " the 1976 Act" means the Development Land Tax Act 1976.
- (2) Expressions used in this Part of this Schedule have the same meaning as in the 1976 Act.
- 2 (1) In any case where—
  - (a) before 19th March 1985 there was a DLT disposal which was a deemed disposal, and

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- (b) by virtue of any provision of the 1976 Act, liability for development land tax on all or any of the realised development value which accrued on the DLT disposal stands deferred immediately before that date and, accordingly, is extinguished under section 93(3) of this Act,

then, except as respects the interaction of the DLT disposal with a CGT disposal or trading disposal occurring before 19th March 1985, for the purposes of Part I of Schedule 6 to the 1976 Act (interaction of development land tax with other taxes) so much of the realised development value as is referable to the deferred tax shall be assumed not to have accrued on the DLT disposal and, accordingly, no sum shall be regarded as being available or allowable as a deduction under any provision of that Part by virtue of that amount of realised development value.

- (2) If, in a case falling within paragraphs (a) and (b) of subparagraph (1) above, liability for only some of the tax which accrued on the DLT disposal stands deferred as mentioned in paragraph (b), any reference in that sub-paragraph to the amount of realised development value which is referable to the deferred tax is a reference to that proportion of the whole of the realised development value accruing on the DLT disposal which the tax the liability for which stands so deferred bears to the whole of the tax the liability for which arose on the DLT disposal.
- (3) In this paragraph, "DLT disposal", "CGT disposal" and " trading disposal" have the meaning assigned by section 34(3) of the 1976 Act.

3 Where, by virtue of paragraph 21 or paragraph 22 of Schedule 2 to the 1976 Act (general rules for determining amount of consideration),—

- (a) consideration is brought into account without any discount for postponed payment or without regard to any risk of irrecoverability, or
- (b) consideration is determined without taking account of any contingent liability,

no further assessment to tax shall be raised by reason of anything occurring on or after 19th March 1985, but relief by way of discharge or repayment of tax or otherwise shall continue to be available on and after that date under subparagraph (2) of the paragraph in question.

## PART II

### CONSEQUENTIAL AMENDMENTS

#### *The Taxes Management Act 1970*

4 In section 38 of the Taxes Management Act 1970 (modification of section 37 in relation to partnerships) in subsection (3) for the words "subsections (3A) and (5)" (which were substituted by paragraph 8 of Schedule 8 to the Development Land Tax Act 1976) there shall be substituted " subsection (5)".

5 In section 40 of that Act (assessment on personal representatives) in subsection (3) for the words "subsections (1) and (2) above " (which were substituted by paragraph 9(1) of Schedule 8 to the said Act of 1976) there shall be substituted " this section".

6 In section 70 of that Act (evidence) in subsection (2) for the words " 86A or 87 " (which were substituted by section 115 of the Finance Act 1980) there shall be substituted " or 87".

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*The Taxes Act*

7 In section 313 of the Taxes Act (general annuity business) in subsection (2) for paragraph (a) (which incorporates amendments from the Finance Act 1974 and the Finance Act 1984) there shall be substituted—

“(a) taxed income, group income and income attributable to offshore income gains, within the meaning of Chapter VII of Part II of the Finance Act 1984, shall not be taken into account as part of those profits, and”.

8 In section 316 of the Taxes Act (overseas life insurance companies: charge on investment income) for subsection (1A) (which was inserted by paragraph 7 of Schedule 7 to the Finance Act 1974 and amended by the Finance Act 1984) there shall be substituted the following subsection—

“(1A) In subsection (1) above, " income " shall not include income attributable to offshore income gains, within the meaning of Chapter VII of Part II of the Finance Act 1984 (but without prejudice to any claim under section 310 of this Act).”

*The Finance Act 1972*

9 In Part II of Schedule 16 to the Finance Act 1972 (provisions for determining relevant income and distributions etc. of close companies) in paragraph 10(8), (which was amended by paragraph 5 of Schedule 7 to the Finance Act 1974) for paragraphs (b) onwards there shall be substituted—

“(b) secondly, so far as it cannot be made under (a) above, from the company's estate or trading income so charged; and  
(c) thirdly, so far as it cannot be made under (a) or (b) above, from the amount included in the company's profits in respect of chargeable gains”.

*The Finance Act 1981*

10 In section 135 of the Finance Act 1981 (Chevening estate) in subsection (1) for the words "capital transfer tax and development land tax" there shall be substituted " and capital transfer tax".

SCHEDULE 26

Section 94.

CAPITAL TRANSFER TAX : CONDITIONAL EXEMPTION

*Principal amendments*

1 In section 30(1)(6) of the Capital Transfer Tax Act 1984 there shall be added at the end " or (where the property is an area of land within subsection (1)(d) of that section) with respect to which the requisite undertakings described in that section are given by such person or persons as the Treasury think appropriate in the circumstances of the case. "

2 (1) Section 31 of that Act shall be amended as follows.

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- (2) For subsection (1)(d) (conditional exemption for land adjoining building) there shall be substituted—
- “(d) any area of land which in the opinion of the Treasury is essential for the protection of the character and amenities of such a building as is mentioned in paragraph (c) above ;”.
- (3) In subsections (2)(b) and (4) for "reasonable steps" there shall be substituted " such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it".
- (4) The following shall be inserted after subsection (4)—
- “(4A) In the case of an area of land within subsection (1)(d) above (relevant land) there is an additional requisite undertaking, which is that, until the person beneficially entitled to property falling within subsection (4C) below dies, or it is disposed of, whether by sale or gift or otherwise, specified steps will be taken for its maintenance, repair and preservation and for securing reasonable access to the public ; and " specified steps" means such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it.
- (4B) Where different persons are entitled (either beneficially or otherwise) to different properties falling within subsection (4C) below, subsection (4A) above shall have effect to require separate undertakings as to the maintenance, repair, preservation and access of each of the properties to be given by such persons as the Treasury think appropriate in the circumstances of the case.
- (4C) The following property falls within this subsection—
- (a) the building for the protection of whose character and amenities the relevant land is in the opinion of the Treasury essential;
- (b) any other area (or areas) of land which, in relation to the building, falls (or fall) within subsection (1)(d) above and which either lies (or lie) between the relevant land and the building or is (or are) in the opinion of the Treasury physically closely connected with the relevant land or the building.
- (4D) Where subsection (4A) above requires an undertaking for the maintenance, repair, preservation and access of property, such an undertaking is required notwithstanding that some other undertaking for its maintenance, repair, preservation and access is effective.
- (4E) Any undertaking given in pursuance of subsection (4A) above is for the purposes of this Act given with respect to the relevant land.
- (4F) It is for the person seeking the designation of relevant land to secure that any undertaking required under subsection (4A) above is given.”
- 3 (1) Section 32 of that Act (chargeable events for conditionally exempt property) shall be amended as follows.
- (2) After subsection (5) there shall be inserted—
- “(5A) This section does not apply where section 32A below applies.”
- (3) Subsections (6) and (7) shall be omitted.

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4 The following shall be inserted after section 32 of that Act—

**“32A Associated properties.**

- (1) For the purposes of this section the following properties are associated with each other, namely, a building falling within section 31(1)(c) above and (to the extent that any of the following exists) an area or areas of land falling within section 31(1)(d) above in relation to the building and an object or objects falling within section 31(1)(e) above in relation to the building; and this section applies where there are such properties, which are referred to as associated properties.
- (2) Where there has been a conditionally exempt transfer of any property (or part), tax shall be charged under this section in respect of that property (or part) on the first occurrence after the transfer of an event which under this section is a chargeable event with respect to that property (or part).
- (3) If the Treasury are satisfied that at any time an undertaking given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of any of the associated properties has not been observed in a material respect, then (subject to subsection (10) below) the failure to observe the undertaking is a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.
- (4) If
  - (a) the person beneficially entitled to property dies, or
  - (b) property (or part of it) is disposed of, whether by sale or gift or otherwise,
 then, if the property is one of the associated properties and an undertaking for its maintenance, repair, preservation, access or keeping has been given under section 30 above or this section, the death or disposal is (subject to subsections (5) to (10) below) a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.
- (5) Subject to subsection (6) below, the death of a person beneficially entitled to property, or the disposal of property (or part), is not a chargeable event if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—
  - (a) a disposal of the property (or part) concerned by sale by private treaty to a body mentioned in Schedule 3 to this Act, or to such a body otherwise than by sale, or
  - (b) a disposal of the property (or part) concerned in pursuance of section 230 below.
- (6) Where a disposal mentioned in subsection (5)(a) or (b) above is a part disposal, that subsection does not make the event non-chargeable with respect to property other than that disposed of unless any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case; and in this

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subsection "part disposal" means a disposal of property which does not consist of or include the whole of each property which is one of the associated properties and of which there has been a conditionally exempt transfer.

- (7) Where, after a relevant disposal (that is, a disposal mentioned in subsection (5)(a) or (b) above made in circumstances where that subsection applies), a person beneficially entitled to the property (or part) concerned dies or the property (or part) concerned is disposed of, the death or disposal is not a chargeable event with respect to the property (or part) concerned unless there has again been a conditionally exempt transfer of the property (or part) concerned after the relevant disposal.
- (8) The death of a person beneficially entitled to property, or the disposal of property (or part) otherwise than by sale, is not a chargeable event if—
- (a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property (or part) concerned, or
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of anything falling within the associated properties is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case.
- (9) If—
- (a) the whole or part of any property is disposed of by sale, and
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case,

the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).

- (10) If—
- (a) the Treasury are satisfied that there has been a failure to observe, as to one of the associated properties or part of it, an undertaking for the property's maintenance, repair, preservation, access or keeping, or
  - (b) there is a disposal of one of the associated properties or part of it, and it appears to the Treasury that the entity consisting of the associated properties has not been materially affected by the failure or disposal, they may direct that it shall be a chargeable event only with respect to the property or part as to which there has been a failure or disposal (if it is a chargeable event with respect to that property or part apart from this subsection)."

#### *Consequential amendments*

- 5 In sections 33(1), 34(1) and 221(6)(a) of that Act, and in paragraph 5 of Schedule 2 to that Act, after " 32 " there shall be inserted " or 32A".
- 6 In sections 33(6) and 34(4) of that Act, at the end there shall be added " or, where the property has been disposed of as mentioned in section 32A(5) above, before any event which apart from section 32A(5) would have been such a chargeable event. "

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- 7 For section 35(2)(a) and (b) of that Act there shall be substituted—
- “(a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either—
- (i) under section 32 or 32A above (as the case may be), or
- (ii) under Schedule 5 to this Act, as the Board may elect;
- (b) if there has been such a conditionally exempt transfer, tax shall be chargeable under section 32 or 32A above (as the case may be) and not under that Schedule.”
- 8 In section 78 of that Act—
- (a) in subsection (1)(b) there shall be added at the end " or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case.";
- (b) in subsection (3) after " sections 32," there shall be inserted " 32A, " and after " section 32 " there shall be inserted " or 32A".
- 9 In section 79(3)(b) of that Act after "given" there shall be inserted " with respect to the property " and after "case" there shall be inserted " or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section have been given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case".
- 10 After section 207(2) of that Act there shall be inserted—
- “(2A) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3) or subsection (4)(a) of that section, the person liable for the tax is the person who, if the property were sold—
- (a) in a case within subsection (3) of that section, at the time the tax becomes chargeable, and
- (b) in a case within subsection (4)(a), immediately after the death,
- would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (2B) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (4)(b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.”
- 11 In sections 216(7), 226(4) and 233(1)(c) of that Act, after " 32." there shall be inserted " 32A,".
- 12 In paragraph 3 of Schedule 4 to that Act—
- (a) in sub-paragraph (2)(b) after " 32(5)(b)" there shall be inserted " , 32A(6), (8)(b) or (9)(b) " ;
- (b) in sub-paragraph (2)(c) after " 32" there shall be inserted " , 32A";
- (c) in sub-paragraph (3) after " (4) " there shall be inserted " , or (as the case may be) undertakings such as are described in subsections (4) and (4A)," after "the undertaking" (in both places) there shall be inserted " or undertakings", and after " 32 " there shall be inserted " or 32A".



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- 13 In paragraph 4(2) of Schedule 6 to that Act, for paragraphs (a) and (b) there shall be substituted—
- “(a) if there has been no conditionally exempt transfer of the property on death, either—
- (i) tax shall be chargeable under section 32 or 32A of this Act (as the case may be), or
- (ii) estate duty shall be chargeable under those provisions, as the Board may elect, and
- (b) if there has been such a conditionally exempt transfer, there shall be a charge under section 32 or 32A of this Act (as the case may be) and not under those provisions ;”
- 14 In Schedule 6 to the Value Added Tax Act 1983, in item 3 of Group 11, after "32(4)". there shall be inserted " or 32A(5) or (7)".

## SCHEDULE 27

Section 98.

### REPEALS

#### PART I

##### CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
<a href="#">1979 c. 4.</a>	The Alcoholic Liquor Duties Act 1979.	Section 72(1) and (2).
<a href="#">1979 c. 5.</a>	The Hydrocarbon Oil Duties Act 1979.	In Schedule 3, in paragraph 11, the words "produced in the United Kingdom".
<a href="#">1984 c. 43.</a>	The Finance Act 1984.	Section 2.

1. The repeals in the Alcoholic Liquor Duties Act 1979 have effect on the coming into operation of regulations under section 71A of the Alcoholic Liquor Duties Act 1979.
2. The repeal in the Hydrocarbon Oil Duties Act 1979 has effect on the coming into operation of paragraph 4 of Schedule 4 to this Act.

#### PART II

##### VEHICLES EXCISE DUTY

Chapter	Short Title	Extent of Repeal
<a href="#">1977 c. 36.</a>	The Finance Act 1977.	Section 5(4). Section 6(4).
<a href="#">1981 c. 35.</a>	The Finance Act 1981.	Section 7(4).

These repeals apply in relation to licences taken out after 19th March 1985.

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Chapter	Short Title	Extent of Repeal
1983 c. 28.	The Finance Act 1983.	Section 8(4). In Schedule 3, in Part 11, in paragraph 8(5)(6) the words "(2)(a) and" and "in each case", and paragraph 8(5)(c) and the word "and" immediately preceding it.
1984 c. 43.	The Finance Act 1984.	In section 4, subsection (2) and in subsections (4) and (5) the words "£42" and "and the words ", respectively, "£44" and".  In Schedule 2, Part I, and in Part II paragraph 6(4) and (5).

These repeals apply in relation to licences taken out after 19th March 1985.

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### PART III

#### GAMING MACHINE LICENCE DUTY

Chapter	Short Title	Extent of Repeal
1972 c. 11 (N.I.).	The Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.	Part V. In section 72(2), the words "and paragraph 7(2) of Schedule 3". Schedule 3.
1980 c. 48.	The Finance Act 1980.	Section 7(2). In Schedule 6, Part II.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 21A(3), the words from "either that" to "Acts or".  In section 23(1), the words " <i>Premises with local authority approval</i> " and " <i>Premises without local authority approval</i> ".
1982 c. 39.	The Finance Act 1982.	In Schedule 6, paragraphs 18 to 24.

1. The repeals in the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972, the Finance Act 1980 and the Finance Act 1982 have effect from 1st October 1985.
  2. The repeals in the Betting and Gaming Duties Act 1981 do not affect licences granted for periods beginning before 1st October 1985.
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## PART IV

### VALUE ADDED TAX

Chapter	Short Title	Extent of Repeal
<a href="#">1983 c. 55.</a>	The Value Added Tax Act 1983.	<p>In section 39, in subsection (5), paragraph (a) and the words from "or, if greater" onwards; and subsections (6) and (7).</p> <p>In Schedule 5, Group 5.</p> <p>In Schedule 7, in paragraph 3, sub-paragraphs (3) and (4) and in paragraph 4, subparagraphs (7) and (8).</p> <p>In Schedule 7, in paragraph 10(3)(c), the words "to have committed or to be about to commit such an offence or".</p> <p>In Schedule 8, in paragraph 4, the words " with the consent of the Treasury "; in paragraph 7(3), in paragraphs (a) to (c), the word " by " and in paragraph 9, the words " and produce documents".</p>
<p>1. The repeal in Schedule 5 to the Value Added Tax Act 1983 has effect with respect to supplies made on or after 1st May 1985.</p> <p>2. The repeals in paragraphs 4 and 7 of Schedule 8 to the Value Added Tax Act 1983 have effect on the coming into operation of Schedule 8 to this Act.</p>		

## PART V

### INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	<p>In section 263(4), the words " as respects more than one surrendering company ".</p> <p>Section 333(1)(6) and the word " or " immediately preceding it.</p> <p>Section 333(2) and (3).</p> <p>In section 334(2), the words following paragraph (c).</p> <p>Section 335(2) to (5).</p>

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Chapter	Short Title	Extent of Repeal
		In section 337(4), paragraph (b) of the proviso.
		In section 343, in subsection (2), in paragraph (b) the words from "except that" to the end; in subsection (3), paragraphs (iii) and (iv) of the proviso; and subsections (6), (8A), (8B) and (9).
1970 c. 31 (N.I.).	The Friendly Societies Act (Northern Ireland) 1970.	Section 1(3), (3A) and (5). Section 55.
1974 c. 46.	The Friendly Societies Act 1974.	Section 7(3), (3A) and (5). In Schedule 9, in paragraph 23, paragraph (a).
1975 c. 45.	The Finance (No. 2) Act 1975.	Schedule 9.
1978 c. 42.	The Finance Act 1978.	In section 54(7), in paragraph (c)(i), the final word "or" and paragraphs (c)(ii) and (d).
S.I. 1979/1714 (N.I. 19).	The Perjury (Northern Ireland) Order 1979.	In Schedule 1, paragraph 20.
1980 c. 48.	The Finance Act 1980.	In section 57(2), paragraph (a) and in paragraph (b) the words " in section 55(1) of the said Act of 1970 and ".
1983 c. 28.	The Finance Act 1983.	Section 29.
1984 c. 43.	The Finance Act 1984.	Section 34.  In section 73(5), the words from "which specify" to "registered friendly societies" and paragraph (a).

1. The repeal in section 263 of the Income and Corporation Taxes Act 1970 has effect in accordance with section 39(2)(b) of this Act.
2. The repeals in sections 333 and 337 of the Income and Corporation Taxes Act 1970 have effect with respect to life or endowment business (as defined in section 337 of that Act) of friendly societies and branches thereof carried on on or after 1st June 1984.
3. The repeals in sections 334 and 335 of the Income and Corporation Taxes Act 1970, Schedule 9 to the Friendly Societies Act 1974 and section 73 of the Finance Act 1984 have effect with respect to business of friendly societies and branches thereof carried on on or after 19th March 1985.
4. The repeals in section 343 of the Income and Corporation Taxes Act 1970, section 54 of the Finance Act 1978, section 29 of the Finance Act 1983 and section 34 of the Finance Act 1984 have effect for the year 1986-87 and subsequent years of assessment.
5. The repeals in section 1 of the Friendly Societies Act (Northern Ireland) 1970 and section 7 of the Friendly Societies Act 1974 and the repeal of Schedule 9 to the

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Finance (No. 2) Act 1975 (except paragraphs 5, 9 and 10) and section 57(2)(a) of the Finance Act 1980 have effect in accordance with section 41(4) of this Act.

## PART VI

### INCOME TAX AND CORPORATION TAX: CAPITAL ALLOWANCES

Chapter	Short Title	Extent of Repeal
1968 c. 3.	The Capital Allowances Act 1968.	Section 68(3A). Section 82(3). Section 94(5).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 378(1), the words from "during" to "defined" and in the proviso the words "writing-down". In section 378(2), in paragraph (c) of the proviso, the words "for the purposes of this subsection". Section 378(3). Section 379. In section 386(1), the words "after 19th March 1968" and the words from "shall be made" to "discontinuance". Section 386(9). Section 387(2).
1971 c. 68.	The Finance Act 1971.	Section 41(2). In section 44(1), paragraph (c) and the word "and" immediately preceding it. In section 50(4), the words from the beginning to "payable and". In Schedule 8, in paragraph 5(1), the words "during that period". In Schedule 8, in paragraph 6(5), paragraph (d). In Schedule 8, in paragraph 8, sub-paragraph (5) and the word "new" wherever occurring.

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Chapter	Short Title	Extent of Repeal
1972 c. 41.	The Finance Act 1972.	In Schedule 8, in paragraph 10(2), in paragraph (a), the words from "immediately" to "the expenditure" and paragraph (b), except the final word "and". Section 67(2)(6).
1974 c. 30.	The Finance Act 1974.	In section 17(1), the words "and had been in use for the purposes of the trade".
1975 c. 7.	The Finance Act 1975.	In section 14(1), the words "and had been in use for the purposes of the trade".
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 49(1), the words "and had been in use for the purposes of the trade".
1978 c. 42.	The Finance Act 1978.	Section 39(2).
1980 c. 48.	The Finance Act 1980.	In section 65(2), in paragraph (a), the words from "immediately" to "brought into use". In section 65(2), paragraph (b), except the final word "and". In section 71(1), the words "and had been in use for the purposes of the trade".
1982 c. 39.	The Finance Act 1982.	In Schedule 12, in paragraph 14, the words "and (3)".

- The repeals in section 68 of the Capital Allowances Act 1968 and section 39 of the Finance Act 1978 have effect with respect to capital expenditure incurred on or after 1st April 1986, other than expenditure which—
  - consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure; and
  - is incurred before 1st April 1987.
- The repeals in section 82 of the Capital Allowances Act 1968, section 50 of the Finance Act 1971 and paragraph 14 of Schedule 12 to the Finance Act 1982 have effect with respect to any chargeable period or its basis period ending on or after 18th December 1984.
- The repeal in section 94 of the Capital Allowances Act 1968 has effect with respect to capital expenditure incurred on or after 1st April 1985 unless that expenditure—
  - is incurred before 1st April 1987, and
  - consists of the payment of sums made under a contract entered into on or before 19th March 1985 by the person incurring the expenditure.
- The repeals in sections 378, 379, 386 and 387 of the Income and Corporation Taxes Act 1970 have effect with respect to expenditure incurred on or after 1st April 1986.
- The repeals in sections 41 and 44 of, and in paragraphs 6 and 10 of Schedule 8 to, the Finance Act 1971, in section 17 of the Finance Act 1974, in section 14 of the Finance Act 1975, in section 49 of the Finance (No. 2) Act 1975, and in sections 65 and 71 of the Finance Act 1980 have effect with respect to any chargeable period or its basis period ending on or after 1st April 1985.

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6. The repeals in paragraphs 5 and 8 of Schedule 8 to the Finance Act 1971 and in the Finance Act, 1972 have effect with respect to capital expenditure incurred on or after 1st April 1985.

## PART VII

### CAPITAL GAINS

Chapter	Short Title	Extent of Repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 270(3).
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 58(12), the words from "(other" to "that Act)".
1979 c. 14.	The Capital Gains Tax Act 1979.	In section 65, in subsection (1)(b), the words from " and this " to the end and in subsection (7)(b), the words from " subject " to " above ".  In section 66, in subsection (4), the words from " and in " to the end.  Section 67(2) and (3).  Sections 68 to 70.  In section 84, in subsection (3)(b)(ii), the words " if the disposal is within " and " that section ".  Sections 124 and 125.  Section 151.  In Schedule 7, paragraph 2(2) and in the Table in paragraph 9, the second entry relating to section 58(12) of the Finance (No. 2) Act 1975.
1981 c. 35.	The Finance Act 1981.	In section 41, in subsection (1) the words " or gains or losses " and in subsections (2) and (3) the words " gains or losses ".
1982 c. 39.	The Finance Act 1982.	In section 58, in subsection (5) the words from " including " to " gains " and subsection (6).  In section 86(1), paragraphs (b) and (c) and the word

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Chapter	Short Title	Extent of Repeal
<p>1983 c. 28.</p> <p>1983 c. 49.</p> <p>1984 c. 43.</p>	<p>The Finance Act 1983.</p> <p>The Finance (No. 2) Act 1983.</p> <p>The Finance Act 1984.</p>	<p>"and" at the end of paragraph (a).</p> <p>Section 86(5).</p> <p>In section 87(2), in the definition of "RI" the words "which is the twelfth month after that".</p> <p>In section 88, in subsection (1) the words " and section 89 below" and "section 89 below", paragraph (b) and the word " and " immediately preceding it; and subsection (5A).</p> <p>Section 89.</p> <p>In Schedule 13, in paragraph 2(1), the words "subsection (5)(b) of that section or."</p> <p>In Schedule 13, in paragraph 2(3), the words "and which falls within subsection (1)(b) of section 86 of this Act".</p> <p>In Schedule 13, paragraph 3.</p> <p>In Schedule 13, in paragraph 4(1), the words "occurring after the beginning of the qualifying period".</p> <p>In Schedule 13, paragraph 7(2).</p> <p>Section 34(2).</p> <p>In section 7(5), the words from "and in paragraph 3" to the end.</p> <p>In Schedule 9, in paragraph 11 (1) the words " and 89 ".</p> <p>In Schedule 13, paragraph 4 and paragraph 9(b) and the word " and " immediately preceding it.</p>

1. The repeals in section 270 of the Income and Corporation Taxes Act 1970, section 58 of the Finance (No. 2) Act 1975, sections 65 to 70 and 84 of and Schedule 7 to the Capital Gains Tax Act 1979, section 41 of the Finance Act 1981, section 58 of the Finance Act 1982 and Schedule 13 to the Finance Act 1984 have effect with respect to disposals on or after 2nd July 1986.



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2. The repeal of sections 124 and 125 of the Capital Gains Tax Act 1979 has effect in accordance with section 69(1) of this Act.
3. The repeal of section 151 of the Capital Gains Tax Act 1979 has effect with respect to gifts or other transactions occurring after 19th March 1985.
4. The repeals in the Finance Act 1982, the Finance Act 1983, the Finance (No. 2) Act 1983 and Schedule 9 to the Finance Act 1984 have effect—
  - (a) in the case of securities within the meaning of Chapter IV of Part II of this Act (other than those mentioned in paragraph (b) below), with respect to disposals on or after 28th February 1986, and
  - (b) in the case of gilt-edged securities as defined in Schedule 2 to the Capital Gains Tax Act 1979 and qualifying corporate bonds as defined in section 64 of the Finance Act 1984, with respect to disposals on or after 2nd July 1986, and
  - (c) in any other case, with respect to disposals made on or after 6th April 1985 or, in the case of disposals by companies, 1st April 1985.

## PART VIII

### SECURITIES

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 9.</a>	The Taxes Management Act 1970.	In section 31(3), the reference to section 30 of the Income and Corporation Taxes Act 1970.  In section 98, in the Table, the reference to section 30(1) and (2) of the Income and Corporation Taxes Act 1970.
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	Section 30. Section 33.
<a href="#">1971 c. 68.</a>	The Finance Act 1971.	In Schedule 6, paragraphs 13 and 14.  In Schedule 7, paragraph 1.
<a href="#">1978 c. 42.</a>	The Finance Act 1978.	In Schedule 2, paragraph 1.
<a href="#">1984 c. 43.</a>	The Finance Act 1984.	In Schedule 7, in paragraph 2(2)(a), the reference to section 30(3) of the Income and Corporation Taxes Act 1970.

These repeals have effect in relation to any year of assessment beginning on or after 6th April 1986.

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**PART IX**

## STAMP DUTY

## (1) GIFTS INTER VIVOS

Chapter	Short Title	Extent of Repeal
1910 c. 8.	The Finance (1909-10) Act 1910.	Section 74.
1942 c. 21.	The Finance Act 1942.	Section 44.
1942 c. 20 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1942.	Section 1.
1946 c. 64.	The Finance Act 1946.	In section 57(2), the words from "a conveyance or transfer operating" to "Finance (1909-10) Act, 1910".
1946 c. 17 (N.I.).	The Finance (No. 2) Act (Northern Ireland) 1946.	In section 28(2), the words from "a conveyance or transfer operating" to "Finance (1909-10) Act, 1910".
1963 c. 25.	The Finance Act 1963.	Section 64.  In section 67, subsection (3) and, in subsection (5), the words "or donee" in both places where they occur.
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	Section 13.  In section 16, subsection (3) and, in subsection (5), the words "or donee" in both places where they occur.
1965 c. 25.	The Finance Act 1965.	In section 90, in subsection (2), the proviso and, in subsection (5), the words "of the said section 74 and".
1965 c. 16 (N.I.).	The Finance Act (Northern Ireland) 1965.	In section 4, in subsection (2), the words from "where the completed transaction" to "in any other case" and, in subsection (5), the words "of section 74 of the Finance (1909-10) Act 1910 and".

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Chapter	Short Title	Extent of Repeal
1967 c. 1.	The Land Commission Act 1967.	Section 25(6).
1971 c. 68.	The Finance Act 1971.	In section 64(2), the words from "and section 74" to "on sale)".
1971 c.27 (N.I).	The Finance Act (Northern Ireland) 1971.	In section 5(2), the words from "and section 74" to "on sale)".
1973 c. 51.	The Finance Act 1973.	In section 49(3)(b), the words from "without prejudice" to "on sale)".
S.I. 1973/1323 (N.I. 18).	The Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.	In Article 10(3)(b), the words from "without prejudice" to "on sale),".
1980 c. 48.	The Finance Act 1980.	In Schedule 18, in paragraph 12(1), the words "or under section 74 of the Finance (1909-1910) Act 1910".
1981 c. 35.	The Finance Act 1981.	Section 107(2).
1982 c. 39.	The Finance Act 1982.	In section 129(1), paragraph (b) and the word "or" immediately preceding it.
1983 c. 49.	The Finance (No. 2) Act 1983.	Section 15(2).

(2) FIXED DUTIES

Chapter	Short Title	Extent of Repeal
1843 c. 86.	The London Hackney Carriages Act 1843.	In section 23, the words "and no such agreement shall be liable to any stamp duty".
1845 c. 118.	The Inclosure Act 1845.	In section 163, the words ", or power of attorney,".
1891 c. 39.	The Stamp Act 1891.	In section 59, in subsection (2) the words "except where appropriate with the fixed duty of 50p" and in subsection (5) the words "is stamped with the fixed duty of 50p or".  In Schedule 1, the whole of the headings mentioned in Schedule 24 to this Act (with the words "And

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Chapter	Short Title	Extent of Repeal
		any" preceding "Notarial instrument") and the whole of the headings beginning "Attorney, letter, or power of", "Attorney, warrant of", "Clare constat", "Commission in the nature of a power of attorney in Scotland", "Factory, in the nature of a letter or power of attorney in Scotland", "Power of attorney" and "Proxy".
1909 c. 43.	The Revenue Act 1909.	Section 9.
1913 c. 20.	The Bankruptcy (Scotland) Act 1913.	In section 189, the words " powers of attorney, commissions, factories,".
1914 c. 59.	The Bankruptcy Act 1914.	In section 148, the words " power of attorney, proxy paper".
1917 c. 31.	The Finance Act 1917.	Section 30(1).
1921 c. 32.	The Finance Act 1921.	In Schedule 3, paragraph 4.
1923 c.26 (N.I.).	The Finance Act (Northern Ireland) 1923.	In section 4, the words "power of attorney or other".
1924 c. 27.	The Conveyancing (Scotland) Act 1924.	Section 6(2). Section 42(2).
1927 c. 10.	The Finance Act 1927.	Section 56.
1928 c. 9. (N.I.).	The Finance Act (Northern Ireland) 1928.	Section 5.
1929 c 29.	The Government Annuities Act 1929.	In section 22(1) (f), the words "(except a power of attorney)". In section 58, paragraph (d).
1949 c. 47.	The Finance Act 1949.	In Schedule 8, in Part I, paragraphs 17 and 18.
1949 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1949.	In Schedule 2, in Part I, paragraphs 16 and 17.
1954 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1954.	Section 9.
1960 c. 22 (N.I.)	The Companies Act (Northern Ireland) 1960.	In section 304A, in subsection (1)(b) the words "power of attorney, proxy paper".

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Chapter	Short Title	Extent of Repeal
1962 c. 37.	The Building Societies Act 1962.	In section 117, paragraph (b).
1967 c. 31. (N.I.).	The Building Societies Act (Northern Ireland) 1967.	In section 118, subsection(1) (b).
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraph 1(3) (c) and the word "and" immediately preceding it, and paragraph 4.
1970 c. 21. (N.I.).	The Finance Act (Northern Ireland) 1970.	In Schedule 2, paragraph 1(3) (c) and the word "and" immediately preceding it, and paragraph 4.
1970 c. 31. (N.I.).	The Friendly Societies Act (Northern Ireland) 1970.	In section 69, paragraph (b).
1974 c. 46.	The Friendly Societies Act 1974.	In section 105, paragraph (a).
1980 c. 48.	The Finance Act 1980.	Section 99.
1983 c. 2.	The Representation of the People Act 1983.	Section 21(7).
1983 c. 28.	The Finance Act 1983.	In section 46(3)(c), the words "section 99 of the Finance Act 1980 and".
1985 c. 6.	The Companies Act 1985.	In section 638, in subsection (1)(b) the words "power of attorney, proxy paper", and in subsection (3) (b) the words "power of attorney, commission, factory".
1985 c. 50.	The Representation of the People Act 1985.	Section 8(11).

(3) CONTRACT NOTES

Chapter	Short Title	Extent of Repeal
1891 c. 39.	The Stamp Act 1891.	Section 8. Section 10.
1910 c. 8.	The Finance (1909-10) Act 1910.	In section 77, subsections (1), (2) and (4). In section 78, subsections (2), (4) and (5). In section 79, in subsection (1) the words from

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Chapter	Short Title	Extent of Repeal
<a href="#">1966 c. 18.</a>	The Finance Act 1966.	"but" to" each option", and subsection (2). Section 46.
<a href="#">1966 c. 21 (N.I.).</a>	The Finance Act (Northern Ireland) 1966.	Section 4.
<a href="#">1970 c. 24.</a>	The Finance Act 1970.	In Schedule 7, in paragraph 9, sub-paragraph (1), in subparagraph (2) the words "In consequence of subparagraph (1) above," and subparagraph (3).
<a href="#">1970 c. 21 (N.I.).</a>	The Finance Act (Northern Ireland) 1970.	In Schedule 2, in paragraph 9, sub-paragraph (1), in subparagraph (2) the words "In consequence of subparagraph (1) above," and sub-paragraph (3).

## (4) EXCHANGE RATES

Chapter	Short Title	Extent of Repeal
<a href="#">1899 c. 9.</a>	The Finance Act 1899.	Section 12. The Schedule.

## (5) FINANCE ACT 1931

Chapter	Short Title	Extent of Repeal
<a href="#">1931 c. 28.</a>	The Finance Act 1931.	Section 35(x).

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The repeals under (4) above apply to instruments executed on or after 1st August 1985.

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## PART X

### DEVELOPMENT LAND TAX AND TAX ON DEVELOPMENT GAINS

Chapter	Short Title	Extent of Repeal
1974 c. 30.	The Finance Act 1974.	Sections 38 to 47. Section 57(3)(c). Schedules 3 and 4. Schedules 6 to 10.
1976 c. 24.	The Development Land Tax Act 1976.	The whole Act.
1976 c. 40.	The Finance Act 1976.	Section 129.
1976 c. 75.	The Development of Rural Wales Act 1976.	Section 31.
1977 c. 36.	The Finance Act 1977.	Section 55.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 114. In Schedule 7, paragraphs 3, 4 and 6; in paragraph 8, item 6 of Part I of the Table; and in the Table in paragraph 9 all the entries relating to the Finance Act 1974 except those relating to sections 26(2)(a) and 30(1).
1979 c. 47.	The Finance (No. 2) Act 1979.	Section 24. In Schedule 4, paragraph 4.
1980 c. 48.	The Finance Act 1980.	Sections 110 to 116. Section 118(4). In Schedule 18, paragraphs 11 and 16.
1981 c. 35.	The Finance Act 1981.	Sections 129 to 133.
1982 c. 39.	The Finance Act 1982.	Section 155.
1983 c. 28.	The Finance Act 1983.	Section 46(4).

- The repeals in the Finance Act 1974, the Finance Act 1976, the Capital Gains Tax Act 1979 and section 99(3) of the Finance Act 1984—
  - do not have effect in relation to a disposal of an interest inland, as defined in section 93(6) of this Act, which takes place before 19th March 1985; and
  - do not affect the construction of paragraph 9 of Schedule 5 to the Capital Gains Tax Act 1979 (of which sub-paragraph (5) adopts for the purposes of that paragraph certain provisions of the Finance Act 1974).
- The other repeals in this Part and the repeal of section 114 of and paragraph 6 of Schedule 7 to the Capital Gains Tax Act 1979 do not have effect in relation to a disposal, as defined in section 93(1) of this Act, which takes place before 19th March 1985.

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

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Chapter	Short Title	Extent of Repeal
1983 c. 49.	The Finance (No. 2) Act 1983.	Section 14.
1984 c. 43.	The Finance Act 1984.	In section 99, in subsection (2) the words from " and accordingly" onwards and subsection (3).  Sections 118 to 123.  In Schedule 21, paragraphs 18 and 19.
1984 c. 51.	The Capital Transfer Tax Act 1984.	In Schedule 8, paragraph 5.

1. The repeals in the Finance Act 1974, the Finance Act 1976, the Capital Gains Tax Act 1979 and section 99(3) of the Finance Act 1984—
    - (a) do not have effect in relation to a disposal of an interest inland, as defined in section 93(6) of this Act, which takes place before 19th March 1985; and
    - (b) do not affect the construction of paragraph 9 of Schedule 5 to the Capital Gains Tax Act 1979 (of which sub-paragraph (5) adopts for the purposes of that paragraph certain provisions of the Finance Act 1974).
  2. The other repeals in this Part and the repeal of section 114 of and paragraph 6 of Schedule 7 to the Capital Gains Tax Act 1979 do not have effect in relation to a disposal, as defined in section 93(1) of this Act, which takes place before 19th March 1985.
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## PART XI

### MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
1984 c. 51.	The Capital Transfer Tax Act 1984.	In section 32, subsections (6) and (7).

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These repeals have effect in relation to events on or after 19th March 1985.

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