Finance Act 1986

1986 CHAPTER 41

PART III

STAMP DUTY

Securities

64 Stock or marketable securities: reduction of rate

(1) In section 55 of the Finance Act 1963 and in section 4 of the Finance Act (Northern Ireland) 1963 (duty on conveyance or transfer on sale) after subsection (1) there shall be inserted—

“(1A) In relation to duty chargeable under or by reference to the heading mentioned in subsection (1) above as it applies to a conveyance or transfer of stock or marketable securities, that subsection shall have effect as if for the words from "following rates" to the end of paragraph (c) there were substituted the words "rate of 50p for every £100 or part of £100 of the consideration”.

(2) Accordingly—

(a) in subsection (1) of each of those sections for the words "(2) and" there shall be substituted the words "(1A) to";

(b) in subsection (2) of each of those sections for the words from "under" to "by reference to that heading" there shall be substituted the words "by reference to the heading mentioned in subsection (1) above."

(3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

65 Bearers: consequential provisions etc.

(1) In the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891, in column (2) (duty on certain overseas bearer instruments twice the transfer duty) for the word "twice" there shall be substituted the words "three times".

(2) The following shall be inserted at the end of section 59(3) of the Finance Act 1963 (meaning of "transfer duty" for purposes of "Bearer Instrument" heading)—

> "; and the instrument so postulated shall be taken to transfer the stock on the day of issue or transfer (depending on whether section 60(1) or (2) of this Act applies) and to be executed in pursuance of a contract made on that day."

(3) The following shall be inserted at the end of section 8(3) of the Finance Act (Northern Ireland) 1963 (equivalent provision for Northern Ireland)—

> "; and the instrument so postulated shall be taken to transfer the stock on the day of issue or transfer (depending on whether paragraph (a) or (b) of section 9(1) applies) and to be executed in pursuance of a contract made on that day."

(4) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued on or after the day of The Stock Exchange reforms.

(5) This section applies to any instrument which falls within section 60(2) of that Act if the stock constituted by or transferable by means of it is transferred on or after the day of The Stock Exchange reforms.

(6) In this section "the day of The Stock Exchange reforms" means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

(7) In subsection (4) above the reference to section 60(1) of the Finance Act 1963 includes a reference to section 9(1)(a) of the Finance Act (Northern Ireland) 1963 and in subsection (5) above the reference to section 60(2) of the former Act includes a reference to section 9(1)(b) of the latter.

66 Company's purchase of own shares

(1) This section applies where a company purchases its own shares under section 162 of the Companies Act 1985 or Article 47 of the Companies (Northern Ireland) Order 1982.

(2) The return which relates to the shares purchased and is delivered to the registrar of companies under section 169 of that Act or, as the case may be, Article 53 of that Order shall be charged with stamp duty, and treated for all purposes of the Stamp Act 1891, as if it were an instrument transferring the shares on sale to the company in pursuance of the contract (or contracts) of purchase concerned.

(3) Subject to subsection (4) below, this section applies to any return under section 169 of the Companies Act 1985, or Article 53 of the Companies (Northern Ireland) Order 1982, which is delivered to the registrar of companies on or after the day of The Stock Exchange reforms.

(4) This section does not apply to any return to the extent that the shares to which it relates were purchased under a contract entered into before the day of The Stock Exchange reforms.

(5) In this section "the day of The Stock Exchange reforms" means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

Depositary receipts

67 Depositary receipts

(1) Subject to subsection (9) below, subsection (2) or (3) below (as the case may be) applies where an instrument transfers relevant securities of a company incorporated in the United Kingdom to a person who at the time of the transfer falls within subsection (6), (7) or (8) below.

(2) If stamp duty is chargeable on the instrument under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of £1-50 for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(3) If stamp duty is chargeable on the instrument under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall (subject to subsections (4) and (5) below) be the rate of £1-50 for every £100 or part of £100 of the value of the securities at the date the instrument is executed.

(4) Subsection (3) above shall have effect as if "£1-50" read "£1" in a case where—
- (a) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (b) the transfer is made for the purposes of the dealer's business,
- (c) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (d) the instrument contains a statement that paragraphs (a) to (c) above are fulfilled.

(5) In a case where—
- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) the transfer to the other person is effected by an instrument in the case of which subsection (3) above applies,
- (d) before the execution of the instrument mentioned in paragraph (c) above an instrument is received by a person falling (at the time of the receipt) within subsection (6), (7) or (8) below,
- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
- (f) the instrument mentioned in paragraph (c) above contains a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (3) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(6) A person falls within this subsection if his business is exclusively that of holding relevant securities—

(a) as nominee or agent for a person whose business is or includes issuing depositary receipts for relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of issuing such depositary receipts (in a case where the business does not consist exclusively of that).

(7) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument, and

(b) his business is or includes issuing depositary receipts for relevant securities.

(8) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument,

(b) he does not fall within subsection (6) above but his business includes holding relevant securities as nominee or agent for a person who falls within subsection (7)(b) above at the time of the transfer, and

(c) he holds relevant securities as nominee or agent for such a person, for the purposes of such part of that person's business as consists of issuing depositary receipts for relevant securities (in a case where that business does not consist exclusively of that).

(9) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom—

(a) to a company which at the time of the transfer falls within subsection (6) above and is resident in the United Kingdom, and

(b) from a company which at that time falls within that subsection and is so resident,

subsections (2) to (5) above shall not apply and the maximum stamp duty chargeable on the instrument shall be 50p.

(10) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

68 Depositary receipts: notification

(1) A person whose business is or includes issuing depositary receipts for relevant securities of a company incorporated in the United Kingdom shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first issues such depositary receipts.

(2) A person whose business includes (but does not exclusively consist of) holding relevant securities (being securities of a company incorporated in the United Kingdom)—

(a) as nominee or agent for a person whose business is or includes issuing depositary receipts for relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of issuing such depositary receipts (in a case where the business does not consist exclusively of that),

shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first holds such relevant securities as such a nominee or agent and for such purposes.

(3) A company which is incorporated in the United Kingdom and becomes aware that any shares in the company are held by a person such as is mentioned in subsection (1) or (2) above shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which the company first becomes aware of that fact.

(4) A person who fails to comply with subsection (1) or (2) above shall be liable to a fine not exceeding £1,000.

(5) A company which fails to comply with subsection (3) above shall be liable to a fine not exceeding £100.

(6) Section 121 of the Stamp Act 1891 (recovery of penalties) shall apply to fines under subsection (4) or (5) above as it applies to fines imposed by that Act.

69 Depositary receipts: supplementary

(1) For the purposes of sections 67 and 68 above a depositary receipt for relevant securities is an instrument acknowledging—

(a) that a person holds relevant securities or evidence of the right to receive them, and

(b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to relevant securities of the same kind, including the right to receive such securities (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,

except that for those purposes a depositary receipt for relevant securities does not include an instrument acknowledging rights in or in relation to securities if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.

(2) The Treasury may by regulations provide that for subsection (1) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt for the purposes of sections 67 and 68 above.

(3) References in this section and sections 67 and 68 above to relevant securities, or to relevant securities of a company, are to shares in or stock or marketable securities of any company (which, unless otherwise stated, need not be incorporated in the United Kingdom).

(4) For the purposes of section 67(3) above the value of securities at the date the instrument is executed shall be taken to be the price they might reasonably be expected to fetch on a sale at that time in the open market.

(5) Where section 67(3) above applies, section 15(2) of the Stamp Act 1891 (stamping of instruments after execution) shall have effect as if the instrument were specified in the

first column of the table in paragraph (d) and the transferee were specified (opposite the instrument) in the second.

(6) For the purposes of section 67(4) above a person is a qualified dealer in securities of a particular kind if he deals in securities of that kind and—

(a) is a member of a recognised stock exchange (within the meaning given by section 535 of the Taxes Act), or

(b) is designated a qualified dealer by order made by the Treasury.

(7) For the purposes of section 67(4) above a person is a market maker in securities of a particular kind if he—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.

(8) The Treasury may by regulations provide that for subsection (7) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of section 67(4) above.

(9) The power to make regulations or an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Clearance services

70 Clearance services

(1) Subject to subsection (9) below, subsection (2) or (3) below (as the case may be) applies where an instrument transfers relevant securities of a company incorporated in the United Kingdom to a person who at the time of the transfer falls within subsection (6), (7) or (8) below.

(2) If stamp duty is chargeable on the instrument under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of £1.50 for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(3) If stamp duty is chargeable on the instrument under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall (subject to subsections (4) and (5) below) be the rate of £1.50 for every £100 or part of £100 of the value of the securities at the date the instrument is executed.

(4) Subsection (3) above shall have effect as if "£1.50" read "£1" in a case where—

(a) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,

(b) the transfer is made for the purposes of the dealer's business,

(c) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and

(d) the instrument contains a statement that paragraphs (a) to (c) above are fulfilled.

(5) In a case where—

(a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,

(b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,

(c) the transfer to the other person is effected by an instrument in the case of which subsection (3) above applies,

(d) before the execution of the instrument mentioned in paragraph (c) above an instrument is received by a person falling (at the time of the receipt) within subsection (6), (7) or (8) below,

(e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and

(f) the instrument mentioned in paragraph (c) above contains a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (3) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(6) A person falls within this subsection if his business is exclusively that of holding relevant securities—

(a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that).

(7) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument, and

(b) his business is or includes the provision of clearance services for the purchase and sale of relevant securities.

(8) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument,

(b) he does not fall within subsection (6) above but his business includes holding relevant securities as nominee or agent for a person who falls within subsection (7)(b) above at the time of the transfer, and

(c) he holds relevant securities as nominee or agent for such a person, for the purposes of such part of that person's business as consists of the provision of clearance services for the purchase and sale of relevant securities (in a case where that business does not consist exclusively of that).

(9) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom—

(a) to a company which at the time of the transfer falls within subsection (6) above and is resident in the United Kingdom, and

(b) from a company which at that time falls within that subsection and is so resident, subsections (2) to (5) above shall not apply and the maximum stamp duty chargeable on the instrument shall be 50p.

(10) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

71 Clearance services: notification

(1) A person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities of a company incorporated in the United Kingdom shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first provides such clearance services.

(2) A person whose business includes (but does not exclusively consist of) holding relevant securities (being securities of a company incorporated in the United Kingdom)—

(a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that),

shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first holds such relevant securities as such a nominee or agent and for such purposes.

(3) A company which is incorporated in the United Kingdom and becomes aware that any shares in the company are held by a person such as is mentioned in subsection (1) or (2) above shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which the company first becomes aware of that fact.

(4) A person who fails to comply with subsection (1) or (2) above shall be liable to a fine not exceeding £1,000.

(5) A company which fails to comply with subsection (3) above shall be liable to a fine not exceeding £100.

(6) Section 121 of the Stamp Act 1891 (recovery of penalties) shall apply to fines under subsection (4) or (5) above as it applies to fines imposed by that Act.

72 Clearance services: supplementary

(1) References in sections 70 and 71 above to relevant securities, or to relevant securities of a company, are to shares in or stock or marketable securities of any company (which, unless otherwise stated, need not be incorporated in the United Kingdom).

(2) For the purposes of section 70(3) above the value of securities at the date the instrument is executed shall be taken to be the price they might reasonably be expected to fetch on a sale at that time in the open market.

(3) Where section 70(3) above applies, section 15(2) of the Stamp Act 1891 (stamping of instruments after execution) shall have effect as if the instrument were specified in the first column of the table in paragraph (d) and the transferee were specified (opposite the instrument) in the second.

(4) For the purposes of section 70(4) above "qualified dealer" and "market maker" have at any particular time the same meanings as they have at that time for the purposes of section 67(4) above.

Reconstructions and acquisitions

73 Reconstructions etc: amendments

(1) In section 55 of the Finance Act 1927 and in section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations) in paragraph (B) of subsection (1) for the words "not be chargeable" there shall be substituted the words "be chargeable at the rate mentioned in subsection (9) of this section" and for the words "nor shall any such duty be chargeable" there shall be substituted the word "or".

(2) In consequence, each of those sections shall be further amended as follows—

(a) at the beginning of paragraph (B) of subsection (1) there shall be inserted the words "If a claim is made under this section";

(b) in paragraph (a) of the proviso to subsection (1) the words from "either it" to "liable or" and from "either that" to "duty or" shall be omitted, and in paragraph (c) of that proviso the words "for exemption" shall be omitted;

(c) in subsection (2) for the words "for exemption under paragraph (B) of subsection (1) of there shall be substituted the word "under";

(d) in subsection (5) the words "for exemption" shall be omitted;

(e) in subsection (6), in paragraph (a) the words " for exemption from duty" shall be omitted, in paragraph (c) for the word "exemption" there shall be substituted the word "claim", and in the words following paragraph (c) for the word "exemption" there shall be substituted the word "claim", for the word "remitted" (in the first place where it occurs) there shall be substituted the word "unpaid" and the words from "in the case of duty remitted under paragraph (A)" to "the said subsection" shall be omitted;

(f) in subsection (7) for the words "for exemption from duty under subsection (1) of there shall be substituted the word "under", for the words "such exemption" there shall be substituted the words "such a claim to be allowed" and for the words "have been remitted" there shall be substituted the words "not have been chargeable".

(3) At the end of each of those sections there shall be inserted—

“(9) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.”

(4) In paragraph 12 of Schedule 18 to the Finance Act 1980 (demergers) for sub-paragraph (1) there shall be substituted—

“(1) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the document gives effect.

(1A) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, it shall not be treated as duly stamped unless it is stamped in accordance with section 12 of the Stamp Act 1891 with a particular stamp denoting that it is duly stamped."

(5) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words "this paragraph" there shall be substituted the words "sub-paragraph (2) above".

(6) In section 78 of the Finance Act 1985 (takeovers) the following shall be substituted for subsection (2)—

"(2) If the instrument transferring the shares in company B by way of the exchange is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect."

(7) In section 79 of the Finance Act 1985 (voluntary winding-up: transfer of shares) the following shall be substituted for subsection (2)—

"(2) If the instrument transferring the shares in company B to company A is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect."

(8) In section 78 and in section 79 of the Finance Act 1985—

(a) in subsection (3) for the word "ignored" there shall be substituted the words "treated as reduced by 50 per cent.";

(b) subsection (9) shall be omitted;

(c) in subsection (10) for "(3)" there shall be substituted "(2) or (3)".

(9) This section applies to any instrument which is executed after 24th March 1986 unless—

(a) it is executed in pursuance of an unconditional contract made on or before 18th March 1986, or

(b) it transfers stock or marketable securities and is executed in pursuance of a general offer (for the stock or securities) which became unconditional as to acceptances on or before 18th March 1986.

(10) This section shall be deemed to have come into force on 25th March 1986.

74 Reconstructions etc: repeals

(1) The following provisions shall cease to have effect—

(a) section 55 of the Finance Act 1927 and section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations);

(b) paragraph 12(1) and (1A) of Schedule 18 to the Finance Act 1980 (demergers);

(c) sections 78, 79 and 80 of the Finance Act 1985 (takeovers and winding-up).

(2) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words "sub-paragraph (2) above" there shall be substituted the words "this paragraph".

(3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

75 Acquisitions: reliefs

(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company) in pursuance of a scheme for the reconstruction of the target company.

(2) If the first and second conditions (as defined below) are fulfilled, 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 executed for the purposes of or in connection with the transfer of the undertaking or part.

(3) An instrument on 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.

(4) The first condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

(a) consists of or includes the issue of shares in the acquiring company to all the shareholders of the target company;

(b) includes nothing else (if anything) but the assumption or discharge by the acquiring company of liabilities of the target company.

(5) The second condition is that—

(a) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax or capital gains tax,

(b) after the acquisition has been made, each shareholder of each of the companies is a shareholder of the other, and

(c) after the acquisition has been made, the proportion of shares of one of the companies held by any shareholder is the same as the proportion of shares of the other company held by that shareholder.

(6) This section applies to any instrument which is executed after 24th March 1986 unless it is executed in pursuance of an unconditional contract made on or before 18th March 1986.

(7) This section shall be deemed to have come into force on 25th March 1986.

76 Acquisitions: further provisions about reliefs

(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company).

(2) If the condition mentioned in subsection (3) below is fulfilled, and stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument executed for the purposes of or in connection with—

(a) the transfer of the undertaking or part, or

(b) the assignment to the acquiring company by a creditor of the target company of any relevant debts (secured or unsecured) owed by the target company,

the rate at which the duty is charged under that heading shall not exceed that mentioned in subsection (4) below.

(3) The condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

(a) consists of or includes the issue of shares in the acquiring company to the target company or to all or any of its shareholders;

(b) includes nothing else (if anything) but cash not exceeding 10 per cent, of the nominal value of those shares, or the assumption or discharge by the acquiring company of liabilities of the target company, or both.

(4) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(5) An instrument on which, by virtue only of subsection (2) above, the rate at which stamp duty is charged is not to exceed that mentioned in subsection (4) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for subsection (2) above 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.

(6) In subsection (2)(b) above "relevant debts" means—

(a) any debt in the case of which the assignor is a bank or trade creditor, and

(b) any other debt incurred not less than two years before the date on which the instrument is executed.

(7) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

77 Acquisition of target company's share capital

(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 transferring shares in one company (the target company) to another company (the acquiring company) if the conditions mentioned in subsection (3) below are fulfilled.

(2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) 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.

(3) The conditions are that—

(a) the registered office of the acquiring company is in the United Kingdom,

(b) the transfer forms part of an arrangement by which the acquiring company acquires the whole of the issued share capital of the target company,

(c) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, stamp duty reserve tax, income tax, corporation tax or capital gains tax,

(d) the consideration for the acquisition consists only of the issue of shares in the acquiring company to the shareholders of the target company,

(e) after the acquisition has been made, each person who immediately before it was made was a shareholder of the target company is a shareholder of the acquiring company,

(f) after the acquisition has been made, the shares in the acquiring company are of the same classes as were the shares in the target company immediately before the acquisition was made,

(g) after the acquisition has been made, the number of shares of any particular class in the acquiring company bears to all the shares in that company the same proportion as the number of shares of that class in the target company bore to all the shares in that company immediately before the acquisition was made, and

(h) after the acquisition has been made, the proportion of shares of any particular class in the acquiring company held by any particular shareholder is the same as the proportion of shares of that class in the target company held by him immediately before the acquisition was made.

(4) In this section references to shares and to share capital include references to stock.

(5) This section applies to any instrument executed on or after 1st August 1986.

Loan capital, letters of allotment etc.

78 Loan capital

(1) This section (which reproduces the effect of a resolution having statutory effect under section 50 of the Finance Act 1973 for the period beginning on 25th March 1986 and ending on 6th July 1986) shall be deemed to have had effect during, and only during, that period.

(2) The following provisions shall not apply—

(a) in section 62 of the Finance Act 1963, subsections (2) and (6) (commonwealth stock);

(b) in section 11 of the Finance Act (Northern Ireland) 1963, subsections (2) and (5) (commonwealth stock);

(c) section 29 of the Finance Act 1967 (local authority capital);

(d) section 6 of the Finance Act (Northern Ireland) 1967 (local authority capital);

(e) section 126 of the Finance Act 1976 (loan capital).

(3) Stamp duty under the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the issue of an instrument which relates to loan capital or on the transfer of the loan capital constituted by, or transferable by means of, such an instrument.

(4) Stamp duty shall not be chargeable on an instrument which transfers loan capital issued or raised by—

(a) the financial support fund of the Organisation for Economic Co-operation and Development,
(b) the Inter-American Development Bank, or
(c) an organisation which was a designated international organisation at the time of the transfer (whether or not it was such an organisation at the time the loan capital was issued or raised).

(5) Stamp duty shall not be chargeable on an instrument which transfers short-term loan capital.

(6) Where stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument which transfers loan capital, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(7) In this section "loan capital" means—
(a) any debenture stock, corporation stock or funded debt, by whatever name known, issued by a body corporate or other body of persons (which here includes a local authority and any body whether formed or established in the United Kingdom or elsewhere);
(b) any capital raised by such a body if the capital is borrowed or has the character of borrowed money, and whether it is in the form of stock or any other form;
(c) stock or marketable securities issued by the government of any country or territory outside the United Kingdom.

(8) In this section "short-term loan capital" means loan capital the date (or latest date) for the repayment of which is not more than 5 years after the date on which it is issued or raised.

(9) In this section "designated international organisation" means an international organisation designated for the purposes of section 126 of the Finance Act 1984 by an order made under subsection (1) of that section.

(10) In construing sections 80(3) and 81(3) of the Finance Act 1985 (definitions by reference to section 126 of the Finance Act 1976) the effect of this section shall be ignored.

(11) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 24th March 1986 and before 7th July 1986.

(12) This section applies to any instrument which falls within section 60(2) of that Act if the loan capital constituted by or transferable by means of it is transferred after 24th March 1986 and before 7th July 1986.

(13) This section applies, in the case of instruments not falling within section 60(1) or (2) of that Act, to any instrument which is executed after 24th March 1986 and before 7th July 1986, unless it is executed in pursuance of a contract made on or before 18th March 1986.

(14) In this section references to section 60(1) of the Finance Act 1963 include references to section 9(1)(a) of the Finance Act (Northern Ireland) 1963 and references to section 60(2) of the former Act include references to section 9(1)(b) of the latter.

79 Loan capital: new provisions

(1) The following provisions shall cease to have effect—

(a) in section 62 of the Finance Act 1963, subsections (2) and (6) (commonwealth stock);

(b) in section 11 of the Finance Act (Northern Ireland) 1963, subsections (2) and (5) (commonwealth stock);

(c) section 29 of the Finance Act 1967 (local authority capital);

(d) section 6 of the Finance Act (Northern Ireland) 1967 (local authority capital);

(e) section 126 of the Finance Act 1976 (loan capital).

(2) Stamp duty under the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the issue of an instrument which relates to loan capital or on the transfer of the loan capital constituted by, or transferable by means of, such an instrument.

(3) Stamp duty shall not be chargeable on an instrument which transfers loan capital issued or raised by—

(a) the financial support fund of the Organisation for Economic Co-operation and Development,

(b) the Inter-American Development Bank, or

(c) an organisation which was a designated international organisation at the time of the transfer (whether or not it was such an organisation at the time the loan capital was issued or raised).

(4) Subject to subsections (5) and (6) below, stamp duty shall not be chargeable on an instrument which transfers any other loan capital.

(5) Subsection (4) above does not apply to an instrument transferring loan capital which, at the time the instrument is executed, carries a right (exercisable then or later) of conversion into shares or other securities, or to the acquisition of shares or other securities, including loan capital of the same description.

(6) Subject to subsection (7) below, subsection (4) above does not apply to an instrument transferring loan capital which, at the time the instrument is executed or any earlier time, carries or has carried—

(a) a right to interest the amount of which exceeds a reasonable commercial return on the nominal amount of the capital,

(b) a right to interest the amount of which falls or has fallen to be determined to any extent by reference to the results of, or of any part of, a business or to the value of any property, or

(c) a right on repayment to an amount which exceeds the nominal amount of the capital and is not reasonably comparable with what is generally repayable (in respect of a similar nominal amount of capital) under the terms of issue of loan capital listed in the Official List of The Stock Exchange.

(7) Subsection (4) above shall not be prevented from applying to an instrument by virtue of subsection (6)(a) or (c) above by reason only that the loan capital concerned carries a right to interest, or (as the case may be) to an amount payable on repayment, determined to any extent by reference to an index showing changes in the general level of prices payable in the United Kingdom over a period substantially corresponding to the period between the issue or raising of the loan capital and its repayment.

(8) Where stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument which transfers loan capital, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(9) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 31st July 1986.

(10) This section applies to any instrument which falls within section 60(2) of that Act if the loan capital constituted by or transferable by means of it is transferred after 31st July 1986.

(11) This section applies, in the case of instruments not falling within section 60(1) or (2) of that Act, to any instrument which is executed after 31st July 1986.

(12) Subsections (7), (9), (10) and (14) of section 78 above shall apply as if references to that section included references to this.

80 Bearer letters of allotment etc.

(1) In Schedule 1 to the Stamp Act 1891, in the heading "Bearer Instrument", paragraph 2 of the exemptions (bearer letter of allotment etc. required to be surrendered not later than six months after issue) shall be omitted.

(2) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 24th March 1986, unless it is issued by a company in pursuance of a general offer for its shares and the offer became unconditional as to acceptances on or before 18th March 1986.

(3) This section applies to any instrument which falls within section 60(2) of that Act if the stock constituted by or transferable by means of it is transferred after 24th March 1986.

(4) In this section the reference to section 60(1) of the Finance Act 1963 includes a reference to section 9(1)(a) of the Finance Act (Northern Ireland) 1963 and the reference to section 60(2) of the former Act includes a reference to section 9(1)(b) of the latter.

(5) This section shall be deemed to have come into force on 25th March 1986.

Changes in financial institutions

81 Sales to market makers

(1) Stamp duty shall not be chargeable on an instrument transferring stock on sale to a person or his nominee if it is shown to the satisfaction of the Commissioners that the transaction to which the instrument gives effect was carried out by the person in the ordinary course of his business as a market maker in stock of the kind transferred.

(2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) above shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything

in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.

(3) For the purposes of this section a person is a market maker in stock of a particular kind if he—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.

(4) Subject to subsection (6) below, this section applies to any instrument giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) The Treasury may by regulations provide that for subsection (3) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(6) Regulations under subsection (5) above shall apply in relation to any instrument giving effect to a transaction carried out on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(7) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

82 Borrowing of stock by market makers

(1) This section applies where a person (A) has contracted to sell stock in the ordinary course of his business as a market maker in stock of that kind and, to enable him to fulfil the contract, he enters into an arrangement under which—

(a) another person (B), who is not a market maker in stock of the kind concerned or a nominee of such a market maker, is to transfer stock to A or his nominee, and

(b) in return stock of the same kind and amount is to be transferred (whether or not by A or his nominee) to B or his nominee.

(2) This section also applies where, to enable B to make the transfer to A or his nominee, B enters into an arrangement under which—

(a) another person (C), who is not a market maker in stock of the kind concerned or a nominee of such a market maker, is to transfer stock to B or his nominee, and

(b) in return stock of the same kind and amount is to be transferred (whether or not by B or his nominee) to C or his nominee.

(3) The maximum stamp duty chargeable on an instrument effecting a transfer to B or his nominee or C or his nominee in pursuance of an arrangement mentioned in subsection (1) or (2) above shall be 50p.

(4) For the purposes of this section a person is a market maker in stock of a particular kind if he—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.

(5) Subject to subsection (7) below, this section applies to any instrument effecting a transfer in pursuance of an arrangement entered into on or after the day of The Stock Exchange reforms.

(6) The Treasury may by regulations provide that for subsection (3) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(7) Regulations under subsection (6) above shall apply in relation to any instrument effecting a transfer in pursuance of an arrangement entered into on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(8) The power to make regulations under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

83 Composition agreements

(1) In section 33(1) of the Finance Act 1970 (composition by stock exchanges in respect of transfer duty)—

(a) for the words "any recognised stock exchange" there shall be substituted "any recognised investment exchange or recognised clearing house", and

(b) the following shall be substituted for the words from In this subsection" to the end—

> "In this subsection 'recognised investment exchange' and 'recognised clearing house' have the same meanings as in the Financial Services Act 1986."

(2) The words "recognised investment exchange or recognised clearing house" shall be substituted for the words "stock exchange" in section 33(2)(b), (c) and (d), (4) and (5) of the Finance Act 1970.

(3) This section shall come into force on such day as the Commissioners may appoint by order made by statutory instrument.

84 Miscellaneous exemptions

(1) In section 127(1) of the Finance Act 1976 (no stamp duty on transfer to stock exchange nominee executed for purposes of a stock exchange transaction) the words "which is executed for the purposes of a stock exchange transaction" shall be omitted.

(2) Stamp duty shall not be chargeable on an instrument effecting a transfer of stock if—

(a) the transferee is a recognised investment exchange or a nominee of a recognised investment exchange, and

(b) an agreement which relates to the stamp duty which would (apart from this subsection) be chargeable on the instrument, and was made between the Commissioners and the investment exchange under section 33 of the Finance Act 1970, is in force at the time of the transfer.

(3) Stamp duty shall not be chargeable on an instrument effecting a transfer of stock if—

(a) the transferee is a recognised clearing house or a nominee of a recognised clearing house, and

(b) an agreement which relates to the stamp duty which would (apart from this subsection) be chargeable on the instrument, and was made between the Commissioners and the clearing house under section 33 of the Finance Act 1970, is in force at the time of the transfer.

(4) Subsection (1) above applies to any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) Subsection (2) above applies to any instrument giving effect to a transaction carried out on or after such day as the Commissioners may appoint by order made by statutory instrument.

(6) Subsection (3) above applies to any instrument giving effect to a transaction carried out on or after such day as the Commissioners may appoint by order made by statutory instrument.

85 Supplementary

(1) Section 42(1) of the Finance Act 1920 (reduction of duty in case of certain transfers to jobbers or nominees or qualified dealers) shall have effect, in the case of any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms as if the following were omitted—

(a) in that subsection, the words "a jobber or his nominee or to" and in the proviso to it the words "jobber or" (in each place);

(b) in subsection (3) of that section, paragraph (d) of the definition of "qualified dealer" (Stock Exchange brokers).

(2) Section 34 of the Finance Act 1961 and section 4 of the Finance Act (Northern Ireland) 1961 (borrowing of stock by jobbers) shall not apply where stock is transferred in discharge of an undertaking given on or after the day of The Stock Exchange reforms.

(3) Section 42(1) of the Finance Act 1920 shall not apply to any transfer giving effect to a transaction carried out on or after such day as is specified for this purpose in regulations made under section 81(5) above; and different days may be so specified for different purposes.

(4) Section 127(2) of the Finance Act 1976 (transfer otherwise than on sale from stock exchange nominee to jobber) shall not apply to any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) In sections 81, 82 and 84 above and this section—

(a) "the day of The Stock Exchange reforms" means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished,

(b) references to a recognised investment exchange are to a recognised investment exchange within the meaning of the Financial Services Act 1986,

(c) references to a recognised clearing house are to a recognised clearing house within the meaning of the Financial Services Act 1986, and

(d) "stock" includes marketable security.