

## SCHEDULES:

### SCHEDULE 4

Section 50.

#### BUSINESS EXPANSION SCHEME: PRIVATE RENTED HOUSING

#### PART I

#### MODIFICATIONS MADE BY SECTION 50

##### *Preliminary*

- 1 The modifications of Chapter III of Part VII of the Taxes Act 1988 (relief for investment in new corporate trades: the business expansion scheme) made by section 50 of this Act are as follows.

##### *The relief*

- 2 (1) In subsection (1) of section 289 (relief under the business expansion scheme), for paragraph (a) there shall be substituted—
- “(a) those shares are issued to him after the passing of the Finance Act 1988 and before the end of 1993 for the purpose of raising money for qualifying activities which are being carried on by the company or which it intends to carry on;”.
- (2) In subsection (8) of that section, for paragraph (a) there shall be substituted—
- “(a) in a case falling within subsection (1)(a) unless and until the company has carried on the activities for four months;”.
- (3) For subsection (9) of that section there shall be substituted—
- “(9) A claim for relief may be allowed under subsection (1)(a) at any time after the activities have been carried on by the company for four months, if the conditions for the relief are then satisfied.”
- (4) In subsection (12)(b) of that section, for the words from “either” onwards there shall be substituted the words “four years after that date”.
- (5) Subsection (13) of that section shall be omitted.

##### *Restriction of relief where amounts raised exceed permitted maximum*

- 3 (1) In subsection (1) of section 290A (restriction of relief where amounts raised exceed permitted maximum), for “£500,000” there shall be substituted “£5 million”.
- (2) In subsection (4) of that section, for the words “any trade or part of a trade” there shall be substituted the words “any qualifying activities” and for “£500,000”, in both places, there shall be substituted “£5 million”.

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(3) Subsections (6) to (8), (10) and (11) of that section shall be omitted.

*Individuals qualifying for relief*

4 In section 291 (individuals qualifying for relief), after subsection (1) there shall be inserted—

“(1A) An individual is connected with the company if—

- (a) he, or an associate of his, occupies or is a tenant of a dwelling-house in which the company holds an interest; and
- (b) the interest held by the company is superior to any interest in the dwelling-house held by the individual.”

*Parallel trades*

5 Section 292 (parallel trades) shall be omitted.

*Qualifying companies*

6 (1) For subsection (2) of section 293 (qualifying companies) there shall be substituted—

“(2) The company must, throughout the relevant period, be an unquoted company which is resident in the United Kingdom and not resident elsewhere, and be—

- (a) a company which exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities; or
- (b) a company whose activities consist wholly of—
  - (i) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or
  - (ii) both the holding of such shares or securities, or the making of such loans, and the carrying on of activities which do not include, to any substantial extent, activities which are not qualifying activities.”

(2) Subsections (4) and (9) to (11) of that section shall be omitted.

*Companies with interests in land etc.*

7 The following shall be omitted, namely—

- (a) section 294 (companies with interests in land);
- (b) section 295 (valuation of interests in land for purposes of section 294(1)(b)); and
- (c) section 296 (section 294 disapplied where amounts raised total £50,000 or more).

*Qualifying trades etc.*

8 The following shall also be omitted, namely—

- (a) section 297 (qualifying trades); and
- (b) section 298 (provisions supplementary to sections 293 and 297).

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### *Replacement capital*

- 9 (1) In subsection (1) of section 302 (replacement capital), for the words “carry on as its trade or as part of its trade a trade which was” there shall be substituted the words “carry on, as its activities or as part of its activities, activities which were” and for the words “of a trade” there shall be substituted the words “of activities”.
- (2) In subsection (2) of that section, for the words “the trade”, in each place where they occur, there shall be substituted the words “the activities”.
- (3) In subsection (4) of that section, for paragraph (a) there shall be substituted—
- “(a) the persons to whom activities belong and, where activities belong to two or more persons, their respective shares in those activities shall be determined in accordance with section 344(1)(a) and (b), (2) and (3) (those provisions having effect for this purpose with any necessary modifications);”.
- (4) In subsection (5) of that section, the definition of “trade” shall be omitted.

### *Claims*

- 10 In subsections (2) and (3) of section 306 (claims), for the words “the trade” there shall be substituted the words “the activities”.

### *Subsidiaries*

- 11 In subsection (1) of section 308 (application to subsidiaries), for paragraph (b) there shall be substituted—
- “(b) the subsidiary or, as the case may be, each subsidiary is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities;”.
- 12 In subsection (2) of section 309 (further provisions as to subsidiaries), for the words “a qualifying trade which is” there shall be substituted the words “qualifying activities which are” and for the words “subsections (8), (9), (12)(b)(ii) and (13)” there shall be substituted the words “subsections (8) and (9)”.

## **PART II**

### **DWELLING-HOUSES TO WHICH SECTION 50 DOES NOT APPLY**

#### *Expensive dwelling-houses*

- 13 (1) Section 50 of this Act does not apply to a dwelling-house the market value of which exceeds—
- (a) in the case of a dwelling-house in Greater London, £125,000;
- (b) in any other case, £85,000.
- (2) The market value of a dwelling-house at any date (“the valuation date”) shall be taken to be the price which, at the relevant date, it might reasonably have been expected to fetch on a sale in the open market—
- (a) on the assumptions as to state mentioned in sub-paragraph (3) below; and

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- (b) on the assumptions as to title mentioned in sub-paragraph (4) below;  
and in this paragraph “the relevant date” means the date of the issue of the shares or, if later, the date when the company or any of its subsidiaries first acquired an interest in the dwelling-house (or the land which comprises the dwelling-house).
- (3) The assumptions as to state are that, at the relevant date—
- (a) the dwelling-house was in the same state as at the valuation date; and
  - (b) that the locality in which the dwelling-house is situated was in the same state, so far as concerns the other premises situated in that locality and the occupation and use of those premises, the transport services and other facilities available in the locality, and other matters affecting the amenities of the locality, as at that date.
- (4) The assumptions as to title are—
- (a) where the dwelling-house is in England and Wales or Northern Ireland and is a house, that the vendor was selling for an estate in fee simple with vacant possession and that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be if conveyed in pursuance of the right to buy legislation;
  - (b) where the dwelling-house is in England and Wales or Northern Ireland and is a flat, that the vendor was granting a lease with vacant possession for a term of 125 years at a rent of £10 per annum and that the grant was to be made with the same rights and subject to the same burdens as it would be if made in pursuance of that legislation; and
  - (c) where the dwelling-house is in Scotland, that it was available with vacant possession and with no heritable security constituted over any interest in it.
- (5) In sub-paragraph (4) above “the right to buy legislation” means—
- (a) in relation to a dwelling-house in England and Wales, Part V of the Housing Act 1985;
  - (b) in relation to a dwelling-house in Northern Ireland, Chapter I of Part II of the Housing (Northern Ireland) Order 1983;
- and “flat” and “house” have the same meanings as in that legislation.
- (6) The Treasury may by order amend sub-paragraph (1) above by substituting a different amount for any amount for the time being specified there.

*Unfit and sub-standard dwelling-houses*

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Section 50 of this Act does not apply to—

- (a) a dwelling-house in England and Wales which is unfit for human habitation within the meaning of section 604 of the Housing Act 1985 or does not have all the standard amenities within the meaning of section 508 of that Act;
- (b) a dwelling-house in Scotland which does not meet the tolerable standard described, for the purposes of the Housing (Scotland) Act 1987, by section 86 of that Act or does not have all the standard amenities described in the first column of Part I of Schedule 18 to that Act; or
- (c) a dwelling-house in Northern Ireland which is unfit for human habitation within the meaning of Article 46 of the Housing (Northern Ireland) Order 1981 or does not have all the standard amenities within the meaning of Article 59 of the Housing (Northern Ireland) Order 1983.

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*Dwelling-houses already let etc.*

- 15 (1) Section 50 of this Act does not apply to a dwelling-house if—
- (a) before the relevant date, the company or any of its subsidiaries had entered into arrangements for letting the whole or any part of the dwelling-house;
  - (b) at that date, the whole or any part of the dwelling-house was let; or
  - (c) after that date, the whole or any part of the dwelling-house has been let otherwise than on a qualifying tenancy.
- (2) In this paragraph—
- “let” includes let under a licence and “letting” shall be construed accordingly;
  - “the relevant date” means the date when the company or any of its subsidiaries first acquired an interest in the dwelling-house (or the land which comprises the dwelling-house).

*Dwelling-houses already qualifying for relief*

- 16 (1) Section 50 of this Act does not apply to a dwelling-house if—
- (a) a certificate has been issued under section 306(2) of the Taxes Act 1988 (as modified by paragraph 10 above) by some other company (“the other company”); and
  - (b) at any time after the issue of the shares to which that certificate related, the conditions mentioned in sub-paragraph (2) below were satisfied in relation to the dwelling-house (or a dwelling-house the whole or any part of which has been converted into or consists of the whole or any part of the dwelling-house).
- (2) The conditions referred to in sub-paragraph (1) above are satisfied in relation to a dwelling-house at any time if, at that time—
- (a) the dwelling-house is a dwelling-house to which section 50 of this Act applies in relation to the other company or any of its subsidiaries; and
  - (b) an interest in the dwelling-house is owned by that company or any such subsidiary.

*Dwelling-houses qualifying for capital allowances*

- 17 Section 50 of this Act does not apply to a dwelling-house in respect of which the company is entitled to capital allowances under paragraph 2 of Schedule 12 to the Finance Act 1982.

*Interpretation of certain expressions: Scotland*

- 18 In the application of the above provisions of this Part to Scotland, references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract and for the purposes of paragraph 16(2) (b) above, a company or subsidiary shall be regarded as owning an interest during the period between its entering into such a contract as regards that interest and its acquiring the interest.