SCHEDULES

SCHEDULE 1

Section 1.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

	£
Wine or made-wine of a strength not exceeding 2 per cent.	12.06
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	20.09
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	28.12
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	36.17
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	44.20
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	120.54
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	199.04
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 18 per cent.	207.89
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	239.80
Wine or made-wine of a strength exceeding 22 per cent.	239.80plus £18.96 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.

SCHEDULE 2

Section 7.

AMENDMENTS RELATING TO BEER DUTY

General amendment of enactments relating to beer

1 Subject to section 7 of this Act and the following provisions of this Schedule—

(a) for the words “brewer for sale” or “brewers for sale”, wherever occurring in the Customs and Excise Acts 1979, the Licensing Act 1964 or the

Licensing (Scotland) Act 1976, there shall be substituted respectively the words "registered brewer" or "registered brewers"; and

(b) for the word "brew", "brews", "brewing" or "brewed", wherever occurring in those Acts in connection with worts or beer, there shall be substituted respectively the word "produce", "produces", "producing" or "produced".

The Alcoholic Liquor Duties Act 1979 (c. 4)

2 In section 1 of the Alcoholic Liquor Duties Act 1979, in subsection (3) (definition of beer)—

(a) for the words "on analysis of a sample is found to be" there shall be substituted the word "is"; and

(b) paragraph (b) and the word "or" immediately preceding it shall cease to have effect.

3 (1) In section 2 of that Act, in subsection (3A) (regulations enabling the strength, weight or volume of spirits, wine or made-wine to be ascertained by reference to information on the label of the container etc) after the word "spirits," in both places where it occurs there shall be inserted the word "beer,".

(2) In subsection (5) of that section (saving for other methods of calculating the strength, weight or volume of wine, made-wine or cider) after the words "volume of" there shall be inserted the word "beer,".

(3) Subsection (6) of that section (section not to apply to beer) shall cease to have effect.

4 In section 3 of that Act (meaning of, and method of ascertaining, gravity of liquids)—

(a) in subsection (3), the words "Subject to subsection (5) below", and

(b) subsection (5) (original gravity for purposes of section 38),

shall cease to have effect.

5 (1) Section 4(1) of that Act (definitions) shall be amended in accordance with the following provisions of this paragraph.

(2) The definitions of "brewer" and "brewer for sale" and of "limited licence to brew beer" shall be omitted.

(3) After the definition of "methylated spirits" there shall be inserted—

""package", in relation to beer, means to put beer into tanks, casks, kegs, cans, bottles or any other receptacles of a kind in which beer is distributed to wholesalers or retailers;

"packager", in relation to beer, means a person carrying on the business of packaging beer;".

(4) After the definition of "rectifier" there shall be inserted—

""registered brewer" has the meaning given by section 47(1) below;".

6 Sections 37, 38 and 39 of that Act (which make provision for the duty on beer brewed in the UK to be charged by reference to worts and gravity and as to the charging and payment of duty on such beer brewed by brewers for sale and by private brewers) shall cease to have effect.

7 Section 40 of that Act (duty on imported beer etc) shall cease to have effect.

8 For section 41 of that Act (exemption from duty of beer brewed for private consumption) there shall be substituted—

"**41 Exemption from duty of beer produced for private consumption**

The duty on beer produced in the United Kingdom shall not be chargeable on beer produced by a person who produces beer only for his own domestic use."

9 In section 42 of that Act (drawback on exportation, removal to excise warehouse, shipment as stores etc) for subsection (3) (declaration required for beer brewed in the UK) there shall be substituted—

"(3) In the case of beer produced in the United Kingdom, the person intending to remove, export or ship the beer shall produce to the proper officer a declaration made by the person who paid the duty on the beer, in such form and manner as the Commissioners may direct, stating the strength of the beer and the date on which the duty became payable."

10 In section 43 of that Act (warehousing of beer for exportation etc) in subsection (1) (brewer for sale or wholesaler entitled to warehouse beer in excise warehouse for exportation etc) for the words "a brewer for sale" there shall be substituted the words "a registered brewer, a person registered under section 41A above".

11 In section 44 of that Act (remission or repayment of duty on beer used for purposes of research or experiment) in subsection (1) for the word "brewing" there shall be substituted the words "the production of beer".

12 (1) In section 45 of that Act (repayment of duty on beer used in the production or manufacture of other beverages etc) in subsection (1) (repayment of duty) after the words "to be" there shall be inserted the words "remitted or".

(2) Subsection (2) of that section (remission of duty chargeable on imported beer of a strength not exceeding 1.2 per cent.) shall cease to have effect.

13 For section 46 of that Act (remission or repayment of duty on spoilt beer) there shall be substituted—

"**46 Remission or repayment of duty on spoilt beer**

(1) Where it is shown to the satisfaction of the Commissioners that any beer which has been removed from any premises of a registered brewer in respect of which he is registered under section 47 below has become spoilt or otherwise unfit for use and, in the case of beer delivered to another person, has been returned to the registered brewer as so spoilt or unfit, the Commissioners shall, subject to compliance with such conditions as they may by regulations impose, remit or repay any duty charged or paid in respect of the beer.

(2) If any person contravenes or fails to comply with any regulation made under subsection (1) above, he shall be liable on summary conviction to a penalty not exceeding level 3 on the standard scale."

14 For section 49 of that Act (power to regulate manufacture of beer by brewers for sale) there shall be substituted—

"**49 Beer regulations**

(1) The Commissioners may, with a view to managing, securing and collecting the duty on beer produced in, or imported into, the United Kingdom or to the protection of the revenues derived from the duty of excise on beer, make regulations—

(a) regulating the production, packaging, keeping and storage of beer produced in the United Kingdom and the packaging, keeping and storage of beer imported into the United Kingdom;

(b) regulating the registration of persons and premises under section 41A or 47 above and the revocation or variation of any such registrations;

(c) for determining under or in accordance with the regulations when the production of beer begins and when it is completed;

(d) for securing and collecting the duty;

(e) for determining the duties chargeable, the rates of those duties, the persons liable to pay them and in that connection prescribing the method of charging the duties, the due dates for payment and the method of payment;

(f) for charging the duty, in such circumstances as may be prescribed in the regulations, by reference to a strength which the beer might reasonably be expected to have, or the rate of duty in force, at a time other than that at which the beer becomes chargeable;

(g) for relieving beer from the duty in such circumstances and to such extent as may be prescribed in the regulations;

(h) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, beer;

(j) regulating the transportation of beer in such circumstances as may be prescribed in the regulations.

(2) Regulations under this section may make different provision for persons, premises or beer of different classes or descriptions, for different circumstances and for different cases.

(3) Any person contravening or failing to comply with any regulation made under this section shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale, and any article or substance in respect of which the offence was committed shall be liable to forfeiture."

15 (1) In section 49A of that Act, in subsection (1) (duty determined in accordance with regulations under section 49(1)(bb) deemed to have been paid for purposes of claims for drawback by brewers for sale)—

(a) for the words "brewer for sale" there shall be substituted the words "registered brewer or person registered under section 41A above"; and

(b) for the words "section 49(1)(bb)" there shall be substituted the words "section 49(1)(e)".

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

(a) for the words "brewer for sale" in both places where they occur there shall be substituted the words "registered brewer or person registered under section 41A above";

(b) for the words "the brewer" there shall be substituted the word "he"; and

(c) for the words "under section 38 above" there shall be substituted the words "in respect of the excise duty on beer".

16 Section 50 of that Act (regulations as respects sugar kept by brewers for sale) shall cease to have effect.

17 For section 52 of that Act (offences by brewers) there shall be substituted—

"**52 Offences in connection with fraudulent evasion of duty**

If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of the duty on any beer, he shall be liable—

(a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six 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,

and, in either case, any beer in respect of which the offence was committed shall be liable to forfeiture."

18 Section 53 of that Act (limited licences to brew) shall cease to have effect.

19 Section 71A of that Act (restrictions on adding substances to beer) shall cease to have effect.

20 Section 72 of that Act (offences by wholesaler or retailer of beer) shall cease to have effect.

The Bankruptcy (Scotland) Act 1985 (c. 66)

21 In Schedule 3 to the Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

"(4) The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

The Insolvency Act 1986 (c. 45)

22 In Schedule 6 to the Insolvency Act 1986 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5 there shall be inserted—

"5A The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

The Insolvency (Northern Ireland) Order 1989

23 In Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5 there shall be inserted—

"5A The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

The Licensing (Northern Ireland) Order 1990

24 In the definition of "intoxicating liquor" in Article 2(2) of the Licensing (Northern Ireland) Order 1990, in paragraph (e), for the words "brewer for sale" there shall be substituted the words "registered brewer".

SCHEDULE 3

Section 10.

MODIFICATION OF ENACTMENTS EXTENDED TO NORTHERN IRELAND

PART I

THE VEHICLES (EXCISE) ACT 1971

Introduction

1 The Vehicles (Excise) Act 1971 shall be amended as follows.

Excise duty on, and licensing of, mechanically propelled vehicles

2 In section 1 (charge of duty) in subsection (1) for "Great Britain" there shall be substituted "the United Kingdom".

Exemptions from duty

3 In section 4 (exemptions from duty of certain descriptions of vehicles) at the end there shall be added the following subsection—

"(3) In its application to Northern Ireland, this section shall have effect as if—

(a) in paragraph (b) of subsection (1) for "a local authority" there were substituted "the Fire Authority for Northern Ireland" and for "their" there were substituted "its";

(b) in paragraph (j) of that subsection for "local authority's" there were substituted "district council's";

(c) in subsection (2)—

(i) in the definition of "fire engine", for "the Fire Services Act 1947" there were substituted "the Fire Services (Northern Ireland) Order 1984";

(ii) in the definition of "weight unladen", for "section 190(2) of the Road Traffic Act 1988" there were substituted "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981";

(iii) in the definition of "local authority's watering vehicle", for "local authority's" there were substituted "district council's" and for the words "local authority", in each place where they occur, there were substituted "district council"; and

(iv) in the definition of "street lighting authority", for "local authority or Minister" there were substituted "Northern Ireland department"."

4 In section 5 (exemptions from duty in connection with vehicle testing, etc.) at the end there shall be added the following subsection—

"(4) In its application to Northern Ireland, this section shall have effect as if—

(a) in subsection (2) for the word "Minister's" there were substituted "Department's"; and

(b) for subsection (3) there were substituted the following subsection—

"(3) In this section—

"authorised person" means an inspector of vehicles within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1981;

"compulsory test" means an examination to obtain a vehicle test certificate under Article 33 of the Road Traffic (Northern Ireland) Order 1981 without which a vehicle licence cannot be obtained for the vehicle under this Act, or an examination to obtain a goods vehicle certificate, public service vehicle licence or certificate of inspection under Article 53, 60(1) or 67 respectively of that Order;

"the relevant certificate" means a vehicle test certificate, a goods vehicle certificate, a public service vehicle licence (those expressions having the same meanings as they have in the Road Traffic (Northern Ireland) Order 1981) a certificate of inspection within the meaning of Article 67(2) of that Order, a type approval certificate within the meaning of Article 31A of that Order or a Department's approval certificate within the meaning of that Article.""

5 (1) In section 7 (miscellaneous exemptions from duty)—

(a) in paragraph (b) of subsection (2) after "1978" there shall be inserted "or Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972", and

(b) in paragraph (c) of that subsection after "subsection" there shall be inserted "subsection (2C) below".

(2) In subsection (2A) of that section in the definition of "appointee" after "1975" there shall be inserted "or the Social Security (Northern Ireland) Act 1975".

(3) After subsection (2B) of that section there shall be inserted the following subsections—

"(2C) A mechanically propelled vehicle suitable for use by persons having a particular disability that so incapacitates them in the use of their limbs that they have to be driven and cared for by a full-time constant attendant and registered in the name of such a disabled person under this Act shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of that disabled person or by reason of its being kept for such use where—

(a) the disabled person is sufficiently disabled to be eligible under the Health and Personal Social Services (Northern Ireland) Order 1972 for an invalid tricycle but too disabled to drive it; and

(b) no vehicle exempted from duty under subsection (2) above is (or by virtue of that subsection is deemed to be) registered in his name under this Act.

(2D) Subsection (2C) above applies only in relation to Northern Ireland."

(4) In subsection (4A) of that section at the end there shall be added "or a health and social services body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991 or a Health and Social Services Trust established under that Order".

(5) Subsection (5) of that section shall be omitted.

Liability to pay duty and consequences of non-payment

6 (1) In section 9 (additional liability for keeping unlicensed vehicle) in subsection (5) after "1948" there shall be inserted "or the Probation Act (Northern Ireland) 1950".

(2) At the end of that section there shall be added the following subsection—

"(9) In its application to Northern Ireland, this section shall have effect as if for subsection (7) there were substituted the following subsection—

"(7) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.""

7 In section 13 (temporary licences) in subsection (2A) after "body", where it occurs for the first time, there shall be inserted "(other than a Northern Ireland department)".

8 In section 18 (alteration of vehicle or its use) at the end there shall be added the following subsection—

"(10) In its application to Northern Ireland, this section shall have effect as if—

(a) for subsection (8) there were substituted the following subsection—

"(8) Where duty has been paid under this Act in respect of a vehicle either—

(a) as an agricultural tractor under Schedule 3, or

(b) as a farmer's goods vehicle under Schedule 4,

duty at a higher rate shall not become chargeable in respect of that vehicle by reason only that it is used by the person

in whose name it is registered for conveying to or from any agricultural land in his occupation livestock owned by him in connection with the agricultural activities carried on by him on that land; but this subsection shall not have effect in relation to a vehicle used for conveying any livestock which for the time being is part of the stock in trade of a dealer in cattle and is conveyed in the course of his business as such dealer."; and

(b) subsection (9) were omitted."

9 (1) In section 18A (additional liability in relation to alteration of vehicle or its use) in subsection (10) after "1973" there shall be inserted "or the Probation Act (Northern Ireland) 1950".

(2) After subsection (12) of that section there shall be inserted the following subsection—

"(12A) In its application to Northern Ireland, this section shall have effect as if—

(a) in subsections (3) and (5) for "plated weight", in each place, there were substituted "relevant maximum weight or, as the case may be, relevant maximum train weight";

(b) in subsection (6) for "plated with the higher plated weight" there were substituted "rated at the higher relevant maximum weight or, as the case may be, the higher relevant maximum train weight"; and

(c) for subsection (11) there were substituted the following subsections—

"(11) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.

(11A) In this section "relevant maximum weight" and "relevant maximum train weight" have the same meaning as in Schedule 4 to this Act.""

10 (1) Section 18B (combined transport of goods) shall be amended as follows.

(2) In subsection (2), for "Great Britain" there shall be substituted "the United Kingdom".

(3) At the end there shall be inserted the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if—

(a) for "plated gross weight", in each place, there were substituted "relevant maximum weight"; and

(b) for "plated train weight", in each place, there were substituted "relevant maximum train weight"."

Registration and registration marks, etc.

11 In section 22 (failure to fix, and obscuration of, marks and signs) at the end there shall be added the following subsection—

"(4) In its application to Northern Ireland, subsection (1) above shall have effect as if for paragraph (b) of the proviso there were substituted the following paragraph—

"(b) in a case where the charge relates to a vehicle to which Article 34 of the Road Traffic (Northern Ireland) Order 1981 applies by virtue of paragraph (2)(b) thereof, that he had no opportunity of so registering the vehicle and that the vehicle was being driven on a road for the purposes of or in connection with its examination under Article 33 of the said Order of 1981 in circumstances in which its use is exempted from paragraph (1) of the said Article 34 by regulations under paragraph (5) thereof.""

Miscellaneous

12 In section 27 (duty to give information) at the end there shall be added the following subsection—

"(4) In its application to Northern Ireland, subsection (1)(a) above shall have effect as if for "a chief officer of police" there were substituted "the Chief Constable of the Royal Ulster Constabulary"."

13 After section 28 (institution of proceedings in England and Wales) there shall be inserted the following section—

"**28A Institution of proceedings in Northern Ireland**

Section 28 of this Act shall also apply in relation to the institution of proceedings in Northern Ireland, but as if—

(a) for any reference in that section to England and Wales there were substituted a reference to Northern Ireland; and

(b) in subsection (4) of that section for the words from the beginning to "county court" there were substituted "In a court of summary jurisdiction or before a county court"."

14 In section 31 (admissibility of records as evidence) at the end there shall be added the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2) for "subsection (1) of section 10 of the Civil Evidence Act 1968" there were substituted "subsection (1) of section 6 of the Civil Evidence Act (Northern Ireland) 1971"."

15 In section 32 (evidence of admissions in certain proceedings) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

"(2) Subsection (1) above shall apply in Northern Ireland as if—

(a) for the words "England and Wales" there were substituted "Northern Ireland"; and

(b) for the words from "rules" to "1949" there were substituted "magistrates' courts rules as defined in Article 2(3) of the Magistrates' Courts (Northern Ireland) Order 1981"."

16 In section 34 (fixing amount payable on pleas of guilty by absent accused) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

"(2) In its application to Northern Ireland, subsection (1) above shall have effect as if—

(a) for "section 12(2) of the Magistrates' Courts Act 1980" and "the said section 12(2)" there were substituted "Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981" and "the said Article 24(2)" respectively; and

(b) for the words from "or in" to "1980" there were substituted "or by affidavit or in the manner prescribed by magistrates' courts rules as defined by Article 2(3) of the Magistrates' Courts (Northern Ireland) Order 1981"."

17 In section 35 (application of fines etc.) in subsection (2) after "Scotland" there shall be inserted "or Northern Ireland".

Supplementary

18 In section 37 (regulations), at the end of paragraph (a) of subsection (1) there shall be inserted the words "and for different parts of the United Kingdom".

19 In section 40 (short title, etc.) for subsection (3) there shall be substituted—

"(3) This Act extends to Northern Ireland."

Schedules

20 In Part I of Schedule 1 (annual rate of duty on certain mechanically propelled vehicles) after paragraph 3 there shall be added the following paragraph—

"4 In its application to Northern Ireland, this Part of this Schedule shall have effect as if—

(a) in paragraph 2(a), for "1933" there were substituted "1935"; and

(b) in paragraph 3, in the definition of "weight unladen", for "section 190(2) of the Road Traffic Act 1988" there were substituted "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981"."

21 In Schedule 2 (annual rates of duty on hackney carriages) at the end of Part I there shall be added the following paragraph—

"5 (1) A vehicle falling within this Schedule shall not be chargeable with duty at the rate appropriate to a hackney carriage unless a licence granted under Article 61 of the Road Traffic (Northern Ireland) Order 1981 is in force with respect to that vehicle.

(2) This paragraph applies only to Northern Ireland."

22 In Schedule 4 (annual rates of duty on goods vehicles) at the end of Part I there shall be added the following paragraph—

"16 (1) This Schedule shall apply to Northern Ireland subject to the following modifications.

(2) Any reference to a plated gross weight or a plated train weight shall be construed as if it were a reference to a relevant maximum weight or a relevant maximum train weight.

(3) Paragraph 5 above shall have effect as if for sub-paragraph (1) there were substituted the following paragraph—

"(1) This paragraph applies to a goods vehicle—

(a) which has a relevant maximum weight or a relevant maximum train weight exceeding 3,500 kilograms or, in the case of a vehicle which has neither a relevant maximum weight nor a relevant maximum train weight, a design weight exceeding 3,500 kilograms; and

(b) which is for the time being authorised for use on roads by virtue of an order under Article 29(3) of the Road Traffic (Northern Ireland) Order 1981 (authorisation of special vehicles)."

(4) Paragraph 9 above shall have effect as if for sub-paragraphs (1) and (2) there were substituted the following sub-paragraphs—

"(1) Any reference in this Schedule to the relevant maximum weight of a goods vehicle or trailer is a reference—

(a) where the vehicle or trailer is required by regulations under Article 28 of the Road Traffic (Northern Ireland) Order 1981 to have a maximum gross weight in Great Britain for the vehicle or trailer marked on a plate attached to the vehicle or trailer, to the maximum gross weight in Great Britain marked on such a plate;

(b) where a vehicle or trailer on which the maximum gross weight in Great Britain is marked by the same means as would be required by regulations under the said Article 28 if those regulations applied to the vehicle or trailer, to the maximum gross weight in Great Britain so marked on the vehicle or trailer;

(c) where a maximum gross weight is not marked on a vehicle or trailer as mentioned in paragraph (a) above, to the notional maximum gross weight of the vehicle or trailer ascertained in accordance with the Goods Vehicles (Ascertainment of Maximum Gross Weights) Regulations (Northern Ireland) 1976 (or any regulations replacing those regulations, whether with or without amendments).

(2) Any reference in this Schedule to the relevant maximum train weight of a vehicle is a reference to the maximum gross weight which may not be exceeded in Great Britain for an articulated vehicle consisting of the vehicle in question and any semi-trailer which may be drawn by it."

(5) Paragraph 15(1) above shall have effect as if in the definition of "unladen weight" for the words from "the Road" to "that Act" there were substituted "the Road Traffic (Northern Ireland) Order 1981 by virtue of Article 2(3) of that Order"."

23 In Schedule 4A (duty on vehicles used for carrying or drawing exceptional loads) at the end there shall be added the following paragraph—

"5 In its application to Northern Ireland, this Schedule shall have effect as if—

(a) in paragraph 1 above for the words referring to section 44 of the Road Traffic Act 1988 there were substituted "Article 29(3) of the Road Traffic (Northern Ireland) Order 1981";

(b) in paragraph 4 above—

(i) in the definition of "exceptional load" for the words referring to section 41 of the Road Traffic Act 1988 there were substituted "Article 28 of the Road Traffic (Northern Ireland) Order 1981"; and

(ii) in the definition of "specified amount" for the words from "Road Traffic" to "that Act" there were substituted "Road Traffic (Northern Ireland) Order 1981 have the same meanings as in that Order"."

PART II

SECTION 11 OF THE FINANCE ACT 1976

24 In section 11 of the Finance Act 1976, for subsection (5) there shall be substituted the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2)—

(a) for paragraph (b) there were substituted the following paragraph—

"(b) the relevant maximum weight or, as the case may be, the relevant maximum train weight of the vehicle;"

and

(b) in paragraph (c) for the words "plated weights" there were substituted "relevant maximum weight or, as the case may be, such relevant maximum train weight"."

SCHEDULE 4

Section 11.

REGISTERED EXCISE DEALERS AND SHIPPERS

After Part VIIIA of the Customs and Excise Management Act 1979 there shall be inserted—

"PART VIIIB

REGISTERED EXCISE DEALERS AND SHIPPERS

100G Registered excise dealers and shippers

(1) For the purpose of administering, collecting or protecting the revenues derived from duties of excise, the Commissioners may by regulations under this section (in this Act referred to as "registered excise dealers and shippers regulations")—

(a) confer or impose such powers, duties, privileges and liabilities as may be prescribed in the regulations upon any person who is or has been a registered excise dealer and shipper; and

(b) impose on persons other than registered excise dealers and shippers, or in respect of any goods of a class or description specified in the regulations, such requirements or restrictions as may by or under the regulations be prescribed with respect to registered excise dealers and shippers or any activities carried on by them.

(2) The Commissioners may approve, and enter in a register maintained by them for the purpose, any revenue trader who applies for registration under this section and who appears to them to satisfy such requirements for registration as they may think fit to impose.

(3) In the customs and excise Acts "registered excise dealer and shipper" means a revenue trader approved and registered by the Commissioners under this section.

(4) The Commissioners may approve and register a person under this section for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under the regulations prescribe.

(5) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval or registration of any person under this section.

(6) The regulations may make provision for treating revenue traders as approved and registered under this section in cases where they are members of a group of companies (within the meaning of the regulations) which is approved and registered in accordance with the regulations.

100H Registered excise dealers and shippers regulations

(1) Without prejudice to the generality of section 100G above, registered excise dealers and shippers regulations may, in particular, make provision—

(a) regulating the approval and registration of persons as registered excise dealers and shippers and the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject;

(b) regulating any activities carried on by or for a registered excise dealer and shipper and, in particular, the importation, exportation, buying, selling, loading, unloading, delivery, movement, holding, deposit, security, treatment or removal of, or the carrying out of operations on, or the effecting of any other transaction relating to, any goods of a class or description subject to a duty of excise;

(c) authorising a registered excise dealer and shipper to carry out or arrange for the carrying out of any prescribed activity falling within paragraph (b) above in relation to goods chargeable with a duty of excise which has not been paid, but subject to prescribed conditions or restrictions and to prescribed requirements for the payment of the unpaid duty;

(d) exempting registered excise dealers and shippers from compliance with such provisions made by or under the customs and excise Acts as may be prescribed, or applying such provisions in relation to registered excise dealers and shippers with prescribed modifications or adaptations, or applying in relation to registered excise dealers and shippers such substitute provisions as may be prescribed in place of any such provisions;

(e) requiring, except as otherwise permitted by the Commissioners, goods which are subject to a duty of excise that has not been paid and which are not consigned to an excise warehouse—

(i) to be consigned to a registered excise dealer and shipper; and

(ii) to be accompanied by such documents in such form and such manner and containing such particulars as may be prescribed;

(f) imposing on a registered excise dealer and shipper liability for the payment of duties of excise chargeable on any goods or, in prescribed cases, imposing joint and several liability for the payment of any such duties on a registered excise dealer and shipper and some other person specified in the regulations who, if not a registered excise dealer and shipper, would have been liable for their payment apart from this paragraph;

(g) for securing and collecting any duty of excise for the payment of which a registered excise dealer and shipper is or may be liable;

(h) for determining, in relation to goods which are the subject of a transaction involving a registered excise dealer and shipper, the duties of excise chargeable, the rates of those duties and the persons liable to pay them and the time at which and manner in which payment is to be made and, in that connection, prescribing the method of charging the duties;

(j) permitting payment of excise duty by a registered excise dealer and shipper to be deferred, subject to compliance with prescribed conditions;

(k) for relieving registered excise dealers and shippers from liability to pay excise duty on goods in prescribed circumstances;

(l) for cases where a registered excise dealer and shipper acts as agent for some other person (whether a registered excise dealer and shipper or not);

(m) requiring registered excise dealers and shippers to keep and make available for inspection such records relating to their activities as such as may be prescribed;

(n) for goods in the United Kingdom which are liable to a duty of excise which has not been paid to be subject to forfeiture for any breach of—

(i) registered excise dealers and shippers regulations, so far as relating to goods chargeable with a duty of excise which has not been paid, or

(ii) any condition or restriction imposed by or under any such regulations so far as so relating.

(2) Registered excise dealers and shippers regulations may make different provision for persons or goods of different classes or descriptions, for different circumstances and for different cases.

(3) In this section "prescribed" means prescribed in registered excise dealers and shippers regulations or prescribed by the Commissioners under any such regulations.

100J Contravention of regulations etc

If any person contravenes any provision of registered excise dealers and shippers regulations or fails to comply with any condition or restriction which the Commissioners impose upon him under section 100G above or by or under any such regulations, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale and any goods in respect of which the offence was committed shall be liable to forfeiture."

SCHEDULE 5

Section 12.

PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

After Part IX of the Customs and Excise Management Act 1979 there shall be inserted—

"**PART IXA**

PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

118A Duty of revenue traders to keep records

(1) The Commissioners may by regulations require every revenue trader—

(a) to keep such records as may be prescribed in the regulations; and

(b) to preserve those records for such period not exceeding six years as may be prescribed in the regulations or for such lesser period as the Commissioners may require.

(2) Regulations under this section—

(a) may make different provision for different cases; and

(b) may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.

(3) Any duty imposed under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve.

(4) Where any information is preserved in accordance with subsection (3) above, a copy of any document forming part of the records in question shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(5) The Commissioners may, as a condition of approving under subsection (3) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.

(6) A statement contained in a document produced by a computer shall not by virtue of subsection (4) above be admissible in evidence—

(a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act 1968;

(b) in criminal proceedings in England and Wales, except in accordance with sections 69 and 70 of the Police and Criminal Evidence Act 1984 and Part II of the Criminal Justice Act 1988;

(c) in civil proceedings in Scotland, except in accordance with sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;

(d) in criminal proceedings in Scotland, except in accordance with the said sections 13 and 14, which shall, for the purposes of this section, apply with the necessary modifications to such proceedings;

(e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971; and

(f) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988.

(7) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under—

(a) section 5(4) of the Civil Evidence Act 1968,

(b) section 13(4) of the Law Reform (Miscellaneous Provisions) Scotland Act 1968, or

(c) section 2(4) of the Civil Evidence Act (Northern Ireland) 1971.

118B Duty of revenue traders and others to furnish information and produce documents

(1) Every revenue trader shall—

(a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to—

(i) any goods or services supplied by or to him in the course or furtherance of a business, or

(ii) any goods in the importation or exportation of which he is concerned in the course or furtherance of a business,

as they may reasonably specify; and

(b) upon demand made by an officer, produce or cause to be produced for inspection by that officer—

(i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require, and

(ii) at such time as the officer may reasonably require,

any documents relating to the goods or services or to the supply, importation or exportation.

(2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from a revenue trader—

(a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but

(b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course or furtherance of any business shall be taken to include—

(a) any profit and loss account and balance sheet, and

(b) any records required to be kept by virtue of section 118A above,

relating to that business.

(4) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.

(5) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed.

(6) Where a lien is claimed on a document produced under subsection (2) above, the removal of the document under subsection (5) above shall not be regarded as breaking the lien.

(7) Where a document removed by an officer under subsection (5) 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.

(8) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

118C Entry and search of premises and persons

(1) For the purpose of exercising any powers under the customs and excise Acts an officer may at any reasonable time enter premises used in connection with the carrying on of a business.

(2) Where an officer has reasonable cause to believe that any premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with a duty of excise and that any such goods are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

(3) If 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 on information on oath—

(a) that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises, or

(b) that evidence of the commission of such an offence is to be found there,

he may issue a warrant in writing authorising, subject to subsections (6) and (7) below, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant and search them.

(4) Any officer who enters premises under the authority of a warrant under subsection (3) above may—

(a) take with him such other persons as appear to him to be necessary;

(b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and

(c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;

but no woman or girl shall be searched by virtue of this subsection except by a woman.

(5) In subsections (3) and (4) above "a fraud offence" means an offence under any provision of section 167(1), 168 or 170 below.

(6) The powers conferred by a warrant under this section shall not be exercisable—

(a) by more than such number of officers 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.

(7) An officer seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, 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 the time the occupier is not present but a person who appears to the officer 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.

118D Order for access to recorded information, etc

(1) Where, on an application by an officer, 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 a duty of excise 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 section.

(2) An order under this section 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—

(a) give an officer access to it, and

(b) permit an officer 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 with the date of the order or the end of such longer period as the order may specify.

(3) The reference in subsection (2)(a) above to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer 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 section shall have effect as an order to produce the information in a form in which it is visible and legible and, if the officer wishes to remove it, in a form in which it can be removed.

(5) This section is without prejudice to sections 118B and 118C above.

118E Procedure when documents etc. are removed

(1) An officer who removes anything in the exercise of a power conferred by or under section 118C or 118D 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 officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (7) below, if a request for permission to be granted access to anything which—

(a) has been removed by an officer, and

(b) is retained by the Commissioners for the purposes 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 officer.

(4) Subject to subsection (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 officer for the purpose of photographing it or copying it, or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) Where anything is photographed or copied under subsection (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 section 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 section 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.

118F Failure of officer to comply with requirements under section 118E

(1) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 118E 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 subsection (1) above shall be made—

(a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 118E 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 has such custody or control.

(3) In this section "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) Any application for an order under this section—

(a) in England and Wales, shall be made by way of complaint; or

(b) in Northern Ireland, shall be made by way of civil proceedings on complaint.

(5) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (rules and orders regulating procedure of courts etc and assignment of business to particular courts) shall apply as if any reference in those provisions to any enactment included a reference to this section.

118G Offences under Part IXA

If any person fails to comply with any requirement imposed under section 118A(1) or section 118B above, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale."

SCHEDULE 6

Section 27.

RESTRICTION OF HIGHER RATE RELIEF: BENEFICIAL LOANS ETC

Taxation of beneficial loan arrangements

1 (1) In section 160 of the Taxes Act 1988 (charge to tax in respect of beneficial loan arrangements) at the end of subsection (4) (which introduces Schedule 7) there shall be added the words "but that Part of that Schedule is subject to Part IV of that Schedule, which makes provision in connection with the restriction to tax at the basic rate of certain reliefs in respect of loans to which Part III of that Schedule has effect; and Part V of that Schedule has effect for the interpretation of the Schedule."

(2) After that subsection there shall be inserted—

"(4A) Where an assessment for any year in respect of a loan has been made or determined on the footing that the whole or part of the interest payable on the loan for that year was not in fact paid, but it is subsequently paid, then, on a claim in that behalf, the cash equivalent for that year shall be recalculated so as to take that payment into account and the assessment shall be adjusted accordingly."

2 In section 167 of that Act, after subsection (2) (taxation of benefits for directors and employees paid more than £8,500 per annum: calculation of emoluments) there shall be inserted—

"(2A) Where, by virtue of paragraph 15 of Schedule 7, the amount, or the total of the amounts, treated under section 160 as emoluments of a person exceeds what it would have been apart from that paragraph, then, for the purposes

of subsection (2)(a) above there shall, instead of that excess, be brought into account an amount equal to the difference between—

(a) the amount by which his total income for the purposes of excess liability exceeds the basic rate limit; and

(b) what the amount referred to in paragraph (a) above would have been, apart from paragraph 15 of Schedule 7;

and in this subsection "excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate."

3 (1) In Schedule 7 to that Act (taxation of benefit from loans obtained by reason of employment) in paragraph 3, after paragraph (b) of sub-paragraph (1) there shall be added—

"and, in a case where there are two or more loans, the aggregate of the cash equivalents (if any) of the benefit of each of those loans shall be treated for the purposes of section 160 as the cash equivalent of the benefit of all of them."

(2) Sub-paragraphs (2) and (3) of that paragraph shall cease to have effect.

4 Paragraph 6 of that Schedule (meaning of "interest eligible for relief" in Part III, which is superseded by amendments made by paragraph 5 below) shall be omitted.

5 At the end of that Schedule there shall be added—

"13 This Part of this Schedule is subject to the provisions of Part IV below.

PART IV

INTEREST ELIGIBLE FOR RELIEF: CONSEQUENCES OF RESTRICTION OF RELIEF TO TAX AT THE BASIC RATE ONLY

14 This Part of this Schedule applies in relation to the employee for any year for which he is, or, apart from paragraph 7, 8 or 9 above as they apply in relation to home loans, would be, liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability.

15 Where this Part of this Schedule applies in relation to the employee for any year, none of paragraphs 7, 8 and 9 above shall apply in his case in relation to any home loan in that year, except as provided by paragraph 17 below.

16 (1) Where, by virtue only of paragraph 15 above, paragraph 7, 8 or 9 above does not apply in the case of the employee in relation to a home loan in any year, there shall be treated as interest eligible for relief under section 353 by virtue of section 355(1)(a) in that year—

(a) in a case where, apart from paragraph 15 above, paragraph 7 would have applied in relation to the home loan, an amount equal to the cash equivalent of the benefit of that loan in that year, apart from paragraph 7, or

(b) in a case where, apart from paragraph 15 above, paragraph 8 or 9 would have applied in relation to the home loan, an amount equal to the difference between—

(i) the cash equivalent of the benefit of the home loan in that year, apart from paragraphs 8 and 9, andXXXX

(ii) what the cash equivalent of the benefit of the home loan would have been in that year, apart from paragraph 15 above,

but subject to the following provisions of this paragraph.

(2) In the application of section 353 by virtue of this paragraph—

(a) the amount that falls to be treated as mentioned in sub-paragraph (1) above shall be taken to fall within paragraph (a) of subsection (1) of that section; and

(b) subsections (2) and (3) of that section shall be disregarded in relation to that amount.

17 Paragraph 15 above shall not prevent paragraph 7, 8 or 9 applying in the case of the employee in any year if, apart from paragraph 15—

(a) he would not have been charged for that year to income tax at any rate higher than basic rate in respect of any of his total income or to tax in respect of excess liability; and

(b) the aggregate of the following amounts, that is to say—

(i) the amount of income in respect of which, apart from any home loans, he would have been charged to income tax for that year at the basic rate,

(ii) any income which is treated by virtue of section 683(1) or 684(1) as his income for that year for the purposes of excess liability, notwithstanding that he would not have been charged to tax otherwise than at the basic rate,

(iii) the cash equivalents, apart from paragraphs 7, 8 and 9 above, of the benefit of any home loans in that year, and

(iv) his nominal element (if any) for that year, reduced by an amount equal to the cash equivalents, apart from paragraph 15 above, of the benefit of any home loans in that year,

does not exceed the basic rate limit by more than the amount specified in section 161(1) for that year.

18 If, in the case of the employee, there is a home loan in any year and that is a year for which—

(a) he is liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability (whether or not by virtue of this Part of this Schedule), but

(b) he would not have been so liable apart from any home loans, and

(c) there is in his case a nominal element,

then, in computing his liability to income tax for that year, the amount which falls to be treated as emoluments under section 160(1) in consequence of the operation of paragraph 15 above (or, if more than one, the aggregate of those amounts) shall be taken to be the highest part of the income charged to tax, and an amount equal to the nominal element shall be taken to be the lowest portion of that part.

PART V

INTERPRETATION

19 (1) In this Schedule—

"eligible for relief" shall be construed in accordance with sub-paragraph (2) below;

"eligible loan" means—

(a) any loan the interest on which is eligible for relief, other than a home loan; and

(b) in a case where part of the interest on a loan is eligible for relief otherwise than by virtue of section 355(1)(a), 356(1) or 365, that proportion of the loan which that part of the interest bears to the whole of the interest;

and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;

"excess liability" means liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate;

"home loan" means—

(a) any loan the interest on which is, or apart from section 357 would have been, eligible for relief by virtue of section 355(1)(a), 356(1) or 365; and

(b) in a case where part of the interest on a loan is or would have been so eligible for relief, that proportion of the loan which that part of the interest bears to the whole of the interest;

and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is or would have been so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;

"loan", except in Part I of this Schedule, shall be construed in accordance with sub-paragraphs (3) to (5) below;

"nominal element", in relation to the employee, means the amount (if any) which, apart from paragraph 15 above, would, by virtue of section 161(1), not have been charged to tax under section 160 in that year in his case.

(2) Interest is "eligible for relief" for the purposes of this Schedule if it is eligible for relief under section 353 or would be eligible for such relief apart from subsection (2) of that section.

(3) In the definitions of "eligible loan" and "home loan" in sub-paragraph (1) above, "loan" means any such loan as is mentioned in section 160(1), and for this purpose sub-paragraphs (4) and (5) below shall be disregarded.

(4) Where by virtue of sub-paragraph (1) above part of a loan constitutes a home loan or an eligible loan, the loan shall be treated for the purposes of this Schedule, apart from Part I, as if it were two or more separate loans, consisting respectively—

(a) of the part (if any) which is a home loan,

(b) of the part (if any) which is an eligible loan, and

(c) of the part (if any) which is neither a home loan nor an eligible loan,

and, subject to sub-paragraph (5) below, references in this Schedule, apart from Part I, to loans, home loans and eligible loans shall be construed accordingly.

(5) Except for home loans and eligible loans, all the loans between the same lender and borrower for which a cash equivalent falls to be ascertained and which are outstanding at any time, as to any amount, in any year are to be treated for the purposes of this Schedule, apart from Part I, as a single loan."

Applicable rates of capital gains tax

6 (1) In section 102 of the Finance Act 1988 (unification of rates of tax on income and gains: special cases) after subsection (1) there shall be inserted—

"(1A) References in section 98 above to income tax chargeable at the higher rate also include references to tax chargeable by virtue of section 353(4) or 369(3A) of that Act (restriction to basic rate of relief on certain interest etc) in respect of excess liability; and where for any year of assessment a deduction is by virtue of either of those provisions not allowed in computing the total income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, that deduction shall not be allowed for the purposes of section 98(4) above."

(2) In subsection (4) of that section (deductions in respect of personal reliefs not to be affected), after the words "subsection (1)" there shall be inserted the words "or (1A)".

SCHEDULE 7

Section 48.

Basic Life Assurance and General Annuity Business

Management expenses

1 In section 76 of the Taxes Act 1988 (expenses of management of insurance companies) in subsection (1)—

(a) in paragraphs (ca) and (e), for the words "basic life assurance business" there shall be substituted in each place the words "basic life assurance and general annuity business";

(b) in paragraph (d), the words "general annuity business" shall cease to have effect.

Interpretation of Chapter I of Part XII

2 In section 431 of that Act (interpretative provisions relating to insurance companies) in subsection (2), after the definition of "basic life assurance business" there shall be inserted—

> ""basic life assurance and general annuity business" means life assurance business other than pension business and overseas life assurance business;".

Apportionment of income and gains

3 (1) In section 432A of that Act (apportionment of income and gains between different categories of business) in subsection (2) (which specifies the categories) paragraphs (b) and (d) shall be omitted and at the end there shall be added—

> "(e) basic life assurance and general annuity business."

(2) In subsection (3) of that section, for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(3) In subsection (7)(a)(iii) of that section—

(a) for the words "general annuity business or basic life assurance business" there shall be substituted the words "or basic life assurance and general annuity business", and

(b) for the words "pension business and basic life assurance business" there shall be substituted the words "those categories of business".

(4) In section 432C of that Act (apportionment: income of non-participating funds) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(5) In subsection (5)(a)(ii) of that section—

(a) for the words "general annuity business or basic life assurance business" there shall be substituted the words "or basic life assurance and general annuity business", and

(b) for the words "pension business and basic life assurance business" there shall be substituted the words "those categories of business".

(6) In section 432D of that Act (apportionment: value of non-participating funds) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Computation of trading profit

4 (1) In section 436 of that Act (general annuity business and pension business: separate charge on profits) in subsection (1)—

(a) the words "general annuity business or" shall cease to have effect, and

(b) in paragraph (a), for the words "the business of each such class" there shall be substituted the words "that business".

(2) In subsection (3) of that section—

(a) in paragraph (c), the words "or general annuity business", and

(b) in paragraph (e), the words "general annuity business or",

shall cease to have effect.

(3) In subsection (4) of that section, the words "general annuity business or" shall cease to have effect.

(4) In section 437 of that Act (general annuity business) subsections (2) to (5) shall cease to have effect.

Deduction for annuities referable to basic life assurance and general annuity business

5 In section 437 of that Act, for subsection (1) there shall be substituted—

"(1A) In the case of a company carrying on basic life assurance and general annuity business, the new annuities paid in any accounting period by the company shall be regarded as charges on income only to the extent that they do not exceed the income limit for that accounting period.

(1B) Subsection (1A) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.

(1C) For the purposes of this section—

(a) "new annuity" means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company's basic life assurance and general annuity business;

(b) "the income limit" for an accounting period of an insurance company is the difference between—

(i) the total amount of the new annuities paid by the company in that accounting period; and

(ii) the total of the capital elements contained in the new annuities so paid; and

(c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—

(i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and

(ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.

(1D) In any case where—

(a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,

(b) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(c) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

(a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,

(b) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(c) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

"group annuity contract" means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

"reinsurance treaty" means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a "reinsurer") to accept, the whole or part of a risk of a class or description to which the contract relates."

Transfer of assets between classes of business

6 (1) In section 440 of that Act (transfers of assets etc) in subsection (4) (categories of business) for paragraph (a) there shall be substituted—

"(a) assets linked solely to basic life assurance and general annuity business;".

(2) In section 440A of that Act (securities treated as one holding) in subsection (2)(a)—

(a) after the word "policies" there shall be inserted the words "or annuity contracts"; and

(b) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(3) Immediately before the commencement of the first accounting period of an insurance company beginning on or after 1st January 1992—

(a) all the assets held by the company and falling within the category set out in paragraph (a) of subsection (4) of section 440 of that Act (basic life assurance business),

(b) so much of the assets held by the company and falling within the category set out in paragraph (d) of that subsection (assets not falling within any other category) as are linked solely to general annuity business, and

(c) so much of the assets held by the company and falling within that category as, although not falling within paragraph (b) above, would be regarded as linked solely to the company's basic life assurance business were its general

annuity business treated as forming part of its basic life assurance business and as not being a separate category of business,

shall be taken to have been transferred from the category in question to the category set out in the paragraph (a) inserted by sub-paragraph (1) above.

(4) Neither section 440(1) nor section 724(1A) of that Act shall have effect in relation to the transfer of assets from one category to another by sub-paragraph (3) above.

United Kingdom branches of overseas life assurance companies

7 (1) In section 446 of that Act (computation under section 436 of profits arising to an overseas life assurance company)—

(a) in subsection (1), the words "and general annuity business", and

(b) subsections (2) and (3),

shall cease to have effect.

(2) In section 447 of that Act (set-off of income tax and tax credits against corporation tax) in subsection (1), for the words "(2) to (4)" there shall be substituted the words "(2) and (4)".

(3) Subsection (3) of that section (proportion of profits arising from general annuity business for purposes of section 446) shall cease to have effect.

(4) In subsection (4) of that section (which refers to section 446 and to subsection (3))—

(a) the words "or 446" shall cease to have effect; and

(b) for the words "subsections (2) and (3)" there shall be substituted the words "subsection (2)".

(5) In section 448 of that Act (qualifying distributions and tax credits) in subsection (3), paragraph (a) (limit on amounts that may be set against profits from general annuity business) shall cease to have effect.

Treatment of tax-free income

8 In section 474 of that Act, in subsection (1)(b) (certain tax-free income to be included in computing profits or loss from pension business and general annuity business) the words "and general annuity business" shall cease to have effect.

Life annuity contracts: taxation of gain on chargeable event

9 (1) In section 547 of that Act (method of charging gain on surrender etc to tax) after subsection (5) there shall be inserted—

"(5A) Where a gain is to be treated under section 543 as arising in connection with a contract for a life annuity made—

(a) after 26th March 1974, and

(b) unless the contract falls, or has at any time fallen, to be regarded as not forming part of any insurance company or friendly society's basic life assurance and general annuity business the income and gains of which are subject to corporation tax, in an accounting period of the insurance company or friendly society beginning before 1st January 1992,

subsection (6) below shall apply in relation to the gain unless subsection (7) below applies in relation to it."

(2) In subsection (6) of that section (income constituted by gains on life annuity contracts made after 26th March 1974 not to be treated as if paid after deduction of tax at the basic rate etc) for the words from the beginning to "26th March 1974" there shall be substituted the words "Where this subsection applies in relation to such a gain as is mentioned in subsection (5A) above".

(3) After subsection (8) of that section there shall be inserted—

"(9) In this section "basic life assurance and general annuity business" has the same meaning as in Chapter I of Part XII."

(4) In section 549 of that Act, in subsection (2) (which limits the deduction that may be made under that section to the purposes of excess liability, except where the contract was made after 26th March 1974) after the words "after 26th March 1974" there shall be inserted the words "but in an accounting period of the insurance company or friendly society beginning before 1st January 1992,".

Computation of offshore income gains

10 In Schedule 28 to that Act, in paragraph 3(4), paragraph (a) (computation of unindexed gain in case of certain profits arising from general annuity business and falling to be taken into account under section 436) shall cease to have effect.

Interpretation of sections 85 to 89 of Finance Act 1989

11 In section 84 of the Finance Act 1989, for subsection (1) (meaning of "basic life assurance business" in sections 85 to 89) there shall be substituted—

"(1) In sections 85 to 89 below "basic life assurance and general annuity business" has the same meaning as in Chapter I of Part XII of the Taxes Act 1988."

Miscellaneous receipts

12 In section 85 of the Finance Act 1989 (charge of certain receipts of basic life assurance business) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Spreading of relief for acquisition expenses

13 (1) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses) in subsections (1) and (5), for the words "basic life assurance business" there shall be substituted in each place the words "basic life assurance and general annuity business".

(2) After subsection (3) of that section there shall be inserted—

"(3A) Nothing in subsection (1), (2) or (3) above applies to commissions (however described) in respect of annuity contracts made in accounting periods beginning before 1st January 1992, but without prejudice to the application of subsections (1) and (2) above to any commission attributable to a

variation, in an accounting period beginning on or after that date, of an annuity contract so made; and for this purpose the exercise of any rights conferred by an annuity contract shall be regarded as a variation of it."

(3) In subsection (4) of that section (meaning of "the acquisition of business") after the word "includes" there shall be inserted "(a)" and at the end there shall be added the words "and

(b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date)."

Deemed disposal of unit trusts etc

14 (1) In section 46 of the Finance Act 1990 (annual deemed disposal of holdings of unit trusts etc) in subsection (2) (subsection (1) to apply only to relevant chargeable fraction except in the case of assets linked solely to basic life assurance business) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(2) In subsection (3)(a) of that section (denominator of the relevant chargeable fraction) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Exemptions and exclusions from charges by virtue of section 46

15 (1) Schedule 8 to that Act (which provides certain exemptions and exclusions from charges by virtue of section 46 of that Act) shall have effect, and be deemed always to have had effect, with the following amendments.

(2) In paragraph 1, at the beginning there shall be inserted "(1)" and in paragraph (c) (definition of "relevant linked liabilities")—

(a) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business"; and

(b) after the words "pre-commencement policies" there shall be inserted the words "or contracts".

(3) For paragraph (d) of that paragraph (definition of "pre-commencement policies") there shall be substituted—

"(d) "pre-commencement policies or contracts" means—

(i) policies issued in respect of insurances made before 1st April 1990, and

(ii) annuity contracts made before that date,

but excluding policies or annuity contracts varied on or after that date so as to increase the benefits secured or to extend the term of the insurance or annuity (any exercise of rights conferred by a policy or annuity contract being regarded for this purpose as a variation);

(e) "basic life assurance and general annuity business" means life assurance business, other than pension business and overseas life assurance business."

(4) At the end of that paragraph there shall be added—

"(2) The assets which are to be regarded for the purposes of this Schedule as linked solely to an insurance company's basic life assurance and general annuity business at any time before the first accounting period of the company which begins on or after 1st January 1992 are all the assets which at that time—

(a) are or were linked solely to the company's basic life assurance business or general annuity business, or

(b) although not falling within paragraph (a) above, would be, or would have been, regarded as linked solely to the company's basic life assurance business, were its general annuity business treated as forming, or having at all times formed, part of its basic life assurance business and as not being a separate category of business."

(5) In paragraph 3 (roll-over relief on replacement of assets) in sub-paragraph (1)(c), for the words "basic life assurance business" in both places where they occur there shall be substituted the words "basic life assurance and general annuity business".

Transitional relief for old general annuity contracts

16 (1) In computing for the purposes of corporation tax the profits of an insurance company for any accounting period beginning on or after 1st January 1992, there shall be treated as a charge on income an amount equal to the lesser of—

(a) A, and

(b) A − (R1 − R2 + C − SV − DB),

and if the result of the formula in paragraph (b) above is a negative amount, it shall be taken to be nil.

(2) For the purposes of sub-paragraph (1) above—

A is the gross amount of any annuities paid in the accounting period so far as referable to old annuity contracts;

R1 is the amount of the company's opening liabilities for the accounting period in respect of old annuity contracts;

R2 is the amount of the company's closing liabilities for the accounting period in respect of old annuity contracts;

C is the amount of any consideration received in the accounting period in respect of old annuity contracts;

SV is the amount of any sums paid in the accounting period by reason of the surrender of rights conferred by old annuity contracts;

DB is the amount of any death benefits paid in the accounting period in respect of old annuity contracts.

(3) An annuity paid in an accounting period beginning on or after 1st January 1992, so far as referable to an old annuity contract, shall not to any extent be regarded as constituting a charge on income except as provided by sub-paragraph (1) above.

(4) Neither sub-paragraph (1) nor sub-paragraph (3) above shall apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.

(5) If, in the case of an annuity under a group annuity contract made by an insurance company in an accounting period beginning before 1st January 1992—

(a) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(b) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the group annuity contract, so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(6) If, in the case of an annuity which is subject to a reinsurance treaty made by the reinsurer in an accounting period beginning before 1st January 1992—

(a) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(b) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the reinsurance treaty, as respects the reinsurer and so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(7) In this paragraph—

"general annuity contract" means an annuity contract so far as referable to general annuity business;

"group annuity contract" means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

"old annuity contract" means a general annuity contract made by an insurance company in an accounting period beginning before 1st January 1992;

"reinsurance treaty" means a contract under which one insurance company is obliged to cede, and another (in this paragraph referred to as a "reinsurer") to accept, the whole or part of a risk of a class or description to which the contract relates;

and, subject to that, expressions used in this paragraph and in Chapter I of Part XII of the Taxes Act 1988 have the same meaning in this paragraph as they have in that Chapter.

Transitional provisions for chargeable gains and unrelieved general annuity losses

17 (1) An insurance company's unrelieved general annuity losses shall be relieved under this paragraph by setting them against the relevant part of any chargeable gains arising to the company in accounting periods beginning on or after 1st January 1992.

(2) Any relief under this paragraph shall be given as far as possible for the first accounting period of the company beginning on or after 1st January 1992 and, so far as it cannot be so given, for the next accounting period, and so on.

(3) For the purposes of this paragraph an insurance company's "unrelieved general annuity losses" are so much of any losses—

(a) arising from the company's general annuity business in an accounting period or year of assessment beginning before 1st January 1992, and

(b) computed as mentioned in paragraph (c) of subsection (3) of section 436 of the Taxes Act 1988 as it applied in relation to such accounting periods,

as, by virtue only of an insufficiency of profits, cannot be relieved under that subsection (or any previous enactment which it re-enacts) by setting them off against the profits of such an accounting period or year of assessment.

(4) For the purposes of this paragraph the relevant part of the chargeable gains arising to a company in an accounting period shall be determined by the application of the following formula—

$$X \times \frac{Y}{Z}$$

where—

X is so much of the chargeable gains arising to the company in the accounting period as are referable to its basic life assurance and general annuity business;

Y is the mean of the company's opening and closing liabilities for the accounting period in respect of old annuity contracts; and

Z is the mean of the company's opening and closing liabilities for the accounting period in respect of its basic life assurance and general annuity business.

(5) Sub-paragraphs (5) to (7) of paragraph 16 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

Application of this Schedule

18 Paragraphs 1, 3, 4, 5, 6(1) and (2), 7, 8, 10 to 14, 16 and 17 above have effect with respect only to accounting periods beginning on or after 1st January 1992.

SCHEDULE 8

Section 49.

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

After Schedule 19AA to the Taxes Act 1988 there shall be inserted—

"SCHEDULE 19AB

Section 438A.

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

Entitlement to certain payments on account

1 (1) An insurance company carrying on pension business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf to a payment (in this Schedule referred to as a "provisional repayment") of an amount equal to the aggregate of—

(a) the appropriate portion of any income tax borne by deduction on any payment received by the company in that provisional repayment period and referable to its pension business, and

(b) the appropriate portion of any tax credit in respect of a distribution received by the company in that provisional repayment period and referable to its pension business,

or of such lesser amount as may be specified in the claim.

(2) For the purposes of this paragraph, a "provisional repayment period" of a company—

(a) shall begin whenever—

(i) the company begins to carry on pension business;

(ii) an accounting period of the company begins, at a time when the company is carrying on such business; or

(iii) a provisional repayment period of the company ends, at a time when the company is carrying on such business; and

(b) shall end on the first occurrence of either of the following—

(i) the expiration of three months from the beginning of the provisional repayment period; or

(ii) the end of an accounting period of the company.

(3) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of provisional repayments in the case of any accounting period, the reference in subsection (5) to "the relevant fraction" shall be taken as a reference to a fraction determined in accordance with subsections (6) to (9)—

(a) for the latest preceding accounting period of the company for which an inspector is satisfied that the company has supplied him with such information as would enable the relevant fraction for that accounting period to be estimated with reasonable accuracy, and

(b) by reference to that information,

and, subject to sub-paragraph (4)(b) below, any reference in this paragraph to "the provisional fraction" is a reference to the fraction so determined.

(4) For the purposes of sub-paragraph (3) above—

(a) "information" means any information, accounts, statements or reports delivered under section 11 of the Management Act; and

(b) unless and until an inspector is satisfied as mentioned in paragraph (a) of that sub-paragraph, the provisional fraction shall be taken to be nil.

(5) In sub-paragraph (1) above "the appropriate portion" means—

(a) in the case of an insurance company carrying on pension business and no other category of long term business, the whole; and

(b) in the case of an insurance company carrying on more than one category of long term business—

(i) where the payment or distribution in question is income arising from an asset linked solely to pension business, the whole; and

(ii) in any other case, the provisional fraction.

(6) An inspector shall not give effect to any claim under this paragraph unless and until he is satisfied that the claimant has supplied to him in connection with the claim such information as will enable the inspector to determine that the amount claimed has been computed in accordance with the provisions of this paragraph.

(7) A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amount (if any) which, disregarding any pension business repayments, the company would be entitled to be paid or repaid in respect of its pension business by the Board for the accounting period in which that provisional repayment period falls, in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business,

when the assessment to corporation tax for that accounting period is finally determined or when effect is given to a claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act made in respect of that accounting period.

(8) Where a company makes an election under section 438(6) as respects all or any part of its franked investment income arising in an accounting period, that franked investment income or, as the case may be, that part of it, and the tax credits in respect thereof, shall be left out of account in making with respect to that accounting period any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

(9) Where an overseas life insurance company makes a claim under subsection (2) of section 448 in respect of any income represented by a distribution, that income, and the tax credit to which the company is deemed to be entitled in respect thereof by subsection (1) of that section for the purposes there mentioned, shall be left out of account in making any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

(10) In this paragraph "pension business repayments" means—

(a) provisional repayments; and

(b) repayments of income tax, and payments of tax credits, on any claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act.

Changes in the provisional fraction

2 (1) This paragraph applies in any case where, after a claim has been made for a provisional repayment in respect of a provisional repayment period falling within an accounting period, the provisional fraction falling to be applied in the case of that accounting period is varied as a result of a determination such as is mentioned in paragraph 1(3) above being made in consequence of the delivery of a return under section 11 of the Management Act.

(2) Where this paragraph applies, the amount of any provisional repayment to which the company is entitled—

(a) for the first provisional repayment period falling within that accounting period for which a claim is made by reference to the later (or, if there has been more than one such determination, the latest) provisional fraction, or

(b) for any subsequent provisional repayment period in that accounting period for which a claim is made,

shall be an amount determined in accordance with sub-paragraph (3) below or such lesser amount as may be specified in the claim.

(3) The amount referred to in sub-paragraph (2) above is the amount (if any) by which total entitlement exceeds total past payments, and for this purpose—

"total entitlement" means the aggregate of the provisional repayments to which the company would have been entitled (apart from this paragraph) for—

(a) the provisional repayment period to which the claim relates, and

(b) any earlier provisional repayment period in the same accounting period,

had the later or, as the case may be, latest provisional fraction applicable in relation to that accounting period been so applicable as from the beginning of that period; and

"total past payments" means the aggregate of any amounts already paid by way of provisional repayments for provisional repayment periods falling within that accounting period.

(4) Expressions used in this paragraph and in paragraph 1 above have the same meaning in this paragraph as they have in that paragraph.

Repayment, with interest, of excessive provisional repayments

3 (1) In any case where—

(a) the assessment to corporation tax for an accounting period of an insurance company has been finally determined, and

(b) the aggregate amount of the provisional repayments made to the company for that accounting period exceeds the amount referred to in paragraph 1(7) above,

the excess, together with the amount of any relevant interest, shall be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax for that accounting period which had been repaid to the insurance company and which ought not to have been so repaid.

(2) In this paragraph, "relevant interest" means interest—

(a) on so much of the excess referred to in sub-paragraph (1) above as is or was from time to time outstanding,

(b) for any period for which it is or was so outstanding, and

(c) at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 87A of the Management Act (interest on overdue corporation tax).

(3) In the application of section 87A of the Management Act in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of this paragraph—

(a) the amount so assessed shall be taken to have become due and payable on the date on which that assessment was made; and

(b) the words "(in accordance with section 10 of the principal Act)" in subsection (1) shall accordingly be disregarded.

(4) In determining the amount of any relevant interest, any question whether the excess mentioned in sub-paragraph (1) above (in the following provisions of this paragraph referred to as "the principal") or any part of it is or was "outstanding" at any time shall be determined in accordance with sub-paragraphs (5) to (7) below.

(5) So much of the principal as does not exceed the amount of the last provisional repayment made to the company for the accounting period in question shall be taken to have become outstanding on the date on which that provisional repayment was made.

(6) So much (if any) of the principal as—

(a) exceeds the amount of the provisional repayment referred to in sub-paragraph (5) above, but

(b) does not exceed the amount of the preceding provisional repayment for that accounting period,

shall be taken to have become outstanding on the date on which that preceding provisional repayment was made; and so on with any remaining portion of the principal and any preceding provisional repayments for that accounting period.

(7) So much (if any) of the principal as has become outstanding as mentioned in sub-paragraph (5) or (6) above and has at any time neither been repaid to the Board nor been assessed to corporation tax under section 30 of the Management Act by virtue of this paragraph shall be taken to remain outstanding at that time (and an amount shall accordingly be taken to cease being outstanding only when it is repaid to the Board or when it is so assessed).

Reduced entitlement during transitional period

4 (1) The Board may by regulations make provision for the amount of any provisional repayment to which a company would otherwise be entitled for any accounting period ending after the opening transitional date and before the closing transitional date to be reduced by a prescribed percentage.

(2) The regulations may require a company claiming a provisional repayment for a provisional repayment period falling within such an accounting period to specify in the claim—

(a) the maximum amount to which it could have been entitled by way of provisional repayment for that provisional repayment period apart from the regulations;

(b) the maximum reduced entitlement for that provisional repayment period; and

(c) the amount of the provisional repayment claimed for that provisional repayment period.

(3) The regulations may make provision—

(a) for the charging of interest in any case where an insurance company claims, and is paid, by way of provisional repayment an amount in excess of the maximum reduced entitlement for the provisional repayment period to which the claim relates;

(b) for the period for which, and the rate at which, any such amount is to carry interest under the regulations;

(c) for any such interest to be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax which had been repaid and which ought not to have been repaid; and

(d) for section 87A of that Act to apply in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of the regulations with modifications corresponding to those specified in paragraph 3(3) above.

(4) The regulations may prescribe for the purposes of sub-paragraph (1) above different percentages for accounting periods ending after different dates.

(5) Sub-paragraphs (2) to (4) above are without prejudice to the generality of sub-paragraph (1) above.

(6) In this paragraph—

"the maximum reduced entitlement", in relation to an insurance company and a provisional repayment period, means the maximum amount (as reduced in accordance with the regulations) to which the company could have been entitled by way of provisional repayment for that provisional repayment period;

"the opening transitional date" and "the closing transitional date" mean respectively such date as the Board may specify for the purpose in the first regulations made under this paragraph;

"prescribed" means specified in the regulations;

"the regulations" means any regulations under this paragraph.

Transitional application of pay and file provisions

5 (1) This paragraph applies in relation to an accounting period of an insurance company if—

(a) the accounting period—

(i) begins on or after the commencement day; and

(ii) ends on or before the day appointed for the purposes of section 10;

(b) the company carries on pension business for the whole or part of the accounting period; and

(c) the company makes a claim for a provisional repayment for the accounting period;

and in this paragraph "transitional accounting period" means an accounting period in relation to which this paragraph applies.

(2) An insurance company shall be entitled—

(a) to make a claim for payment of a tax credit in respect of any income of a transitional accounting period, and

(b) to make a claim for the purposes of section 7(5), so far as relating to section 7(2) or 11(3), in respect of any income tax falling to be set off against corporation tax for a transitional accounting period,

(and may do so whether or not the income in question is referable to the company's pension business).

(3) For the purposes of sub-paragraph (2) above, sections 7(2) and 11(3) shall have effect in relation to a transitional accounting period as if the words from "and accordingly" to the end, in each provision, were omitted.

(4) A claim under sub-paragraph (2) above may only be made at such time or within such period as the Board may by regulations provide.

(5) In the application of this Schedule in relation to a transitional accounting period, paragraph 1 above shall have effect as if the reference in each of sub-paragraphs (7) and (10) to a claim such as is mentioned in section 7(6) or in section 42(5A)

of the Management Act were a reference to a claim under paragraph (a) or (b) of sub-paragraph (2) above.

(6) If and to the extent that the provisions of section 826, or of section 87A of the Management Act, would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that accounting period; and—

(a) in the application of section 826 by virtue of this sub-paragraph, the reference in subsection (1)(a) of that section to an accounting period which ends after the appointed day shall be treated as a reference to a transitional accounting period; and

(b) in the application of section 87A of the Management Act by virtue of this sub-paragraph, corporation tax shall be taken to become due and payable on the day following the expiration of the period within which it is required under section 10(1)(b) to be paid.

(7) If and to the extent that the amendments of section 30 of the Management Act specified in subsections (1) to (4) of section 88 of the Finance (No.2) Act 1987 would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that transitional accounting period.

(8) Subsection (7) of section 88 of the Finance (No.2) Act 1987 shall have effect for the purposes of sub-paragraph (7) above as if the reference in paragraph (a) of that subsection to accounting periods ending after the appointed day were a reference to transitional accounting periods.

(9) In this paragraph "the commencement day" means the day appointed under section 49 of the Finance Act 1991.

Interpretation

6 (1) In this Schedule—

"provisional fraction" shall be construed in accordance with paragraphs 1(3), (4)(b) and 2 above;

"provisional repayment" means a provisional repayment under paragraph 1 above;

"provisional repayment period" shall be construed in accordance with paragraph 1 above.

(2) Any reference in this Schedule to a provisional repayment for an accounting period is a reference to a provisional repayment for a provisional repayment period falling within that accounting period.

(3) Until an insurance company makes a return under section 11 of the Management Act as amended by section 82 of the Finance (No.2) Act 1987, paragraph 1(4) above shall have effect in relation to that company as if for paragraph (a) there were substituted—

"(a) "information" means any information contained in a return under section 11 of the Management Act as that section has effect apart from section 82 of the Finance (No.2) Act 1987; and"."

SCHEDULE 9

Section 50.

FRIENDLY SOCIETIES

Tax exempt life or endowment business

1 (1) Section 460 of the Taxes Act 1988 (exemption from tax in respect of life or endowment business) shall be amended as follows.

(2) Subsection (2) shall be amended as mentioned in sub-paragraphs (3) to (6) below.

(3) Before sub-paragraph (i) of paragraph (c) there shall be inserted—

"(ai) where the profits relate to contracts made on or after the day on which the Finance Act 1991 was passed, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £200 or of the granting of annuities of annual amounts exceeding £156;".

(4) In that sub-paragraph, for "31st August 1987" there shall be substituted "31st August 1990 but before the day on which the Finance Act 1991 was passed".

(5) In sub-paragraph (ia) of paragraph (c), after "£100" there shall be inserted "or of the granting of annuities of annual amounts exceeding £156".

(6) At the end of that paragraph, for "and" there shall be substituted—

"(ca) shall not apply to so much of the profits arising from life or endowment business as is attributable to contracts for the assurance of gross sums made on or after 20th March 1991 and expressed at the outset not to be made in the course of tax exempt life or endowment business; and".

(7) In subsection (3)—

(a) for "subsection (2)(c)(i) or (ia)" there shall be substituted "subsection (2)(c)(ai), (i) or (ia)";

(b) for "subsection (2)(c)(i)" there shall be substituted "subsection (2)(c)(ai), (i) or (ia)".

(8) After subsection (4) there shall be inserted—

"(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which the Finance Act 1991 was passed.

(4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a variation made in the period beginning with the day on which the Finance Act 1991 was passed and ending with 31st July 1992, the contract shall be treated for the purposes of subsection (2)(c) above as made at the time of the variation."

2 After section 462 of that Act there shall be inserted—

"**462A Election as to tax exempt business**

(1) Where a registered friendly society has tax exempt life or endowment business which includes contracts—

(a) made before 20th March 1991, and

(b) expressed at the outset not to be made in the course of such business,

the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(2) Where a registered friendly society has tax exempt life or endowment business which includes contracts falling within subsection (3) below, the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(3) A contract falls within this subsection if—

(a) at the outset, it is neither expressed to be made in the course of tax exempt life or endowment business nor expressed not to be so made but is assumed by the society not to be so made, and

(b) the policy issued in pursuance of it falls within paragraph 21(1)(b) of Schedule 15.

(4) An election under subsection (2) above shall only be valid if the society satisfies the inspector (or the Commissioners on appeal) that it is possible to identify all the contracts to which the election relates.

(5) If the inspector decides that he is not satisfied as mentioned in subsection (4) above, he shall give notice of his decision to the society; and section 42(3), (4) and (9) of, and paragraph 1(1) to (1E) of Schedule 2 to, the Management Act shall apply in relation to such a decision as they apply in relation to a decision of an inspector on a claim.

(6) An election under subsection (1) or (2) above shall have effect for accounting periods ending on or after the day on which the Finance Act 1991 was passed.

(7) No election under subsection (1) or (2) above may be made after 31st July 1992.

(8) Where a friendly society has made an election under subsection (1) or (2) above, then, for any accounting period for which the election has effect—

(a) section 460(1) shall apply to profits arising from life or endowment business which would have been included in the society's tax exempt life or endowment business had no account been taken of the contracts to which the election relates, and

(b) section 462(1), in its application to the society, shall have effect with the insertion after "societies" of "and all policies issued in pursuance of contracts to which an election under section 462A(1) or (2) relates"."

Maximum benefits payable to members

3 (1) Section 464 of that Act (maximum benefits payable to members) shall be amended as follows.

(2) In subsection (3), before paragraph (a) there shall be inserted—

"(za) contracts under which the total premiums payable in any period of 12 months exceed £200; or".

(3) In paragraph (a) of subsection (3), after "contracts" there shall be inserted "made before the day on which the Finance Act 1991 was passed and".

(4) After subsection (4) there shall be inserted—

"(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which the Finance Act 1991 was passed.

(4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a variation made in the period beginning with the day on which the Finance Act 1991 was passed and ending with 31st July 1992, the contract shall be treated for the purposes of subsection (3) above as made at the time of the variation."

Qualifying policies

4 (1) In Schedule 15 to that Act (qualifying policies) in paragraph 3, sub-paragraph (1)(c) (contract for policy issued by new society to be made by member over 18) shall be omitted, with the word "and" immediately preceding it.

(2) This paragraph shall apply in relation to policies issued in pursuance of contracts made on or after the day on which this Act is passed.

5 (1) This paragraph applies to any policy—

(a) issued by a friendly society, or branch of a friendly society, in the course of tax exempt life or endowment business (as defined in section 466 of the Taxes Act 1988), and

(b) effected by a contract made after 31st August 1987 and before the day on which this Act is passed.

(2) Where—

(a) the amount payable by way of premium under a policy to which this paragraph applies is increased by virtue of a variation made in the period beginning with the day on which this Act is passed and ending with 31st July 1992, and

(b) the variation is not such as to cause a person to become in breach of the limits in section 464 of the Taxes Act 1988,

Schedule 15 to that Act, in its application to the policy, shall have effect, in relation to that variation, with the modifications mentioned in sub-paragraph (3) below.

(3) The modifications are the omission of paragraph 4(3)(a) and the insertion at the end of paragraph 18(2) of "and as if for paragraph 3(2)(b) above there were substituted—

"(b) subject to sub-paragraph (4) below, the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals over the whole of the term of the policy as from the variation, or, where premiums are not payable for any period after the person liable to pay them or whose life is insured has attained a specified age, being an age attained at a time not less than ten years after the beginning of the term of the policy, over the whole of the remainder of the period for which premiums are payable.""

SCHEDULE 10

Section 51.

BUILDING SOCIETIES: QUALIFYING SHARES

Capital gains: exemption

1 (1) Section 64 of the Finance Act 1984 (qualifying corporate bonds) shall be amended as follows.

(2) After subsection (3D) there shall be inserted—

"(3E) For the purposes of this section "corporate bond" also includes a share in a building society—

(a) which is a qualifying share,

(b) which is expressed in sterling, and

(c) in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.

(3F) For the purposes of subsection (3E) above, a share in a building society is a qualifying share if—

(a) it is a permanent interest bearing share, or

(b) it is of a description specified in regulations made by the Treasury for the purposes of this paragraph.

(3G) Subsection (3) above applies for the purposes of subsection (3E) above as it applies for the purposes of subsection (2)(c) above, treating the reference to a security as a reference to a share."

(3) After subsection (8) there shall be inserted—

"(9) In this section—

"building society" means a building society within the meaning of the Building Societies Act 1986,

"permanent interest bearing share" has the same meaning as in the Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991.

(10) The Treasury may by regulations provide that for the definition of the expression "permanent interest bearing share" in subsection (9) above (as it has effect for the time being) there shall be substituted a different definition of that expression.

(11) Regulations under subsection (3F)(b) or (10) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury think fit.

(12) The power to make regulations under subsection (3F)(b) or (10) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(4) This paragraph shall apply in relation to disposals on or after the day on which this Act is passed.

(5) This paragraph shall not have effect in relation to the application of section 64 for the purposes of section 136A of the Capital Gains Tax Act 1979.

Accrued income scheme: inclusion

2 (1) Section 710 of the Taxes Act 1988 (meaning of "securities" for the purposes of the accrued income scheme) shall be amended as follows.

(2) In subsection (2), after ""Securities" does not" there shall be inserted " , except as provided by subsection (2A) below,".

(3) After that subsection there shall be inserted—

"(2A) "Securities" includes shares in a building society which are qualifying shares for the purposes of section 64(3E) of the Finance Act 1984 (qualifying corporate bonds)."

(4) This paragraph shall have effect in relation to the application of sections 711 to 728 of the Taxes Act 1988 to transfers of securities on or after the day on which this Act is passed.

Incidental costs of issue

3 (1) The following section shall be inserted after section 477A of the Taxes Act 1988—

"**477B Building societies: incidental costs of issuing qualifying shares**

(1) In computing for the purposes of corporation tax the income of a building society from the trade carried on by it, there shall be allowed as a deduction, if subsection (2) below applies, the incidental costs of obtaining finance by means of issuing shares in the society which are qualifying shares.

(2) This subsection applies if any amount payable in respect of the shares by way of dividend or interest is deductible in computing for the purposes of corporation tax the income of the society from the trade carried on by it.

(3) In subsection (1) above, "the incidental costs of obtaining finance" means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.

(4) This section shall not be construed as affording relief—

(a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies, or

(b) for the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or to their having been issued at a discount.

(5) In this section—

"dividend" has the same meaning as in section 477A, and

"qualifying share" has the same meaning as in section 64(3E) of the Finance Act 1984."

(2) This paragraph shall apply in relation to costs incurred on or after the day on which this Act is passed.

Preferential rights of acquisition

4 (1) This paragraph applies where, on or after the day on which this Act is passed, a building society confers—

(a) on its members, or

(b) on any particular class or description of its members,

any rights to acquire, in priority to other persons, shares in the society which are qualifying shares.

(2) Any such right so conferred shall be regarded for the purposes of capital gains tax as an option granted to, and acquired by, the member concerned for no consideration and having no value at the time of that grant and acquisition.

(3) In this paragraph—

"building society" means a building society within the meaning of the Building Societies Act 1986;

"member" includes former member;

"qualifying share" has the same meaning as in section 64(3E) of the Finance Act 1984.

SCHEDULE 11

Section 52.

BUILDING SOCIETIES: MARKETABLE SECURITIES

Deduction of income tax

1 (1) Section 349 of the Taxes Act 1988 (annual interest etc.) shall be amended as follows.

(2) In subsection (2)(a), after "company" there shall be inserted "(other than a building society)".

(3) In subsection (3), paragraph (e) shall be omitted.

(4) After subsection (3) there shall be inserted—

"(3A) Subject to subsection (3B) below and to any other provision to the contrary in the Income Tax Acts, where—

(a) any dividend or interest is paid in respect of a security issued by a building society other than a qualifying certificate of deposit, and

(b) the security was quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest became payable,

the person by or through whom the payment is made shall, on making the payment, deduct out of it a sum representing the amount of income tax thereon for the year in which the payment is made.

(3B) Subsection (3A) above does not apply to any payment to which section 124 applies."

(5) In subsection (4), for "subsection (3)(e) above" there shall be substituted "this section" and for the words from "and" to the end there shall be substituted—

""qualifying certificate of deposit" means a certificate of deposit, as defined in section 56(5), under which—

(a) the amount payable by the issuing society, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made), and

(b) the obligation of the society to pay that amount arises after a period of not more than five years beginning with the date on which the deposit is made; and

"security" includes share."

2 (1) Section 477A of the Taxes Act 1988 (building societies: regulations for deduction of tax) shall be amended as follows.

(2) After subsection (1) there shall be inserted—

"(1A) Regulations under subsection (1) above may not make provision with respect to any dividend or interest paid or credited, on or after the day on which the Finance Act 1991 was passed, in respect of a security (other than a qualifying certificate of deposit) which was quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest became payable."

(3) After subsection (9) there shall be inserted—

"(10) In this section—

"qualifying certificate of deposit" has the same meaning as in section 349, and

"security" includes share."

Collection

3 (1) Schedule 16 to the Taxes Act 1988 (collection of income tax on company payments which are not distributions), in its application to building societies by virtue of section 350(4) of that Act, shall have effect as if for paragraph 2(2)(a) there were substituted—

"(a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with the last day of February, May, August and November;".

(2) In section 350(4) of that Act, the second reference to regulations shall be treated as including a reference to sub-paragraph (1) above.

(3) Regulations under section 350(4) of that Act (power to modify Schedule 16) may repeal sub-paragraphs (1) and (2) above.

4 (1) A building society may not make more than one claim to relief under paragraph 5 of Schedule 16 to the Taxes Act 1988 (set-off of income tax borne on company income against tax payable) in respect of the same deduction.

(2) In sub-paragraph (1) above, the reference to a claim under paragraph 5 of Schedule 16 to the Taxes Act 1988 includes a reference to a claim under that paragraph as applied by regulations under section 477A(1) of that Act.

Information

5 (1) In section 18 of the Taxes Management Act 1970 (information about interest payments) after subsection (3C) there shall be inserted—

"(3D) For the purposes of this section, the payment by a building society of a dividend in respect of a share in the society shall be treated as the payment of interest."

(2) This paragraph shall have effect as regards a case where the payment is made on or after the day on which this Act is passed.

SCHEDULE 12

Section 54.

SECURITIES: NEW ISSUES

General treatment of extra return

1 The following section shall be inserted after section 587 of the Taxes Act 1988—

"**587A New issues of securities: extra return**

(1) This section applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of the new securities, by the person issuing them, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on so many old securities as there are new (or, if there are more new securities than old, the amount of interest which would be so payable if there were as many old securities as new).

(2) Anything payable or paid by way of the extra return shall be treated for the purposes of the Tax Acts as payable or paid by way of interest (to the extent that it would not be so treated apart from this subsection).

(3) But as regards any payment by way of the extra return, relief shall not be given under any provision of the Tax Acts to the person by whom the new securities are issued; and "relief" here means relief by way of deduction in computing profits or gains or deduction or set off against income or total profits.

(4) For the purposes of this section securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(5) For the purposes of this section the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(6) For the purposes of this section the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;

and an interest payment day, in relation to the old securities, is a day on which interest is payable under them."

Accrued income scheme

2 The following section shall be inserted after section 726 of the Taxes Act 1988—

"**726A New issues of securities**

(1) This section applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of the new securities, by the person issuing them, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on so many old securities as there are new (or, if there are more new securities than old, the amount of interest which would be so payable if there were as many old securities as new).

(2) For the purposes of sections 710 to 728—

(a) the new securities shall be treated as having been issued on the relevant day;

(b) they shall be treated as transferred to the person to whom they are in fact issued (though not treated as transferred by any person);

(c) the transfer shall be treated as a transfer with accrued interest and as made on the day on which the new securities are in fact issued;

(d) that day shall be treated as the settlement day (notwithstanding section 712);

but this subsection is subject to subsection (7) below.

(3) If the new securities are in fact issued under an arrangement by virtue of which the acquirer accounts to the issuer separately for the extra return mentioned in subsection (1) above and the rest of the issue price, in relation to the transfer mentioned in subsection (2)(b) above—

(a) section 713(4) shall not apply, and

(b) for the purposes of section 713(2) the accrued amount shall be the amount found under subsection (4) or (5) below (as the case may be);

and here "the acquirer" means the person to whom the new securities are in fact issued and "the issuer" means the person by whom they are in fact issued.

(4) Subject to subsection (5) below, the amount is one equal to the amount (if any) of the extra return separately accounted for.

(5) If the interest on the new securities is payable in a currency other than sterling, the amount is the sterling equivalent on the settlement day of the amount found under subsection (4) above; and for this purpose the sterling equivalent of an amount on the settlement day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

(6) If the new securities are in fact issued otherwise than as mentioned in subsection (3) above, section 713(4)(b) shall apply in relation to the transfer mentioned in subsection (2)(b) above.

(7) If the new securities are securities to which section 717 applies (after applying subsection (2)(a) above) subsection (2)(b) to (d) above shall not apply.

(8) For the purposes of this section the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are in fact issued.

(9) For the purposes of this section the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are in fact issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are in fact issued."

Deep discount securities

3 In Schedule 4 to the Taxes Act 1988 the following shall be inserted after paragraph 11A—

"Issue price

11B (1) This paragraph applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on each old security.

(2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraphs 1(1)(a), (e) and (h) and 11(2) and (3) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.

(3) 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 recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(5) For the purposes of this paragraph the relevant day is—

(a) the last day of the last (or only) income period to end in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no income period ended in respect of them before the day on which the new securities are issued."

Deep gain securities

4 In Schedule 11 to the Finance Act 1989 the following shall be inserted after paragraph 3—

"Issue price

3A (1) This paragraph applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on each old security.

(2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraph 1(9) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.

(3) 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 recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(5) For the purposes of this paragraph the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;

and an interest payment day, in relation to the old securities, is a day on which interest is payable under them."

General

5 This Schedule applies if the new securities are issued on or after 19th March 1991 (whether the old securities are issued before or on or after that day).

SCHEDULE 13

Section 58.

MANUFACTURED DIVIDENDS AND INTEREST

The new arrangements

1 After Schedule 23 to the Taxes Act 1988 there shall be inserted—

"SCHEDULE 23A

Section 736A.

MANUFACTURED DIVIDENDS AND INTEREST

Interpretation

1 (1) In this Schedule—

"approved stock lending arrangement" means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129 and in relation to which that section and section 149B(9) of the 1979 Act apply;

"dividend manufacturer" has the meaning given by paragraph 2(1) below;

"dividend manufacturing regulations" means regulations made by the Treasury under this Schedule;

"interest manufacturer" has the meaning given by paragraph 3(1) below;

"manufactured dividend", "manufactured interest" and "manufactured overseas dividend" shall be construed respectively in accordance with paragraphs 2, 3 and 4 below, as shall references to the gross amount thereof;

"market maker", in relation to any shares, stock or other securities, means a person who—

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

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

but subject to any regulations under sub-paragraph (2) below;

"overseas dividend" means any interest, dividend or other annual payment payable in respect of any overseas securities;

"overseas dividend manufacturer" has the meaning given by paragraph 4(1) below;

"overseas securities" means—

(a) shares, stock or other securities issued by a government or public or local authority of a territory outside the United Kingdom or by any other body of persons not resident in the United Kingdom; and

(b) quoted Eurobonds held in a recognised clearing system, within the meaning of section 124;

"overseas tax" means tax under the law of a territory outside the United Kingdom;

"overseas tax credit" means any such credit under the law of a territory outside the United Kingdom in respect of overseas tax as corresponds to a tax credit;

"prescribed" means prescribed in dividend manufacturing regulations;

"recognised clearing house" means a recognised clearing house within the meaning of the Financial Services Act 1986;

"recognised investment exchange" means a recognised investment exchange within the meaning of that Act;

"securities" includes any loan stock or similar security;

"transfer" includes any sale or other disposal;

"unapproved manufactured payment", subject to any regulations under sub-paragraph (2) below, means—

(a) any manufactured dividend, manufactured interest or manufactured overseas dividend paid in connection with an unapproved stock lending arrangement, and

(b) any manufactured dividend or manufactured interest not falling within paragraph (a) above which is paid in respect of United Kingdom securities or United Kingdom equities by a person other than one who is—

(i) a market maker in relation to United Kingdom securities or United Kingdom equities of the kind in question, or

(ii) in such circumstances as may be prescribed, a member, of a prescribed class or description, of a prescribed recognised investment exchange, or

(iii) in such circumstances as may be prescribed, a prescribed recognised clearing house,and which is so paid otherwise than in connection with an approved stock lending arrangement;

"unapproved stock lending arrangement" means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129, but which, in consequence of regulations under subsection (4) of that section, is not an approved stock lending arrangement;

"United Kingdom equities" means shares of any company resident in the United Kingdom;

"United Kingdom securities" means securities of the government of the United Kingdom, of any public or local authority in the United Kingdom or of any company or other body resident in the United Kingdom, but does not include quoted Eurobonds held in a recognised clearing system, within the meaning of section 124, or United Kingdom equities.

(2) Dividend manufacturing regulations may amend sub-paragraph (1) above—

(a) by changing the definition for the time being of "market maker"; or

(b) by changing the definition for the time being of "unapproved manufactured payment".

Manufactured dividends on United Kingdom equities

2 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (the "dividend manufacturer") is required to pay to the other ("the recipient") an amount representative of a dividend on the equities; and in this Schedule the "manufactured dividend" means any payment which the dividend manufacturer makes in discharge of that requirement.

(2) If, in a case where this paragraph applies, the dividend manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the manufactured dividend shall be treated as if it were a dividend of, and paid by, the dividend manufacturer (and shall accordingly be a distribution of the dividend manufacturer for those purposes).

(3) If, in a case where this paragraph applies, the dividend manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the dividend manufacturer) the manufactured dividend shall for all purposes of the Tax Acts be treated in relation to the recipient and all persons claiming title through or under him—

(a) as if the manufactured dividend were a dividend on the United Kingdom equities,

(b) as if any amount required in consequence of section 737 to be deducted by the dividend manufacturer on account of income tax in respect of the gross amount of the manufactured dividend were required to be accounted for by him as advance corporation tax in respect of the dividend, and

(c) as if any certificate of deduction of tax required in consequence of that section to be issued in connection with the manufactured dividend were the tax credit certificate that would have been issued had the manufactured dividend in fact been a dividend on the United Kingdom equities.

(4) For the purposes of sub-paragraph (3)(b) above, the gross amount of a manufactured dividend is the aggregate of the amount of the manufactured dividend and the amount of the tax credit that would have been issued in respect thereof had the manufactured dividend in fact been a dividend on the United Kingdom equities.

Manufactured interest on United Kingdom securities

3 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom securities, one of the parties (the "interest manufacturer") is required to pay to the other ("the recipient") an amount representative of a periodical payment of interest on the securities; and in this Schedule the "manufactured interest" means any payment which the interest manufacturer makes in discharge of that requirement.

(2) If, in a case where this paragraph applies, the interest manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the gross amount of the manufactured interest shall be treated as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.

(3) If, in a case where this paragraph applies, the interest manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the interest manufacturer) the gross amount of the manufactured interest shall for all purposes of the Tax Acts be treated in relation to the recipient, and all persons claiming title through or under him, as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.

(4) For the purposes of this paragraph the gross amount of any manufactured interest is an amount equal to the gross amount of that periodical payment of interest of which the manufactured interest is representative, as mentioned in sub-paragraph (1) above.

Manufactured overseas dividends

4 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of overseas securities, one of the parties (the "overseas dividend manufacturer") is required to pay to the other ("the recipient") an amount representative of an overseas dividend on the overseas securities; and in this Schedule the "manufactured

overseas dividend" means any payment which the overseas dividend manufacturer makes in discharge of that requirement.

(2) Subject to sub-paragraph (3) below, where this paragraph applies the gross amount of the manufactured overseas dividend shall be treated for all purposes of the Tax Acts as an annual payment, within section 349, but—

(a) the amount which is to be deducted from that gross amount on account of income tax shall be an amount equal to the relevant withholding tax on that gross amount; and

(b) in the application of sections 338(4)(a) and 350(4) in relation to manufactured overseas dividends the references to Schedule 16 shall be taken as references to dividend manufacturing regulations;

and paragraph (a) above is without prejudice to any further amount required to be deducted under dividend manufacturing regulations by virtue of sub-paragraph (8) below.

(3) If, in a case where this paragraph applies, the overseas dividend manufacturer is not resident in the United Kingdom and the manufactured overseas dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, sub-paragraph (2) above shall not apply; but if the manufactured overseas dividend is received by a person resident in the United Kingdom (the "United Kingdom recipient"), then unless the United Kingdom recipient shows either—

(a) that the overseas dividend manufacturer was entitled to payment of the overseas dividend as the registered holder of the overseas securities, or

(b) that the overseas dividend manufacturer was entitled to payment of the overseas dividend directly or indirectly from a person from whom he acquired the overseas securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall account for and pay an amount of tax in respect of the manufactured overseas dividend equal to that which the overseas dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom; and any reference in this Schedule to an amount deducted under sub-paragraph (2) above includes a reference to an amount of tax accounted for and paid under this sub-paragraph.

(4) Where a manufactured overseas dividend is paid after deduction of the amount required by sub-paragraph (2) above, or where the amount of tax required under sub-paragraph (3) above in respect of such a dividend has been accounted for and paid, then for all purposes of the Tax Acts as they apply in relation to persons resident in the United Kingdom or to persons not so resident but carrying on business through a branch or agency in the United Kingdom—

(a) the manufactured overseas dividend shall be treated in relation to the recipient, and all persons claiming title through or under him, as if it were an overseas dividend of an amount equal to the gross amount of the manufactured overseas dividend, but paid

after the withholding therefrom, on account of overseas tax, of the amount deducted under sub-paragraph (2) above; and

(b) the amount so deducted shall accordingly be treated in relation to the recipient, and all persons claiming title through or under him, as an amount so withheld instead of as an amount on account of income tax.

(5) For the purposes of this paragraph—

(a) "relevant withholding tax", in relation to the gross amount of a manufactured overseas dividend, means an amount of tax representative of—

(i) the amount (if any) that would have been deducted by way of overseas tax from an overseas dividend on the overseas securities of the same gross amount as the manufactured overseas dividend; and

(ii) the amount of the overseas tax credit (if any) in respect of such an overseas dividend;

(b) the gross amount of a manufactured overseas dividend is an amount equal to the gross amount of that overseas dividend of which the manufactured overseas dividend is representative, as mentioned in sub-paragraph (1) above; and

(c) the gross amount of an overseas dividend is an amount equal to the aggregate of—

(i) so much of the overseas dividend as remains after the deduction of the overseas tax (if any) chargeable on it;

(ii) the amount of the overseas tax (if any) so deducted; and

(iii) the amount of the overseas tax credit (if any) in respect of the overseas dividend.

(6) Dividend manufacturing regulations may make provision with respect to the rates of relevant withholding tax which are to apply in relation to manufactured overseas dividends in relation to different overseas territories, but in prescribing those rates the Treasury shall have regard to—

(a) the rates at which overseas tax would have fallen to be deducted, and

(b) the rates of overseas tax credits,

in overseas territories, or in the particular overseas territory, in respect of payments of overseas dividends on overseas securities.

(7) Dividend manufacturing regulations may make provision for a person who, in any chargeable period, is an overseas dividend manufacturer to be entitled in prescribed circumstances to set off against each other, in accordance with the regulations—

(a) overseas tax in respect of any overseas dividends, or amounts deducted under sub-paragraph (2) above from any manufactured overseas dividends, received by him in that chargeable period, and

(b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period,

and account to the Board for, or as the case may be, claim credit in respect of, the balance.

(8) Dividend manufacturing regulations may also make provision for cases where a manufactured overseas dividend is paid or otherwise dealt with in circumstances such that, had it been an overseas dividend in respect of the overseas securities, it would have been—

(a) a relevant foreign dividend, within the meaning of section 123,

(b) a foreign dividend, within the meaning of that section,

(c) interest on a quoted Eurobond held in a recognised clearing system, within the meaning of section 124, or

(d) an overseas public revenue dividend, within the meaning of Part III,

and, notwithstanding anything in sub-paragraph (2) or (3) above, any such regulations may provide for deductions of an amount determined by reference to the gross amount of the manufactured overseas dividend to be made from the manufactured overseas dividend on account of income tax similar to the deductions that would, in the case of an overseas dividend, be made under subsection (2) or (3) of section 123 or under Part III, as the case may be, and for Parts III and IV of Schedule 3 to apply with prescribed modifications in relation thereto.

Dividends and interest passing through the market

5 (1) Sub-paragraph (2) below applies in any case where, under a contract or other arrangements for the transfer of securities, a party ("the payment manufacturer") who satisfies the following condition, that is to say, that he is entitled either—

(a) to a dividend or a periodical payment of interest as the registered holder of the securities, or

(b) to payment, whether directly or indirectly, of any such dividend or interest from a person from whom he acquired the securities or to whom he transferred them,

is required to pay to the other party ("the recipient") an amount representative of that dividend or interest; and in this paragraph the "manufactured payment" means any payment which the payment manufacturer makes in discharge of that requirement.

(2) Where this sub-paragraph applies—

(a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment,

(b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the recipient and not as the income of the payment manufacturer, and

(c) the manufactured payment shall not be regarded as the income of the recipient,

but this sub-paragraph is subject to sub-paragraphs (3) and (4) below.

(3) In any case where—

(a) any dividend or interest would, apart from the application or, as the case may be, the subsequent application of this

sub-paragraph, be treated by virtue of any provision of this paragraph as the income of a person (the "subsequent manufacturer") who is a party to a further contract or other arrangements for the transfer of securities, and

(b) under that contract or those arrangements, the subsequent manufacturer is required to pay to the other party (the "subsequent recipient") an amount representative of the dividend or interest (the "subsequent manufactured payment"),

sub-paragraph (4) below shall apply instead of sub-paragraph (2) above (and, on any second or subsequent application of this sub-paragraph, instead of sub-paragraph (4) below as it last applied).

(4) Where this sub-paragraph applies—

(a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment or any subsequent manufactured payment;

(b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the subsequent recipient (or, on a second or subsequent application of sub-paragraph (3) above, the last of them) and not as the income of any other person; and

(c) neither the manufactured payment nor any subsequent manufactured payment shall be regarded as the income of the recipient or of any subsequent recipient;

but this sub-paragraph is subject to any subsequent application of sub-paragraph (3) above.

(5) Notwithstanding anything in sub-paragraphs (1) to (4) above, in any case where—

(a) the dividend or interest is an overseas dividend,

(b) the payment manufacturer or a subsequent manufacturer is resident in the United Kingdom but the recipient or a subsequent recipient is not so resident, and

(c) the rates of overseas tax or overseas tax credit applicable to the overseas dividend in relation to the payment manufacturer or subsequent manufacturer falling within paragraph (b) above are different from what they would have been in relation to the recipient or subsequent recipient falling within that paragraph, had the overseas dividend been paid directly to him,

dividend manufacturing regulations may, in such cases as may be prescribed, make provision for tax to be charged on, or for credit in respect of tax to be given to, such one of the manufacturers falling within paragraph (b) above as may be determined in accordance with the regulations, at such rates as may be so determined.

(6) Any reference in this paragraph to securities is a reference to United Kingdom equities, United Kingdom securities or overseas securities.

Unapproved manufactured payments

6 (1) This paragraph applies where a person makes an unapproved manufactured payment.

(2) Where the unapproved manufactured payment is a manufactured dividend paid by a company, any advance corporation tax paid by the company in respect of the manufactured dividend—

(a) shall not be set against any liability of the company to corporation tax as mentioned in section 239;

(b) shall not be surrendered under, or otherwise treated as mentioned in, section 240; and

(c) shall not be utilised in any other way for the purposes of the Tax Acts;

and no franked investment income of a company shall be used to frank (within the meaning of section 241(5)) the manufactured dividend.

(3) Where the unapproved manufactured payment is manufactured interest paid by a company—

(a) relief shall not be given to the company under any provision of the Tax Acts in respect of any amount which the company is required to deduct from the payment on account of income tax; and

(b) the company shall not be entitled under paragraph 5(1) of Schedule 16 to claim to set income tax borne by deduction from payments received by it against the income tax which it is liable to pay in respect of the payment of manufactured interest.

(4) Where the unapproved manufactured payment is a manufactured overseas dividend—

(a) relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the payment on account of income tax; and

(b) a person shall not be entitled under or by virtue of this Schedule to set—

(i) overseas tax in respect of overseas dividends received by him, or

(ii) an amount deducted under paragraph 4(2) above in respect of manufactured overseas dividends received by him,

against any income tax which he is liable to pay in respect of the payment of the manufactured overseas dividend.

(5) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, franked investment income of a company has been used to frank a manufactured dividend which is an unapproved manufactured payment, he may make an assessment on the dividend manufacturer under sub-paragraph (3) of paragraph 3 of Schedule 13 and that sub-paragraph shall accordingly apply in relation to the amount of advance corporation tax in question.

(6) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, income tax on income received by an interest manufacturer has been set against an amount deducted by the interest manufacturer on account of income tax on a payment of manufactured interest which is an unapproved manufactured payment,

the inspector may make an assessment on the interest manufacturer under paragraph 4 of Schedule 16 and that paragraph shall accordingly apply in relation to the amount of income tax in question.

(7) In this paragraph "relief" means relief by way of—

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits.

Irregular manufactured payments

7 (1) Except where paragraph 5(2) or (4) above applies, in any case where (apart from this paragraph)—

(a) an amount paid by way of manufactured dividend would exceed the amount of the dividend of which it is representative, or

(b) the aggregate of—

(i) an amount paid by way of manufactured interest or manufactured overseas dividend, and

(ii) the tax required to be accounted for in connection with the making of that payment,

would exceed the gross amount (as determined in accordance with paragraph 3 or 4 above) of the interest or overseas dividend of which it is representative, as the case may be,

the payment shall, to the extent of an amount equal to the excess, not be regarded for the purposes of this Schedule as made in discharge of the requirement referred to in paragraph 2(1), 3(1) or 4(1) above, as the case may be, but shall instead to that extent be taken for all purposes of the Tax Acts to constitute a separate fee for entering into the contract or other arrangements under which it was made, notwithstanding anything in paragraphs 2 to 4 above.

(2) Dividend manufacturing regulations may make provision in such circumstances and for such purposes of the Tax Acts as may be prescribed for such a fee as is mentioned in sub-paragraph (1) above to be treated as paid in any case that would fall within that sub-paragraph, apart from paragraph 5 above; and, without prejudice to the generality of the foregoing, any such regulations may in particular provide—

(a) for the amount of the fee to be determined in accordance with the regulations, and

(b) for such of the persons mentioned in that paragraph as may be prescribed to be treated as paying or, as the case may be, as receiving the fee,

and it is immaterial for the purposes of paragraph (b) above whether or not the person prescribed would, apart from paragraph 5 above, have been regarded by virtue of sub-paragraph (1) above as paying or receiving a fee, or as paying it to, or receiving it from, any other person prescribed under paragraph (b) above.

(3) For the purpose of giving relief under any provision of the Tax Acts in a case falling within paragraph 3(1) or 4(1) above where (apart from this paragraph) the aggregate referred to in sub-paragraph (1)(b) above would be less than the gross amount there mentioned—

(a) the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be an amount equal to the aggregate referred to in sub-paragraph (1)(b) above, except where paragraph 6 above applies, and

(b) where paragraph 6 above applies, the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be only the amount referred to in sub-paragraph (1)(b)(i) above,

notwithstanding anything in paragraph 3, 4 or 6 above.

(4) In this paragraph "relief" means relief by way of—

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits.

Dividend manufacturing regulations: general

8 (1) Dividend manufacturing regulations may make provision for—

(a) such manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed, or

(b) such dividend manufacturers, interest manufacturers or overseas dividend manufacturers as may be prescribed,

to be treated in prescribed circumstances otherwise than as mentioned in paragraph 2, 3 or 4 above for the purposes of such provisions of the Tax Acts as may be prescribed.

(2) Dividend manufacturing regulations may make provision with respect to—

(a) the accounts and other records which are to be kept,

(b) the vouchers which are to be issued or produced,

(c) the returns which are to be made,

(d) the manner in which amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax are to be accounted for and paid,

by dividend manufacturers, interest manufacturers or overseas dividend manufacturers in connection with the manufacturing of dividends, interest or overseas dividends.

(3) Dividend manufacturing regulations may—

(a) make provision for prescribed provisions of the Management Act to apply in relation to manufactured dividends, manufactured interest or manufactured overseas dividends with such modifications, specified in the regulations, as the Treasury think fit;

(b) make such further provision with respect to the administration, assessment, collection and recovery of amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax as the Treasury think fit.

(4) Dividend manufacturing regulations may make different provision for different cases."

Power to obtain information in connection with dealings in securities

2 In Schedule 18 to the Finance Act 1986, in paragraph 9(1)(b) (power by regulations to substitute for section 21(1) of the Management Act provision that the Board may exercise the powers conferred by section 21 in such circumstances as may be specified) after the words "conferred by section 21" there shall be inserted the words "in relation to such persons (whether market makers or not) and".

Manufactured dividends etc: amendments of section 737

3 (1) Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (1) there shall be substituted—

"(1) Subject to the provisions of this section and of Schedule 23A, where, under a contract or other arrangements for the transfer of securities, one of the parties (the "dividend manufacturer") is required to pay to the other an amount representative of a periodical payment of interest on the securities, section 350(1) and Schedule 16 shall apply as if the payment by the dividend manufacturer (the "manufactured dividend") were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to income tax."

(3) For subsection (3) there shall be substituted—

"(3) Subsection (1) above shall not apply in any case where—

(a) the dividend manufacturer is a company resident in the United Kingdom; or

(b) the manufactured dividend is a manufactured overseas dividend, within the meaning of Schedule 23A."

(4) Subsection (4) (purchase of securities by dividend manufacturer resident in the United Kingdom from person not so resident) shall cease to have effect; and for subsection (5) (dividend manufacturers not resident in the United Kingdom) there shall be substituted—

"(5) Where the dividend manufacturer in relation to the contract or other arrangements mentioned in subsection (1) above is not resident in the United Kingdom and the manufactured dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, that subsection shall not apply; but if the manufactured dividend is received by a person resident in the United Kingdom (the "United Kingdom recipient"), then unless the United Kingdom recipient shows either—

(a) that the dividend manufacturer was entitled to payment of the dividend as the registered holder of the securities, or

(b) that the dividend manufacturer was entitled to payment of the dividend directly or indirectly from a person from whom he acquired the securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall be assessable and chargeable with an amount of income tax in respect of the manufactured dividend equal to that

which the dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom."

(5) After that subsection there shall be inserted—

"(5A) Where this section applies in relation to a manufactured dividend, relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the manufactured dividend on account of income tax; and in this subsection "relief" means relief by way of—

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits."

(6) In subsection (6) (definitions)—

(a) for the definitions of "broker" and "market maker" there shall be substituted—

""dividend manufacturing regulations" means regulations made by the Treasury under Schedule 23A;

"prescribed" means prescribed in dividend manufacturing regulations;

"recognised investment exchange" means a recognised investment exchange within the meaning of the Financial Services Act 1986;"; and

(b) after the definition of "securities" there shall be inserted—

""transfer" includes any sale or other disposal;".

(7) After subsection (7) there shall be inserted—

"(7A) Where the dividend manufacturer—

(a) is not resident in the United Kingdom but carries on a trade through a branch or agency in the United Kingdom, or

(b) is a member, of a prescribed class or description, of a prescribed recognised investment exchange,

dividend manufacturing regulations may make provision for this section and such other provisions of the Tax Acts as may be prescribed to apply with prescribed modifications in connection with the manufactured dividend or any tax required to be deducted or accounted for in respect of it.

(7B) Without prejudice to the generality of subsection (7A) above, dividend manufacturing regulations made by virtue of that subsection may, in particular, include provision—

(a) entitling the dividend manufacturer to any prescribed relief to which he would not otherwise be entitled;

(b) denying the dividend manufacturer any prescribed relief to which he would otherwise be entitled;

(c) prescribing the manner in which amounts required to be deducted or accounted for on account of tax are to be accounted for and paid;

and, without prejudice to the generality of paragraph (c) above, any regulations made for the purpose specified in that paragraph may include provision, in a case falling within subsection (7A)(a) above, for the

manufactured dividend to be a relevant payment for the purposes of Schedule 16 and for that Schedule to apply in relation to it with such modifications as may be prescribed."

Consequential provisions

4 In section 738 of that Act, subsection (2) (which confers power to amend the definitions of "broker" and "market maker" in section 737(6)) shall cease to have effect; and in subsection (4)—

(a) for the words "subsections (2) and" there shall be substituted the word "subsection"; and

(b) for the words "contract for the sale of securities" there shall be substituted the words "contract or other arrangements for the transfer of securities".

SCHEDULE 14

Section 59.

CAPITAL ALLOWANCES: VAT CAPITAL GOODS SCHEME

PART I

INDUSTRIAL BUILDINGS AND STRUCTURES

Buildings and structures in enterprise zones

1 In section 1 of the Capital Allowances Act 1990 (enterprise zones) after subsection (1) there shall be inserted—

"(1A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred as mentioned in paragraphs (a) and (b) of subsection (1) above incurs an additional VAT liability in respect of any of that capital expenditure at a time when—

(a) the building or structure is, or is to be, an industrial building or structure occupied as mentioned in paragraph (a) of that subsection, and

(b) the site of the building or structure is in an enterprise zone and not more than 10 years have elapsed since the site was first included in the zone,

that liability shall be regarded for the purposes of this Act as capital expenditure incurred on the construction of the building or structure and, subject to the following provisions of this Act, an allowance shall accordingly be made to him under that subsection for the chargeable period related to the incurring of that liability."

Transitional relief for regional projects

2 (1) In section 2 of that Act, in subsection (1) (which applies section 1, with modifications, in relation to certain regional projects) after paragraph (a) there shall be inserted—

"(aa) in subsection (1A)—

(i) for the words "paragraphs (a) and (b)" there shall be substituted the words "paragraph (a)"; and

(ii) paragraph (b) shall be omitted; and".

(2) After subsection (3) of that section there shall be inserted—

"(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above."

Writing-down allowances

3 (1) In section 3 of that Act (writing-down allowances in respect of industrial buildings and structures) after subsection (2) there shall be inserted—

"(2A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred on the construction of a building or structure incurs an additional VAT liability in respect of any of that capital expenditure, then—

(a) that liability shall be regarded for the purposes of this Act as capital expenditure incurred by him on the construction of the building or structure, and

(b) the residue (as defined in section 8(1)) of the expenditure incurred on the construction of the building shall accordingly be deemed for the purposes of this Part to be increased as at the time at which the liability is incurred by an amount equal to the liability.

(2B) Where an additional VAT liability is incurred as mentioned in subsection (2A) above, then (subject to any further adjustment under this subsection on any later such event or under subsection (2C) or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the liability is incurred, shall be the residue of the capital expenditure immediately after the incurring of the liability, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the incurring of the liability, of the period of 25 years beginning with the time when the building or structure was first used.

(2C) In any case where—

(a) an additional VAT rebate in respect of any capital expenditure incurred on the construction of a building or structure is made to the person entitled to the relevant interest in relation to that expenditure, and

(b) the residue of that expenditure immediately before the making of the rebate is not less than the amount of the rebate,

then (subject to any further adjustment under this subsection on any later such event or under subsection (2B) above or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the rebate is made, shall be the residue of that expenditure immediately after the making of the rebate, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the making of the rebate, of the period of 25 years beginning with the time when the building or structure was first used."

(2) In subsection (3) of that section (sale of relevant interest: recalculation of future writing-down allowances) after the words "on a later sale" there shall be inserted the words "or under subsection (2B) or (2C) above".

Balancing allowances and balancing charges

4 (1) In section 4 of that Act, in subsection (1) (events which give rise to balancing allowances and balancing charges), after paragraph (d) there shall be inserted the words "or

(e) an additional VAT rebate in respect of any of the capital expenditure is made to the person entitled to the relevant interest,".

(2) In subsection (2) of that section (no balancing allowance or charge on second or subsequent events when the building or structure is not an industrial building or structure) after the words "and where two or more events" there shall be inserted the words "falling within paragraphs (a) to (d) of subsection (1) above".

(3) After that subsection there shall be inserted—

"(2A) No balancing allowance shall be made by reason of an event falling within paragraph (e) of subsection (1) above; and no balancing charge shall be made by reason of such an event unless—

(a) the amount of the additional VAT rebate exceeds the residue of expenditure immediately before the making of that rebate, or

(b) there is no such residue,

and in any such case a balancing charge shall be made on an amount equal to that by which the rebate exceeds the residue of expenditure immediately before the making of the rebate or, where there is no such residue, to the amount of the rebate."

(4) In subsection (9) of that section, in the definition of "the capital expenditure" there shall be added at the end of paragraph (a) the words "reduced by an amount equal to that of any balancing charge made in relation to that expenditure on the occurrence of an event falling within subsection (1)(e) above;

(5) At the end of subsection (10) of that section (balancing charge not to exceed allowances made) there shall be added the words "reduced by the amounts (if any) on which balancing charges in respect of the expenditure have been made on him for any such chargeable periods".

Writing off of expenditure and meaning of "residue of expenditure"

5 (1) In section 8 of that Act, for subsection (2) (initial allowances to be treated as written off when building or structure first used) there shall be substituted—

"(2) Where an initial allowance is made in respect of any of the expenditure, then—

(a) if that allowance is made in respect of an additional VAT liability incurred after the building or structure is first used, the amount of that allowance shall be treated as written off as at the time at which the liability is incurred; and

(b) in any other case, the amount of the allowance shall be treated as written off as at the time when the building or structure is first used."

(2) After subsection (12) of that section there shall be inserted—

"(12A) Where an additional VAT rebate is made in respect of any of the expenditure, there shall be treated as written off as at the time at which the rebate is made an amount equal to the rebate."

(3) In subsection (13) (application of subsections (1) to (12) to the Crown) for "(12)" there shall be substituted "(12A)".

PART II

MACHINERY AND PLANT

Transitional relief for regional projects

6 (1) In section 22 of that Act (first-year allowances: transitional relief for regional projects) after subsection (1) there shall be inserted—

"(1A) Subsection (1B) below applies in any case where a person—

(a) has at any time incurred, as mentioned in paragraphs (a) and (b) of subsection (1) above, capital expenditure to which this section applies, and

(b) subsequently incurs an additional VAT liability in respect of that capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade.

(1B) Where this subsection applies, then, for the purposes of this Act—

(a) the additional VAT liability shall be regarded as capital expenditure incurred by the person on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and

(b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him at some time during the chargeable period related to the incurring of the capital expenditure,

and, subject to the following provisions of this Act, a first-year allowance shall accordingly be made to him under subsection (1) above for the chargeable period related to the incurring of that liability."

(2) After subsection (3) of that section there shall be inserted—

"(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above."

Writing-down allowances and balancing adjustments

7 (1) In section 24 of that Act, after subsection (1) (expenditure on machinery or plant qualifying for writing-down allowances) there shall be inserted—

"(1A) If, in a case where the circumstances are as mentioned in paragraphs (a) and (b) of subsection (1) above, the person there mentioned incurs an additional VAT liability in respect of the capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade, then, for the purposes of this Act—

(a) that liability shall be regarded as capital expenditure incurred by him on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and

(b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him,

and, subject to the following provisions of this Act, subsection (1) above shall have effect accordingly in relation to the capital expenditure constituted by that liability."

(2) At the beginning of subsection (6) of that section (disposal value) there shall be inserted the words "Subject to subsection (7) below," and after that subsection there shall be inserted—

"(7) This subsection applies to all machinery and plant—

(a) on the provision of which for the purposes of the trade a person has incurred capital expenditure;

(b) which belongs to him at some time in a chargeable period or its basis period; and

(c) in respect of which the following event occurs, namely, the making of an additional VAT rebate to him in that chargeable period or its basis period in respect of the capital expenditure incurred by him on the provision of the machinery or plant;

and where this subsection applies to any machinery or plant the amount that is to be brought into account by virtue of subsection (6) above by that person for the chargeable period related to the making of the rebate shall be increased by the addition of (or, if there would not otherwise be a disposal value for that chargeable period, shall be) the disposal value of the machinery or plant in respect of which that rebate is made.

(8) Except in subsection (7) above, any reference in this Act to subsection (6) above (but not a reference to any specific provision of it) shall be taken to include a reference to subsection (7) above."

The disposal value

8 (1) In section 26 of that Act (which defines the disposal value by reference to the event giving rise to it) in subsection (1), after paragraph (e) there shall be inserted—

"(ee) if that event is the making of an additional VAT rebate in respect of capital expenditure incurred on the provision of the machinery or plant, equals the amount of that rebate; and".

(2) At the end of subsection (2) of that section (disposal value not to exceed expenditure on the provision of the machinery or plant for the purposes of the trade) there shall be added the words—

"reduced by the aggregate amount of any additional VAT rebates made to him in respect of any of that capital expenditure.

(2A) If the event by reason of which a disposal value is to be brought into account is the making of an additional VAT rebate to a person, subsection (2) above shall have effect as if the capital expenditure referred to in that subsection were reduced (or further reduced) by the amount of any disposal value

brought into account by that person in respect of the machinery or plant by reason of any earlier event (other than the making of an additional VAT rebate)."

(3) At the end of that section there shall be added—

"(4) Where an additional VAT rebate has been made to any of the persons mentioned in subsection (3) above in respect of the capital expenditure incurred by him as there mentioned, that capital expenditure shall, in his case, be treated as reduced by the amount of the rebate, but no further reduction shall be made under subsection (2) above."

Short-life assets

9 (1) In section 37 of that Act, after subsection (4) (allowances for the notional trade to be given for the corresponding period of the actual trade) there shall be inserted—

"(4A) In any case where—

(a) a balancing allowance that would, on the assumptions in subsection (3) above, fall to be made to the trader for a chargeable period in the case of the notional trade has, by virtue of subsection (4) above, been made to him for a chargeable period in the case of the actual trade,

(b) after the chargeable period of the notional trade related to its permanent discontinuance for the purposes of sections 24, 25 and 26, he incurs an additional VAT liability in respect of the capital expenditure incurred on the provision of the machinery or plant, and

(c) that liability was not brought into account in determining the amount of the balancing allowance,

a further balancing allowance, of an amount equal to the liability, shall be made to him for the chargeable period of the actual trade related to the incurring of the liability (and the liability shall not be brought into account for any chargeable period in the case of the notional trade)."

(2) In subsection (5) of that section (no disposal value brought into account before fourth anniversary) after the word "If" there shall be inserted the words "disregarding section 24(7)".

Fixtures

10 In section 54(1)(c) of that Act (which refers to a person being required to bring the disposal value of a fixture into account under section 24) after the words "section 24" there shall be inserted the words "otherwise than by virtue of subsection (7) of that section".

Further restrictions on allowances

11 (1) In section 75 of that Act (connected persons etc) in subsection (1) (provision by purchase of machinery or plant)—

(a) after the words "in respect of the expenditure" there shall be inserted the words "or any additional VAT liability incurred in respect of it"; and

(b) for the words "so much (if any) of the expenditure" there shall be substituted the words "so much (if any) of the aggregate of the expenditure and any such additional VAT liability".

(2) In subsection (2) of that section (contracts under which a person will or may become the owner of machinery or plant)—

(a) after the words "so far as relating to that machinery or plant" there shall be inserted the words "or in respect of any additional VAT liability incurred by him in respect of any such expenditure"; and

(b) for the words "so much (if any) of the expenditure" there shall be substituted the words "so much (if any) of the aggregate of the expenditure and any such additional VAT liability".

(3) In subsection (3) of that section (assignment of benefit of such contracts)—

(a) after the words "consideration for the assignment" there shall be inserted the words "or in respect of any additional VAT liability incurred by him in respect of any such expenditure"; and

(b) for the words "so much (if any) of the assignee's expenditure" there shall be substituted the words "so much (if any) of the aggregate of the assignee's expenditure and any such additional VAT liability".

(4) In section 76 of that Act (extension of section 75) after subsection (2) (provision for open market value etc to be brought into account where there is no disposal value) there shall be inserted—

"(2A) In any case where—

(a) section 75(1) has effect with the modification specified in paragraph (a) of subsection (2) above, but

(b) the open market value of the machinery or plant in question is determined for the purposes of those provisions inclusive of value added tax,

section 75(1) as so modified shall have effect with the omission of the words "the aggregate of" and "and any such additional VAT liability".

(2B) For the purposes of paragraphs (b) and (c) of subsection (2) above—

(a) any additional VAT liability incurred by the seller or, as the case may be, any person connected with him in respect of capital expenditure incurred on the provision of the machinery or plant shall be regarded as capital expenditure incurred on the provision of the machinery or plant, and

(b) any additional VAT rebate made to the seller or, as the case may be, any person connected with him in respect of any such expenditure shall be regarded as reducing the amount of capital expenditure so incurred by him,

to the extent that the liability or rebate in question would not, apart from this subsection, fall to be so regarded."

(5) In subsection (4) of that section (application of subsections (2) and (3) in relation to section 75(2) and (3)) for the words "Subsections (2) and (3)" there shall be substituted the words "Subsections (2), (2A), (2B) and (3)".

PART III

SCIENTIFIC RESEARCH

Deduction for additional VAT liability on capital expenditure

12 (1) In section 137 of that Act (deductions for capital expenditure on scientific research) after subsection (1) there shall be inserted—

"(1A) Where a person—

(a) has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of subsection (1) above, and

(b) incurs an additional VAT liability in respect of that expenditure at any time before the relevant event (as defined in section 138(1)) occurs in relation to the asset in question,

that liability shall, subject to the following provisions of this section, be regarded for the purposes of this Act as expenditure of a capital nature incurred on the scientific research."

(2) In subsection (3) of that section (relief where scientific building contains a dwelling to which not more than one quarter of the cost is referable) after the words "consists of a dwelling and" there shall be inserted the words ",disregarding any additional VAT liability or rebate,".

Charge in respect of additional VAT rebate on capital expenditure

13 (1) In section 138 of that Act, after subsection (2) (charge where asset ceases to belong to trader) there shall be inserted—

"(2A) Where one or more additional VAT rebates have been made in respect of the expenditure at any time before the relevant event, the amount of the allowance and the amount of the expenditure shall each be treated for the purposes of subsection (2)(a) and (b) above as reduced by the aggregate amount of such of those rebates as fell, or fall, to be treated as trading receipts under subsection (3A) below."

(2) After subsection (3) of that section there shall be inserted—

"(3A) In any case where—

(a) a person carrying on a trade has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of section 137(1), and

(b) an additional VAT rebate in respect of that expenditure is made to him at any time before the relevant event occurs in relation to the asset in question,

then, unless that rebate falls to be brought into account for the purpose of making allowances and charges under Part I or Part II, an amount equal to the rebate shall be treated as a trading receipt of the trade accruing for the chargeable period related to the making of the rebate or, if the rebate is made on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance."

(3) At the end of that section there shall be added—

"(8) For the purposes of subsections (2) and (3) above, any question arising whether the relevant event occurred in or after, or (as the case may be) before, the chargeable period for which an allowance is given in respect of the expenditure there mentioned shall be determined without reference to the making of any allowance by virtue of section 137(1A); but this subsection is without prejudice to any question as to the amount of the expenditure or of the allowance for the purposes of those subsections."

PART IV

SUPPLEMENTARY PROVISIONS

General provisions about additional VAT liabilities and rebates

14 In section 159 of that Act, in subsection (2) (time when capital expenditure is incurred) after the words "capital expenditure" there shall be inserted the words "(other than that constituted by an additional VAT liability)" and after that section there shall be inserted—

"**159A Additional VAT liabilities and rebates**

(1) Subject to subsections (3) and (4) below, any additional VAT liability or rebate arising is to be regarded for the purposes of this Act as incurred or made on the last day of the relevant VAT interval.

(2) For the purposes of subsection (1) above "the relevant VAT interval", in relation to an additional VAT liability or rebate, means that one of the periods of which, under the VAT capital items legislation, the VAT period of adjustment applicable to the asset in question consists, in which occurred the increase or decrease in use which gave rise to the liability or rebate.

(3) An additional VAT liability or rebate shall, for the purpose only of determining the chargeable period—

(a) for which an allowance or charge under this Act may be made in respect of that liability or rebate, or

(b) in which the amount of that liability or rebate is to be brought into account in connection with the making of such allowances or charges,

be regarded as incurred or made at a time determined in accordance with subsection (4) below and, except for that purpose, any such liability or rebate shall not be treated as incurred or made otherwise than on the day on which it is to be regarded as incurred or made by virtue of subsection (1) above.

(4) For the purpose of determining the chargeable period referred to in subsection (3) above—

(a) where a return for the purposes of value added tax is made to the Commissioners of Customs and Excise in which the liability or rebate is accounted for, the liability or rebate shall be regarded as incurred or made in the chargeable period or its basis period which includes the last day of the period to which that return relates; but

(b) if, before any such return is made, those Commissioners assess the liability or rebate as due or repayable, then, notwithstanding paragraph (a) above, the liability or rebate shall be regarded as incurred or made on the day on which that assessment is made; and

(c) if the additional VAT liability or rebate has not been accounted for on a return for the purposes of value added tax to those Commissioners, or assessed by them for those purposes, before the trade in question has been permanently discontinued or treated by any provision of the Tax Acts as permanently discontinued, then, notwithstanding paragraphs (a) and (b) above, the liability or rebate shall be regarded as incurred or made on the last day of the chargeable period related to the discontinuance.

(5) Where, disregarding any additional VAT liability or rebate, any allowance or charge falling to be made under this Act in respect of any capital expenditure falls, under any provision of this Act, to be determined by reference to—

(a) a proportion only of that expenditure, or

(b) a proportion only of what that allowance or charge would have been apart from that provision,

then, to the extent that so much of any allowance or charge as falls to be so made in respect of any additional VAT liability or rebate in respect of that expenditure would not (apart from this subsection) fall to be determined by reference to that proportion of the liability or rebate or, as the case may be, of what that portion of the allowance or charge would otherwise have been, it shall be so determined.

(6) In this Act—

"additional VAT liability", in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes liable to pay by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

"additional VAT rebate", in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes entitled to deduct by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

"VAT capital items legislation" means any provisions of any Act or instrument (whenever passed or made) which provide, in relation to value added tax—

(a) for the proportion of input tax on an asset of a specified description which may be deducted by a person from his output tax to be adjusted from time to time in consequence of any increase or decrease in the extent to which the asset is used by him for the making of taxable supplies, or taxable supplies of a specified class or description, over a specified period (a "VAT period of adjustment") applicable to the asset, or

(b) otherwise for the purpose of giving effect to Article 20(2) to (4) of the Sixth Directive of the Council of the European Communities on Value Added Tax, dated 17th May 1977,

and for this purpose "taxable supply" has the same meaning as it has in the Value Added Tax Act 1983 by virtue of section 2(2) of that Act;

"VAT period of adjustment" has the meaning given in the definition of VAT capital items legislation.

(7) In this section—

(a) "input tax" and "output tax" have the meaning given by section 14 of the Value Added Tax Act 1983; and

(b) in the application of subsection (4)(c) above for the purposes of Part II, the reference to the trade in question shall be construed in accordance with section 27 as that section would apply if this section were included in that Part."

SCHEDULE 15

Section 73.

RELIEF FOR COMPANY TRADING LOSSES

The Taxes Management Act 1970 (c. 9)

1 (1) In section 86 of the Taxes Management Act 1970 (interest on overdue tax) after subsection (2) there shall be inserted—

"(2A) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (the "later period") is set off for the purposes of corporation tax against profits of a preceding accounting period (the "earlier period"),

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) if the claim had not been made, an amount of corporation tax assessed for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the claim, except so far as concerns interest for any time after the day following the expiry of the period of nine months from the end of the later period."

(2) The subsection (2A) inserted by sub-paragraph (1) above shall be omitted where the accounting period referred to in that subsection as the earlier period ends after the appointed day for the purposes of section 86 of the Finance (No.2) Act 1987 so far as relating to the omission of section 86(2)(d) of the Taxes Management Act 1970.

2 In section 87A of that Act (which is set out in section 85 of the Finance (No.2) Act 1987 and which makes fresh provision for interest on overdue corporation tax) there shall be added at the end—

"(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (the "later

period") is set off for the purposes of corporation tax against profits of a preceding accounting period (the "earlier period"),

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) if the claim had not been made, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the claim, except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (1) above."

The Income and Corporation Taxes Act 1988 (c. 1)

3 In section 114 of the Taxes Act 1988 (special rules for computing profits and losses) in subsection (3), paragraph (c) and the word "and" immediately preceding it shall cease to have effect.

4 In section 118 of that Act (restriction on relief: companies)—

(a) in subsection (1) (treatment of certain amounts which may be given or allowed under section 393(2) etc) for "393(2)" there shall be substituted "393A(1)"; and

(b) in subsection (2), in the definition of "the aggregate amount" (certain amounts given or allowed under section 393(2) etc to form part of that amount) for "393(2)" there shall be substituted "393A(1)".

5 (1) In section 242 of that Act (set-off of losses etc against surplus of franked investment income) in subsection (2)(a) (surplus to be treated as an amount of profits chargeable to corporation tax for purpose of setting of trading losses against total profits under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (4) of that section (restriction imposed by section 393(3) etc on relief to apply only to relief given apart from the section in case of certain claims under the section relating to section 393(2) etc)—

(a) for "393(2)" there shall be substituted "393A(1)"; and

(b) in paragraph (a), for "393(3)" there shall be substituted "393A(2)".

(3) In subsection (8)(a) of that section (time limit for claims under the section for purpose of setting of trading losses against total profits under section 393(2)) for the words from "section 393(2)" to "is incurred" there shall be substituted the words "subsection (1) of section 393A, the time limit that would, by virtue of subsection (10) or (11) of that section, be applicable in the case of a claim under that section in respect of those losses".

6 (1) In section 243 of that Act, in subsection (1) (company with surplus of franked investment income may require that surplus to be taken into account for relief under section 393(1) or 394) the words "or 394" shall cease to have effect.

(2) Subsection (5) of that section (claim relating to section 394) shall cease to have effect.

(3) In subsection (6) of that section, paragraph (b) (time limit for claims so far as relating to section 394) shall cease to have effect.

7 (1) In section 343 of that Act (company reconstructions without a change of ownership) in subsection (3) (predecessor not entitled to relief under section 394 except as provided by subsection (6); and successor entitled to relief under section 393(1) subject to claim made by predecessor under section 393(2) etc)—

(a) the words from the beginning to "subsection (6) below; and" shall cease to have effect; and

(b) for "393(2)" there shall be substituted "393A(1)".

(2) Subsection (6) of that section shall cease to have effect.

(3) In subsection (7) of that section—

(a) the words from "then no relief" to "subject to that" shall be omitted; and

(b) for "(6)" there shall be substituted "(5)".

8 In section 393 of that Act (losses other than terminal losses)—

(a) in subsection (1), for the words "subsection (2) below" there shall be substituted the words "section 393A(1)"; and

(b) in subsection (11) (time limits for claims under section 393) the words from "and a claim under subsection (2) above" onwards shall cease to have effect.

9 In section 395 of that Act (leasing contracts and company reconstructions) in subsection (1) (limitation of relief under section 393(1) or (2) in respect of losses incurred on leasing contract of machinery or plant) in paragraph (b) for the words "subsection (1) or (2) of section 393" there shall be substituted the words "section 393(1) or 393A(1)".

10 In section 397(2) of that Act (which excludes certain losses in a trade of farming or market gardening from relief under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

11 In section 399 of that Act (dealings in commodity futures etc: withdrawal of loss relief) in subsection (2) (relief not to be given under section 393(2) etc in respect of certain losses) for "393(2)" there shall be substituted "393A(1)".

12 In section 400 of that Act (write-off of government investment) in subsection (4) (exclusion of amounts in respect of which claim has been made under section 393(2) etc) for "393(2)" there shall be substituted "393A(1)".

13 (1) In section 403 of that Act (losses etc which may be surrendered by way of group relief) in subsection (1) (claimant company entitled to relief in respect of loss incurred by surrendering company and computed as for the purposes of section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (2) of that section (subsection (1) not to apply to so much of loss as is excluded from section 393(2) by section 393(5) etc) for the words "subsection (2) of section 393 by subsection (5) of that section" there shall be substituted the words "subsection (1) of section 393A by subsection (3) of that section".

(3) In subsection (10) of that section for "393(2)" in both places where occurring there shall be substituted "393A(1)".

14 (1) In section 407 of that Act (relationship between group relief and other relief) in subsection (1)(b), for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (2)(a) of that section, for "393(2) or 394" there shall be substituted "393A(1)(b)".

15 In section 434 of that Act (insurance companies: franked investment income etc) in subsection (2) (ascertaining for purposes of section 393 or 394 whether and to what extent company has incurred loss on its life assurance business) for "394" there shall be substituted "393A(1)".

16 In section 458 of that Act (capital redemption business) in subsection (2) (ascertaining whether and to what extent person has incurred loss on capital redemption business for purposes of section 380 or sections 393 and 394) for "394" there shall be substituted "393A(1)".

17 In section 492 of that Act (treatment of oil extraction activities etc for tax purposes) in subsection (3) (restriction on relief under section 393(2) against ring fence profits) for "393(2)" there shall be substituted "393A(1)".

18 In section 503(1) of that Act (commercial letting of furnished holiday accommodation to be treated as trade for purposes of section 394 etc) for "394" there shall be substituted "393A(1)".

19 (1) In section 518 of that Act (harbour reorganisation schemes) in subsection (3) (person to whom harbour authority transferred entitled to relief under section 393(1) in certain circumstances but subject to any claim made by transferor under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) Subsection (6) of that section (transferor not entitled to relief under section 394 in respect of the trade) shall cease to have effect.

20 (1) After section 768 of that Act (change in ownership: trading losses not to be carried forward) there shall be inserted the following section—

"**768A Change in ownership: disallowance of carry back of trading losses**

(1) In any case where—

(a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by the company, or

(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, there is a change in the ownership of the company,

no relief shall be given under section 393A(1) by setting a loss incurred by the company in an accounting period ending after the change in ownership against any profits of an accounting period beginning before the change in ownership.

(2) Subsections (2) to (4), (8) and (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.

(3) This section applies in relation to changes in ownership occurring on or after 14th June 1991."

(2) In section 769 of that Act (rules for ascertaining change in ownership in company)—

(a) in subsections (1), (2)(d) and (5), for the words "section 768" there shall be substituted the words "sections 768 and 768A"; and

(b) in subsections (3) and (4), after the words "section 768" there shall be inserted the words "or 768A".

21 In section 808 of that Act (restriction on deduction of interest or dividends from trading income so as to give rise to losses to be set off under section 393 or 436) after "393" there shall be inserted "393A(1)".

22 In section 825 of that Act, in subsection (4) (restrictions on repayment supplement) after paragraph (b) there shall be added the words "and

(c) a repayment of corporation tax or income tax falling to be made as a result of a claim under section 393A(1) to have the whole or any part of a loss incurred in an accounting period set off against profits of an earlier accounting period ("the earlier period")—

(i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss was incurred, be treated as a repayment of tax paid for the earlier period; and

(ii) in any other case, shall be treated as a repayment of tax paid for the accounting period in which the loss is incurred; and

(d) a payment of the whole or part of a tax credit falling to be made as a result of a claim under section 242, to the extent that a surplus of franked investment income for an accounting period (the "earlier period") is treated as there mentioned for the purpose of setting a loss incurred in a later accounting period against total profits under section 393A(1)—

(i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss is incurred, be treated as a payment in respect of franked investment income received in the earlier period; and

(ii) in any other case, shall be treated as a payment in respect of franked investment income received in the accounting period in which the loss is incurred."

23 In section 826 of that Act (interest on tax overpaid) after subsection (7) there shall be inserted—

"(7A) In any case where—

(a) a company carrying on a trade incurs a loss in the trade in an accounting period ("the later period"),

(b) as a result of a claim under section 393A(1), the whole or any part of that loss is set off for the purposes of corporation tax against profits (of whatever description) of an earlier accounting period ("the earlier period") which does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period,

then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that repayment as a result of the claim under section 393A(1), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above.

(7B) In any case where—

(a) a company carrying on a trade incurs a loss in the trade in an accounting period ("the later period"),

(b) as a result of a claim under section 242, the whole or any part of a surplus of franked investment income for an earlier accounting period (the "earlier period") which does not fall wholly within the period of twelve months immediately preceding the later period is treated as there mentioned for the purpose of setting the loss against total profits under section 393A(1), and

(c) a payment falls to be made of the whole or part of a tax credit comprised in franked investment income received by the company in the earlier period,

then, in determining the amount of interest (if any) payable under this section on the payment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that payment as a result of the claim under section 242 (to the extent that that section relates to section 393A(1)), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

24 In section 843 of that Act (commencement) in subsection (4) (exceptions in the case of certain provisions which include section 394) "394" shall be omitted.

25 In Schedule 5 to that Act (treatment of farm animals etc for purposes of Case I of Schedule D) in paragraph 2(3)(a) (election for herd basis to be valid only if made not later than two years after end of the first chargeable period in which relief under section 393(2) given etc) after "393(2)" there shall be inserted "or 393A(1)".

26 In Schedule 26 to that Act (reliefs against liability for tax in respect of chargeable profits) in paragraph 1(3)(a) ("relevant allowance" to include any loss to which section 393(2) applies) for "393(2)" there shall be substituted "393A(1)".

27 (1) In Schedule 30 to that Act (transitional provisions and savings) in paragraph 2 (duration of leases) in sub-paragraph (2)(a) (section 38 deemed to have effect as from passing of Finance Act 1963 in respect of relief under section 385 or 393) after "393" there shall be inserted the words "or 393A(1)".

(2) In paragraph 3 of that Schedule (duration of leases) in sub-paragraph (1)(b) (sections 24 and 38 to have effect subject to modifications except to extent that section 38 relates to relief under section 385 or 393) after "393" there shall be inserted the words "or 393A(1)".

The Capital Allowances Act 1990 (c. 1)

28 In section 17 of the Capital Allowances Act 1990 (mining structures etc: balancing allowances carried back to earlier chargeable periods) in subsection (2) (where on company ceasing to carry on trade a claim is made under that section and section 394 then allowance for which claim is made is to be disregarded for purposes of claim under section 394 etc) for the words "section 394 of the principal Act (relief for terminal loss)" there shall be substituted the words "section 393A(1) of the principal Act (relief for company trading losses)".

SCHEDULE 16

Section 89.

SETTLEMENTS: SETTLORS

Conditions for the charge

1 (1) This paragraph applies where the following conditions are fulfilled as regards a settlement in a particular year of assessment—

(a) the settlement is a qualifying settlement in the year;

(b) the trustees of the settlement fulfil the condition as to residence specified in sub-paragraph (2) below;

(c) a person who is a settlor in relation to the settlement (the settlor) is domiciled in the United Kingdom at some time in the year and is either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year;

(d) at any time during the year the settlor has an interest in the settlement;

(e) by virtue of disposals of any of the settled property originating from the settlor, there is an amount on which the trustees would be chargeable to tax for the year under section 4(1) of the Capital Gains Tax Act 1979 if the assumption as to residence specified in sub-paragraph (3) below were made;

(f) paragraph 5, 6 or 7 below does not prevent this paragraph applying.

(2) The condition as to residence is that—

(a) the trustees are not resident or ordinarily resident in the United Kingdom during any part of the year, or

(b) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year, but at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

(3) Where sub-paragraph (2)(a) above applies, the assumption as to residence is that the trustees are resident or ordinarily resident in the United Kingdom throughout the year; and where sub-paragraph (2)(b) above applies, the assumption as to residence is that the double taxation relief arrangements do not apply.

(4) In this paragraph "double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

The charge

2 Where paragraph 1 above applies—

(a) chargeable gains of an amount equal to that referred to in paragraph 1(1)(e) above shall be treated as accruing to the settlor in the year, and

(b) those gains shall be treated as forming the highest part of the amount on which he is chargeable to capital gains tax for the year.

Construction of paragraph 1(1)(e)

3 (1) In construing paragraph 1(1)(e) above as regards a particular year of assessment, the effect of the following provisions shall be ignored—

(a) section 5 of the Capital Gains Tax Act 1979 (annual exemption);

(b) Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances).

(2) In construing paragraph 1(1)(e) above as regards a particular year of assessment—

(a) any deductions provided for by section 4(1) of the Capital Gains Tax Act 1979 shall be made in respect of disposals of any of the settled property originating from the settlor, and

(b) section 29(3) of that Act (losses accruing to non-residents not to be allowable losses) shall be assumed not to prevent losses accruing to trustees in one year of assessment from being allowed as a deduction from chargeable gains accruing in a later year of assessment (so far as not previously set against gains).

(3) In a case where—

(a) the trustees hold shares in a company which originate from the settlor, and

(b) under section 15 of the Capital Gains Tax Act 1979 gains or losses would be treated as accruing to the trustees in a particular year of assessment by virtue of the shares if the assumption as to residence specified in paragraph 1(3) above were made,

the gains or losses shall be taken into account in construing paragraph 1(1)(e) above as regards that year as if they had accrued by virtue of disposals of settled property originating from the settlor.

(4) Where, as regards a particular year of assessment, there would be an amount under paragraph 1(1)(e) above (apart from this sub-paragraph) and the trustees fall within paragraph 1(2)(b) above, the following rules shall apply—

(a) assume that the references in paragraph 1(1)(e) and sub-paragraphs (2)(a) and (3) above to settled property originating from the settlor were to such of it as constitutes protected assets;

(b) assume that the reference in sub-paragraph (3)(a) above to shares originating from the settlor were to such of them as constitute protected assets;

(c) find the amount (if any) which would be arrived at under paragraph 1(1)(e) on those assumptions;

(d) if no amount is so found there shall be deemed to be no amount for the purposes of paragraph 1(1)(e);

(e) if an amount is found under paragraph (c) above it must be compared with the amount arrived at under paragraph 1(1)(e) apart from this sub-paragraph, and the smaller of the two shall be taken to be the amount arrived at under paragraph 1(1)(e).

(5) Sub-paragraphs (2) to (4) above shall have effect subject to sub-paragraphs (6) and (7) below.

(6) The following rules shall apply in construing paragraph 1(1)(e) above as regards a particular year of assessment (the year concerned) in a case where the trustees fall within paragraph 1(2)(a) above—

(a) if the conditions mentioned in paragraph 1(1) above are not fulfilled as regards the settlement in any year of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before the year concerned;

(b) if the conditions mentioned in paragraph 1(1) above are fulfilled as regards the settlement in any year or years of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before that year (or the first of those years) so falling;

but nothing in the preceding provisions of this sub-paragraph shall prevent deductions being made in respect of losses accruing in a year of assessment in which the conditions mentioned in paragraph 1(1)(a) to (d) and (f) above are fulfilled as regards the settlement.

(7) In construing paragraph 1(1)(e) above as regards a particular year of assessment and in relation to a settlement created before 19th March 1991, no account shall be taken of disposals made before 19th March 1991 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).

(8) For the purposes of sub-paragraph (4) above assets are protected assets if—

(a) they are of a description specified in the arrangements mentioned in paragraph 1(2)(b) above, and

(b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(9) For the purposes of sub-paragraph (8) above—

(a) the assumption as to residence specified in paragraph 1(3) above shall be ignored;

(b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;

(c) if different assets are identified by reference to different relevant times, all of them are protected assets.

Test whether settlor has interest

4 (1) For the purposes of paragraph 1(1)(d) above a settlor has an interest in a settlement if—

(a) any relevant property which is or may at any time be comprised in the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever,

(b) any relevant income which arises or may arise under the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever, or

(c) any defined person enjoys a benefit directly or indirectly from any relevant property which is comprised in the settlement or any relevant income arising under the settlement;

but this sub-paragraph is subject to sub-paragraphs (4) to (6) below.

(2) For the purposes of sub-paragraph (1) above—

(a) relevant property is property originating from the settlor;

(b) relevant income is income originating from the settlor.

(3) For the purposes of sub-paragraph (1) above each of the following is a defined person—

(a) the settlor;

(b) the settlor's spouse;
(c) any child of the settlor or of the settlor's spouse;
(d) the spouse of any such child;
(e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;
(f) a company associated with a company falling within paragraph (e) above.

(4) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of—
(a) the bankruptcy of some person who is or may become beneficially entitled to the property,
(b) any assignment of or charge on the property being made or given by some such person,
(c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
(d) the death under the age of 25 or some lower age of some person who would be beneficially entitled to the property on attaining that age.

(5) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when some person is alive and under the age of 25 if during that person's life none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of that person becoming bankrupt or assigning or charging his interest in the property concerned.

(6) Sub-paragraphs (4) and (5) above apply for the purposes of paragraph (b) of sub-paragraph (1) above as they apply for the purposes of paragraph (a), reading "income" for "property".

(7) In sub-paragraph (3) above "child" includes a stepchild.

(8) For the purposes of sub-paragraph (3) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(9) For the purposes of sub-paragraph (3) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act 1988; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) In sub-paragraphs (8) and (9) above "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

Exceptions to charge

5 Paragraph 1 above does not apply if the settlor dies in the year.

6 (1) This paragraph applies where for the purposes of paragraph 1(1)(d) above the settlor has no interest in the settlement at any time in the year except for one of the following reasons, namely, that—

(a) property is, or will or may become, applicable for the benefit of or payable to one of the persons falling within paragraph 4(3)(b) to (d) above,

(b) income is, or will or may become, applicable for the benefit of or payable to one of those persons, or

(c) one of those persons enjoys a benefit from property or income.

(2) This paragraph also applies where sub-paragraph (1) above is fulfilled by virtue of two or all of paragraphs (a) to (c) being satisfied by reference to the same person.

(3) Where this paragraph applies, paragraph 1 above does not apply if the person concerned dies in the year.

(4) In a case where—

(a) this paragraph applies, and

(b) the person concerned falls within paragraph 4(3)(b) or (d) above,

paragraph 1 above does not apply if during the year the person concerned ceases to be married to the settlor or child concerned (as the case may be).

7 (1) This paragraph applies where for the purposes of paragraph 1(1)(d) above the settlor has no interest in the settlement at any time in the year except for the reason that there are two or more persons, each of whom—

(a) falls within paragraph 4(3)(b) to (d) above, and

(b) stands to gain for the reason stated in sub-paragraph (2) below.

(2) The reason is that—

(a) property is, or will or may become, applicable for his benefit or payable to him,

(b) income is, or will or may become, applicable for his benefit or payable to him,

(c) he enjoys a benefit from property or income, or

(d) two or all of paragraphs (a) to (c) above apply in his case.

(3) Where this paragraph applies, paragraph 1 above does not apply if each of the persons concerned dies in the year.

Right of recovery

8 (1) This paragraph applies where any tax becomes chargeable on, and is paid by, a person in respect of gains treated as accruing to him in a year under paragraph 2 above.

(2) The person shall be entitled to recover the amount of the tax from any person who is a trustee of the settlement.

(3) For the purposes of recovering that amount, the person shall also be entitled to require an inspector to give him a certificate specifying—

(a) the amount of the gains concerned, and

(b) the amount of tax paid,

and any such certificate shall be conclusive evidence of the facts stated in it.

Meaning of "settlor"

9 For the purposes of this Schedule a person is a settlor in relation to a settlement if the settled property consists of or includes property originating from him.

Meaning of "originating"

10 (1) References in this Schedule to property originating from a person are references to—

(a) property provided by that person;

(b) property representing property falling within paragraph (a) above;

(c) so much of any property representing both property falling within paragraph (a) above and other property as, on a just apportionment, can be taken to represent property so falling.

(2) References in this Schedule to income originating from a person are references to—

(a) income from property originating from that person;

(b) income provided by that person.

(3) Where a person who is a settlor in relation to a settlement makes reciprocal arrangements with another person for the provision of property or income, for the purposes of this paragraph—

(a) property or income provided by the other person in pursuance of the arrangements shall be treated as provided by the settlor, but

(b) property or income provided by the settlor in pursuance of the arrangements shall be treated as provided by the other person (and not by the settlor).

(4) For the purposes of this paragraph—

(a) where property is provided by a qualifying company controlled by one person alone at the time it is provided, that person shall be taken to provide it;

(b) where property is provided by a qualifying company controlled by two or more persons (taking each one separately) at the time it is provided, those persons shall be taken to provide the property and each one shall be taken to provide an equal share of it;

(c) where property is provided by a qualifying company controlled by two or more persons (taking them together) at the time it is provided, the persons who are participators in the company at the time it is provided shall be taken to provide it and each one shall be taken to provide so much of it as is attributed to him on the basis of a just apportionment.

(5) But where a person would be taken to provide less than one twentieth of any property by virtue of sub-paragraph (4)(c) above and apart from this sub-paragraph, he shall not be taken to provide any of it by virtue of sub-paragraph (4)(c) above.

(6) For the purposes of sub-paragraph (4) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.

(7) For the purposes of this paragraph references to property representing other property include references to property representing accumulated income from that other property.

(8) For the purposes of this paragraph property or income is provided by a person if it is provided directly or indirectly by the person.

(9) For the purposes of this paragraph the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) In this paragraph "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

(11) The preceding provisions of this paragraph shall apply to determine whether shares originate from the settlor for the purposes of paragraph 3(3)(a) above as they apply to determine whether property of any kind originates from a person.

Qualifying settlements, and commencement

11 (1) A settlement created on or after 19th March 1991 is a qualifying settlement for the purposes of this Schedule in—

(a) the year of assessment in which it is created, and

(b) subsequent years of assessment.

(2) A settlement created before 19th March 1991, and as regards which any of the four conditions set out in sub-paragraphs (3) to (6) below becomes fulfilled, is a qualifying settlement for the purposes of this Schedule in—

(a) the year of assessment in which any of those conditions becomes fulfilled, and

(b) subsequent years of assessment.

(3) The first condition is that on or after 19th March 1991 property or income is provided directly or indirectly for the purposes of the settlement—

(a) otherwise than under a transaction entered into at arm's length, and

(b) otherwise than in pursuance of a liability incurred by any person before that date;

but if the settlement's expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored for the purposes of this condition if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement's income for the year.

(4) The second condition is that—

(a) the trustees become on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or

(b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and here "double taxation relief arrangements" has the meaning given by paragraph 1(4) above.

(5) The third condition is that on or after 19th March 1991 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.

(6) The fourth condition is that—

(a) on or after 19th March 1991 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and

(b) the person concerned is not one who (looking only at the terms of the settlement immediately before 19th March 1991) would be capable of enjoying a benefit from the settlement on or after that date.

(7) Each of the following persons falls within this sub-paragraph—

(a) a settlor;

(b) the spouse of a settlor;

(c) any child of a settlor or of a settlor's spouse;

(d) the spouse of any such child;

(e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;

(f) a company associated with a company falling within paragraph (e) above.

(8) In sub-paragraph (7) above "child" includes a stepchild.

(9) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act 1988; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(11) In sub-paragraphs (9) and (10) above "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

Information

12 An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time as he may direct (which must not be less than 28 days beginning with the day the notice is given) such particulars as he thinks necessary for the purposes of this Schedule and specifies in the notice.

13 (1) This paragraph applies if—

(a) a settlement is created before 19th March 1991,

(b) on or after that date a person transfers property to the trustees otherwise than under a transaction entered into at arm's length and otherwise than in pursuance of a liability incurred by any person before that date,

(c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and

(d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.

(2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—

(a) identifies the settlement, and

(b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.

(3) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day on which the transfer is made, and

(b) the day on which this Act is passed.

14 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—

(a) the trustees are not resident or ordinarily resident in the United Kingdom, or

(b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and here "double taxation relief arrangements" has the meaning given by paragraph 1(4) above.

(2) Any person who—

(a) is a settlor in relation to the settlement at the time it is created, and

(b) at that time fulfils the condition mentioned in sub-paragraph (4) below,

shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.

(3) Any person who—

(a) is a settlor in relation to the settlement at the time it is created,

(b) at that time does not fulfil the condition mentioned in sub-paragraph (4) below, and

(c) fulfils that condition at a later time,

shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.

(4) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.

(5) The particulars are—

(a) the day on which the settlement was created;

(b) the name and address of the person delivering the return;

(c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.

(6) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day on which the settlement is created, and

(b) the day on which this Act is passed.

(7) For the purposes of sub-paragraph (3) above the relevant day is the later of—

(a) the day on which the person first fulfils the condition after the settlement is created, and

(b) the day on which this Act is passed.

15 (1) This paragraph applies if—

(a) the trustees of a settlement become at any time (the relevant time) on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or

(b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on

or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and "double taxation relief arrangements" here has the meaning given by paragraph 1(4) above.

(2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—

(a) the day on which the settlement was created,

(b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and

(c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.

(3) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day when the relevant time falls, and

(b) the day on which this Act is passed.

16 (1) Nothing in paragraph 13, 14 or 15 above shall require information to be contained in the return concerned to the extent that—

(a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or

(b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.

(2) Nothing in paragraph 13, 14 or 15 above shall require a return to be delivered if—

(a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or

(b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.

17 (1) In the Table in section 98 of the Taxes Management Act 1970 (penalties) at the end of the first column there shall be inserted—

"Paragraph 12 of Schedule 16 to the Finance Act 1991."

(2) In that Table, at the end of the second column there shall be inserted—

"Paragraphs 13 to 16 of Schedule 16 to the Finance Act 1991."

SCHEDULE 17

Section 90.

SETTLEMENTS: BENEFICIARIES

Introduction

1 In this Schedule—

(a) references to sections are to sections of the Finance Act 1981 (provisions about gains of non-resident settlements);

(b) references to trust gains for a year shall be construed in accordance with section 80;

(c) "capital payment" has the same meaning as in sections 80 to 82A.

Qualifying amounts

2 (1) This paragraph applies for the purposes of this Schedule.

(2) If section 80 applies to a settlement for the year 1990-91 the settlement shall have a qualifying amount for the year, and the amount shall be the amount constituting the trust gains for the year less so much of them as are by virtue of section 80 treated as chargeable gains accruing in that year to beneficiaries.

(3) If section 80 applies to a settlement for the year 1991-92 or a subsequent year of assessment the settlement shall have a qualifying amount for the year, and the amount shall be the amount computed for the settlement in respect of the year concerned under section 80(2).

(4) Sub-paragraph (5) below applies where—

(a) there is a period (a non-resident period) of one or more years of assessment for each of which section 80 applies to a settlement and each of which falls before the year 1990-91,

(b) section 80 does not apply to the settlement for the year 1990-91, and

(c) there are trust gains for the last year of the non-resident period which have not (or have not wholly) been treated by virtue of section 80 or section 81(2) as chargeable gains accruing to beneficiaries before the year 1990-91.

(5) In such a case the settlement shall have a qualifying amount for the year 1990-91, and the amount shall be the amount constituting the trust gains mentioned in sub-paragraph (4)(c) above (or the outstanding part of them) less so much of them as are by virtue of section 81(2) treated as chargeable gains accruing in that year to beneficiaries.

Matching capital payments

3 (1) This paragraph applies where—

(a) capital payments are made by the trustees of a settlement on or after 6th April 1991, and

(b) the payments are made in a year or years of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payments.

(2) For the purposes of this Schedule the payments shall be matched with qualifying amounts of the settlement for the year 1990-91 and subsequent years of assessment

(so far as the amounts are not already matched with payments by virtue of this paragraph).

(3) In applying this paragraph—

(a) earlier payments shall be matched with earlier amounts;

(b) payments shall be carried forward to be matched with future amounts (so far as not matched with past amounts);

(c) a payment which is less than an unmatched amount (or part) shall be matched to the extent of the payment;

(d) a payment which is more than an unmatched amount (or part) shall be matched, as to the excess, with other unmatched amounts.

(4) Where part only of a capital payment is taxable, the part which is not taxable shall not fall to be matched until taxable parts of other capital payments (if any) made in the same year of assessment have been matched; and the preceding provisions of this paragraph shall have effect accordingly.

(5) For the purposes of sub-paragraph (4) above a part of a capital payment is taxable if the part results in chargeable gains accruing under section 80 or 81(2).

Increased tax: the main rule

4 (1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) the whole payment is matched with a qualifying amount of the settlement for a year of assessment falling at some time before that immediately preceding the one in which the payment is made, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) The tax payable by the beneficiary in respect of the payment shall be increased by the amount found under sub-paragraph (3) below, except that it shall not be increased beyond the amount of the payment; and an assessment may charge tax accordingly.

(3) The amount is one equal to the interest that would be yielded if an amount equal to the tax which would be payable by the beneficiary in respect of the payment (apart from this paragraph) carried interest for the chargeable period at the rate of 10 per cent. per annum.

(4) The chargeable period is the period which—

(a) begins with the later of the two days specified in sub-paragraph (5) below, and

(b) ends with 30th November in the year of assessment following that in which the capital payment is made.

(5) The two days are—

(a) 1st December in the year of assessment following that for which the qualifying amount mentioned in sub-paragraph (1)(c) above is the qualifying amount, and

(b) 1st December falling six years before 1st December in the year of assessment following that in which the capital payment is made.

(6) The Treasury may by order substitute for the percentage specified in sub-paragraph (3) above (whether as originally enacted or as amended at any time under this sub-paragraph) such other percentage as they think fit.

(7) An order under sub-paragraph (6) above may provide that an alteration of the percentage is to have effect for periods beginning on or after a day specified in the order in relation to interest running for chargeable periods beginning before that day (as well as interest running for chargeable periods beginning on or after that day).

(8) An order under sub-paragraph (6) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

More than one qualifying amount

5 (1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) the whole payment is matched with qualifying amounts of the settlement for different years of assessment, each falling at some time before that immediately preceding the one in which the payment is made, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) For the purposes of this Schedule—

(a) the capital payment (the main payment) shall be treated as being as many payments (subsidiary payments) as there are qualifying amounts,

(b) a qualifying amount shall be attributed to each subsidiary payment and each payment shall be quantified accordingly, and

(c) the tax in respect of the main payment shall be divided up and attributed to the subsidiary payments on the basis of a just and reasonable apportionment.

(3) Paragraph 4 above shall apply in the case of each subsidiary payment, the qualifying amount attributed to it and the tax attributed to it.

Payment partly ignored

6 (1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) part of the payment is matched with a qualifying amount of the settlement for a year of assessment falling at some time before that immediately preceding the one in which the payment is made, or with qualifying amounts of the settlement for different years of assessment each so falling, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) For the purposes of this Schedule—

(a) only tax in respect of so much of the payment as is matched as mentioned in sub-paragraph (1)(c) above shall be taken into account, and references below to the tax shall be construed accordingly,

(b) the capital payment shall be divided into two, the first part representing so much as is matched as mentioned in sub-paragraph (1)(c) above and the second so much as is not,

(c) the second part shall be ignored, and

(d) the first part shall be treated as a capital payment, the whole of which is matched with the qualifying amount or amounts mentioned in sub-paragraph (1)(c) above, and the whole of which is charged to the tax.

(3) Paragraph 4 above or paragraphs 4 and 5 above (as the case may be) shall apply in the case of the capital payment arrived at under sub-paragraph (2) above, the qualifying amount or amounts, and the tax.

Parts of amounts matched

7 Paragraphs 4 to 6 above shall apply (with appropriate modifications) where a payment or part of a payment is to any extent matched with part of an amount.

Transfers between settlements

8 (1) This paragraph applies if—

(a) in the year 1990-91 or a subsequent year of assessment the trustees of a settlement (the transferor settlement) transfer all or part of the settled property to the trustees of another settlement (the transferee settlement), and

(b) looking at the state of affairs at the end of the year of assessment in which the transfer is made, there is a qualifying amount of the transferor settlement for a particular year of assessment (the year concerned) and the amount is not (or not wholly) matched with capital payments.

(2) If the whole of the settled property is transferred, for the purposes of this Schedule—

(a) the transferor settlement's qualifying amount for the year concerned shall be treated as reduced by so much of it as is not matched, and

(b) so much of that amount as is not matched shall be treated as (or as an addition to) the transferee settlement's qualifying amount for the year concerned.

(3) If part of the settled property is transferred, for the purposes of this Schedule—

(a) so much of the transferor settlement's qualifying amount for the year concerned as is not matched shall be apportioned on such basis as is just and reasonable, part being attributed to the transferred property and part to the property not transferred,

(b) the transferor settlement's qualifying amount for the year concerned shall be treated as reduced by the part attributed to the transferred property, and

(c) that part shall be treated as (or as an addition to) the transferee settlement's qualifying amount for the year concerned.

(4) If the transferee settlement did not in fact exist in the year concerned, for the purposes of this Schedule it shall be treated as having been made at the beginning of that year.

(5) If the transferee settlement did in fact exist in the year concerned, this paragraph shall apply whether or not section 80 applies to the settlement for that year or for any year of assessment falling before that year.

Matching after transfer

9 (1) This paragraph applies as regards the transferee settlement in a case where paragraph 8 above applies.

(2) Matching shall be made under paragraph 3 above by reference to the state of affairs existing immediately before the beginning of the year of assessment in which the transfer is made, and the transfer shall not affect matching so made.

(3) Subject to sub-paragraph (2) above, payments shall be matched with amounts in accordance with paragraph 3 above and by reference to amounts arrived at under paragraph 8 above.

SCHEDULE 18

Section 91.

SETTLEMENTS: BENEFICIARIES (MISCELLANEOUS)

Computation rules

1 In section 80 of the Finance Act 1981 (gains of non-resident settlements) the following subsection shall be inserted after subsection (6)—

"(6A) In computing an amount under subsection (2) above in respect of the year 1991-92 or a subsequent year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored."

Dual-resident settlements

2 The following section shall be inserted after section 80 of that Act—

"**80A Gains of dual-resident settlements**

(1) Section 80 above also applies to a settlement for any year of assessment beginning on or after 6th April 1991 if—

(a) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year,

(b) at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and

(c) the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom;

and "double taxation relief arrangements" here means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

(2) In respect of every year of assessment for which section 80 above applies by virtue of this section, section 80 shall have effect as if the amount to be computed under section 80(2) were the assumed chargeable amount; and the reference in section 80(2) to the corresponding amount in respect of an earlier year shall be construed as a reference to the amount computed under section 80(2) apart from this section or (as the case may be) the amount computed under section 80(2) by virtue of this section.

(3) For the purposes of subsection (2) above the assumed chargeable amount in respect of a year of assessment is the lesser of the following two amounts—

(a) the amount on which the trustees would be chargeable to tax for the year under section 4(1) of the Capital Gains Tax Act 1979 on the assumption that the double taxation relief arrangements did not apply;

(b) the amount on which, by virtue of disposals of protected assets, the trustees would be chargeable to tax for the year under section 4(1) of that Act on the assumption that those arrangements did not apply.

(4) For the purposes of subsection (3)(b) above assets are protected assets if—

(a) they are of a description specified in the double taxation relief arrangements, and

(b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

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

(a) the assumption specified in subsection (3)(b) above shall be ignored;

(b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;

(c) if different assets are identified by reference to different relevant times, all of them are protected assets.

(6) In computing the assumed chargeable amount in respect of a particular year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored.

(7) For the purposes of section 80 above as it applies by virtue of this section, capital payments received before 6th April 1991 shall be disregarded."

3 In section 81 of that Act (migrant settlements) in subsection (1) for the words "in each of which the trustees were at some time resident or ordinarily resident in the United Kingdom" there shall be substituted "for each of which section 80 above does not apply to the settlement".

Payments by and to companies

4 The following section shall be inserted after section 82 of that Act—

"**82A Payments by and to companies**

(1) Where a capital payment is received from a qualifying company which is controlled by the trustees of a settlement at the time it is received, for the purposes of sections 80 to 82 above it shall be treated as received from the trustees.

(2) Where a capital payment is received from the trustees of a settlement (or treated as so received by virtue of subsection (1) above) and it is received by a non-resident qualifying company, the rules in subsections (3) to (6) below shall apply for the purposes of sections 80 to 82 above.

(3) If the company is controlled by one person alone at the time the payment is received, and that person is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person.

(4) If the company is controlled by two or more persons (taking each one separately) at the time the payment is received, then—

(a) if one of them is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person;

(b) if two or more of them are then resident or ordinarily resident in the United Kingdom (the residents) it shall be treated as being as many equal capital payments as there are residents and each of them shall be treated as receiving one of the payments.

(5) If the company is controlled by two or more persons (taking them together) at the time the payment is received and each of them is then resident or ordinarily resident in the United Kingdom—

(a) it shall be treated as being as many capital payments as there are participators in the company at the time it is received, and

(b) each such participator (whatever his residence or ordinary residence) shall be treated as receiving one of the payments, quantified on the basis of a just and reasonable apportionment.

(6) But where (by virtue of subsection (5) above and apart from this subsection) a participator would be treated as receiving less than one twentieth of the payment actually received by the company, he shall not be treated as receiving anything by virtue of subsection (5) above.

(7) For the purposes of subsection (1) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.

(8) For the purposes of subsection (1) above a company is controlled by the trustees of a settlement if it is controlled by the trustees alone or by the trustees together with a person who (or persons each of whom) falls within subsection (9) below.

(9) A person falls within this subsection if—

(a) he is a settlor in relation to the settlement, or

(b) he is connected with a person falling within paragraph (a) above.

(10) For the purposes of subsection (2) above a non-resident qualifying company is a company which is not resident in the United Kingdom and would be a close company if it were so resident.

(11) For the purposes of this section the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(12) In this section "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

(13) This section shall apply to payments received on or after 19th March 1991."

Beneficiaries

5 In section 83 of that Act (supplementary provisions) the following subsections shall be inserted after subsection (7)—

"(8) In a case where—

(a) at any time on or after 19th March 1991 a capital payment is received from the trustees of a settlement or is treated as so received by virtue of section 82A(1) above,

(b) it is received by a person, or treated as received by a person by virtue of section 82A(2) to (6) above,

(c) at the time it is received or treated as received, the person is not (apart from this subsection) a beneficiary of the settlement, and

(d) subsection (9) or (10) below does not prevent this subsection applying,

for the purposes of sections 80 to 82 above the person shall be treated as a beneficiary of the settlement as regards events occurring at or after that time.

(9) Subsection (8) above shall not apply where a payment mentioned in paragraph (a) is made in circumstances where it is treated (otherwise than by subsection (8) above) as received by a beneficiary.

(10) Subsection (8) above shall not apply so as to treat—

(a) the trustees of the settlement referred to in that subsection, or

(b) the trustees of any other settlement,

as beneficiaries of the settlement referred to in that subsection.

(11) In subsection (8) above "capital payment" has the same meaning as in sections 80 to 82A above."

Other amendments

6 (1) Section 83 of that Act shall also be amended as follows.

(2) In subsection (1)—

(a) for "82" there shall be substituted "82A", and

(b) for "beneficiary" (in each place) there shall be substituted "recipient".

(3) The following subsection shall be inserted after subsection (1)—

"(1A) But in sections 80 to 82A above "capital payment" does not include a payment under a transaction entered into at arm's length."

(4) In subsection (2) for "subsection (1)" there shall be substituted "subsections (1) and (1A)".

(5) In subsections (3)(a), (4) and (7) for "82" there shall be substituted "82A".

(6) This paragraph shall apply in relation to payments received, transfers made, benefits conferred, or occasions arising, on or after 19th March 1991.

SCHEDULE 19

Section 123.

REPEALS

PART I

BETTING AND GAMING DUTIES

Chapter	*Short title*	*Extent of repeal*
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 14(1)(b), the words "payable after the end of that period and". In Schedule 2, in paragraph 5, in sub-paragraph (1), the words "of the duty" and, in sub-paragraph (2), the word "duty" and, in paragraph 6(1), "(3)(c)".

PART II

BEER DUTY

Chapter	*Short title*	*Extent of repeal*
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 1(3), paragraph (b) and the word "or" immediately preceding it. Section 2(6). In section 3, in subsection (3), the words "Subject to subsection (5) below", and subsection (5).

These repeals have effect in accordance with section 7 of this Act.

Chapter	*Short title*	*Extent of repeal*
		In section 4(1), the definitions of "brewer" and "brewer for sale" and of "limited licence to brew beer".
		Sections 37 to 40.
		Section 45(2).
		Section 50.
		Section 53.
		Sections 71A and 72.
1982 c. 39.	The Finance Act 1982.	Section 9(3) and (4).
1985 c. 54.	The Finance Act 1985.	In Schedule 3, paragraphs 3 and 4.
1986 c. 41.	The Finance Act 1986.	Section 4(1).
		In section 8(2)(a), the words "47(3), 48(2)".
1988 c. 39.	The Finance Act 1988.	In Schedule 1, in Part II, paragraphs 1(2), 2(2), 3 and 11.
1989 c. 26.	The Finance Act 1989.	Section 3.

These repeals have effect in accordance with section 7 of this Act.

PART III

VEHICLES EXCISE DUTY: GENERAL

Chapter	*Short title*	*Extent of repeal*
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 4(1)(ka), the words "(other than mowing machines)"
		Section 7(4).

1. The repeals in section 4 of each of the Vehicles (Excise) Act 1971 ("the 1971 Act") and the Vehicles (Excise) Act (Northern Ireland) 1972 ("the 1972 Act") are deemed to have come into force on 20th March 1991.
2. The repeals of section 7(4) of each of the 1971 Act and the 1972 Act come into force on 1st October 1991.
3. The repeals of section 38(4) of, and Schedule 6 to, the 1971 Act, section 35(4) of, and Schedule 7 to, the 1972 Act and sections 5(6) and 6(7) of the Finance Act 1982, so far as relating to the application of those provisions for the purpose of section 4(1)(g) of either the 1971 Act or the 1972 Act, are deemed to have come into force on 20th March 1991.
4. The repeal in Schedule 2 to the Finance Act 1985, and the repeals mentioned in note 3 above so far as relating to the application of the repealed provisions for the purpose of any provision of the 1971 Act or the 1972 Act other than section 4(1)(g), have effect in relation to licences taken out after 20th March 1991.

Chapter	*Short title*	*Extent of repeal*
		Section 38(4).
		Schedule 6.
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	In section 4(1)(ka), the words "(other than mowing machines)".
		Section 7(4).
		Section 35(4).
		Schedule 7.
1982 c. 39.	The Finance Act 1982.	Section 5(6).
		Section 6(7).
1985 c. 54.	The Finance Act 1985.	In Schedule 2, in Part I, paragraph 1.

1. The repeals in section 4 of each of the Vehicles (Excise) Act 1971 ("the 1971 Act") and the Vehicles (Excise) Act (Northern Ireland) 1972 ("the 1972 Act") are deemed to have come into force on 20th March 1991.
2. The repeals of section 7(4) of each of the 1971 Act and the 1972 Act come into force on 1st October 1991.
3. The repeals of section 38(4) of, and Schedule 6 to, the 1971 Act, section 35(4) of, and Schedule 7 to, the 1972 Act and sections 5(6) and 6(7) of the Finance Act 1982, so far as relating to the application of those provisions for the purpose of section 4(1)(g) of either the 1971 Act or the 1972 Act, are deemed to have come into force on 20th March 1991.
4. The repeal in Schedule 2 to the Finance Act 1985, and the repeals mentioned in note 3 above so far as relating to the application of the repealed provisions for the purpose of any provision of the 1971 Act or the 1972 Act other than section 4(1)(g), have effect in relation to licences taken out after 20th March 1991.

PART IV

VEHICLES EXCISE DUTY: NORTHERN IRELAND

Chapter	*Short title*	*Extent of repeal*
Acts of the Parliament of the United Kingdom		
1971 c. 10.	The Vehicles (Excise) Act 1971.	Section 7(5).
1974 c. 39.	The Consumer Credit Act 1974.	In Schedule 4, paragraph 50.
1975 c. 7.	The Finance Act 1975.	Section 58.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 6.
1977 c. 36.	The Finance Act 1977.	Section 6.
1978 c. 42.	The Finance Act 1978.	Section 9.

These repeals have effect in accordance with section 10 of this Act.

Chapter	*Short title*	*Extent of repeal*
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In Schedule 1, paragraph 5.
1980 c. 48.	The Finance Act 1980.	Section 5.
1981 c. 35.	The Finance Act 1981.	Section 8.
1982 c. 39.	The Finance Act 1982.	Sections 6 and 7(2) and (4).
		Schedule 4 and, in Schedule 5, Part B.
1983 c. 28.	The Finance Act 1983.	Section 4(6) and (7).
		In Schedule 3, paragraphs 7 and 12.
1984 c. 43.	The Finance Act 1984.	Section 5(4).
1986 c. 41.	The Finance Act 1986.	Section 3(5).
		In Schedule 2, Part II.
1987 c. 16.	The Finance Act 1987.	Section 2(4).
		In Schedule 1, paragraphs 6, 9, 11, 13, 15, 17, 19 and 21.
1988 c. 39.	The Finance Act 1988.	Section 4(5).
		In Schedule 2, paragraph 6.
1989 c. 26.	The Finance Act 1989.	Section 14(2), (4) and (6).
1990 c. 29.	The Finance Act 1990.	Section 5(4) and (6).
		In Schedule 2, Part III.
	Act of the Parliament of Northern Ireland	
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	The whole Act.
	Orders in Council	
S.I. 1972/1100(N.I. 11).	The Finance (Northern Ireland) Order 1972.	Article 1(4).
		Part IV.
S.I. 1980/704(N.I. 6).	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraphs 62 and 63.
S.I. 1981/154(N.I. 1).	The Road Traffic (Northern Ireland) Order 1981.	In Schedule 7, paragraphs 14 and 15.
S.I. 1981/1675(N.I. 26).	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 126 and 127.

These repeals have effect in accordance with section 10 of this Act.

PART V

INCOME TAX AND CORPORATION TAX

Chapter	*Short title*	*Extent of repeal*
1970 c. 9.	The Taxes Management Act 1970.	Section 78(4). Section 86(2A).
1985 c. 54.	The Finance Act 1985.	In section 68(7A), the word "and" at the end of paragraph (f).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76(1)(d), the words "general annuity business". In section 114(3), paragraph (c) and the word "and" immediately preceding it. In section 243, in subsection (1), the words "or 394" and subsections (5) and (6)(b). Section 339A. In section 343, in subsection (3), the words from the beginning to "subsection (6) below; and", subsection (6) and, in subsection (7), the words from "then no relief" to "subject to that". Section 349(3)(e). Section 354(3). In section 367(1), the definition of the expression "large caravan". In section 393, subsections (2) to (6) and, in subsection (11), the words from "and a claim under subsection (2)" onwards. Section 394. Section 432A(2)(b) and (d). In section 436, in subsection (1), the words "general annuity business or", in subsection (3), in

Chapter	*Short title*	*Extent of repeal*
		paragraph (c), the words "or general annuity business" and, in paragraph (e), the words "general annuity business or", and in subsection (4), the words "general annuity business or".
		Section 437(2) to (5).
		In section 446, in subsection (1), the words "and general annuity business" and subsections (2) and (3).
		In section 447, subsection (3) and, in subsection (4), the words "or 446".
		Section 448(3)(a).
		In section 465(3) the words "and (c)".
		In section 474(1)(b), the words "and general annuity business".
		Section 518(6).
		In section 590, subsections (5) and (6).
		Section 726.
		In section 737, in subsection (2), the words "otherwise than by virtue of section 476(5)(a)", and subsection (4).
		Section 738(2).
		In section 843(4), the words "394".
		In Schedule 5, in paragraph 2(3)(a), the word "or" immediately following the words "section 380".
		In Schedule 7, paragraphs 3(2) and (3) and 6.
		In Schedule 15, paragraph 3(1)(c) and the word "and" immediately preceding it.

Chapter	*Short title*	*Extent of repeal*
		In Schedule 28, paragraph 3(4)(a).
		In Schedule 29, in the Table in paragraph 32, the entry relating to section 78(4) of the Taxes Management Act 1970.
		In Schedule 30, in paragraph 2(2)(a), the word "or" where first occurring and, in paragraph 3(1)(b), the word "or".
1988 c. 39.	The Finance Act 1988.	In Schedule 8, in paragraph 1(3), the word "and" at the end of paragraph (g).
1989 c. 26.	The Finance Act 1989.	Section 62(2).
		Section 63.
		Section 87(3).
1990 c. 1.	The Capital Allowances Act 1990.	In section 2(1), the word "and" at the end of paragraph (a).
		In section 3(3), the words "(as defined in section 8(1))".
		In section 26(1), the word "and" at the end of paragraph (e).
		In Schedule 1, paragraph 8(16).
1990 c. 29.	The Finance Act 1990.	Section 25(2)(h).
		In section 27, subsections (1) and (3).
		Section 61.
		In Schedule 6, paragraph 6.
		In Schedule 7, paragraph 8.
		In Schedule 14, paragraph 7.

1. The repeal of section 78(4) of the Taxes Management Act 1970 and the repeal in Schedule 29 to the Income and Corporation Taxes Act 1988 have effect in accordance with section 81 of this Act.
2. The repeal in section 86 of the Taxes Management Act 1970 has effect in accordance with paragraph 1(2) of Schedule 15 to this Act.
3. The repeals in sections 76, 432A, 436, 437, 446, 447, 448 and 474 of, and Schedule 28 to, the Income and Corporation Taxes Act 1988 and in Schedules 6 and 7 to the Finance Act 1990 have effect for accounting periods beginning on or after 1st January 1992.

4. The following repeals have effect in relation to losses incurred in accounting periods ending on or after 1st April 1991—
   (a) the repeals in sections 114, 243, 343, 393, 518 and 843 of, the repeals in Schedules 5 and 30 to, and the repeal of section 394 of, the Income and Corporation Taxes Act 1988;
   (b) the repeal in Schedule 1 to the Capital Allowances Act 1990;
   (c) the repeal of section 61 of, and the repeal in Schedule 14 to, the Finance Act 1990.
5. The repeals of section 339A of the Income and Corporation Taxes Act 1988 and section 27(1) and (3) of the Finance Act 1990 have effect in relation to accounting periods beginning on or after 19th March 1991.
6. The following repeals have effect for the year 1991-92 and subsequent years of assessment—
   (a) the repeals of sections 354(3) and 726 of the Income and Corporation Taxes Act 1988;
   (b) the repeals in sections 367(1) and 737(2) of, and in Schedule 7 to, that Act;
   (c) the repeal of section 63 of the Finance Act 1989.
7. The repeals in section 465 of, and Schedule 15 to, the Income and Corporation Taxes Act 1988 apply in relation to policies issued in pursuance of contracts made on or after the day on which this Act is passed.
8. The repeal of section 590(5) and (6) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 36 of this Act.
9. The repeals of sections 737(4) and 738(2) of the Income and Corporation Taxes Act 1988 have effect in accordance with section 58 of this Act.
10. The repeal of section 62(2) of the Finance Act 1989 has effect in accordance with section 40 of this Act.
11. The repeals in sections 2(1), 3(3) and 26(1) of the Capital Allowances Act 1990 have effect in relation to any chargeable period or its basis period ending on or after 6th April 1990.
12. The repeal of section 25(2)(h) of the Finance Act 1990 has effect in relation to gifts made on or after 19th March 1991.

PART VI

CAPITAL GAINS

Chapter	*Short title*	*Extent of repeal*
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 342, the words "or Housing for Wales", in each place where they occur. In section 342A, the words "or Housing for Wales", in each place where they occur.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 126C.
1980 c. 48.	The Finance Act 1980.	Section 80(2).
1981 c. 35.	The Finance Act 1981.	Section 88(2) to (6).
1984 c. 43.	The Finance Act 1984.	Section 63(3).

1. The repeals in sections 342 and 342A of the Income and Corporation Taxes Act 1970 and Schedule 17 to the Housing Act 1988 are deemed to have come into force on 1st December 1988.
2. The repeals of section 80(2) of the Finance Act 1980 and section 63(3) of the Finance Act 1984 have effect in relation to disposals on or after 19th March 1991.
3. The repeal in section 64 of the Finance Act 1984 has effect in accordance with section 98 of this Act.
4. The remaining repeals (other than the repeal in Schedule 9 to the Finance Act 1988) have effect in accordance with section 92 of this Act.

Chapter	*Short title*	*Extent of repeal*
		In section 64(2)(b), the words from "as defined" to "1973".
1986 c. 41.	The Finance Act 1986.	Section 58(5).
1988 c. 39.	The Finance Act 1988.	In Schedule 9, in paragraph 3(2)(e), the words from "(postponement" to "asset)".
1988 c. 50.	The Housing Act 1988.	In Schedule 17, in Part II, paragraph 93.
1989 c. 26.	The Finance Act 1989.	In Schedule 14, in paragraph 6(5)(c), the words "and (5)".
1990 c. 29.	The Finance Act 1990.	Section 70(5).

1. The repeals in sections 342 and 342A of the Income and Corporation Taxes Act 1970 and Schedule 17 to the Housing Act 1988 are deemed to have come into force on 1st December 1988.
2. The repeals of section 80(2) of the Finance Act 1980 and section 63(3) of the Finance Act 1984 have effect in relation to disposals on or after 19th March 1991.
3. The repeal in section 64 of the Finance Act 1984 has effect in accordance with section 98 of this Act.
4. The remaining repeals (other than the repeal in Schedule 9 to the Finance Act 1988) have effect in accordance with section 92 of this Act.

PART VII

STAMP DUTY

Chapter	*Short title*	*Extent of repeal*
9 Geo. 4 c. 80.	The Bankers' Composition (Ireland) Act 1828.	The whole Act.
54 & 55 Vict. c. 39.	The Stamp Act 1891.	Sections 29, 30 and 31. In Schedule 1 the heading "bank note".
1952 c. 13 (N.I.).	The Finance Act (Northern Ireland) 1952.	Sections 4 and 5.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	Section 7. In Schedule 2, paragraphs 5 and 18.
1972 c. 41.	The Finance Act 1972.	Section 134(5).

These repeals have effect in accordance with section 115 of this Act.

PART VIII

TRADING FUNDS

Chapter	*Short title*	*Extent of repeal*
1973 c. 63.	The Government Trading Funds Act 1973.	In section 2(1)(b) and (2), the words “at values or amounts determined by him in accordance with Treasury directions”.