



# Finance Act 1993

## 1993 CHAPTER 34

### PART I

#### CUSTOMS AND EXCISE AND VALUE ADDED TAX

### CHAPTER I

#### GENERAL

#### *Alcoholic liquor duties*

#### **1 Rates of duty.**

- (1) In section 36 of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (beer), as that section has effect apart from section 7(1) of the <sup>M2</sup>Finance Act 1991, for “£1.108” there shall be substituted “£1.163”.
- (2) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.
- (3) In section 62(1) of that Act (cider) for “£21.32” there shall be substituted “£22.39”.
- (4) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

#### **Commencement Information**

**11** S. 1 in force at 6 p.m. on 16.3.1993 see s. 1(4)

#### **Marginal Citations**

**M1** 1979 c. 4.

**M2** 1991 c. 31.

*Status: Point in time view as at 24/07/2002.*

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## 2 Beer duty: rate for new regime.

- (1) In section 36(1) of the <sup>M3</sup>Alcoholic Liquor Duties Act 1979 (beer duty), as substituted by section 7(1) of the <sup>M4</sup>Finance Act 1991, for “£10.60” there shall be substituted “£10.45”.
- (2) This section shall be deemed to have come into force on 1st June 1993.

### Commencement Information

**I2** S. 2 in force at 1.6.1993 see S. 2(2)

### Marginal Citations

**M3** 1979 c. 4.

**M4** 1991 c. 31.

## 3 Low strength beer.

- (1) In section 1 of the Alcoholic Liquor Duties Act 1979 (alcoholic liquors dutiable under that Act) in subsection (3) (beer) for “1.2 per cent.” there shall be substituted “0.5 per cent.”.
- (2) In section 36 of that Act (beer duty), as substituted by section 7(1) of the Finance Act 1991, after subsection (1) there shall be inserted the following subsection—
 

“(1A) No duty shall be chargeable under subsection (1) above on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise.”
- (3) This section shall apply in relation to liquor which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

## 4 Beer duty: abolition of certain reliefs, etc.

- (1) The Alcoholic Liquor Duties Act 1979 shall be amended as follows.
- (2) In subsection (2) of section 42 (drawback on exportation etc. of beer)—
  - (a) paragraph (a) (drawback on removal to excise warehouse) shall be omitted,
  - (b) in paragraph (b) the words “or removal to the Isle of Man” shall be omitted,
  - (c) also in paragraph (b) for “any such beer” there shall be substituted “any beer to which this section applies”, and
  - (d) for “exported, removed or shipped” there shall be substituted “exported or shipped”.
- (3) In subsections (3) and (4) of that section the word “remove,”, in each place where it occurs, shall be omitted.
- (4) Section 43 (warehousing of beer for exportation, etc.) shall cease to have effect.
- (5) In section 45(1) (repayment of duty on beer used in the production or manufacture of other beverages etc.)—
  - (a) at the end of paragraph (a) there shall be inserted “or”, and
  - (b) paragraph (b) shall be omitted.

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- (6) Section 51 (power to require production of books by brewers for sale) shall cease to have effect.
- (7) Subsections (2)(a) and (c) and (4) to (6) above shall come into force on 1st September 1993.
- (8) Subsections (2)(b) and (d) and (3) above shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

#### Commencement Information

- I3** S. 4 wholly in force at 1.1.1995; s. 4(1)(7)(8) in force at Royal Assent; s. 4(2)(a)(c)(4)-(6) in force at 1.9.1993 see s. 4(7); s. 4(2)(b)(d)(3) in force at 1.1.1995 by S.I. 1994/2968, art. 2

## 5 Blending of alcoholic liquors.

- (1) In Part VI of the <sup>M5</sup>Alcoholic Liquor Duties Act 1979 the following section shall be inserted before section 67—

### “66A Blending of alcoholic liquors.

- (1) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors—
  - (a) each of which is of a kind mentioned in paragraphs (a) to (e) of section 1(1) above, but
  - (b) not all of which fall within the same one of those paragraphs, except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.
- (2) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors which—
  - (a) fall within the same paragraph of section 1(1) above, but
  - (b) are not all of the same alcoholic strength, except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.
- (3) In relation to the blending of particular alcoholic liquors—
  - (a) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under section 41A above and premises in respect of which a person is registered under section 47 above;
  - (b) if the liquor which is the product of the blending is wine, permitted premises are premises in respect of which a licence under section 54(2) above is held;
  - (c) if the liquor which is the product of the blending is made-wine, permitted premises are premises in respect of which a licence under section 55(2) above is held;

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- (d) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is registered under section 62 above.
- (4) Subsections (1) and (2) above do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending.
- (5) Subsections (1) and (2) above do not apply where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place.
- (6) The Commissioners may direct that subsections (1) and (2) above shall not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction.
- (7) Where a person contravenes subsection (1) or (2) above, the following shall be liable to forfeiture—
  - (a) the liquor which is the product of the blending;
  - (b) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession.
- (8) In this section any reference to blending liquors includes a reference to otherwise mixing them.”
- (2) In subsection (5) of section 55 of that Act (exemption for certain producers of made-wine from requirement to hold excise licence) before paragraph (a) there shall be inserted the following paragraph—
  - “(aa) he does not blend or otherwise mix two or more alcoholic liquors to which paragraphs (a) and (b) of section 66A(1) below or paragraphs (a) and (b) of section 66A(2) below apply;”.
- (3) In that section—
  - (a) paragraph (e) of subsection (5) and the word “and” immediately preceding that paragraph shall be omitted, and
  - (b) subsection (5A) shall be omitted.
- (4) This section shall apply in relation to the blending or other mixing of alcoholic liquors on or after the day on which this Act is passed.

**Marginal Citations**

M5 1979 c. 4.

**6 Mixing of wine and spirits in excise warehouse.**

- (1) In subsection (1) of section 58 of the <sup>M6</sup>Alcoholic Liquor Duties Act 1979 (mixing of wine and spirits in excise warehouse)—
  - (a) for “6 litres” there shall be substituted “ 12 litres ”,
  - (b) for “except as provided by subsection (2) below” there shall be substituted “ by virtue of this section ”, and
  - (c) for “23 per cent.” there shall be substituted “ 22 per cent. ”.
- (2) Subsection (2) of that section shall be omitted.

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- (3) This section shall apply in relation to mixing done on or after the day on which this Act is passed.

#### Marginal Citations

M6 1979 c. 4.

## 7 Sparkling wine or made-wine.

- (1) In Schedule 1 to the Alcoholic Liquor Duties Act 1979 (rates of duty on wine and made-wine), for paragraphs 1 and 2 there shall be substituted the following paragraphs—

“1 Paragraphs 2 and 3 below apply for the purposes of this Act.

2 (1) Wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure.

(2) Wine or made-wine which is for the time being in a closed container is sparkling regardless of the pressure in the container if the container has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within sub-paragraph (1) above.

3 (1) Wine or made-wine shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either falls within paragraph 2(1) above or takes on such characteristics as are referred to in paragraph 2(3) above.

(2) Wine or made-wine which has not previously been rendered sparkling by virtue of sub-paragraph (1) above shall be regarded as having been rendered sparkling if it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is in a closed container and has not previously been rendered sparkling by virtue of sub-paragraph (1) or (2) above shall be regarded as having been rendered sparkling if the stopper of its container is exchanged for a stopper of a kind mentioned in sub-paragraph (2) above.”

- (2) This section shall apply in relation to wine and made-wine which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

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**F18** .....

**Textual Amendments**

- F1** S. 8 repealed (1.5.1995 with application as mentioned in the Note to [Sch. 29 Pt. 1\(3\)](#) of the amending Act and wholly in force at 1.7.2005) by [1995 c. 4, ss. 5\(6\)\(7\), 162, Sch. 29 Pt. 1\(3\)](#); S.I. 2005/1523, art. 2 (with art. 3)

*Hydrocarbon oil duties*

**9 Rates of duty.**

- (1) In section 6(1) of the <sup>M7</sup>Hydrocarbon Oil Duties Act 1979 for “£0.2779” (duty on light oil) and “£0.2285” (duty on heavy oil) there shall be substituted “ £0.3058 ” and “ £0.2514 ” respectively.
- (2) In section 11(1) of that Act (rebate on heavy oil) for “£0.0095” (fuel oil) and “£0.0135” (gas oil) there shall be substituted “ £0.0105 ” and “ £0.0149 ” respectively.
- (3) In section 13A(1) of that Act (rebate on unleaded petrol) for “£0.0437” there shall be substituted “ £0.0482 ”.
- (4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for “£0.0095” there shall be substituted “ £0.0105 ”.
- (5) This section shall be deemed to have come into force at 6 o’clock in the evening of 16th March 1993.

**Commencement Information**

- I4** S. 9 in force at 6 p.m. on 16.3.1993: see s. 9(5)

**Marginal Citations**

- M7** [1979 c. 5.](#)

**10 Mineral oil fuel substitutes.**

- (1) The Hydrocarbon Oil Duties Act 1979 (“the 1979 Act”) shall have effect in relation to such cases as may be specified in an order made by the Treasury as if references in that Act to hydrocarbon oil or to road fuel gas included references to any mineral oil which is designated by that order as a substance which is to be treated for the purposes of that Act as the equivalent of hydrocarbon oil or, as the case may be, of road fuel gas.
- (2) The Treasury may by order provide, in relation to any substance which by virtue of this section is to be treated for the purposes of the 1979 Act as the equivalent of hydrocarbon oil, for that substance to be treated for the purposes of such of the provisions of that Act as may be specified in the order as if it fell within [<sup>F2</sup>such description of hydrocarbon oil as may be so specified]—
- (3) In exercising their powers under this section, the Treasury shall so far as practicable secure that a mineral oil which is intended for, or capable of being put to, a particular

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use is treated for the purposes of the 1979 Act as if it were [<sup>F3</sup>hydrocarbon oil of the description] to which, when put to that use, it is most closely equivalent.

- (4) In this section “mineral oil” means any substance which—
- (a) falls within the definition of mineral oil in Article 2.1 of the Directive of the Council of the European Communities dated 19th October 1992 No. [92/81/EEC](#) (directive on the harmonisation of the structures of excise duties on mineral oils), as amended by the Directive of the Council dated 14th December 1992 No. [92/108/EEC](#); and
  - (b) is not, apart from this section, hydrocarbon oil or road fuel gas within the meaning of the 1979 Act.
- (5) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such order may make different provision for different cases and different substances.
- (6) No duty of excise shall be charged by virtue of section 7 of the 1979 Act (duty on petrol substitutes and power methylated spirits) on any substance on which duty is charged under that Act by virtue of an order under this section.

#### Textual Amendments

- F2** Words in s. 10(2) substituted (24.7.2002) by [2002 c. 23, s. 7\(2\)\(a\)](#)  
**F3** Words in s. 10(3) substituted (24.7.2002) by [2002 c. 23, s. 7\(2\)\(b\)](#)

## 11 Other fuel substitutes.

- (1) After section 6 of the <sup>M8</sup>Hydrocarbon Oil Duties Act 1979 there shall be inserted the following section—

### “6A Fuel substitutes.

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of any liquid which is not hydrocarbon oil.
- (2) In this section “chargeable use” in relation to any substance means the use of that substance—
- (a) as fuel for any engine, motor or other machinery; or
  - (b) as an additive or extender in—
    - (i) any substance on which duty is charged by virtue of paragraph (a) above; or
    - (ii) any hydrocarbon oil which is or is to be used as mentioned in that paragraph.
- (3) The rate of the duty under this section shall be prescribed by order made by the Treasury.
- (4) In the following provisions of this Act references to hydrocarbon oil shall be construed as including references to any substance on which duty is charged under this section; and, accordingly, references to duty on hydrocarbon oil

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shall be construed, where a substance is to be treated as such oil, as including references to duty under this section.

- (5) The Treasury may by order provide for any substance on which duty is charged under this section to be treated for the purposes of such of the following provisions of this Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—
- (a) heavy oil or light oil;
  - (b) aviation gasoline;
  - (c) fuel oil or gas oil, as defined in section 11(2) below; and
  - (d) unleaded petrol, as defined in section 13A(2) below.
- (6) In exercising their powers under this section, the Treasury shall so far as practicable secure—
- (a) that a substance set aside for use or used as mentioned in subsection (2)(a) above is—
    - (i) charged with duty at the same rate as, and
    - (ii) otherwise treated for the purposes of the following provisions of this Act as if it were,
 

the substance falling within the descriptions specified in subsection (5) above to which, when put to that use, it is most closely equivalent; and
  - (b) that a substance set aside for use or used as an additive or extender in any substance is—
    - (i) charged with duty at the same rate as, and
    - (ii) otherwise treated for the purposes of the following provisions of this Act as if it were,
 

the substance in which it is an additive or extender.
- (7) For the purposes of this section “liquid” does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.
- (8) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (9) An order under this section—
- (a) may make different provision for different cases and for different substances;
  - (b) may prescribe the rate of duty under this section in respect of any substance by reference to the rate of duty under this Act in respect of any other substance; and
  - (c) in making different provision for different substances, may define a substance by reference to the use for which it is set aside or the use to which it is put.”
- (2) Sections 4, 7 and 16 of that Act (petrol substitutes and power methylated spirits) shall cease to have effect.



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- (3) In section 22(1) of that Act (offence of using petrol substitutes on which duty has not been paid), for the words from the beginning to the word “shall”, in the first place where it occurs, there shall be substituted—

“A person who—

- (a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall ”.

- (4) In section 1(1)(b) of the <sup>M9</sup>Excise Duties (Surcharges or Rebates) Act 1979 (surcharges or rebates in respect of excise duties on hydrocarbon oil etc.), for paragraph (b) there shall be substituted the following paragraph—

“(b) those chargeable by virtue of the Hydrocarbon Oil Duties Act 1979;”.

- (5) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

#### Marginal Citations

**M8** 1979 c. 5.

**M9** 1979 c. 8.

## 12 Measurement of volume.

- (1) In ascertaining for the purposes of the <sup>M10</sup>Hydrocarbon Oil Duties Act 1979—
- (a) the amount of any duty of excise chargeable on any liquid by virtue of that Act; or
  - (b) the amount of any rebate allowable on any such liquid by virtue of that Act, the volume of that liquid shall be taken (if it would not otherwise be so taken) to be what would be its volume, calculated in accordance with regulations under subsection (2) below, at a temperature of 15°C.

- (2) The Commissioners of Customs and Excise may by regulations make such provision as they think fit as to the method by which, in ascertaining any amount mentioned in subsection (1) above—

- (a) the volume of any liquid is to be measured; or
- (b) the volume as at a temperature of 15°C of any amount of a liquid is to be determined;

and that provision may include provision made by reference to any internationally recognised conversion tables.

- (3) Any reference in sections 15 and 17 to 19A of that Act (drawback and relief) to the amount of any duty of excise which has been paid in respect of any substance, or to the amount of any rebate that has been allowed in respect of any substance, shall be construed as a reference—

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- (a) to such amount as is shown to the satisfaction of the Commissioners of Customs and Excise to have been paid or, as the case may be, allowed in respect of that substance; or
  - (b) where regulations made by those Commissioners so provide, to such amount as is calculated on such assumptions as to the volume of the substance in question as may be determined in accordance with any such regulations.
- (4) The power of the Commissioners of Customs and Excise to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such regulations—
- (a) may make different provision for different cases and for different substances; and
  - (b) may contain such transitional, supplemental and incidental provision as those Commissioners think fit.
- (5) Provision made under this section by any regulations may provide for any determination or measurement under the regulations to be made, or any description of a case or substance to be framed, by reference to such circumstances or other factors, or to the opinion of such persons, as the Commissioners think fit.
- (6) For the purposes of this section “liquid” does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.
- (7) In consequence of this section—
- (a) section 2(5) of that Act (measurement of heavy oil having a temperature exceeding 15°C) shall cease to have effect; and
  - (b) the words “shown to the satisfaction of the Commissioners to have been” in section 15(1) of that Act (drawback) shall be omitted.
- (8) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

**Subordinate Legislation Made**

**P1** [S. 12\(8\)](#) power partly exercised (9.9.1993): different dates appointed for specific provisions by [S.I. 1993/2215](#).

**Commencement Information**

**I5** [S. 12](#) wholly in force; [s. 12](#) not in force at Royal Assent, [s. 12\(2\)\(4\)\(5\)\(6\)\(8\)](#) in force at 13.9.1993, [s. 12](#) in force at 15.10.1993 insofar as not already in force see [s. 12\(8\)](#) and [S.I. 1993/2215](#), [arts. 2,3](#)

**Marginal Citations**

**M10** 1979 c. 5.

*Tobacco products duty*

**13 Rates of duty.**

- (1) For the Table in Schedule 1 to the <sup>M11</sup>Tobacco Products Duty Act 1979 there shall be substituted—

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“ TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £48.75 per thousand cigarettes.
2. Cigars	£72.30 per kilogram.
3. Hand-rolling tobacco	£76.29 per kilogram.
4. Other smoking tobacco and chewing tobacco	£31.93 per kilogram.”

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

**Commencement Information**

**I6** S. 13 in force at 6 p.m. on 16.3.1993: see s. 13(2)

**Marginal Citations**

**M11** 1979 c. 7.

**14 Hand-rolling tobacco.**

- (1) In the Tobacco Products Duty Act 1979, section 1 (definition of tobacco products) shall be amended as follows.
- (2) In subsection (2) (definition of hand-rolling tobacco) after paragraph (a) there shall be inserted—
  - “(aa) which is of a kind used for making into cigarettes; or”.
- (3) In paragraph (b) of subsection (2) (more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm) for “0.6” there shall be substituted “ 1 ”.
- (4) The following subsection shall be inserted after subsection (2)—
  - “(2A) For the purposes of subsection (2)(aa) above the use for making into cigarettes must amount to more than occasional use but need not amount to common use.”
- (5) In subsection (3) (power to amend definitions) after “(2)” there shall be inserted “ or (2A) ”.

*Gaming machine licence duty*

<sup>F4</sup>15 .....

**Textual Amendments**

**F4** S. 15 repealed (3.5.1994 with effect in accordance with Sch. 3 of the amending Act) by 1994 c. 9, ss. 6, 258, Sch. 3, Sch. 26 Pt. II Note

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## 16 Small-prize machines.

- (1) The Betting and Gaming Duties Act 1981 shall be amended as follows.
- (2) In section 21 (gaming machine licences) in subsection (1) (licence required for machine other than a two-penny machine) for “a two-penny machine” there shall be substituted “an excepted machine”.
- (3) In that section the following subsection shall be inserted after subsection (3)—
  - “(3A) For the purposes of this section an excepted machine is—
    - (a) a two-penny machine, or
    - (b) a five-penny machine which is a small-prize machine.”
- (4) In section 22 (charge to duty)—
  - (a) in subsection (1) for the words from “by reference” to the end of the subsection there shall be substituted “in accordance with section 23 below”;
  - <sup>F5</sup>(b) .....
- <sup>F5</sup>(5) .....
- (6) For subsection (4) of section 25 (meaning of “gaming machine”) there shall be substituted the following subsections—
  - “(4) Subject to subsection (5) below, for the purposes of determining whether a machine is a gaming machine it is immaterial whether it is capable of being played by only one person at a time, or is capable of being played by more than one person.
  - (5) For the purposes of sections 21 to 24 above a machine (the actual machine) which two or more persons can play simultaneously (whether or not participating with one another in the same game) shall, instead of being treated as one machine, be treated as if it were a number of machines (accountable machines) equal to the number of persons who can play the actual machine simultaneously.
  - (6) Subsection (5) above does not apply to a machine which is a two-penny machine, or is both a small-prize machine and a five-penny machine.
  - (7) If the actual machine is a small-prize machine but not a five-penny machine, the accountable machines shall be taken to be small-prize machines which are not five-penny machines.
  - (8) If the actual machine is not a small-prize machine, the accountable machines shall be taken not to be small-prize machines, and in such a case—
    - (a) if the actual machine is a five-penny machine, the accountable machines shall be taken to be five-penny machines;
    - (b) if the actual machine is not a five-penny machine, the accountable machines shall be taken not to be five-penny machines.
  - (9) For the purposes of subsection (5) above the number of persons who can play a particular machine simultaneously shall be determined by reference to the number of individual playing positions provided on the machine.”
- (7) In section 26(2) (interpretation) the following definition shall be inserted after the definition of “two-penny machine”—

*Status: Point in time view as at 24/07/2002.*

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““five-penny machine” means a gaming machine which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 5p;”.

<sup>F6</sup>(8) .....

(9) This section shall apply in relation to licences for any period beginning on or after 1st November 1993.

#### Textual Amendments

**F5** S. 16(4)(b)(5) repealed (3.5.1994 with effect in accordance with Sch. 3 of the amending Act) by 1994 c. 9, ss. 6, 258, Sch. 3, **Sch. 26 Pt. II** Note

**F6** S. 16(8) repealed (1.5.1995 with effect in accordance with s. 14 of the amending Act) by 1995 c. 4, ss. 14, 162, **Sch. 29 Pt. III** Note 1

### *Vehicles excise duty*

#### 17 Rates of duty: general.

<sup>F7</sup>(1) .....

<sup>F7</sup>(2) .....

(3) In Schedule 2 (annual rate of duty on hackney carriages) in the Table set out in Part II—

<sup>F8</sup>(a) .....

<sup>F9</sup>(b) .....

<sup>F9</sup>(4) .....

<sup>F9</sup>(5) .....

<sup>F10</sup>(6) .....

(7) In Schedule 5 (annual rate of duty on vehicles not falling within Schedules 1 to 4) in the Table set out in Part II—

<sup>F11</sup>(a) .....

<sup>F12</sup>(b) .....

<sup>F11</sup>(8) .....

#### Textual Amendments

**F7** S. 17(1)(2) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

**F8** S. 17(3)(a) repealed (3.5.1994 with effect in relation to licences taken out after 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

**F9** S. 17(3)(b)(4)(5) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

**F10** S. 17(6) repealed (8.11.1993) by S.I. 1993/2452, art. 3, **Sch. 2**.

**F11** S. 17(7)(a)(8) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

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**F12** S. 17(7)(b) repealed (3.5.1994 with effect in relation to licences taken out after 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

**F13** **18** .....

**Textual Amendments**

**F13** S. 18 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to **Sch. 4**) (with s. 57(4))

**F14** **19** .....

**Textual Amendments**

**F14** S. 19 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to **Sch. 4**) (with s. 57(1))

**20 Old bicycles.**

**F15**(1) .....

**F15**(2) .....

**F16**(3) .....

**F15**(4) .....

**Textual Amendments**

**F15** S. 20(1)(2)(4) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to **Sch. 4**) (with s. 57(1))

**F16** S. 20(3) repealed (retrospective to 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

**F17** **21** .....

**Textual Amendments**

**F17** S. 21 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to **Sch. 4**) (with s. 57(1))

*Miscellaneous*

**22 Mutual recovery and disclosure of information.**

(1) In subsection (1) of section 17 of the <sup>M12</sup>Finance Act 1980 (extension of mutual recovery provisions to VAT), at the end there shall be inserted “ and to excise duties by the Directive of the Council of the European Communities dated 14th December 1992 No. [92/108/EEC](#). ”

*Status: Point in time view as at 24/07/2002.*

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- (2) In subsection (2)(a) of that section (extension of mutual disclosure provisions to VAT), after “No. 79/1070/EEC” there shall be inserted “ and to excise duties by the Directive of the Council of the European Communities dated 25th February 1992 No. [92/12/EEC](#). ”
- (3) After subsection (2) of that section there shall be inserted the following subsection—
  - “(2A) The references in subsections (1) and (2) above to excise duties are references to any duty on mineral oils, on alcohol and alcoholic beverages or on manufactured tobacco.”
- (4) Subsection (1) above shall have effect as respects a request for the recovery of a sum only if it is a sum becoming due on or after the day on which this Act is passed.

**Marginal Citations**

**M12** [1980 c. 48](#).

**F18**<sup>23</sup> .....

**Textual Amendments**

**F18** [S. 23](#) repealed (1.9.1994) by [1994 c. 22, ss. 65, 66\(1\)](#), [Sch. 5 Pt. I](#) (with [s. 57\(1\)](#))

## CHAPTER II

### LOTTERY DUTY

#### *The duty*

#### **24 Lottery duty.**

- (1) Subject to subsections (3) and (4) below, a duty of excise called “lottery duty” is chargeable—
  - (a) on the taking in the United Kingdom of a ticket or chance in a lottery, and
  - (b) in such cases as may be determined by regulations, on the taking outside the United Kingdom of a ticket or chance in a lottery promoted in the United Kingdom.
- (2) Regulations may make provision for determining when and where the taking of a ticket or chance in a lottery is to be treated as occurring for the purposes of this Chapter.
- (3) Lottery duty is not chargeable in respect of a lottery that constitutes a game of bingo (or any version of bingo, by whatever name called).
- (4) Lottery duty is not chargeable in respect—
  - (a) of a lottery promoted as an incident of an exempt entertainment within the meaning of the <sup>M13</sup>Lotteries and Amusements Act 1976 or the <sup>M14</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

*Status: Point in time view as at 24/07/2002.*

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- (b) of a private lottery within the meaning of that Act or Order;
  - (c) of a society's lottery within the meaning of that Act or Order in respect of which the conditions set out in section 5(3) of that Act or Article 135(1) of that Order are satisfied;
  - (d) of a local lottery within the meaning of that Act in respect of which the conditions set out in section 6(2) of that Act are satisfied;
  - (e) of a lottery promoted in accordance with the <sup>M15</sup>Art Unions Act 1846.
- (5) The Treasury may by order amend subsection (4) above so as to add to the descriptions of lottery for the time being mentioned in that subsection, so as to omit any of them or so as to substitute a different description of lottery for any of them.

#### Commencement Information

**I7** S. 24 wholly in force; s. 24 not in force at Royal Assent, s. 24(1)(b)-(5) in force at 1.12.1993, s. 24 in force at 1.2.1994 insofar as not already in force by [S.I. 1993/2842](#), **art. 3**.

#### Marginal Citations

**M13** 1976 c. 32.

**M14** [S.I. 1985/1204 \(N.I. 11\)](#).

**M15** 1846 c. 48.

## 25 Amount of duty.

- (1) The amount of the lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent. of the value of the consideration given for the ticket or chance.
- (2) Subject to subsection (3) below, the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.
- (3) If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and—
  - (a) the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or
  - (b) no consideration is given for the ticket or chance,
 consideration to the value of the price shown shall be taken to be given for the ticket or chance.

## 26 Time for payment.

- (1) The lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and (subject to any regulations under subsection (2) below) payable at the time the ticket or chance is taken.
- (2) Regulations may provide for the payment of any lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations.
- (3) Regulations may require payments (of amounts determined by or under the regulations) to be made on account of any lottery duty that may become due in respect



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of a lottery of a description specified in the regulations that is being or is to be promoted.

## 27 Persons liable for duty.

- (1) Any lottery duty or payment on account of lottery duty that under section 26 above or regulations under that section is payable in respect of a lottery shall be paid (subject to any regulations under subsection (2) below) by the promoter of the lottery.
- (2) Regulations may require any lottery duty or payment on account of lottery duty that is payable in respect of a lottery of a description specified in the regulations to be paid by a person specified in the regulations (being a person who occupies or has occupied a position of responsibility in relation to the lottery) instead of by the promoter.
- (3) Any lottery duty that is payable in respect of a lottery may be recovered jointly and severally from—
  - (a) the promoter of the lottery,
  - (b) any other person who occupies or has occupied a position of responsibility in relation to the lottery or who has or has had any degree of control over any of its proceeds, and
  - (c) where the promoter or a person within paragraph (b) above is a body corporate, any director of that body corporate.
- (4) [<sup>F19</sup>Where a person] does not make a payment that he is required to make by subsection (1) above or regulations under subsection (2) above at the time the payment becomes payable [<sup>F20</sup>his failure so to make the payment shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount which has not been paid and shall also attract daily penalties].

### Textual Amendments

**F19** Words in s. 27(4) substituted (3.5.1994) by 1994 c. 9, s. 9(9), Sch. 4 Pt. VI para. 67(a)

**F20** Words in s. 27(4) substituted (3.5.1994) by 1994 c. 9, s. 9(9), Sch. 4 Pt. VI para. 67(b)

### *Administration and enforcement*

## 28 General.

- (1) Lottery duty shall be under the care and management of the Commissioners.
- (2) Regulations may provide for any matter for which provision appears to the Commissioners to be necessary or expedient for the administration or enforcement of lottery duty or for the protection of the revenue derived from lottery duty.
- (3) [<sup>F21</sup>Where a person] contravenes or does not comply with any regulations under subsection (2) above [<sup>F22</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].

### Textual Amendments

**F21** Words in s. 28(3) substituted (3.5.1994) by 1994 c. 9, s. 9(9), Sch. 4 para. 68(a)

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**F22** Words in s. 28(3) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 para. 68(b)**

## 29 Registration of promoters etc.

- (1) A lottery in respect of which lottery duty is chargeable (or, on the taking of a ticket or chance, will be chargeable) shall not be promoted in the United Kingdom unless the chargeable person is registered with the Commissioners under this section.
- (2) In this section “the chargeable person”, in relation to a lottery, means—
  - (a) subject to paragraph (b) below, the promoter of the lottery;
  - (b) in the case of a lottery of a description specified in regulations under section 27(2) above, the other person referred to in that subsection.
- (3) Regulations may make provision—
  - (a) as to the time at which an application for registration is to be made, as to the form and manner of such an application and as to the information to be contained in or provided with it,
  - (b) as to the requirements that must be satisfied as a condition of a person’s registration or continued registration, and
  - (c) as to other requirements that must be observed by a person while he remains registered.
- (4) The requirements imposed by virtue of subsection (3)(b) above may include requirements as to the giving of security or further security (by means of a deposit or otherwise) for any lottery duty that may become due.
- (5) Subject to regulations under subsection (3)(a) and (b) above, the Commissioners—
  - (a) shall register any person applying to them for registration who satisfies them that he will be the chargeable person in relation to a lottery that is to be promoted, and
  - (b) shall not remove any person from the register unless it appears to them that no lottery is being or is to be promoted in relation to which he is or will be the chargeable person.
- (6) Where—
  - (a) the Commissioners determine that a person should be removed from the register because any requirement imposed by regulations under subsection (3) (b) above is not (or is no longer) satisfied in relation to him, and
  - (b) a lottery in relation to which he is the chargeable person is being promoted at the time they make that determination,
 they shall not remove him from the register until the promotion of that lottery has come to an end.
- (7) If subsection (1) above is contravened in relation to a lottery at any time during its promotion, the chargeable person is guilty of an offence and liable—
  - (a) on summary conviction, to a penalty of the statutory maximum 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 two years, or to both.

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- (8) [<sup>F23</sup>Where a person] contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above [<sup>F24</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].

#### Textual Amendments

**F23** Words in s. 29(8) substituted (3.5.1994) by 1994 c. 9, s. 9, Sch. 4 para. 68(a)

**F24** Words in s. 29(8) substituted (3.5.1994) by 1994 c. 9, s. 9, Sch. 4 para. 68(b)

#### Commencement Information

**I8** S. 29 wholly in force; s. 29 not in force at Royal Assent, s. 29(2)-(8) in force at 1.12.1993, s. 29 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, art. 3.

### 30 Application of revenue trade provisions of CEMA 1979.

- (1) Section 1(1) of the <sup>M16</sup>Customs and Excise Management Act 1979 (interpretation) shall be amended in accordance with subsections (2) and (3) below.
- (2) In the definition of “the revenue trade provisions of the customs and excise Acts”—
- (a) the word “and” at the end of paragraph (b) shall be omitted, and
  - (b) at the end there shall be added “; and
  - (d) the provisions of Chapter II of Part I of the Finance Act 1993;”.
- (3) In paragraph (a) of the definition of “revenue trader”—
- (a) the word “or” at the end of sub-paragraph (i) shall be omitted,
  - (b) after sub-paragraph (i) there shall be inserted—
    - “(i) the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or”, and
  - (c) in sub-paragraph (ii) after “activities” there shall be inserted “ as are mentioned in sub-paragraph (i) or (ia) above ”.
- (4) In section 117 of the <sup>M17</sup>Customs and Excise Management Act 1979 (execution and distress against revenue traders) after subsection (1) there shall be inserted—
- “(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—
- (a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and
  - (b) “the trade in respect of which the duty is imposed” includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable.”

#### Marginal Citations

**M16** 1979 c. 2.

**M17** 1979 c. 2.

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### 31 General offences.

- (1) A person who is knowingly concerned—
  - (a) in the fraudulent evasion (by him or another person) of lottery duty, or
  - (b) in taking steps with a view to such fraudulent evasion,
 is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above is liable—
  - (a) on summary conviction, to a penalty of the statutory maximum or, if greater, treble the amount of the duty evaded or sought to be evaded 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 seven years, or to both.
- (3) A person who in connection with lottery duty—
  - (a) makes a statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, or
  - (b) with intent to deceive, produces or makes use of a book, account, return or other document that is false in a material particular,
 is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) above is liable—
  - (a) on summary conviction, to a penalty of the statutory maximum 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 two years, or to both.

### 32 Offences by bodies corporate.

Where an offence under this Chapter is committed by a body corporate, every person who at the date of the commission of the offence is a director, manager, secretary or other similar officer of the body corporate (or is purporting to act in such a capacity) is also guilty of the offence unless—

- (a) the offence is committed without his consent or connivance, and
- (b) he has exercised all such diligence to prevent its commission as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

### 33 Forfeiture.

- (1) Where a person has committed an offence under section 31(1) or (3) above, any goods used in the promotion of, or in any other way related to, a relevant lottery are liable to forfeiture.
- (2) In subsection (1) above “relevant lottery”—
  - (a) in relation to an offence under section 31(1) above, means a lottery in respect of which lottery duty was fraudulently evaded or (as the case may be) in respect of which the fraudulent evasion of lottery duty was sought, and
  - (b) in relation to an offence under section 31(3) above, means a lottery to which the false statement or (as the case may be) false document related.

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### **34 Protection of officers etc.**

Where a person takes an action in pursuance of instructions of the Commissioners given in connection with the enforcement of this Chapter or of regulations under it and, apart from this section, the person would in taking that action be committing an offence under any enactment relating to lotteries, he shall not be guilty of that offence.

### **36 Duty a preferential debt in insolvency.**

- (1) In section 386(1) of the <sup>M19</sup>Insolvency Act 1986 (preferential debts) after “beer duty” there shall be inserted “, lottery duty”.
- (2) In Schedule 6 to that Act (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

“5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

- (3) In Schedule 3 to the <sup>M20</sup>Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

“(5) Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

- (4) In Article 346(1) of the <sup>M21</sup>Insolvency (Northern Ireland) Order 1989 (preferential debts) after “beer duty” there shall be inserted “, lottery duty”.

- (5) In Schedule 4 to that Order (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

“5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

#### **Marginal Citations**

**M19** 1986 c. 45.

**M20** 1985 c. 66.

**M21** S.I. 1989/2405 (N.I.19).

### **37 Disclosure of information.**

- (1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
  - (a) to the Secretary of State,
  - (b) to the Gaming Board for Great Britain, or
  - (c) to an authorised officer of the Secretary of State or Gaming Board,

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for the purpose of assisting the Secretary of State or Gaming Board (as the case may be) in the performance of duties imposed by or under any enactment in relation to lotteries.

- (2) Notwithstanding any such obligation as is mentioned in subsection (1) above—
- (a) the Secretary of State,
  - (b) the Gaming Board for Great Britain, or
  - (c) an authorised officer of the Secretary of State or Gaming Board,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to lottery duty.
- (3) Information that has been disclosed to a person by virtue of this section shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this section have been made, or
  - (b) for the purpose of any proceedings connected with the operation of any enactment in relation to lotteries or lottery duty.
- (4) References above in this section to the Secretary of State include any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this section.
- (5) The Secretary of State shall notify the Commissioners in writing if he designates a person under subsection (4) above.

### *Supplementary*

#### **38 Regulations and orders.**

- (1) Any regulations under this Chapter may make—
  - (a) different provision for different cases or circumstances, and
  - (b) incidental, supplemental or consequential provision.
- (2) Any power to make regulations or orders under this Chapter is exercisable by statutory instrument.
- (3) Subject to subsection (4) below, a statutory instrument containing such regulations or an order under section 24(5) above is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) An order under section 24(5) above that will result in lottery duty becoming chargeable in respect of any description of lottery shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

#### **39 Disapplication of pool betting duty.**

In section 6 of the <sup>M22</sup>Betting and Gaming Duties Act 1981 (pool betting duty)—

- <sup>F25</sup>(a) . . . . .
- (b) subsection (4) shall cease to have effect.

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**Textual Amendments**

**F25** S. 39(a) repealed (*retrospective to 31.3.2002 as mentioned in s. 12(1)-(5) subject as mentioned in s. 12(5)(6) of the repealing Act*) by 2002 c. 23, ss. 12, 141, **Sch. 40 Pt. 1(4)** Note 2

**Marginal Citations**

**M22** 1981 c. 63.

**40 Interpretation etc.**

(1) In this Chapter—

“the Commissioners” means the Commissioners of Customs and Excise,  
“document” includes a document of any kind whatsoever and, in particular,  
a record kept by means of a computer,  
“promotion”, in relation to a lottery, includes the conduct of the lottery (and  
“promoted” is to be read accordingly), and  
“regulations” means regulations made by the Commissioners.

(2) This Chapter applies in relation to lotteries promoted on behalf of the Crown in pursuance of any enactment as it applies in relation to lotteries not so promoted.

(3) The imposition by this Chapter of lottery duty does not make lawful anything that is unlawful apart from this Chapter.

**41 Commencement.**

This Chapter shall come into force on such day as the Commissioners may by order appoint, and different days may be appointed for different provisions or for different purposes.

**Subordinate Legislation Made**

**P2** S. 41 power fully exercised (18.11.1993): different dates appointed for specified provisions by S.I. 1993/2842, **art. 3**.

**CHAPTER III**

**VALUE ADDED TAX**

**F26** **42** .....

**Textual Amendments**

**F26** S. 42 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F27** **43** .....

*Status: Point in time view as at 24/07/2002.*

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**Textual Amendments**

**F27** S. 43 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F28** **44** .....

**Textual Amendments**

**F28** S. 44 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F29** **45** .....

**Textual Amendments**

**F29** S. 45 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F30** **46** .....

**Textual Amendments**

**F30** S. 46 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F31** **47** .....

**Textual Amendments**

**F31** S. 47 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F32** **48** .....

**Textual Amendments**

**F32** S. 48 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

**F33** **49** .....

**Textual Amendments**

**F33** S. 49 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)



*Status: Point in time view as at 24/07/2002.*

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F34 50 .....

**Textual Amendments**

**F34** S. 50 repealed (1.9.1994) by 1994 c. 23, s. 100, Sch. 15 (with Sch. 13 para. 9)

**PART II**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

**CHAPTER I**

GENERAL

*Income tax: charge, rates and allowances*

**51 Charge and rates of income tax for 1993-94.**

- (1) Income tax shall be charged for the year 1993-94, and for that year—
  - (a) the lower rate shall be 20 per cent.,
  - (b) the basic rate shall be 25 per cent., and
  - (c) the higher rate shall be 40 per cent.
- (2) For the year 1993-94 section 1(2) of the Taxes Act 1988 shall apply as if—
  - (a) the amount specified in paragraph (aa) were £2,500 (the lower rate limit), and
  - (b) the amount specified in paragraph (b) were £23,700 (the basic rate limit);and accordingly section 1(4) of that Act (indexation) shall not apply for the year 1993-94.

**52 Personal and married couple's allowances.**

Sections 257 and 257A of the Taxes Act 1988 (personal and married couple's allowances) shall apply for the year 1993-94 as if the amounts specified in them were the same as the amounts specified in them as they apply for the year 1992-93, and accordingly section 257C(1) of that Act (indexation) shall not apply for the year 1993-94.

*Corporation tax charge and rate*

**53 Charge and rate of corporation tax for 1993.**

Corporation tax shall be charged for the financial year 1993 at the rate of 33 per cent.

**54 Small companies.**

For the financial year 1993—

- (a) the small companies' rate shall be 25 per cent., and

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- (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

*Interest: general*

**55 Relief for interest.**

For the year 1993-94 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

<sup>F35</sup>56 .....

**Textual Amendments**  
**F35** S. 56 repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

**57 Temporary relief for interest payments.**

<sup>F36</sup>(1) .....

<sup>F36</sup>(2) .....

- (3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

“(1A) Where, in the case of any loan—

- (a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and
- (b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case.”

<sup>F36</sup>(4) .....

- (5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).

*Status: Point in time view as at 24/07/2002.*

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F36(6) .....

F37(7) .....

#### Textual Amendments

**F36** S. 57(1)(2)(4)(6) repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

**F37** S. 57(7) repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, ss. 81, 258, **Sch. 9 para. 12, Sch. 26 Pt. V(2)** Note

### 58 Overclaims in respect of deductions of mortgage interest.

- (1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

“(7) The following provisions of the Management Act, namely—

- (a) section 29(3)(c) (excessive relief),
- (b) section 30 (tax repaid in error etc.),
- (c) section 88 (interest), and
- (d) section 95 (incorrect return or accounts),

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as a relief which was not due.”

- (2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

### 59 Interest payments to persons not ordinarily resident in UK.

In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted “ or ” and after that paragraph there shall be inserted the following paragraph—

“(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1).”

### 60 Certain interest not allowed as a deduction.

- (1) This section applies where—
- (a) a qualifying company becomes subject to a qualifying debt, and
  - (b) the interest payable exceeds a commercial return on the capital repayable, expressing that capital in the settlement currency of the debt.
- (2) In computing the corporation tax chargeable for an accounting period of the company, so much of the excess interest as is paid in the accounting period shall not be allowed as a deduction against the total profits for the period (if it would be allowed apart from this section).

*Status: Point in time view as at 24/07/2002.*

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- (3) In this section—
  - “qualifying company” has the meaning given by section 152 below;
  - “qualifying debt” has the meaning given by section 153(10) below;
  - “settlement currency”, in relation to a debt, shall be construed in accordance with section 161 below.
- (4) This section applies where the company becomes subject to the debt (whether as the original debtor or otherwise) on or after the day which is its commencement day for the purposes of section 165 below.

*Interest etc. on debts between associated companies*

<sup>F38</sup> **61** .....

**Textual Amendments**

**F38** S. 61 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

<sup>F39</sup> **62** .....

**Textual Amendments**

**F39** S. 62 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

<sup>F40</sup> **62A** .....

**Textual Amendments**

**F40** S. 62A repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

<sup>F41</sup> **63** .....

**Textual Amendments**

**F41** S. 63 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

<sup>F42</sup> **64** .....

*Status: Point in time view as at 24/07/2002.*

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**Textual Amendments**

**F42** S. 64 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 19(3))

**Modifications etc. (not altering text)**

**C1** S. 64 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, s. 67(4)(8)

<sup>F43</sup> **65** .....

**Textual Amendments**

**F43** S. 65 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 20(2))

**Modifications etc. (not altering text)**

**C2** S. 65 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, s. 67(4)(8)

<sup>F44</sup> **66** .....

**Textual Amendments**

**F44** S. 66 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

*Charitable donations*

**67 Donations from companies and individuals.**

- (1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £400 after deducting income tax) for “£400” there shall be substituted “ £250 ”.
- (2) In section 25 of the <sup>M23</sup>Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £400 to be a qualifying donation) for “£400” there shall be substituted “ £250 ”.
- (3) Subsection (1) above shall apply in relation to payments made on or after 16th March 1993.
- (4) Subsection (2) above shall apply in relation to gifts made on or after 16th March 1993.

**Marginal Citations**

**M23** 1990 c. 29.

*Status: Point in time view as at 24/07/2002.*

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**68 Payroll deduction schemes.**

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £600 the deductions attracting relief) for “£600” there shall be substituted “ £900 ”.
- (2) This section shall have effect for the year 1993-94 and subsequent years of assessment.

**69 Contributions to agent’s expenses.**

The following section shall be inserted after section 86 of the Taxes Act 1988—

**“86A Charitable donations: contributions to agent’s expenses.**

- (1) This section applies where—
  - (a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and
  - (b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).
- (2) Any relevant expenditure incurred by the employer on or after 16th March 1993—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or
  - (b) if the employer is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme.”

*Benefits in kind*

**70 Car benefits: 1993-94.**

- (1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

*Status: Point in time view as at 24/07/2002.*

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**“PART I**

**TABLES OF FLAT RATE CASH EQUIVALENTS**

**Table A**

***CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND HAVING A CYLINDER CAPACITY***

<b><i>Cylinder capacity of car in cubic centimetres</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<b><i>Under 4 years</i></b>	<b><i>4 years or more</i></b>
1,400 or less	£2,310	£1,580
More than 1,400 but not more than 2,000	£2,990	£2,030
More than 2,000	£4,800	£3,220

**Table B**

***CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY***

<b><i>Original market value of car</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<b><i>Under 4 years</i></b>	<b><i>4 years or more</i></b>
Less than £6,000	£2,310	£1,580
£6,000 or more but less than £8,500	£2,990	£2,030
£8,500 or more but not more than £19,250	£4,800	£3,220

**Table C**

***CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250***

<b><i>Original market value of car</i></b>	<b><i>Age of car at end of relevant year of assessment</i></b>	
	<b><i>Under 4 years</i></b>	<b><i>4 years or more</i></b>
More than £19,250 but not more than £29,000	£6,210	£4,180
More than £29,000	£10,040	£6,660”

(2) This section shall have effect for the year 1993-94.

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**71 Car fuel: 1993-94.**

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

“TABLE A

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£600
More than 1,400 but not more than 2,000	£760
More than 2,000	£1,130

TABLE AB

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£550
More than 2,000	£710

TABLE B

<i>Original market value of car</i>	<i>Cash equivalent</i>
Less than £6,000	£600
£6,000 or more but less than £8,500	£760
£8,500 or more	£1,130”

(2) In subsection (5) of that section (reductions in cash equivalents) the words “or 3” shall be omitted.

(3) This section shall have effect for the year 1993-94.

**72 Car and car fuel benefits: 1994-95 onwards.**

Schedule 3 to this Act (which contains provisions, having effect for the year 1994-95 and subsequent years of assessment, about cars available for private use and car fuel) shall have effect.

**73 Vans.**

Schedule 4 to this Act (which contains provisions about vans available for private use) shall have effect.

**74 Heavier commercial vehicles.**

(1) In the Taxes Act 1988, after section 159AB (inserted by Schedule 4 to this Act) there shall be inserted the following section—



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**“159AC Heavier commercial vehicles available for private use.**

- (1) This section applies where in any year—
  - (a) a heavier commercial vehicle is made available to an employee in circumstances such that, had that vehicle been a van, the benefit so provided would have been chargeable to tax under section 159AA, and
  - (b) the employee’s use of the vehicle is not wholly or mainly private use.
- (2) Section 154 shall not apply to—
  - (a) the benefit so provided, or
  - (b) any benefit in connection with the vehicle other than a benefit in connection with the provision of a driver for the vehicle.
- (3) The employee shall not be taxable—
  - (a) under Schedule E in respect of the discharge of any liability of his in connection with the vehicle;
  - (b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—
    - (i) for obtaining money which is spent on goods or services in connection with the vehicle, or
    - (ii) for obtaining such goods or services;
  - (c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the vehicle.
- (4) In this section “heavier commercial vehicle” means a mechanically propelled road vehicle which is—
  - (a) of a construction primarily suited for the conveyance of goods or burden of any description, and
  - (b) of a design weight exceeding 3,500 kilograms;and “design weight” here means the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.
- (5) In this section—
  - (a) “private use”, in relation to a vehicle made available to an employee, means any use other than for his business travel, and
  - (b) “business travel” means travelling which the employee is necessarily obliged to do in the performance of the duties of his employment.”

<sup>F45</sup>(2) .....

(3) This section shall have effect for the year 1993-94 and subsequent years of assessment.

**Textual Amendments**

**F45** S. 74(2) repealed (27.7.1999 with effect for the year 1999-00 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(9)** Note

*Status: Point in time view as at 24/07/2002.*

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## 75 **Sporting and recreational facilities.**

- (1) After section 197F of the Taxes Act 1988 there shall be inserted the following section—

*“ Sporting and recreational facilities*

### **197G Sporting and recreational facilities.**

- (1) No charge to tax under Schedule E shall arise in respect of the provision to any person in employment with any employer, or to any member of the family or household of such a person, of—
- (a) any benefit to which this section applies; or
  - (b) any non-cash voucher which is capable of being exchanged only for a benefit to which this section applies.
- (2) This section applies, subject to subsections (3) to (5) below, to any benefit consisting in, or in a right or opportunity to make use of, any sporting or other recreational facilities provided so as to be available generally to, or for use by, the employees of the employer in question.
- (3) Except in such cases as may be prescribed, this section does not apply to any benefit consisting in—
- (a) an interest in, or the use of, any mechanically propelled vehicle;
  - (b) an interest in, or the use of, any holiday or other overnight accommodation or any facilities which include, or are provided in association with, a right or opportunity to make use of any such accommodation;
  - (c) a facility provided on domestic premises;
  - (d) a facility provided so as to be available to, or for use by, members of the public generally;
  - (e) a facility which is used neither wholly nor mainly by persons whose right or opportunity to use it derives from employment (whether with the same employer or with different employers); or
  - (f) a right or opportunity to make use of any facility falling within any of the preceding paragraphs.
- (4) For the purposes of subsection (3)(e) above a person’s right or opportunity to use any facility shall be taken to derive from employment if, and only if—
- (a) it derives from his being or having been an employee of a particular employer or a member of the family or household of a person who is or has been such an employee; and
  - (b) the facility is one which is provided so as to be available generally to the employees of that employer.
- (5) The Treasury may by regulations provide—
- (a) that such benefits as may be prescribed shall not be benefits to which this section applies; and
  - (b) that such other benefits as may be prescribed shall be benefits to which this section applies only where such conditions as may be prescribed are satisfied in relation to the terms on which, and the persons to whom, they are provided.

*Status: Point in time view as at 24/07/2002.*

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(6) In this section—

“domestic premises” means any premises used wholly or mainly as a private dwelling or any land or other premises belonging to, or enjoyed with, any premises so used;

“non-cash voucher” has the same meaning as in section 141;

“prescribed” means prescribed by regulations made by the Treasury;

“vehicle” includes any ship, boat or other vessel, any aircraft and any hovercraft;

and section 168(2) and (4) shall apply for the purposes of this section as it applies for the purposes of Chapter II of this Part.”

(2) This section shall apply for the year 1993-94 and subsequent years of assessment.

## 76 Removal expenses and benefits.

Schedule 5 to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

### *Taxation of distributions etc.*

## 77 Application of lower rate.

<sup>F46</sup>(1) .....

<sup>F46</sup>(2) .....

(3) In section 249 of that Act (issues of share capital treated as income)—

(a) in subsection (4)—

(i) for the words “basic rate”, in each place where they occur, there shall be substituted “ lower rate ”; and

(ii) in paragraph (c), for “which is not chargeable at the lower rate and” there shall be substituted “ to which (without prejudice to paragraph (a) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but shall be treated ”;

and

(b) in subsection (6)(b), for “basic rate” there shall be substituted “ lower rate ”.

(4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—

(a) in paragraph (a), after “tax” there shall be inserted “ at the lower rate ”;

(b) in paragraph (b), for “basic rate” there shall be substituted “ lower rate ”; and

(c) in paragraph (c), for the words from “which is not” to “that paragraph” there shall be substituted “ to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection ”.

(5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

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**Textual Amendments**

**F46** S. 77(1)(2) repealed (29.4.1996 with effect in accordance with s. 73 and [Sch. 6](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(1\)](#) Note 1

<sup>F47</sup>**78** .....

**Textual Amendments**

**F47** S. 78 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, [Sch. 27 Pt. III\(2\)](#), Note

**79 Provisions supplemental to sections 77 and 78.**

- (1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.
- (2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—
  - (a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the <sup>M24</sup>Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, “under section 462(2) as applied by section 686(4) or”; and
  - (b) that subsection included the following paragraph—
    - “(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the <sup>M25</sup>Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;”.

<sup>F48</sup>(3) .....

**Textual Amendments**

**F48** S. 79(3) repealed (29.4.1996 with effect in accordance with s. 73 and [Sch. 6](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(1\)](#) Note 1

**Marginal Citations**

**M24** 1989 c. 26.  
**M25** 1990 c. 29.

**80 Transitional relief for charities etc.**

- (1) In any case where—
  - (a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;
  - (b) the recipient of the distribution is a section 505 body; and

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- (c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,
- the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.
- (2) The amount referred to in subsection (1) above is an amount equal to—
- (a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;
  - (b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;
  - (c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;
  - (d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.
- (3) For the purposes of this section each of the following is a section 505 body—
- (a) any charity (as defined in section 506(1) of the Taxes Act 1988);
  - (b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
  - (c) any Association of a description specified in section 508 of that Act (scientific research organisations).
- (4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.
- (5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.
- (6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.
- (7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the <sup>M26</sup>Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.
- (8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

**Marginal Citations**

M26 1970 c. 9.

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 22 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F49** S. 81 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

### *Chargeable gains*

#### **82 Annual exempt amount for 1993-94.**

For the year 1993-94 section 3 of the <sup>M27</sup>Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

#### Marginal Citations

- M27** 1992 c. 12.

#### **83 Annual exempt amount: indexation for 1994-95 onwards.**

- (1) In section 3(3) of the <sup>M28</sup>Taxation of Chargeable Gains Act 1992 (indexation of annual exempt amount) for “December” (in each place) there shall be substituted “September”.
- (2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

#### Marginal Citations

- M28** 1992 c. 12.

#### **84 Re-organisations etc. involving debentures.**

- (1) In section 117 of the Taxation of Chargeable Gains Act 1992 (meaning of qualifying corporate bond), after subsection (6) there shall be inserted the following subsection—
- “(6A) For the purposes of this section “corporate bond” also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—
- (a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and
- (b) would be a corporate bond if it were a security as so defined.”
- (2) In section 251 of that Act (general provisions in relation to debts), after subsection (5) there shall be inserted the following subsection—

*Status: Point in time view as at 24/07/2002.*

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- “(6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—
- (a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;
  - (b) it is issued in exchange for shares in or debentures of another company and in a case unaffected by section 137 where one or more of the conditions mentioned in paragraphs (a) to (c) of section 135(1) is satisfied in relation to the exchange;
  - (c) it is issued under any such arrangements as are mentioned in subsection (1)(a) of section 136 and in a case unaffected by section 137 where section 136 requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or
  - (d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above.”
- (3) This section shall have effect in relation to any chargeable period ending on or after 16th March 1993 but, in relation to any accounting period of a company which began before 6th April 1992, this section shall have effect as if the references in this section, and in the amendments made by this section, to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of the <sup>M29</sup>Capital Gains Tax Act 1979 and the <sup>M30</sup>Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

#### Marginal Citations

M29 1979 c. 14.

M30 1984 c. 43.

## 85 Personal equity plans.

After subsection (3) of section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) there shall be inserted the following subsection—

- “(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—
- (a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and
  - (b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset.”

## 86 Roll-over relief.

- (1) In section 155 of the <sup>M31</sup>Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 5 there shall be inserted—

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## “CLASS 6

Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument).”

- (2) The Treasury may by order made by statutory instrument amend that section so as to add one or more further classes of assets to the classes specified in that section.

[<sup>F50</sup>Any such order may make such consequential amendments of Schedule 7AB as appear to the Treasury to be appropriate.

.]

- (3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (1) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1st January 1993; but, in relation to any accounting period of a company which began before 6th April 1992, subsection (1) above shall have effect as if the inserted class were numbered 5 and were inserted after Class 4 in section 118 of the <sup>M32</sup>Capital Gains Tax Act 1979.

### Textual Amendments

**F50** Words in s. 86(2) added (24.7.2002 with application as mentioned in s. 43(4) of the amending Act) by 2002 c. 23, s. 43(3)(4)

### Marginal Citations

**M31** 1992 c. 12.  
**M32** 1979 c. 14.

## 87 Relief on retirement or re-investment.

- (1) Schedule 7 to this Act (which amends the provisions of the Taxation of Chargeable Gains Act 1992 with respect to retirement relief and makes new provision in relation to relief on the re-investment of certain gains) shall have effect.
- (2) This section and that Schedule shall have effect in relation to any disposal made on or after 16th March 1993.

## 88 Restriction on set-off of pre-entry losses.

- (1) After section 177 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

### “177A Restriction on set-off of pre-entry losses.

Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of



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companies and losses accruing on assets held by any company at such a time) shall have effect.”

- (2) The Schedule set out in Schedule 8 to this Act shall be inserted after Schedule 7 to that Act.
- (3) This section and that Schedule—
- (a) shall apply for the calculation of the amount to be included in respect of chargeable gains in a company’s total profits for any accounting period ending on or after 16th March 1993; but
  - (b) shall so apply only in relation to the deduction from chargeable gains accruing on or after 16th March 1993 of amounts in respect of, or of amounts carried forward in respect of—
    - (i) pre-entry losses accruing before it became a member of the relevant group to a company whose membership of that group began or begins at a time on or after 1st April 1987; and
    - (ii) losses accruing on the disposal of any assets so far as it is by reference to such a company that the assets fall to be treated as being or having been pre-entry assets or assets incorporating a part referable to pre-entry assets.
- (4) In relation to accounting periods beginning before 6th April 1992 this section and that Schedule shall have effect as if—
- (a) the section and Schedule inserted by subsections (1) and (2) above were inserted in the <sup>M33</sup>Capital Gains Tax Act 1979; and
  - (b) references in the Schedule so inserted to provisions of the <sup>M34</sup>Taxation of Chargeable Gains Act 1992 were references to such of the provisions of that Act of 1979 or of any other enactment as correspond to the provisions referred to and have effect in relation to that accounting period.

#### Marginal Citations

M33 1979 c. 14.

M34 1992 c. 12.

## 89 De-grouping charges.

- (1) In section 179(4) of the Taxation of Chargeable Gains Act 1992 (time at which de-grouping charges accrue), for the words from “as follows” onwards there shall be substituted “at whichever is the later of the following, that is to say—
- (a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and
  - (b) the time when under subsection (3) above it is treated as having reacquired the asset;

and subsection (2) of section 409 of the Taxes Act (group relief) shall require any apportionment under that subsection to be made accordingly but shall not require any reference in this subsection to an accounting period to have effect for any of the purposes specified in subsection (3) of that section as a reference to any accounting period other than a true accounting period. ”

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- (2) This section shall have effect in relation to accounting periods ending after the day appointed for the purposes of section 180(1)(b) of that Act.

**F5190** .....

**Textual Amendments**

**F51** S. 90 repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. II(12), note 10 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(12)**

**91 Deemed disposals of unit trusts by insurance companies.**

- (1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January 1993; and neither that section nor section 46 of the <sup>M35</sup>Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.
- (2) In relation to any accounting period beginning on or after 1st January 1993—
- (a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disappplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and
  - (b) that section 212 shall have effect with the omission, in subsection (2), of the words from “and in relation to” onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).
- (3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for “and 214” there shall be substituted “to 214A”.
- (4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—
- “(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—
- (a) are referable to basic life assurance and general annuity business; or
  - (b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;
- and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing.”
- (5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

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#### **“214A Further transitional provisions.**

- (1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 (“the relevant period”)—
  - (a) an insurance company makes a claim for the purposes of this section in relation to that period; and
  - (b) that period is one of the company’s first eight accounting periods after the end of 1992.
- (2) Where this section applies, section 213 shall have effect as if—
  - (a) the amount of the chargeable gains which—
    - (i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and
    - (ii) satisfy the condition specified in paragraph (a) of section 213(1A),were reduced by the protected proportion of that amount; and
  - (b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.
- (3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left( A + \frac{B \times C}{D} \right) \times \frac{E}{F} \times \frac{G}{8}$$

- (4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company’s basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

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F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

- (5) For the purposes of this section and subject to subsection (6) below—
- (a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and
  - (b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—
    - (i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and
    - (ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.
- (6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.
- (7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the <sup>M36</sup>Insurance Companies Act 1982, this section shall have effect so that—
- (a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—
    - (i) by the transferee, or
    - (ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,
 as if there had been no deemed disposals under section 212 before the transfer; and
  - (b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

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- (8) Where the transfer is of part only of the transferor's long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.
- (9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—
- (a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and
  - (b) the accounting periods of the transferee ending after the day of the transfer,
- and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.
- (11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—
- (a) linked solely to any pension business or long term business of that company other than life assurance business; nor
  - (b) assets of the company's overseas life assurance fund;
- and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.
- (12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly.”
- (6) In section 214(6)(a) of that Act of 1992 (replacement relief), after “1989” there shall be inserted “ and before the time when it is first deemed under section 212 to have made a disposal of any assets ”.

**Marginal Citations**

**M35** 1990 c. 29.

**M36** 1982 c. 50.

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### Corporation tax: currency

#### [<sup>F52</sup>92 The basic rule: sterling to be used.

- (1) Where a company carries on a business, the profits or losses of the business for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to [<sup>F53</sup>sections 93 and 93A]] below.
- (2) In this section—
  - “losses” includes management expenses and any allowances falling to be made under [<sup>F54</sup>section 19 or 253 of the Capital Allowances Act] ;
  - “profits” includes gains, income and any charges falling to be made under [<sup>F54</sup>section 19 or 253 of that Act].

#### Textual Amendments

- F52** S. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, s. 105(1)
- F53** Words in s. 92(1) substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 2** (with Sch. 23 para. 25)
- F54** Words in s. 92(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 88(a)(b)**

#### Modifications etc. (not altering text)

- C3** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch.24 para. 7(2)** (with Sch. 23 para. 25)

#### [<sup>F56</sup>93 [<sup>F55</sup>Use of currency other than sterling: accounts as a whole etc in foreign currency].

- (1) This section applies where in an accounting period a company carries on a business and [<sup>F57</sup>the condition in subsection (2) below]] is fulfilled.
- (2) [<sup>F58</sup>The condition is] that—
  - (a) the accounts of the company as a whole are prepared in a currency other than sterling in accordance with [<sup>F59</sup>generally accepted accounting practice]; and
  - (b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in such a currency in accordance with such practice.

<sup>F60</sup>(3) . . . . .

- (4) The profits or losses of the business for an accounting period shall for the purposes of corporation tax be found by—
  - (a) taking the amount of all the profits and losses of the business for the period computed and expressed in the relevant foreign currency;
  - (b) taking account of any of the following which are so computed and expressed—
    - (i) any management expenses brought forward under section 75(3) of the Taxes Act 1988 from an earlier accounting period;
    - (ii) any losses of the business brought forward under section 392B or 393 of that Act from such a period; and

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- (iii) any non-trading deficits on loan relationships brought forward under section 83 of the <sup>M37</sup>Finance Act 1996 from the previous accounting period; and
  - (c) taking the sterling equivalent of the amount found by applying paragraphs (a) and (b) above.
- (5) In the application of [<sup>F61</sup>section 578A(2) or (3) of the Taxes Act 1988 or section 43(3), 74(2), 75(1), 76(2), (3) or (4), 99(1), (2) or (3) or 208(1) of the Capital Allowances Act] for the purposes of subsection (4)(a) or (b) above, it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

<sup>F62</sup>(6) .....

- (7) In this section, unless the context otherwise requires—
- “accounts”, in relation to a company, means—
    - (a) the annual accounts of the company prepared in accordance with Part VII of the <sup>M38</sup>Companies Act 1985 or Part VIII of the <sup>M39</sup>Companies (Northern Ireland) Order 1986; or
    - (b) if the company is not required to prepare such accounts, the accounts which it is required to keep under the law of its home State; or
    - (c) if the company is not so required to keep accounts, such of its accounts as most closely correspond to accounts which it would have been required to prepare if the provisions of that Part applied to it;
- <sup>F63</sup> . . .  
<sup>F63</sup> . . .
- “home State”, in relation to a company, means the country or territory under whose laws the company is incorporated;
  - “losses” has the same meaning as in section 92 above except that it does not include allowable losses within the meaning of the <sup>M40</sup>Taxation of Chargeable Gains Act 1992;
  - “profits” has the same meaning as in section 92 above except that it does not include chargeable gains within the meaning of that Act;
  - “the relevant foreign currency” means the currency other than sterling or, where [<sup>F64</sup>the condition in subsection (2) above] is fulfilled and two different such currencies are involved, the currency in which the return of accounts is prepared;
  - “return of accounts”, in relation to a branch in the United Kingdom, means a return of such accounts of the branch as may be required by the Inland Revenue under paragraph 3 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters).

#### Textual Amendments

- F55** S. 93: sidenote becomes “Use of currency other than sterling: accounts as a whole etc in foreign currency” (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by virtue of 2002 c. 23, s. 80, **Sch. 24 para. 3(8)** (with Sch. 23 para. 25)
- F56** Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, s. 105(1)
- F57** Words in s. 93(1) substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 3(2)** (with Sch. 23 para. 25)

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- F58** Words in s. 93(2) substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 3(3)** (with Sch. 23 para. 25)
- F59** Words in s. 93(2) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)
- F60** S. 93(3) repealed (24.7.2002 with effect as mentioned in s. 80(2) of the repealing Act) by 2002 c. 23, ss. 80, 141, **Sch. 24 para. 3(4)**, **Sch. 40 Pt. 3(11)** (with Sch. 23 para. 25)
- F61** Words in s. 93(5) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 89**
- F62** S. 93(6) repealed (24.7.2002) by 2002 c. 23, ss. 80, 141, **Sch. 24 para. 3(5)**, **Sch. 40 Pt. 3(11)** (with Sch. 23 para. 25)
- F63** S. 93(7): Definitions repealed (24.7.2002) by 2002 c. 23, ss. 80, 141, **Sch. 24 para. 3(6)(a)(b)**, **Sch. 40 Pt. 3(11)** (with Sch. 23 para. 25)
- F64** Words in s. 93(7) substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 3(7)** (with Sch. 23 para. 25)

#### **Modifications etc. (not altering text)**

- C4** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

#### **Marginal Citations**

- M37** 1996 c. 8.  
**M38** 1985 c. 6.  
**M39** S.I. 1986/1032 (N.I.6).  
**M40** 1992 c. 12.

### **[<sup>F65</sup>93A Use of other currency: accounts partly from statements in foreign currency**

- (1) This section applies where in an accounting period a company carries on a business and either the first condition or the second condition is fulfilled.
- (2) The first condition is that—
  - (a) the accounts of the company as a whole are prepared in sterling but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency other than sterling; or
  - (b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to part of the business, it is prepared, using that method, from financial statements and records prepared in a currency other than sterling.
- (3) The second condition is that—
  - (a) the accounts of the company as a whole are prepared in a currency other than sterling ( “the first currency”) in accordance with generally accepted accounting practice but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency ( “the second currency”) which is neither sterling nor the first currency; or
  - (b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in a currency other than sterling ( “the first currency”) in accordance with generally accepted accounting practice, but, so far as relating to part of the business, it is prepared, using the closing rate/ net investment method,



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from financial statements and records prepared in a currency ( “the second currency”) which is neither sterling nor the first currency.

(4) The profits or losses of the part of the business for an accounting period shall for the purposes of corporation tax be found by—

(a) taking the amount of all the profits and losses of the part of the business for the period computed and expressed in the relevant foreign currency; and

(b) taking—

(i) in a case where the first condition is fulfilled, the sterling equivalent,  
or

(ii) in a case where the second condition is fulfilled, the equivalent in the first currency,

of the amount found by applying paragraph (a) above.

(5) In a case where the second condition is fulfilled, effect shall be given to subsection (4) above before effect is given to section 93(4) above.

(6) In the application for the purposes of subsection (4)(a) above of—

(a) section 578A(2) or (3) of the Taxes Act 1988, or

(b) section 43(3), 74(2), 75(1), 76(2), (3) or (4), 99(1), (2) or (3) or 208(1) of the Capital Allowances Act,

it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

(7) Where for any accounting period—

(a) the accounts of the company, so far as relating to a part of its business, are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency which is not sterling and, where the second condition is fulfilled, is not the first currency, or

(b) in the case of a company which is not resident in the United Kingdom, its return of accounts for its branch in the United Kingdom, so far as relating to a part of the company’s business, is prepared, using that method, from such financial statements and records,

then, if different such financial statements and records are prepared in different currencies, the company shall be treated for the purposes of this section as having a separate part of a separate business for each such different currency (and this section shall accordingly apply separately in relation to each such part).

(8) In this section, “part of a business” includes any collection of assets and liabilities.

(9) In this section, unless the context otherwise requires—

“accounts” has the same meaning as in section 93 above;

“the closing rate/net investment method” means the method so called as described under the title “Foreign currency translation” in the Statement of Standard Accounting Practice issued in April 1983 by the Institute of Chartered Accountants in England and Wales;

“losses” has the same meaning as in section 92 above, except that it does not include allowable losses within the meaning of the Taxation of Chargeable Gains Act 1992;

“profits” has the same meaning as in section 92 above, except that it does not include chargeable gains within the meaning of that Act;

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“the relevant foreign currency” means the currency in which the financial statements and records mentioned in subsection (2) or, as the case may be, (3) above are prepared;

“return of accounts” has the same meaning as in section 93 above.]

#### Textual Amendments

**F65** S. 93A inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 4** (with **Sch. 23 para. 25**)

#### Modifications etc. (not altering text)

**C5** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with **Sch. 23 para. 25**)

### [<sup>F66</sup>94AARules for ascertaining currency equivalents: general

- (1) Where any receipt or expense, or the value of any asset, liability or derivative contract, of a company—
  - (a) is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and
  - (b) is denominated in a currency other than sterling,
 it shall be translated into its sterling equivalent by reference to a rate determined in accordance with subsection (4) below.
- (2) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company—
  - (a) falls to be brought into account for the purposes of the accounts mentioned in paragraph (a), or the return of accounts mentioned in paragraph (b), of subsection (2) of section 93 above,
  - (b) is denominated in a currency other than the relevant foreign currency, within the meaning of that section, and
  - (c) accordingly falls to be translated into the relevant foreign currency,
 the amount or value shall for the purposes of that section be translated from the currency mentioned in paragraph (b) above into the relevant foreign currency by reference to a rate determined in accordance with subsection (4) below.
- (3) Where, for any purpose of any provision of section 93A(4) or (6) above, any profit or loss denominated in one currency falls to be translated into its equivalent expressed in another currency, the translation shall be made by reference to a rate determined in accordance with subsection (4) below.
- (4) The rate is—
  - (a) the rate used in the preparation of the accounts of the company for the accounting period in question, if that rate is an arm’s length exchange rate for the relevant day, or
  - (b) in any other case, the London closing exchange rate for the relevant day.
- (5) The reference in subsection (4)(a) above to the exchange rate used in the preparation of the accounts of the company includes a reference to any exchange rate implied by a derivative contract whose underlying subject matter is currency.

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- (6) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).
- (7) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).
- (8) In this section—
- “accounts” has the same meaning as in section 93 above;
  - “arm’s length exchange rate” means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm’s length;
  - “derivative contract” shall be construed in accordance with Schedule 26 to the Finance Act 2002;
  - “the relevant day”—
    - (a) where the rate used in the preparation of the accounts is an exchange rate for a particular day, means that day; and
    - (b) where the rate used in the preparation of the accounts is an average rate for a number of days, means each of those days;
  - “underlying subject matter”, in relation to a derivative contract, shall be construed in accordance with Schedule 26 to the Finance Act 2002.]

#### Textual Amendments

**F66** S. 94AA substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) for s. 94 by 2002 c. 23, s. 80, **Sch. 24 para. 5** (with **Sch. 23 para. 25**)

#### Modifications etc. (not altering text)

**C6** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with **Sch. 23 para. 25**)

### [<sup>F67</sup>94AB] Rules for ascertaining sterling equivalent for section 93(4) or (5)

- (1) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company falls to be translated into its sterling equivalent for the purposes of section 93(4) or (5) above, the translation shall be made by reference to a rate which is an arm’s length exchange rate for the appropriate day.
- (2) For the purposes of subsection (1) above, the “appropriate day” is the day the rate for which would have been used if the accounts, or return of accounts, of the company were translated into sterling in accordance with generally accepted accounting practice in relation to foreign currency translation.
- (3) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).
- (4) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).

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(5) In this section—

- “accounts” has the same meaning as in section 93 above;
- “arm’s length exchange rate” has the same meaning as in section 94AA;
- “derivative contract” shall be construed in accordance with Schedule 26 to the Finance Act 2002.]

#### Textual Amendments

**F67** S. 94AB inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, Sch. 24 para. 6 (with Sch. 23 para. 25)

#### Modifications etc. (not altering text)

**C7** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, Sch. 24 para. 7(2)

### [<sup>F68</sup>94 Rules for ascertaining currency equivalents.

- (1) Any receipt or expense which is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and is denominated in a currency other than sterling, shall be translated into its sterling equivalent—
  - (a) if either of the conditions mentioned in subsection (2) below is fulfilled, by reference to the rate used in the preparation of the accounts of the company as a whole for that period;
  - (b) if neither of those conditions is fulfilled, by reference to the London closing exchange rate for the relevant day.
- (2) The conditions are—
  - (a) that the rate is an arm’s length exchange rate for the relevant day;
  - (b) that the rate is an average arm’s length exchange rate for a period ending with that day, or for a period not exceeding three months which includes that day, and the arm’s length exchange rate for any day in that period (except the first) is not significantly different from that for the preceding day.
- (3) Subject to subsections (5) and (7) below, any amount found by applying paragraphs (a) and (b) of subsection (4) of section 93 above shall be translated into its sterling equivalent by reference to the London closing exchange rate for the relevant day.
- (4) The following—
  - (a) any receipt or expense which is to be taken into account in making a calculation for the purposes of subsection (4)(a) or (b) of section 93 above, and is denominated in a currency other than the relevant foreign currency; and
  - (b) any such sterling amount as is referred to in subsection (5) of that section, shall be translated into its equivalent expressed in the relevant foreign currency by reference to the London closing exchange rate for the relevant day.
- (5) Where section 93 above applies by virtue of the first condition mentioned in that section, then, as regards the business or part of the business, the company—
  - (a) may elect, by a notice given to an officer of the Board, that as from the first day of the accounting period in which the notice is given, an average arm’s

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- length exchange rate shall be used for the purposes of subsection (3) above instead of the rate there mentioned; and
- (b) may withdraw such an election, by a notice so given, as from the first day of the first accounting period beginning on or after the date of the notice.
- (6) Where an election under subsection (5) above is withdrawn, no further election may be made under that subsection so as to take effect before the third anniversary of the day on which the withdrawal takes effect.
- (7) Where—
- (a) section 93 above applies by virtue of the second condition mentioned in that section; and
- (b) the accounts of the company, so far as relating to the business or part of the business, are prepared by reference to an average arm's length exchange rate, that exchange rate shall be used for the purposes of subsection (3) above instead of the rate there mentioned.
- (8) In this section—
- “accounts” has the same meaning as in section 93 above;
- “arm's length exchange rate” means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm's length;
- “average arm's length exchange rate”, in relation to a period, means the rate which represents an appropriate average of arm's length exchange rates for the period;
- “the relevant day” means—
- (a) for the purposes of subsections (1), (2) and (4)(a) above, the day on which the company becomes entitled to the receipt or incurs (or is treated as incurring) the expense;
- (b) for the purposes of subsection (3) above, the last day of the accounting period in question;
- (c) for the purposes of subsection (4)(b) above, the day on which the company incurs the capital expenditure.
- (9) Nothing in this section affects the operation of Chapter IV of Part VII of the Taxes Act 1988 (controlled foreign companies) or Chapter II of this Part.
- (10) Nothing in paragraph 88 of Schedule 18 to the <sup>M41</sup>Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent any amount which is taken to be conclusively determined for the purposes of the Corporation Tax Acts from being translated under this section by reference to an exchange rate which was not used to determine the amount which can no longer be altered.]

#### Textual Amendments

**F68** Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, s. 105(1)

#### Modifications etc. (not altering text)

**C8** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s.80(2) of the amending Act) by 2002 c. 23, s. 80, Sch.24, para. 7(2) (with Sch. 23, para. 25)

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### Marginal Citations

**M41** 1998 c. 36.

## [<sup>F74</sup>96 Foreign companies: trading currency.

- (1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

- “4A (1) Sub-paragraph (2) below applies where—
- (a) the company carries on a trade, and
  - (b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.
- (2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.
- (3) References in this paragraph to the accounts of a company—
- (a) are to the accounts which the company is required by the law of its home State to keep, or
  - (b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the <sup>M42</sup>Companies Act 1985 are required by that Act to keep;
- and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.
- (4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993.”

- (2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.]

### Textual Amendments

**F74** S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

### Marginal Citations

**M42** 1985 c. 6.

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### *Overseas life insurance companies*

#### **97 Modification of Taxes Act 1988.**

(1) The following shall be inserted after section 444A of the Taxes Act 1988—

*“ Provisions applying in relation to overseas life insurance companies*

#### **444B Modification of Act in relation to overseas life insurance companies.**

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.”

(2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

#### **98 Modification of section 440 of Taxes Act 1988.**

(1) The following section shall be inserted after section 444B of the Taxes Act 1988—

#### **“444C Modification of section 440.**

(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—

- (a) paragraph (c) were omitted;
- (b) in paragraphs (a), (b), (d) and (e), the words “UK assets” were substituted for the word “assets”; and
- (c) at the end there were inserted the following paragraphs—
  - (f) section 11C assets;
  - (g) non-UK assets.”

(3) The following subsection shall be treated as inserted at the end of the section—

(6) For the purposes of this section—

- (a) UK assets are—
  - (i) section 11(2)(b) assets;
  - (ii) section 11(2)(c) assets; or
  - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
- (b) section 11C assets are assets—
  - (i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or
  - (ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;
- (c) non-UK assets are assets which are not UK assets or section 11C assets;

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and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”

- (4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for “categories”, in each place where the word occurs, there were substituted “paragraphs”.
- (5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.
- (6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above.”

- (2) This section shall apply—
  - (a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;
  - (b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).
- (3) For the purposes of subsection (2) above a company’s relevant accounting period is its first accounting period to begin after 31st December 1992.

**F7599** .....

**Textual Amendments**

**F75** S. 99 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2

**100 Income from investments attributable to BLAGAB, etc.**

- <sup>F76</sup>(1) .....
- (2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—
  - <sup>F76</sup>(a) .....
  - (b) for the words “of the life assurance fund”, in each place where they occur, there shall be substituted the words “ attributable to basic life assurance and general annuity business ”.
- (3) This section shall apply in relation to accounting periods beginning after 31st December 1992.



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#### Textual Amendments

- F76** [S. 100\(1\)\(2\)\(a\)](#) repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, [Sch. 29 Pt. VIII\(5\)](#), Note 2

### 101 Modification of Finance Act 1989.

- (1) The following section shall be inserted after section 89 of the <sup>M43</sup>Finance Act 1989—

**“89A Modification of sections 83 and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect.”

- (2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

#### Marginal Citations

- M43** [1989 c. 26.](#)

### 102 Modification of Taxation of Chargeable Gains Act 1992.

- (1) The following section shall be inserted after section 214A of the <sup>M44</sup>Taxation of Chargeable Gains Act 1992—

**“214B Modification of Act in relation to overseas life insurance companies.**

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.”

- (2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

#### Marginal Citations

- M44** [1992 c. 12.](#)

### 103 Amendment of definition and repeals.

- (1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of “overseas life insurance company” for the words “having its head office outside” there shall be substituted the words “not resident in”.
- (2) The following provisions of that Act shall cease to have effect—
- (a) section 445 (charge to tax on investment income of overseas life insurance company);
  - (b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);

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- (c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);
- (d) section 448 (qualifying distributions and tax credits);
- (e) section 449 (double taxation agreements);
- (f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);
- (g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);
- (h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

(3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

<sup>F77</sup>(4) .....

**Textual Amendments**  
**F77** S. 103(4) repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

*Approved share option schemes*

**104 Calculation of consideration.**

After section 149 of the <sup>M45</sup>Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

**“149A Approved share option schemes.**

- (1) This section applies where—
  - (a) an option is granted on or after 16th March 1993,
  - (b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and
  - (c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.
- (2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration and, accordingly, as if the amount or value of the consideration was its actual amount or value.
- (3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.
- (4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted.”

*Status: Point in time view as at 24/07/2002.*

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#### Marginal Citations

M45 1992 c. 12.

### 105 Expenditure on shares.

- (1) In section 120(6) of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares)—
  - (a) for the words “section 185(6)” there shall be substituted the words “ the applicable provision ”, and
  - (b) at the end there shall be inserted “; and in this subsection “the applicable provision” means—
    - (a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the <sup>M46</sup>Finance Act 1991), or
    - (b) subsection (6A) of that section.”
- (2) The amendments made by subsection (1) above shall be deemed always to have had effect.
- (3) In section 32A(5) of the <sup>M47</sup>Capital Gains Tax Act 1979 (expenditure: amounts to be included as consideration)—
  - (a) for the words “section 185(6)” there shall be substituted the words “ the applicable provision ”, and
  - (b) at the end there shall be inserted “; and in this subsection “the applicable provision” means—
    - (a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the <sup>M48</sup>Finance Act 1991), or
    - (b) subsection (6A) of that section.”
- (4) The <sup>M49</sup>amendments made by subsection (3) above shall be deemed to have come into force on 1st January 1992 (but shall have effect subject to the repeals made by the Taxation of Chargeable Gains Act 1992).

#### Commencement Information

**I9** S. 105 in force at Royal Assent. the amendments made by s. 105(1) are deemed always to have had effect, see s. 105(2); the amendments made by S. 105(3) are deemed to have come into force on 1.1.1992, see s. 105(4)

#### Marginal Citations

M46 1991 c. 31.

M47 1979 c. 14.

M48 1991 c. 31.

M49 1992 c. 12.

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 22 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Indexation: miscellaneous*

**106 Earnings cap etc: no indexation in 1993-94.**

The figure £75,000 shall be deemed to be the figure found for the year 1993-94, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5) (indexation of earnings cap for retirement benefits schemes and certain other figures).

**107 Indexation of allowances etc. for 1994-95 onwards.**

- (1) The Taxes Act 1988 shall be amended as mentioned in subsections (2) to (6) below.
- (2) In section 1—
  - (a) in subsection (4) (indexation of income tax bands) for “December” (in each place) there shall be substituted “September”;
  - (b) subsection (5) (no change required for PAYE before 18th May) shall be omitted.
- (3) In section 257C—
  - (a) in subsection (1) (indexation of personal allowance and married couple’s allowance) for “December” (in each place) there shall be substituted “September”;
  - (b) subsection (2) (no change required for PAYE before 18th May) shall be omitted.
- (4) In section 590C (earnings cap for retirement benefits schemes) in subsection (5) (indexation) for “December” (in each place) there shall be substituted “September”.
- (5) In section 590C the following subsection shall be inserted after subsection (5)—
 

“(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment.”; and accordingly, in subsection (4) of that section for “subsection (5)” there shall be substituted “ subsections (5) and (5A) ”.
- (6) In each of the provisions to which this subsection applies (provisions which refer to section 590C(4) and (5)) for “and (5)” there shall be substituted “ to (5A) ”; and this subsection applies to sections 590B(11), 592(8E), 594(7), 599(12) and 640A(4).
- (7) In Schedule 6 to the <sup>M50</sup>Finance Act 1989 (retirement benefits schemes) in paragraphs 20(6) and 22(5) (which refer to section 590C(4) and (5) of the Taxes Act 1988) for “and (5)” there shall be substituted “ to (5A) ”.
- (8) This section shall have effect for the year 1994-95 and subsequent years of assessment.

**Marginal Citations**

**M50** 1989 c. 26.

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*Status: Point in time view as at 24/07/2002.*

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*Miscellaneous provisions about reliefs*

**108 Counselling services for employees.**

In Chapter VI of Part XIII of the Taxes Act 1988, after section 589 there shall be inserted the following sections—

**“589A Counselling services for employees.**

- (1) This section applies where—
  - (a) qualifying counselling services are provided to a person (the employee) in connection with the termination of the holding by him of any office or employment, and
  - (b) the termination takes place on or after 16th March 1993.
- (2) This section also applies where—
  - (a) subsection (1)(a) above applies, and
  - (b) the termination takes place before 16th March 1993 but relevant expenditure is incurred on or after that date.
- (3) Relevant expenditure is expenditure incurred in—
  - (a) providing the qualifying counselling services to the employee,
  - (b) paying or reimbursing fees for the provision to the employee of the qualifying counselling services, or
  - (c) paying or reimbursing any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.
- (4) No charge to tax under Schedule E shall arise in respect of—
  - (a) the provision of the qualifying counselling services to the employee,
  - (b) the payment or reimbursement of fees for the provision to the employee of the qualifying counselling services, or
  - (c) the payment or reimbursement of any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.
- (5) Where this section applies by virtue of subsection (2) above, subsection (4) above shall apply only to the extent that the expenditure incurred in providing the services or paying or reimbursing the fees or expenses is incurred on or after 16th March 1993.
- (6) Subsection (4) above shall apply whether or not the person who provides the services or pays or reimburses the fees or expenses is the person under whom the employee holds or held the office or employment mentioned in subsection (1) above.
- (7) Subsections (8) to (10) below apply where any relevant expenditure is incurred by the person under whom the employee holds or held the office or employment mentioned in subsection (1) above (the employer).
- (8) If and so far as the expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D

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the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.

- (9) If the employer carries on a business and the expenses of management of the business are eligible for relief under section 75, subsection (8) above shall have effect as if for the words from “in computing” onwards there were substituted “as expenses of management for the purposes of section 75”.
- (10) Where this section applies by virtue of subsection (2) above, subsections (8) and (9) above shall apply only to the extent that the expenditure is incurred on or after 16th March 1993.

### **589B Qualifying counselling services etc.**

- (1) Subsections (2) to (4) below apply for the purposes of section 589A.
- (2) Subject to subsection (3) below, services are qualifying counselling services if—
- (a) the purpose, or main purpose, of their provision is to enable the employee to adjust to the termination of his holding of the office or employment mentioned in section 589A(1) or is to enable him to find other gainful employment (including self-employment) or is to enable him to do both,
  - (b) the services consist wholly of any or all of the following, namely, giving advice and guidance, imparting or improving skills, and providing or making available the use of office equipment or similar facilities,
  - (c) the employee has been employed by the employer full-time throughout the period of two years ending at the time when the services begin to be provided to him or, if it is earlier, at the time he ceases to be employed by the employer,
  - (d) the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available either generally to holders or past holders of offices or employment under the employer or to a particular class or classes of such holders or past holders, and
  - (e) the services are provided in the United Kingdom.
- (3) Where paragraphs (a) to (d) of subsection (2) above are satisfied in relation to particular services but the services are provided partly in and partly outside the United Kingdom, the extent to which the services are qualifying counselling services shall be determined on a just and reasonable basis.
- (4) In relation to services, allowable travelling expenses are those which would be deductible under section 198—
- (a) on the assumption that receipt of the services is one of the duties of the employee’s office or employment, and
  - (b) if the employee has in fact ceased to be employed by the employer, on the assumption that he continues to be employed by him.
- (5) Any reference in this section or section 589A to an employee being employed by an employer is a reference to the employee holding office or employment under the employer.”

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## 109 Pre-trading expenditure.

- (1) In subsection (1) of section 401 of the Taxes Act 1988 (which gives relief for expenditure incurred within the five years before the beginning of any trade, profession or vocation), for “five” there shall be substituted “seven”.
- (2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Where—

  - (a) a company pays any charge on income at a time before it begins to carry on any trade, and
  - (b) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not deducted otherwise than by virtue of this section from any profits, shall be treated for the purposes of corporation tax as paid on the day on which the trade is first carried on by the company.”
- (3) In section 338(5)(b) of that Act (payments not to be treated as charges on income), after “trade” there shall be inserted “ which is or is to be ”.
- (4) Subsections (1) and (2) above shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after 31st March 1993, and subsection (3) above shall have effect in relation to payments made after that date.

## 110 Waste disposal expenditure.

- (1) In section 91A(6) of the Taxes Act 1988 (relevant licence for the purposes of restoration payments), after paragraph (b) there shall be inserted “or

  - (c) any authorisation under the <sup>M51</sup>Radioactive Substances Act 1960 or the <sup>M52</sup>Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the <sup>M53</sup>Nuclear Installations Act 1965.”

- (2) In section 91B of that Act (preparation expenditure for waste disposal), after subsection (10) there shall be inserted the following subsection—

“(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by that person on the first day on which he does carry it on and in the course of doing so.”
- (3) This section shall have effect in relation to any case where the trade in question is begun after 31st March 1993.

### Marginal Citations

- M51** 1960 c. 34.  
**M52** 1993 c. 12.  
**M53** 1965 c. 57.

## 111 Business expansion scheme: loan linked investments.

- (1) After section 299 of the Taxes Act 1988 there shall be inserted the following section—

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**“299A Loan linked investments.**

- (1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—
  - (a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and
  - (b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.
- (2) References in this section to the making by any person of a loan to any individual or an associate of his include references—
  - (a) to the giving by that person of any credit to that individual or any associate of his; and
  - (b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;
 and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly.”
- (2) In sections 289(12)(a) and 310(1) and (10)(a) of that Act (definition of “the relevant period” and information provisions), after “299,”, in each case, there shall be inserted “299A,”.
- (3) In section 307(6) of that Act (reckonable date for the purposes of interest on relief that is withdrawn), after paragraph (c) there shall be inserted the following paragraph—
  - “(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;”.
- (4) This section shall apply in relation to any case in which the claim for relief is made on or after 16th March 1993.

**112 Employers’ pension contributions.**

- (1) In section 592(4) of the Taxes Act 1988 (employers’ contributions to exempt approved schemes), at the end there shall be inserted “ but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme. ”
- (2) Subsection (1) above shall have effect in the case of any employer in relation to, as the case may be—
  - (a) any accounting period of that employer ending with a day after 5th April 1993; or
  - (b) any year of assessment the employer’s basis period for which ends with a day after that date.
- (3) Where—
  - (a) there is after 5th April 1993 an actual payment by an employer of a contribution under an exempt approved scheme,
  - (b) that payment would, apart from this subsection, be allowed to be deducted as an expense, or expense of management, of the employer in relation to any chargeable period in relation to which subsection (1) above has effect, and



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- (c) the total of previously allowed deductions exceeds the relevant maximum, the amount allowed to be so deducted in respect of the payment mentioned in paragraph (a) above and of any other actual payments of contributions under the scheme which, having been made after 5th April 1993, fall within paragraph (b) above in relation to the same chargeable period shall be reduced by whichever is the smaller of the excess and the amount which reduces the deduction to nil.
- (4) In relation to any such actual payment by an employer of a contribution under an exempt approved scheme as would be allowed to be deducted as mentioned in subsection (3) above in relation to any chargeable period-
- (a) the reference in that subsection to the total of previously allowed deductions is a reference to the aggregate of every amount in respect of the making, or any provision for the making, of that or any other contributions under the scheme, which has been allowed to be deducted as an expense, or expense of management, of that person in relation to a previous chargeable period; and
- (b) the reference to the relevant maximum is a reference to the amount which would have been that aggregate if the restriction on deductions imposed by virtue of subsection (1) above had been applied in relation to every previous chargeable period;
- and for the purposes of this subsection an amount the deduction of the whole or any part of which falls to be taken into account as allowed in relation to more than one chargeable period shall be treated as if the amount allowed were a different amount in the case of each of those periods.
- (5) For the purposes of this section any payment which is treated under subsection (6) of section 592 of the Taxes Act 1988 as spread over a period of years shall be treated as actually paid at the time when it is treated as paid in accordance with that subsection.
- (6) After subsection (6) of section 592 of the Taxes Act 1988 there shall be inserted the following subsection—
- “(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the <sup>M54</sup>Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the <sup>M55</sup>Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—
- (a) shall be treated for the purposes of this section as an employer’s contribution under the scheme; and
- (b) notwithstanding (where it is the case) that the employer’s trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on.”; and this subsection shall have effect in relation to any payment made on or after the day on which this Act is passed.
- (7) In this section—
- “basis period”, in relation to any person, means a period on the profits or gains of which income tax for any year of assessment falls to be finally

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computed under Case I or II of Schedule D in respect of the trade, profession or vocation of that person (being the later period in any case where the profits and gains of an earlier period are taken to be the profits and gains of a later period); and  
“exempt approved scheme” has the meaning given by section 592(1) of the Taxes Act 1988.

**Marginal Citations**

- M54 1975 c. 60.
- M55 S.I. 1975/1503 (N.I. 15).

*Capital allowances*

F78 **113** .....

**Textual Amendments**

- F78 S. 113 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

F79 **114** .....

**Textual Amendments**

- F79 S. 114 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

F80 **115** .....

**Textual Amendments**

- F80 S. 115 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

F81 **116** .....

**Textual Amendments**

- F81 S. 116 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

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**F82 117 Transactions between connected persons etc.**

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**Textual Amendments**

**F82** S. 117 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

*Miscellaneous*

**118 Scottish trusts.**

- (1) Where—
  - (a) any of the income of a trust having effect under the law of Scotland is income to which a beneficiary of the trust would have an equitable right in possession if that trust had effect under the law of England and Wales, and
  - (b) the trustees of that trust are resident in the United Kingdom,  
the rights of that beneficiary shall be deemed for the purposes of the Income Tax Acts to include such a right to that income notwithstanding that no such right is conferred according to the law of Scotland.
- (2) This section shall have effect in relation to the income of any trust for the year 1993–94 or any subsequent year of assessment.

**119 Controlled foreign companies.**

- (1) In section 750(1) of the Taxes Act 1988 (meaning of lower level of taxation for purposes of provisions relating to controlled foreign companies) for “one-half” there shall be substituted “three-quarters”.
- (2) Subsection (1) above shall apply in relation to accounting periods beginning on or after 16th March 1993.
- (3) Where a company is by virtue of section 749(1) or (2) of the Taxes Act 1988 regarded as resident in a territory outside the United Kingdom and (apart from this section)—
  - (a) an accounting period of the company would begin before 16th March 1993 and end on or after that date, and
  - (b) the company would not be considered to be subject, by virtue of section 750(1) of that Act, to a lower level of taxation in that accounting period in the territory in which it is regarded as resident,  
for the purposes of Chapter IV of Part XVII of that Act that accounting period shall be treated as ending on 15th March 1993.

**120 Pay and file: miscellaneous amendments.**

Schedule 14 to this Act (which makes various amendments of the <sup>M56</sup>Taxes Management Act 1970, the Taxes Act 1988 and the <sup>M57</sup>Finance Act 1989 with a view to, or in connection with, the introduction of “pay and file”) shall have effect.

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#### Marginal Citations

**M56** 1970 c. 9.

**M57** 1989 c. 26.

<sup>F83</sup> **121** .....

#### Textual Amendments

**F83** S. 121 repealed (11.5.2001 with effect in accordance with s. 87 of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. II(12), note

### **122 Application of Income Tax Acts etc. to public departments.**

- (1) In subsection (2) of section 829 of the Taxes Act 1988 (restriction on application of Income Tax Acts to public departments), at the end there shall be inserted “ unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above. ”
- (2) The provisions of Parts IX and X of the Taxes Management Act 1970 (interest and penalties) shall apply in relation to public offices and departments of the Crown for the purposes, so far as they so apply, of the other provisions of that Act and of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988.
- (3) This section shall have effect in relation to the year 1993-94 and subsequent years of assessment.

### **123 Expenditure involving crime.**

- (1) The following section shall be inserted after section 577 of the Taxes Act 1988—

**“577A Expenditure involving crime.**

- (1) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment the making of which constitutes the commission of a criminal offence.
  - (2) Such expenditure shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts.”
- (2) This section shall apply in relation to expenditure incurred on or after 11th June 1993.

### **124 Expenses of Members of Parliament.**

- (1) Section 200 of the Taxes Act 1988 (expenses of Members of Parliament) shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—

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“(2) A sum which is paid to a Member of the House of Commons in accordance with any resolution of that House providing for Members of that House to be reimbursed in respect of the cost of, and any additional expenses incurred in, travelling between the United Kingdom and any European Community institution in Brussels, Luxembourg or Strasbourg shall not be regarded as income for any purpose of the Income Tax Acts.”

- (2) This section shall apply in relation to sums paid on or after 1st January 1992.
- (3) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

## CHAPTER II

### EXCHANGE GAINS AND LOSSES

#### Modifications etc. (not altering text)

- C12** Pt. II Chapter II (ss. 125-170) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 19(2)** (as inserted (1.5.1995) by 1995 c. 4, s. 133, **Sch. 25 paras. 1, 6(5)**)  
Pt. II Chapter II (ss. 125-170) restricted (31.7.1998) by 1988 c. 1, **Sch. 28AA para. 8** (as inserted (31.7.1998) by 1998 c. 36, s. 108, **Sch. 16 para. 8(1)(a)**)  
Pt. II Chapter II (ss. 125-170): power to amend conferred (3.5.1994) by 1994 c. 9, s. 177(6)(b)  
Pt. II Chapter II (ss. 125-170) excluded (3.5.1994) by 1994 c. 9, **ss. 226(2), 230**  
Pt. II Chapter II (ss. 125-170) modified (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(2)** (with s. 40(7)); S.I. 1994/2189, art. 2, **Sch.**  
Pt. II Chapter II (ss. 125-170) modified (23.3.1995) by S.I. 1994/3226, **reg. 3(2)**  
Pt. II Chapter II (ss. 125-170) applied (23.3.1995) by S.I. 1994/3231, **reg. 2(1)**  
Pt. II Chapter II (ss. 125-170) modified (29.4.1996) by 1996 c. 8, s. 105, **Sch. 15 Pt. I para. 22(1)** (with ss. 80-105)
- C13** Pt. II Chapter II to be construed with 1994 c. 31, **Sch. 4 Pt. I para. 23** (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(5)**; S.I. 1994/2189, art. 2, **Sch.**

#### *Accrual of gains and losses*

<sup>F84</sup> **125** .....

#### Textual Amendments

- F84** S. 125 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, **ss. 79(1)(b), 141, Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F85</sup> **126** .....

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**Textual Amendments**

**F85** S. 126 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F86</sup> **127** .....

**Textual Amendments**

**F86** S. 127 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Trading gains and losses*

<sup>F87</sup> **128** .....

**Textual Amendments**

**F87** S. 128 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Non-trading gains and losses*

<sup>F88</sup> **129** .....

**Textual Amendments**

**F88** S. 129 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F89</sup> **130** .....

**Textual Amendments**

**F89** S. 130 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

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*Alternative calculation*

F<sup>93</sup> 134 .....

**Textual Amendments**

**F93** S. 134 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b)(3), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Main benefit test*

F<sup>94</sup> 135 .....

**Textual Amendments**

**F94** S. 135 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F<sup>95</sup> 135A.....

**Textual Amendments**

**F95** S. 135A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Arm's length test*

F<sup>96</sup> 136 .....

**Textual Amendments**

**F96** S. 136 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(1)** Note 2 (with Sch. 23 paras. 25, 26)

F<sup>97</sup> 136A.....

**Textual Amendments**

**F97** S. 136A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

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*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 22 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

<sup>F98</sup>**137** .....

**Textual Amendments**  
**F98** S. 137 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F99</sup>**138** .....

**Textual Amendments**  
**F99** S. 138 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Deferral of unrealised gains*

<sup>F100</sup>**139** .....

**Textual Amendments**  
**F100** S. 139 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F101</sup>**140** .....

**Textual Amendments**  
**F101** S. 140 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F102</sup>**141** .....

**Textual Amendments**  
**F102** S. 141 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F103</sup>**142** .....



*Status: Point in time view as at 24/07/2002.*

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**Textual Amendments**

**F103** S. 142 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F104** **143** .....

**Textual Amendments**

**F104** S. 143 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Irrecoverable debts*

**F105** **144** .....

**Textual Amendments**

**F105** S. 144 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F106** **145** .....

**Textual Amendments**

**F106** S. 145 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Currency contracts: special cases*

**F107** **146** .....

**Textual Amendments**

**F107** S. 146 repealed (27.4.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F108** **147** .....

*Status: Point in time view as at 24/07/2002.*

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**Textual Amendments**

**F108** S. 147 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Excess gains or losses*

**F109** 148 .....

**Textual Amendments**

**F109** S. 148 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Local currency to be used*

**F110** 149 .....

**Textual Amendments**

**F110** S. 149 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Exchange rate to be used*

**150 Exchange rate at translation times.**

- (1) This section has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent at a translation time of—
  - (a) the basic valuation of an asset or liability,
  - (b) the nominal amount of a debt outstanding, or
  - (c) an amount of currency.
- (2) References in this section to the two currencies are to—
  - (a) the local currency and the nominal currency of the asset or liability concerned (where this section applies by virtue of subsection (1)(a) or (1)(b) above), or
  - (b) the local currency and the currency mentioned in subsection (1)(c) above (where this section applies by virtue of subsection (1)(c) above).
- (3) References in this section to an arm's length rate are to such exchange rate for the two currencies as might reasonably be expected to be agreed between persons dealing at arm's length.
- (4) Subsections (5) to (7) below apply where the translation time is a translation time solely by virtue of an accounting period of the company coming to an end.

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- (5) In a case where—
- (a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company for the last day of the accounting period, and
  - (b) the rate is an arm's length rate,
- that is the exchange rate to be used as regards the asset, liability or contract.
- (6) In a case where—
- (a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,
  - (b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company for the last day of the accounting period,
  - (c) the fact that such an exchange rate is not so used conforms with [F111]generally accepted accounting practice], and
  - (d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,
- the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.
- (7) In a case where neither subsection (5) nor subsection (6) above applies, the London closing exchange rate for the two currencies for the last day of the accounting period is the exchange rate to be used.
- (8) Subsections (9) to (14) below apply where the translation time is a translation time otherwise than solely by virtue of an accounting period of the company coming to an end.
- (9) In a case where—
- (a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time,
  - (b) the rate represents the average of arm's length rates for all the days falling within a period, and
  - (c) the arm's length rate for any given day (other than the first) falling within the period is not significantly different from the arm's length rate for the day preceding the given day,
- that is the exchange rate to be used as regards the asset, liability or contract.
- (10) In a case where—
- (a) subsection (9) above does not apply,
  - (b) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time, and
  - (c) the rate is an arm's length rate,
- that is the exchange rate to be used as regards the asset, liability or contract.
- (11) In a case where—
- (a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,

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- (b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company at the translation time,
- (c) the fact that such an exchange rate is not so used conforms with [<sup>F112</sup>generally accepted accounting practice], and
- (d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(12) In a case where—

- (a) none of subsections (9) to (11) above applies,
- (b) it is the company's normal practice, when using an exchange rate in its accounts, to use a rate which represents an average of exchange rates obtaining for a period, and
- (c) the London closing exchange rate for the two currencies for any given day (other than the first) falling within the relevant period is not significantly different from the London closing exchange rate for the two currencies for the day preceding the given day,

the rate which represents the average of the London closing exchange rates for the currencies for all the days falling within the relevant period is the exchange rate to be used.

(13) In a case where none of subsections (9) to (12) above applies, the London closing exchange rate for the day in which the translation time falls is the exchange rate to be used.

(14) References in subsection (12) above to the relevant period are to the period which—

- (a) begins when the relevant accounting period begins, and
- (b) ends at the end of the day in which the translation time falls;

and the relevant accounting period is the accounting period in which the translation time falls.

#### Textual Amendments

**F111** Words in s. 150(6)(c) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F112** Words in s. 150(11)(c) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

#### Modifications etc. (not altering text)

**C18** S. 150 modified (23.3.1995) by S.I. 1994/3226, reg. 5

<sup>F113</sup> 151 .....

#### Textual Amendments

**F113** S. 151 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

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*Interpretation: companies*

<sup>F114</sup>152 .....

**Textual Amendments**

**F114** S. 152 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Interpretation: assets, liabilities and contracts*

<sup>F115</sup>153 .....

**Textual Amendments**

**F115** S. 153 repealed (1.10.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**154 Definitions connected with assets.**

- (1) Subject to the following provisions of this section, a company becomes entitled to an asset when it becomes unconditionally entitled to it.
  - (2) In determining whether or not a company is unconditionally entitled to an asset, any transfer by way of security of the asset or of any interest or right in or over the asset shall be ignored.
  - (3) Where a company agrees to acquire an asset by transfer it becomes entitled to it when the contract is made and not on a later transfer made pursuant to the contract; but the preceding provisions of this subsection do not apply where the agreement is by way of a currency contract.
  - (4) Where a company agrees to dispose of an asset by transfer it ceases to be entitled to it when the contract is made and not on a later transfer made pursuant to the contract.
  - (5) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (3) and (4) above it is made when the condition is satisfied.
- [<sup>F116</sup>(5A) The question whether a company becomes unconditionally entitled at a particular time to an asset falling within section 153(1)(a) above shall be determined without reference to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.
- (5B) Where an asset falling within section 153(1)(a) above consists of a right to interest—
    - (a) a company becomes unconditionally entitled to the asset at the time when or (as the case may be) before which the interest is required to be paid to the company, and
    - (b) subsection (5A) above shall not apply.]

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- (6) Where a company ceases to be entitled to an asset and at a later time becomes entitled to the same asset, with effect from the later time the asset shall be treated as if it were a different asset.
- (7) In a case where—
- (a) at different times a company becomes entitled to rights to settlement under debts on securities, and
  - (b) the rights are of the same kind,
- the rights shall be treated as different assets and not part of the same asset.
- (8) Whether a transaction involves a company becoming entitled to—
- (a) one asset consisting of a right to settlement under a debt on a security, or
  - (b) a number of such assets,
- shall be determined according to the facts of the case concerned.
- (9) For the purpose of deciding whether rights to settlement under debts on securities of a particular kind are held by a company, rights of that kind acquired earlier shall be treated as disposed of before rights of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.
- (10) For the purpose of deciding whether shares of a particular kind are held by a company, shares of that kind acquired earlier shall be treated as disposed of before shares of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.
- (11) In a case where—
- (a) a rule is used for the purpose mentioned in subsection (9) or (10) above when the company's accounts are prepared,
  - (b) the rule differs from that contained in the subsection, and
  - (c) the accounts are prepared in accordance with [<sup>F117</sup>generally accepted accounting practice],
- the rule used when the accounts are prepared (and not the rule in the subsection) shall be used for the purpose.
- (12) In a case where—
- (a) a company would (apart from this subsection) become entitled to an asset at a particular time (the later time) by virtue of the preceding provisions of this section,
  - (b) the asset falls within section 153(1)(a) above,
  - (c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the earlier time) earlier than the later time, and
  - (d) the accounts are drawn up in accordance with [<sup>F117</sup>generally accepted accounting practice],
- the company shall be taken to have become entitled to the asset at the earlier time and not at the later time.
- [<sup>F118</sup>(12A) So much of any asset as consists in a right to receive interest as respects which any sums fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be an asset to which the company became entitled at the following time (instead of the time for which subsection (12) above provides), that is to say—

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- (a) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and
  - (b) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable.]
- (13) Where subsection (12) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—
- (a) such amount as the company treats as the nominal amount in its accounts, or
  - (b) such amount as it would so treat in accordance with [<sup>F117</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).

[<sup>F119</sup>(13A) In a case where—

- (a) a company would (apart from this subsection) become entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with [<sup>F120</sup>generally accepted accounting practice],

the company shall be taken to become entitled to the asset at the later time and not at the earlier time.

(13B) In a case where—

- (a) a company would (apart from this subsection) cease to be entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as ceasing to be entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with [<sup>F120</sup>generally accepted accounting practice],

the company shall be taken to cease to be entitled to the asset at the later time and not at the earlier time.]

(14) A company holds an asset at a particular time if it is entitled to it at that time.

#### Textual Amendments

**F116** S. 154(5A)(5B) inserted (3.5.1994) by 1994 c. 9, s. 114(1)

**F117** Words in s. 154(11)(c)(12)(d)(13)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F118** S. 154(12A) inserted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 71 (with ss. 80-105)

**F119** S. 154(13A)(13B) inserted (3.5.1994) by 1994 c. 9, s. 114(2)

**F120** Words in s. 154(13A)(d)(13B)(d) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

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## 155 Definitions connected with liabilities.

- (1) Subject to the following provisions of this section, a company becomes subject to a liability falling within section 153(2)(a) above when it becomes unconditionally subject to it.
- (2) Where a company agrees to acquire a liability falling within section 153(2)(a) above by transfer it becomes subject to it when the contract is made and not on a later transfer made pursuant to the contract.
- (3) Where a company agrees to dispose of a liability falling within section 153(2)(a) above by transfer it ceases to be subject to it when the contract is made and not on a later transfer made pursuant to the contract.
- (4) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (2) and (3) above it is made when the condition is satisfied.
- [<sup>F121</sup>(4A) The question whether a company becomes unconditionally subject at a particular time to a liability falling within section 153(2)(a) above shall be determined without reference to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.
- (4B) Where a liability falling within section 153(2)(a) above consists of a duty to pay interest—
  - (a) a company becomes unconditionally subject to the liability at the time when or (as the case may be) before which the company is required to pay the interest, and
  - (b) subsection (4A) above shall not apply.]
  - (5) Where a company ceases to be subject to a liability falling within section 153(2)(a) above and at a later time becomes subject to the same liability, with effect from the later time the liability shall be treated as if it were a different liability.
  - (6) A company becomes subject to a liability falling within section 153(2)(b) above at the time with effect from which it makes the provision.
  - (7) A company ceases to be subject to a liability falling within section 153(2)(b) above at the time with effect from which it deletes the provision or (if different) the time with effect from which it would delete the provision under [<sup>F122</sup>generally accepted accounting practice].
  - (8) Where a company makes a provision falling within section 153(2)(b) above and later changes the amount, the company shall be treated as—
    - (a) deleting (with effect from the time when the change becomes effective) the provision representing the amount before the change, and
    - (b) making (with effect from that time) a new provision representing the amount as changed;
 and so on for further changes.
  - (9) A company ceases to be subject to a liability falling within section 153(2)(c) above when it becomes entitled to the right concerned, unless it ceases to be subject to the liability earlier apart from this subsection.
  - (10) A company ceases to be subject to a liability falling within section 153(2)(d) above when it becomes entitled to the share or shares, unless it ceases to be subject to the liability earlier apart from this subsection.



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- (11) In a case where—
- (a) a company would (apart from this subsection) become subject to a liability at a particular time (the later time) by virtue of the preceding provisions of this section,
  - (b) the liability falls within section 153(2)(a) above,
  - (c) the time at which the company, in drawing up its accounts, regards itself as becoming subject to the liability is a time (the earlier time) earlier than the later time, and
  - (d) the accounts are drawn up in accordance with [<sup>F122</sup>generally accepted accounting practice],
- the company shall be taken to have become subject to the liability at the earlier time and not at the later time.

[<sup>F123</sup>(11A) So much of any liability consisting in a liability to pay interest as respects which debits fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be a liability to which the company became subject at the following time (instead of at the time for which subsection (11) above provides), that is to say—

- (a) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and
- (b) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable.]

(12) Where subsection (11) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

- (a) such amount as the company treats as the nominal amount in its accounts, or
- (b) such amount as it would so treat in accordance with [<sup>F122</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).

(13) A company owes a liability at a particular time if it is subject to it at that time.

#### Textual Amendments

**F121** S. 155(4A)(4B) inserted (3.5.1994) by 1994 c. 9, s. 114(3)

**F122** Words in s. 155(7)(11)(d)(12)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F123** S. 155(11A) inserted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 72 (with ss. 80-105)

## 156 Assets and liabilities: other matters.

(1) Each of the following questions shall be determined according to the facts of the case concerned—

- (a) whether a transaction (or series of transactions) involves the creation of one asset consisting of a right to settlement under a debt or a number of assets consisting of a number of such rights;

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- (b) whether a transaction (or series of transactions) involves the creation of one liability consisting of a duty to settle under a debt or a number of liabilities consisting of a number of such duties;
  - (c) whether a transaction (or series of transactions) involves the creation of both an asset (or assets) held and a liability (or liabilities) owed by the same company.
- (2) Subsection (3) below applies where—
- (a) a company, in drawing up its accounts, regards itself as becoming entitled or subject to an asset or liability at a particular time,
  - (b) the company, in drawing up its accounts, regards itself as ceasing to be entitled or subject to the asset or liability at a later time,
  - (c) at the time mentioned in paragraph (a) above it could reasonably be expected that the company would become entitled or subject to such an asset or liability,
  - (d) the asset or liability does not in fact come into existence before the later time but (if it did) it would fall within section 153(1)(a) or (2)(a) above, and
  - (e) the accounts are drawn up in accordance with [<sup>F124</sup>generally accepted accounting practice].
- (3) The company shall be taken to—
- (a) become entitled or subject to such an asset or liability at the time it regards itself as becoming so entitled or subject, and
  - (b) cease to be entitled or subject to such an asset or liability at the time it regards itself as ceasing to be so entitled or subject.
- (4) Where subsection (3) above applies, as regards any time beginning with the time mentioned in subsection (3)(a) and ending with the time mentioned in subsection (3)(b) the nominal amount of the debt shall be taken to be—
- (a) such amount as the company treats as the nominal amount in its accounts, or
  - (b) such amount as it would so treat in accordance with [<sup>F124</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).

**Textual Amendments**

**F124** Words in s. 156(2)(e)(4)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

<sup>F125</sup> 157 .....

**Textual Amendments**

**F125** S. 157 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

*Interpretation: other provisions*

<sup>F126</sup> 158 .....

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 22 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F126** S. 158 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

## 159 Basic valuation.

- (1) Subject to the following provisions of this section, the basic valuation of an asset or liability is—
    - (a) such valuation as the company puts on it with regard to the time immediately after the company becomes entitled or subject to it, or
    - (b) such valuation as the company would put on it with regard to that time under <sup>[F127]</sup>generally accepted accounting practice], if that valuation is different from that found under paragraph (a) above.
  - (2) Where (apart from this subsection) the valuation under subsection (1) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day in which the time mentioned in subsection (1) above falls.
  - (3) The basic valuation of a liability falling within section 153(2)(c) or (d) above is the consideration for the company becoming subject to the liability; and any consideration or part that is not pecuniary shall be taken to be equal to its open market value—
    - (a) found at the time when the company becomes subject to the liability, and
    - (b) if part of the consideration is pecuniary, expressed in the same currency as that part.
  - (4) Where (apart from this subsection) the valuation under subsection (3) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the company becomes subject to the liability.
- <sup>[F128]</sup>(5) Where—
  - (a) a company becomes entitled, on any transfer by virtue of which it becomes a party to a loan relationship, to a right of settlement under a qualifying debt on a security, and
  - (b) that transfer is a transfer with accrued interest,the basic valuation of that right shall be found by taking the consideration for the company's becoming entitled to the right and then deducting the amount of the accrued interest the right to which is transferred.]
- (10) Subsections (11) and (12) below apply where—
    - (a) section 127 above applies as regards an asset or liability for an accrual period (the earlier period), and
    - (b) section 125 or 127 above applies as regards the asset or liability for the next accrual period (the later period).

*Status: Point in time view as at 24/07/2002.*

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- (11) As regards the later period the basic valuation of the asset or liability shall be taken to be—
  - (a) the nominal amount of the debt outstanding immediately before the beginning of the later period, or
  - (b) if section 127(7) above also applies as regards the earlier period, the amount found under section 127(10) for that period.
- (12) As regards an accrual period which falls after the later period the basic valuation of the asset or liability shall be the amount found under subsection (11) above, subject to any subsequent application of that subsection.

**Textual Amendments**

**F127** Words in s. 159(1)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F128** S. 159(5) substituted (29.4.1996 but without application in relation to transfers before 1.4.1996) for s. 159(5)-(9) by 1996 c. 8, s. 104, Sch. 14 para. 73 (with ss. 80-105)

**Modifications etc. (not altering text)**

**C19** S. 159 modified (23.3.1995) by S.I. 1994/3226, regs. 6(1)(6), 8(5)

S. 159 excluded (23.3.1995) by S.I. 1994/3226, reg. 6(3)

**F129** 160 .....

**Textual Amendments**

**F129** S. 160 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

**F130** 161 .....

**Textual Amendments**

**F130** S. 161 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

**F131** 162 .....

**Textual Amendments**

**F131** S. 162 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

**F132** 163 .....

*Status: Point in time view as at 24/07/2002.*

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**Textual Amendments**

**F132** S. 163 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F133** **164** .....

**Textual Amendments**

**F133** S. 164 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Miscellaneous*

**F134** **165** .....

**Textual Amendments**

**F134** S. 165 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F135** **166** .....

**Textual Amendments**

**F135** S. 166 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F136** **167** .....

**Textual Amendments**

**F136** S. 167 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F137** **168** .....

**Textual Amendments**

**F137** S. 168 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

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<sup>F138</sup>**168A** .....

**Textual Amendments**  
**F138** S. 168A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F139</sup>**169** .....

**Textual Amendments**  
**F139** S. 169 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**170 Amendments.**

Schedule 18 to this Act (which contains amendments) shall have effect.

**CHAPTER III**

LLOYD’S UNDERWRITERS ETC.

**Modifications etc. (not altering text)**  
**C20** Pt. II Chapter III applied (1.5.1995 with application as mentioned in s. 127(19) of the amending Act) by 1995 c. 4, s. 127(16)(a)(19)  
**C21** Pt. II Chapter III modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 3(1)(a)**

*Main provisions*

**171 Taxation of profits and allowance of losses.**

- (1) Income tax for any year of assessment on the profits arising from a member’s underwriting business shall be computed on the profits of that year of assessment.
- (2) As respects the profits arising to a member from his underwriting business for any year of assessment—
  - (a) the aggregate of those profits shall be chargeable to tax under Case I of Schedule D; and
  - (b) accordingly, no part of those profits shall be chargeable to tax under any other Schedule or any other Case of Schedule D;but nothing in this subsection shall affect the manner in which the amount of any profits arising from assets forming part of an ancillary trust fund is to be computed.

<sup>F140</sup>(2A) .....

*Status: Point in time view as at 24/07/2002.*

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[<sup>F141</sup>(2B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a member's [<sup>F142</sup>premium] trust fund.]

<sup>F143</sup>(3) . . . . .

(4) Subsection (2) above does not apply in relation to any profits arising before 6th April 1993 from assets forming part of an ancillary trust fund.

**Textual Amendments**

- F140** S. 171(2A) repealed (31.7.1997 with effect in accordance with s. 36 and [Sch. 6 para. 20\(3\)](#) of the amending Act) by [1997 c. 58, ss. 36, 52, Sch. 6 para. 20\(2\)\(3\), Sch. 8 Pt. II\(11\)](#) Note
- F141** S. 171(2B) inserted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, s. 22\(1\)\(7\)](#)
- F142** Word in s. 171(2B) substituted (1.12.2001) by [S.I. 2001/3629, arts. 1\(2\), 82\(a\)](#)
- F143** S. 171(3) repealed (3.5.1994 with effect for the year 1996-97 and subsequent years of assessment) by [1994 c. 9, ss. 228, 258, Sch. 21 para. 1\(2\)\(3\)\(b\), Sch. 26 Pt. V\(25\)](#) Note 2

**Modifications etc. (not altering text)**

- C22** S. 171 modified (9.3.1995 with effect in relation to profits or losses of a member's underwriting business arising in the underwriting year 1994 or 1995) by [S.I. 1995/352, reg. 13](#)

**172 Year of assessment in which profits or losses arise.**

(1) Subject to the provisions of this Chapter, for the purposes of section 171 above and all other purposes of the Income Tax Acts the profits or losses in any year of assessment of a member's underwriting business shall be taken to be—

- [<sup>F144</sup>(a) in the case of profits or losses arising directly from his membership of one or more syndicates, those of any previous year or years which are declared in the corresponding underwriting year;
- (b) in the case of profits or losses arising from assets forming part of a [<sup>F145</sup>premium] trust fund, those allocated under the rules or practice of Lloyd's to any previous year or years the profits or losses of which are declared in the corresponding underwriting year; and]
- (c) in the case of other profits or losses, those derived from payments received or made in the corresponding underwriting year.

(2) Subsection (1)(c) above does not apply in relation to payments received or made before 6th April 1993.

**Textual Amendments**

- F144** S. 172(1)(a)(b) substituted (3.5.1994 with effect as mentioned in [Sch. 21 para. 2\(2\)](#) of the amending Act) by [1994 c. 9, s. 228, Sch. 21 para. 2\(1\)\(2\)](#)
- F145** Word in s. 172(1)(b) substituted (1.12.2001) by [S.I. 2001/3629, arts. 1\(2\), 82\(b\)](#)

**Modifications etc. (not altering text)**

- C23** S. 172 modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by [S.I. 1997/2681, reg. 6\(1\)\(b\)](#)

*Status: Point in time view as at 24/07/2002.*

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**173 Assessment and collection of tax.**

- (1) Schedule 19 to this Act (assessment and collection of tax) shall have effect.
- (2) Schedule 19A to the Taxes Act 1988 (which is superseded by Schedule 19 to this Act for the year 1992-93 and subsequent years of assessment) shall have effect as if for sub-paragraph (3) of paragraph 1 there were substituted the following sub-paragraph—
  - “(3) Regulations under this paragraph may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year.”
- (3) Subsection (2) above applies in relation to regulations made after the passing of this Act.

*Members’ trust funds*

**174 [F146Premium] trust funds.**

- [F147](1) For the purposes of the Income Tax Acts and the Gains Tax Acts—
  - (a) a member shall be treated as absolutely entitled as against the trustees to the assets forming part of a [F148premium] trust fund of his; and
  - (b) where a deposit required by a regulatory authority in a country or territory outside the United Kingdom is paid out of such a fund, the money so paid shall be treated as still forming part of that fund.]
- (2) Where an asset forms part of a [F148premium] trust fund at the beginning of any underwriting year, for the purposes of the Income Tax Acts—
  - (a) the trustees of the fund shall be treated as acquiring it on that day, and
  - (b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.
- (3) Where an asset forms part of a [F148premium] trust fund at the end of any underwriting year, for the purposes of the Income Tax Acts—
  - (a) the trustees of the fund shall be treated as disposing of it on that day, and
  - (b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.
- [F149](4) .....
- [F149](5) .....
- (6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a member’s premiums trust fund at the beginning or end of any underwriting year if—
  - (a) the member is not domiciled in the United Kingdom at any time in the year, and
  - (b) he is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year.
- (7) In this section—
  - “FOTRA securities” has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);



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“non-resident United Kingdom trader” shall be construed in accordance with subsection (5) of that section;

“underwriting year” does not include the year 1993 or any earlier underwriting year.

#### Textual Amendments

- F146** S. 174: words in sidenote substituted (1.12.2001) by S.I. 2001/3629, arts. 1(2), 82(c)
- F147** S. 174(1) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, Sch. 21 para. 3
- F148** Word in s. 174(1)(a)(2)(3) substituted (1.12.2001) by S.I. 2001/3629, arts. 1(2), 82(c)
- F149** S. 174(4)(5) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I paras. 6(a), 7(1), Sch. 18 Pt. VI(10) Note 1

#### 175 Special reserve funds.

- (1) If arrangements are made by the Council of Lloyd's which—
  - (a) enable such a special reserve fund as is referred to in Part I of Schedule 20 to this Act to be set up in relation to each member; and
  - (b) comply with the requirements of that Part and are approved by the Board, the provisions of that Part relating to taxation shall have effect in relation to any special reserve fund of a member set up under the arrangements.
- (2) The arrangements may from time to time be varied with the consent of the Board.
- (3) If, after giving notice of their intention to do so to the Council of Lloyd's, the Board cancel the approval which they have given with respect to the arrangements, paragraph 3 of Schedule 20 to this Act shall not apply, in the case of any member, to any year of assessment after the year of assessment in which the approval is cancelled.
- (4) The provisions of Part II of Schedule 20 to this Act shall have effect as respects the winding up of any special reserve fund which—
  - (a) was set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988; and
  - (b) belongs to a member for whom a special reserve fund may be set up under the arrangements mentioned in subsection (1) above.

#### Modifications etc. (not altering text)

- C24** S. 175 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, reg. 7
- C25** S. 175(4) applied (with modifications) (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, regs. 1, 15(1)

#### 176 Ancillary trust funds.

- (1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund of his.

*Status: Point in time view as at 24/07/2002.*

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- (2) The cost of acquisition and the consideration for the disposal of assets forming part of an ancillary trust fund—
  - (a) shall be left out of account in computing for the purposes of income tax the profits or losses of the member’s underwriting business; and
  - (b) accordingly, shall not be excluded for the purposes of capital gains tax under section 37 or 39 of the Gains Tax Act.
  
- (3) None of the following provisions (which apply where an individual entitled to securities dies), namely—
  - (a) subsections (1) to (4) of section 721 of the Taxes Act 1988 (accrued income scheme);
  - <sup>F150</sup>(b) .....
  - <sup>F150</sup>(c) .....
  - <sup>F150</sup>(d) .....

shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.
  
- (4) In a case where subsection (3)(a) above applies, the deceased’s personal representatives shall be treated for the purposes of sections 710 to 728 of the Taxes Act 1988 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

**Textual Amendments**

**F150** S. 176(3)(b)-(d) repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

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**Modifications etc. (not altering text)**

**C26** S. 176 modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 5(1)**

*Other special cases*

<sup>F151</sup>**177** .....

**Textual Amendments**

**F151** S. 177 repealed (28.7.2000 with effect as mentioned in s. 107(12)(c) of the amending Act) by 2000 c. 17, ss. 107(11), 156, **Sch. 40 Pt. II(16)**, note 2

**178 Stop-loss and quota share insurance.**

- (1) In computing for the purposes of income tax the profits of a member’s underwriting business, each of the following shall be deductible as an expense, namely—
  - (a) any premium payable by him under a stop-loss insurance, and any repayment of insurance money paid to him under such an insurance;

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- (b) any amount payable by him into the High Level Stop Loss Fund, and any repayment of an amount paid to him out of that Fund; and
- [<sup>F152</sup>(c) where an amount is payable by him under a quota share contract—
  - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
  - (ii) if the contract does not take effect, the amount so payable under the contract.]
- (2) Subject to subsection (3) below, each of the following, namely—
  - (a) any insurance money payable to [<sup>F153</sup>a member] under a stop-loss insurance in respect of a loss in his underwriting business; and
  - (b) any amount payable to a member out of the High Level Stop Loss Fund in respect of such a loss,shall be treated as a trading receipt in computing the profits arising from that business for the year of assessment which corresponds to the underwriting year in which the loss [<sup>F154</sup>was declared].
- (3) Where, as respects the payment of any such insurance money or amount as is mentioned in subsection (2) above—
  - (a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for the year of assessment is precluded by section 34 of the Management Act (ordinary time limit of six years), and
  - (b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 (fraudulent or negligent conduct) or 40(2) (assessment on personal representatives) of that Act,that subsection shall have effect in relation to that insurance money or amount as if it referred instead to the year of assessment which corresponds to the underwriting year in which the payment is made.
- [<sup>F155</sup>(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.
- (3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—
  - (a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and
  - (b) for the purposes of section 172, as a payment made at the time the contract takes effect.]
  - [<sup>F156</sup>(4) For the purposes of this section—
    - “cash call” has the same meaning as in Part 1 of Schedule 20 to this Act;
    - “quota share contract” means any contract between a member and another person which—
      - (a) is made in accordance with the rules or practice of Lloyd’s, and
      - (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;

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and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).]

#### Textual Amendments

- F152** S. 178(1)(c) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**
- F153** Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(a)(2)**
- F154** Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(b)(2)**
- F155** S. 178 (3A)(3B) inserted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**
- F156** S. 178(4) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 4**

#### Modifications etc. (not altering text)

- C27** S. 178(3) excluded (9.3.1995 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1, 5(1)(c)**

### *Miscellaneous*

#### **179 Cessation: final year of assessment.**

- (1) Subject to subsection (5) below, this section applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.
- (2) Subject <sup>F157</sup> . . . to the provisions of any regulations made by the Board, the member’s final year of assessment shall be that which corresponds to the underwriting year in which his deposit at Lloyd’s is paid over to him or his personal representatives or assigns.
- <sup>F158</sup>(3) . . . . .
- (4) For the purposes of section 171 above and all other purposes of the Income Tax Acts, any profits or losses arising to the member from his underwriting business which are not taken (by virtue of the provisions of this Chapter) to be profits or losses of an earlier year of assessment shall be taken to be profits or losses of his final year of assessment.
- (5) This section does not apply in any case where the member’s deposit at Lloyd’s is paid over to him or his personal representatives or assigns before 1st January 1993.

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#### Textual Amendments

**F157** Words in s. 179(2) repealed (3.5.1994 with effect in any case where the member dies after the end of 1993-94) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 6(1)(3), Sch. 26 Pt. V(25) Note 3

**F158** S. 179(3) repealed (3.5.1994 with effect in any case where the member dies after the end of 1993-94) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 6(1)(3), Sch. 26 Pt. V(25) Note 3

#### Modifications etc. (not altering text)

**C28** Ss. 179, 179A excluded (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, regs. 1, 14(2)

SS. 179, 179A excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, reg. 4(1)

### [<sup>F159</sup>179A] **Death of member.**

- (1) This section applies where a member ceases to carry on his underwriting business by reason of death.
- (2) For the purposes of assessing the profits of the member's underwriting business, the member shall be treated as having died at the end of the year of assessment which corresponds to the underwriting year immediately preceding that in which he actually died.
- (3) For the purposes of the Income Tax Acts—
  - (a) the carrying on of the member's underwriting business by his personal representatives shall not be treated as a change in the persons engaged in the carrying on of that business; and
  - (b) subject to the provisions of any regulations made by the Board, the business shall be treated as continuing until the member's deposit at Lloyd's is paid over to his personal representatives.]

#### Textual Amendments

**F159** S. 179A inserted (3.5.1994 with effect in any case where the member dies after the end of the year 1993-94) by 1994 c. 9, s. 228, Sch. 21 para. 6(2)(3)

#### Modifications etc. (not altering text)

**C29** Ss. 179, 179A excluded (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, regs. 1, 14(2)

SS. 179, 179A excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, reg. 4(1)

### **180 Underwriting profits to be earned income.**

- (1) In relation to any member, all profits arising to him from his underwriting business—
  - (a) shall be treated for the purposes of the Income Tax Acts as immediately derived from the carrying on by him of that business, and
  - (b) accordingly, shall constitute earned income for those purposes.
- (2) This section does not apply in relation to profits of the year 1992-93 or earlier years of assessment.

*Status: Point in time view as at 24/07/2002.*

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**Modifications etc. (not altering text)**

**C30** S. 180 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by [S.I. 1997/2681](#), **reg. 8**

**181 Lloyd’s underwriting agents.**

In section 43 of the <sup>M58</sup>Finance Act 1989 (Schedule D: computation), subsections (6) and (7) (which extend certain time limits for persons permitted by the Council of Lloyd’s to act as underwriting agents at Lloyd’s) shall cease to have effect in relation to periods of account ending on or after 30th June 1993.

**Marginal Citations**

**M58** 1989 c. 26.

*Supplemental*

**182 Regulations.**

- (1) The Board may by regulations provide—
- (a) for the assessment and collection of tax charged in accordance with section 171 above (so far as not provided for by Schedule 19 to this Act);
  - (b) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of this Chapter as appear to the Board to be expedient having regard to those changes;
  - (c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a member dies or otherwise ceases to carry on his underwriting business;
  - [<sup>F160</sup>(ca) for modifying the application of this Chapter in relation to cases where assets forming part of a [<sup>F161</sup>premium] trust fund are the subject of—
    - <sup>F162</sup>(i) .....
    - (ii) any such arrangements or agreements as are mentioned in section 737E(2) and (8) of the Taxes Act 1988 (sale and repurchase of securities etc.);]
  - (d) for giving credit for foreign tax.

<sup>F163</sup>(2) .....

<sup>F163</sup>(3) .....

<sup>F163</sup>(4) .....

- (5) Regulations made, or deemed to have been made, under any of the following enactments (regulations about Lloyd’s underwriters), namely—
- (a) section 451(1) or (1A) of the Taxes Act 1988,
  - (b) section 92(5) of the <sup>M59</sup>Finance Act 1989, or
  - (c) section 209(4) of the Gains Tax Act,

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which were in force immediately before 6th April 1992 shall continue in force for the year 1992-93 and subsequent years of assessment notwithstanding the repeal of that enactment by this Act, and shall be deemed to have been made under this section.

#### Textual Amendments

- F160** S. 182(1)(ca) inserted (1.5.1995) by 1995 c. 4, s. 83(2)
- F161** Word in s. 182(1)(ca) substituted (1.12.2001) by S.I. 2001/3629, arts. 1(2), 82(d)
- F162** S. 182(1)(ca)(i) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I paras. 6(a), 7(1), Sch. 18 Pt. VI(10) Note 1
- F163** S. 182(2)-(4) repealed (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 7, Sch. 26 Pt. V(25) Note 4

#### Marginal Citations

- M59** 1989 c. 26.

### 183 Consequential amendments.

- (1) In section 20(2) of the Taxes Act 1988 (Schedule F), for the words “section 450” there shall be substituted the words “ section 171 of the Finance Act 1993 ”.
- (2) In section 481(5)(f) of that Act (meaning of “relevant deposit”), for the words “section 457) of an underwriting member” there shall be substituted the words “ section 184 of the Finance Act 1993) of an underwriting or former underwriting member ”.
- <sup>F164</sup>(3) .....
- <sup>F165</sup>(4) In section 710(14) of that Act (meaning of “business” and “premiums trust fund”), for the words “section 457” there shall be substituted the words “ section 184 of the Finance Act 1993 ”.
- (5) In the following provisions (which relate to nominees, trustees etc.), namely—  
Section 720(3) of the Taxes Act 1988,  
paragraph 18(1) of Schedule 4 to that Act,  
paragraph 10(1) of Schedule 11 to the Finance Act 1989, and  
paragraph 18(1) of Schedule 10 to the <sup>M60</sup>Finance Act 1990,  
the words from “his special reserve fund” to the end shall be omitted.
- (6) In the following provisions (which relate to the death of a member), namely—  
section 721(5) of the Taxes Act 1988,  
paragraph 18(8) of Schedule 4 to that Act,  
paragraph 10(6) of Schedule 11 to the Finance Act 1989, and  
paragraph 18(6) of Schedule 10 to the <sup>M61</sup>Finance Act 1990,  
the words from “a special reserve fund” to the end shall be omitted.
- (7) In section 206(2) of the Gains Tax Act (Lloyd’s underwriters), after the words “subsection (1) above” there shall be inserted the words “ and section 174(1) of the Finance Act 1993 ”.

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- (8) In section 209 of that Act (interpretation, regulations about underwriters etc.)—
- (a) in subsection (1), for the words “sections 450 to 456 of the Taxes Act” there shall be substituted the words “ Chapter III of Part II of the Finance Act 1993 ” and for the words “sections 450 to 456”, in the second place where they occur, there shall be substituted the words “ that Chapter ”; and
  - (b) in subsection (6), the words “or (4)” shall be omitted.

#### Textual Amendments

- F164** S. 183(3) repealed (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, ss. 228(2)(c)(4), 230, 258, **Sch. 26 Pt. V(25)** Note 1
- F165** S. 183(4)-(8) repealed (the repeals of subsections (4)-(6) having effect for the year 1994 and subsequent underwriting years and the repeals of subsections (7)-(8) having effect for the year of assessment 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 213, **Sch. 23 Pt. III(12)** Notes 2, 4.

#### Marginal Citations

- M60** 1990 c. 29.  
**M61** 1990 c. 29.

## 184 Interpretation and commencement.

- (1) In this Chapter, unless the context otherwise requires—
- “ancillary trust fund”, in relation to a member, does not include a [<sup>F166</sup>premium] trust fund of his or his special reserve fund (if any) but, subject to that, means any trust fund required or authorised by the rules of Lloyd’s, or required by a members’ agent of his <sup>F167</sup>. . . ;
- “closing year”—
- (a) in relation to a year of assessment, means the year of assessment next but one following that year;
  - (b) in relation to an underwriting year, means the underwriting year next but one following that year; and
  - (c) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;
- “the Gains Tax Act” means the <sup>M62</sup>Taxation of Chargeable Gains Act 1992 and
- “the Gains Tax Acts” means that Act and any other enactments relating to capital gains tax;
- “the High Level Stop Loss Fund” means the fund of that name which, under the rules of Lloyd’s, has been established for the year 1993 and subsequent underwriting years;
- “inspector” includes any officer of the Board;
- “the Management Act” means the <sup>M63</sup>Taxes Management Act 1970;
- “managing agent”, in relation to a syndicate and a year of assessment, means—
- (a) the person registered as a managing agent at Lloyd’s who was acting as such an agent for the syndicate at the end of the corresponding underwriting year, or



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(b) such other person as may be determined in accordance with regulations made by the Board;

“member” means [<sup>F168</sup>an individual who is a member of Lloyd’s and] is or has been an underwriting member;

“members’ agent”, in relation to a member of a syndicate and a year of assessment, means—

(a) the person registered as a members’ agent at Lloyd’s who was acting as such an agent for the member at the end of the corresponding underwriting year, or

(b) if two or more such persons were so acting and one of them was appointed by the member to be responsible for complying with the requirements of Part II of Schedule 19 to this Act in relation to all of the syndicates of which he is a member, that person, or

(c) if two or more such persons were so acting and none of them was so appointed, the person who was so acting for the member in his capacity as a member of the syndicate, or

(d) such other person as may be determined in accordance with regulations made by the Board;

[<sup>F169</sup>“premium trust fund” means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under section 10.3 of the Lloyd’s Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000 <sup>F170</sup>];

“prescribed” means prescribed by regulations made by the Board;

“profits” includes gains;

“special reserve fund”, unless the contrary intention appears, means a special reserve fund set up under the arrangements mentioned in section 175(1) above;

“stop-loss insurance” means any insurance taken out by a member against losses in his underwriting business [<sup>F171</sup>, except insurance taken out by entering a quota share contract (within the meaning of section 178 above)];

“syndicate” means a syndicate of underwriting members of Lloyd’s formed for an underwriting year;

“underwriting business”, in relation to a member, means his underwriting business as a member of Lloyd’s, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

“underwriting year” means the calendar year.

(2) For the purposes of this Chapter—

(a) an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment;

(b) the profits or losses of a member’s underwriting business include profits or losses arising to him from assets forming part of a [<sup>F172</sup>premium] trust fund or an ancillary trust fund; and

(c) any charge made on a member by the [<sup>F173</sup>managing agent] of a syndicate of which he is a member, and any expense incurred on his behalf by the [<sup>F173</sup>managing agent] of such a syndicate, shall be treated as expenses arising directly from his membership of that syndicate.

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- (3) Subject to any provision to the contrary, the provisions of this Chapter have effect for the year 1992-93 and subsequent years of assessment.

#### Textual Amendments

- F166** S. 184(1): word in the definition of “ancillary trust fund” substituted (1.12.2001) by [S.I. 2001/3629, arts. 1\(2\), 82\(e\)](#)
- F167** Words in definition in s. 184(1) repealed (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by [1994 c. 9, ss. 228, 258, Sch. 21 para. 8\(1\)\(a\), Sch. 26 Pt. V\(25\)](#) Note 6
- F168** Words in definition in s. 184(1) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by [1994 c. 9, s. 228, Sch. 21 para. 8\(1\)\(b\)](#)
- F169** S. 184(1): definition of “premium trust fund” substituted (1.12.2001) by [S.I. 2001/3629, arts. 1\(2\), 79](#)
- F170** This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).
- F171** S. 184(1): words in definition of “stop-loss insurance” inserted (24.7.2002 with effect as mentioned in [s. 86\(2\)](#) of the amending Act) by [2002 c. 23, s. 86, Sch. 32 para. 5](#)
- F172** Word in s. 184(2)(b) substituted (1.12.2001) by [S.I. 2001/3629, arts. 1\(2\), 82\(e\)](#)
- F173** Words in s. 184(2)(c) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by [1994 c. 9, s. 228, Sch. 21 para. 8\(2\)](#)

#### Modifications etc. (not altering text)

- C31** S. 184 applied (1.5.1995 with application as mentioned in [s. 127\(19\)](#) of the amending Act) by [1995 c. 4, s. 127\(16\)\(b\)\(19\)](#)

#### Marginal Citations

- M62** [1992 c. 12.](#)  
**M63** [1970 c. 9.](#)

## PART III

### OIL TAXATION

#### **185 Abolition of PRT for oil fields with development consents on or after 16th March 1993.**

- (1) In this Part of this Act a “non-taxable field” means an oil field—
- (a) for no part of which consent for development was granted to a licensee by the Secretary of State before 16th March 1993; and
  - (b) for no part of which a programme of development was served on a licensee or approved by the Secretary of State before that date;
- and in this Part of this Act “taxable field” means an oil field which is not a non-taxable field.
- (2) For the purposes of subsection (1) above, no account shall be taken, in relation to an oil field, of a consent for development granted before 16th March 1993 or a programme of development served on a licensee or approved by the Secretary of State before that date if—

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- (a) in whole or in part that consent or programme related to another oil field for which a determination under Schedule 1 to the principal Act was made before the determination under that Schedule for the field in question; and
  - (b) on or after 16th March 1993, a consent for development is or was granted or a programme of development is or was served on a licensee or approved by the Secretary of State and that consent or programme relates, in whole or in part, to the field in question.
- (3) Petroleum revenue tax shall not be charged in accordance with the Oil Taxation Acts in respect of—
- (a) profits from oil won from a non-taxable field under the authority of such a licence as is referred to in section 1(1) of the principal Act; or
  - (b) any receipts accruing to a participator in a non-taxable field which, in the case of a taxable field, would be tariff receipts or disposal receipts attributable to the field for any period.
- (4) Without prejudice to the generality of subsection (3) above—
- (a) in section 1(2) of the principal Act (the charge to tax) after the words “oil field” there shall be inserted “ which is a taxable field ”;
  - (b) in section 3(1D) of the principal Act (apportionment of expenditure between oil field and non-oil field use) for the words “an oil field”, in both places where they occur, there shall be substituted “ a taxable field ”;
  - (c) in section 5B of the principal Act (allowance of research expenditure) in subsection (6) after the words “this Act” there shall be inserted “ or for purposes relating to non-taxable fields ”;
  - (d) no computation shall be made under the Oil Taxation Acts of the assessable profit or allowable loss accruing to a participator in any period from a non-taxable field; and
  - (e) no expenditure shall be regarded as allowable (or allowed) for a non-taxable field under the Oil Taxation Acts.
- (5) In section 12(1) of the principal Act (interpretation) at the end of the definition of “oil field” there shall be added the words “ and “taxable field” and “non-taxable field” have the same meaning as in Part III of the Finance Act 1993 ”.
- (6) Subject to paragraphs (b) and (c) of subsection (4) above, where, apart from this section, expenditure incurred on or after 16th March 1993 would fall to be apportioned (as being allowable expenditure) between two or more oil fields, at least one of which is a non-taxable field, the apportionment shall be made as if all the fields were taxable fields, but subsection (4)(e) above shall then apply to any amount of expenditure apportioned to a non-taxable field.
- (7) In subsections (1) and (2) above “development”, in relation to an oil field, means—
- (a) the erection or carrying out of permanent works for the purpose of getting oil from the field or for the purpose of conveying oil won from the field to a place on land; or
  - (b) winning oil from the field otherwise than in the course of searching for oil or drilling wells;
- and consent for development does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area and does not relate to the erection or carrying out of permanent works.

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- (8) In subsection (7) above “permanent works” means any structures or other works whatsoever which are intended by the licensee to be permanent and are neither designed to be moved from place to place without major dismantling nor intended by the licensee to be used only for searching for oil.

## **186 Reduction of rates of PRT and interest repayments for taxable oil fields.**

- (1) With respect to chargeable periods ending after 30th June 1993 the rate of petroleum revenue tax (relevant only to taxable fields) shall be 50 per cent. and, accordingly, with respect to such periods, in section 1(2) of the principal Act for “75” there shall be substituted “ 50 ”.
- (2) In paragraph 17 of Schedule 2 to the principal Act (limit on interest in the case of relief for losses carried back) at the end of sub-paragraph (2) there shall be added the words “ and, in relation to the appropriate repayment, the chargeable period for which the relevant assessment or amendment is made is referred to as “the repayment period” ”.
- (3) In sub-paragraph (4) of that paragraph—
- (a) at the beginning there shall be inserted the words “ Subject to sub-paragraph (6) below ”; and
  - (b) in paragraph (a) for the words “85 per cent.” there shall be substituted “ the relevant percentage of the amount ” and after the word “above” there shall be inserted “ which is treated as reducing the assessable profit of the repayment period ”.
- (4) At the end of that paragraph there shall be added the following sub-paragraphs—
- “(5) For the purposes of sub-paragraph (4)(a) above—
- (a) where the repayment period ends on or before 30th June 1993, the relevant percentage, in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for that period is 85 per cent.; and
  - (b) in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for any later repayment period, the relevant percentage is 60 per cent.
- (6) If, in order to give effect to the relief for losses carried back, a repayment of APRT falls, or will on the making of a claim fall, to be made with respect to a chargeable period which is the repayment period in relation to the appropriate repayment, the reference in sub-paragraph (4)(b) above to the appropriate repayment shall be construed as a reference to the aggregate of that repayment and the repayment of APRT.
- (7) In sub-paragraph (6) above “APRT” means advance petroleum revenue tax paid under Chapter II of Part VI of the <sup>M64</sup>Finance Act 1982.”

### **Marginal Citations**

**M64** 1982 c. 39.

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## 187 Returns and information.

- (1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax), other than the Table in paragraph 1 (modifications of the <sup>M65</sup>Taxes Management Act 1970),—
  - (a) for the words “an oil field”, in each place where they occur, there shall be substituted “ a taxable field ”; and
  - (b) for the words “the oil field”, in each place where they occur, there shall be substituted “ the taxable field ”;and paragraph 7 (which is superseded by the following provisions of this section) shall be omitted.
- (2) The Board may by notice in writing require a person—
  - (a) to deliver to a named officer of the Board such documents as are in the person’s possession or power and as (in the Board’s reasonable opinion) contain, or may contain, information relevant to—
    - (i) any tax liability to which that person is or may be subject, or
    - (ii) the amount of any such liability; or
  - (b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.
- (3) The Board may, for the purpose of enquiring into the tax liability of any person (“the taxpayer”), by notice in writing require any other person to deliver to or, if the person to whom the notice is given so elects, to make available for inspection by, a named officer of the Board, such documents—
  - (a) as are in his possession or power; and
  - (b) as (in the Board’s reasonable opinion) contain, or may contain, information relevant to—
    - (i) any tax liability to which the taxpayer is or may be or may have been subject; or
    - (ii) the amount of any such liability.
- (4) Subject to subsection (5) below, a notice under subsection (3) above shall name the taxpayer with whose liability the Board is concerned; and (for the avoidance of doubt) a company which has ceased to exist may be so named.
- (5) If, on an application made by the Board, a Special Commissioner gives his consent, the Board may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—
  - (a) that the notice relates to a taxpayer whose identity is not known to the Board or to a class of taxpayers whose individual identities are not so known;
  - (b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Oil Taxation Acts;
  - (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
  - (d) that the information which is likely to be contained in any documents to which the notice relates is not readily available from another source.
- (6) A person to whom a notice is given under subsection (5) above may, by notice in writing given to the Board within thirty days after the date of the notice under that

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subsection, object to that notice on the ground that it would be onerous for him to comply with it; and, if the matter is not resolved by agreement, it shall be referred to the Special Commissioners who may confirm, vary or cancel that notice.

- (7) Subsections (2) to (6) above (which, in relation to petroleum revenue tax, contain provisions similar to those of section 20 of the <sup>M66</sup>Taxes Management Act 1970) shall have effect subject to Part I of Schedule 21 to this Act (which contains provisions similar to those of section 20B of that Act); and the provisions of Part II of that Schedule relating to the meaning of “documents” (which are derived from provisions of sections 20 and 20D of that Act) shall have effect.
- (8) Section 98 of the Taxes Management Act 1970 (penalties, etc. in relation to special returns) shall have effect as if, in the first column of the Table in that section, there were included a reference to subsections (2) to (6) above.

#### **Marginal Citations**

**M65** 1970 c. 9.

**M66** 1970 c. 9.

### **188 Exploration and appraisal expenditure.**

- (1) In section 5A of the principal Act (allowance of exploration and appraisal expenditure), in subsection (1) (conditions for expenditure to be allowable) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) either is incurred before 16th March 1993 or is incurred within the period of two years beginning on that date and is expenditure to which that person or, if that person is a company, that company or a company associated with it in respect of the expenditure, is committed immediately before that date; and”.
- (2) After subsection (1) of that section there shall be inserted the following subsections—
- “(1A) For the purposes of subsection (1)(aa) above, in respect of expenditure incurred on or after 16th March 1993, a person is to be regarded as committed to that expenditure immediately before that date if—
- (a) he has an obligation under an exploration and appraisal contract entered into before that date to incur the expenditure; or
- (b) the expenditure is incurred wholly and exclusively for the same purpose as that for which the contract referred to in paragraph (a) above was entered into and is so incurred pursuant to an obligation under an exploration and appraisal contract entered into on or after 16th March 1993 and before 16th June 1993.
- (1B) In considering whether a person has at any time such a contractual obligation as is referred to in paragraph (a) or paragraph (b) of subsection (1A) above in respect of any expenditure,
- (a) if the contract contains a power (however exercisable) by virtue of which the person concerned, or a company associated with him in respect of the expenditure, is able to bring any contractual obligations to an end, he shall not be regarded as committed to any expenditure which, if the power were to be exercised, would not be incurred; and

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- (b) if the person concerned (or a company associated with him in respect of the expenditure) has an option (however described) which was not exercised before 16th March 1993 but the exercise of which would increase his expenditure under the contract, he shall not be regarded as committed to any expenditure which would be incurred only as a result of the exercise of the option.

(1C) For the purposes of subsection (1A) above a contract is an exploration and appraisal contract if it is a contract for the provision of any services or other business facilities or assets for any of the purposes specified in subsection (2) below.”

- (3) In subsection (2) of that section for the words “subsection (1)” there shall be substituted “ subsections (1) to (1C) ”.

## **189 Transitional relief for certain exploration and appraisal expenditure.**

- (1) This section applies in any case where—
  - (a) a participator in an oil field or an associate incurs expenditure on or after 16th March 1993 and before 1st January 1995; and
  - (b) apart from this section, that expenditure would not be allowable under section 5A of the principal Act (as amended by section 188 above); and
  - (c) if section 188 above had not been enacted, the expenditure would be allowable in the case of the participator under section 5A of the principal Act; and
  - (d) on 16th March 1993 the participator or the associate was a licensee in respect of the area to which the expenditure related.
- (2) In the following provisions of this section—
  - (a) expenditure falling within subsection (1) above is referred to as “transitional E and A expenditure”; and
  - (b) the participator in whose case that expenditure would be allowable as mentioned in paragraph (c) of that subsection is referred to as “the claimant”.
- (3) Subject to the following provisions of this section, so much of the transitional E and A expenditure incurred by the claimant or an associate as does not in the aggregate exceed £10 million shall be allowable in the case of the claimant under section 5A of the principal Act (as exploration and appraisal expenditure).
- (4) In subsections (1) to (3) above any reference to an associate of a participator applies only where the participator is a company and is a reference to another company—
  - (a) which on 16th March 1993 was a member of the same group of companies as the participator; and
  - (b) with which the participator is associated in respect of expenditure incurred by the other company;and subsections (7) and (8) of section 5 of the principal Act (companies and associates etc.) apply for the purposes of this section as they apply for the purposes of that section.
- (5) Where—
  - (a) the claimant is a company, and
  - (b) on 16th March 1993 the claimant was a member of a group of companies, and
  - (c) at least one other company which was a member of the group on that date was then a participator in an oil field, and

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(d) that other company is also the claimant in relation to an amount of transitional E and A expenditure,

subsection (3) above shall have effect as if references therein to the claimant were references to the aggregate of all those companies which on that date were members of the group and are the claimants in relation to any transitional E and A expenditure.

(6) In this section, a group of companies means a company which is not a 51 per cent. subsidiary of any other company, together with each company which is its 51 per cent. subsidiary; and section 838 of the Taxes Act 1988 (subsidiaries) applies for the purposes of this section as it applies for the purposes of the Tax Acts (within the meaning of that Act).

**190 Allowance of expenditure on certain assets limited by reference to taxable field use.**

(1) Where, in the case of expenditure incurred as mentioned in section 1(1) of the 1983 Act (expenditure incurred on non-dedicated mobile assets),—

(a) the expenditure would, apart from this subsection, be allowable under section 4 of the principal Act for a claim period of a taxable field, and

(b) during that claim period, the asset becomes dedicated to a non-taxable field, that proportion of the expenditure which is equal to the proportion of the claim period during which the asset is dedicated to a non-taxable field shall not be allowable as mentioned in paragraph (a) above.

(2) For the purpose of determining whether an asset becomes at any time dedicated to a non-taxable field, it shall be assumed that, in relation to a non-taxable field, any reference in section 2 of the 1983 Act (dedicated mobile assets) to a claim period is a reference to—

(a) the period ending at the end of December following the determination of the field; or

(b) the period of twelve months ending at the end of December in any later year.

(3) In paragraph 7 of Schedule 1 to the 1983 Act (brought-in assets) in sub-paragraph (1) (c) (which requires that during the initial period the asset should have been used otherwise than in connection with an oil field) for the words “an oil field” there shall be substituted “a taxable field”.

(4) In paragraph 8 of that Schedule (subsequent use of new asset otherwise than in connection with an oil field) in the heading and in sub-paragraphs (1) to (3) and (6) for the words “an oil field” there shall be substituted “a taxable field”.

(5) In paragraph 5 of Schedule 2 to the 1983 Act (acquisition otherwise than at arm’s length: limit on tariff and disposal receipts)—

(a) in paragraphs (a) and (c) of sub-paragraph (1) for the words “an oil field” there shall be substituted “a taxable field”;

<sup>F174</sup>(b) .....

(c) in sub-paragraph (3)(a) for the words “an oil field” there shall be substituted “a taxable field”; and

(d) in sub-paragraph (3)(b) for the words “an oil field” there shall be substituted “a taxable field or, if it is to a participator in a taxable field, the asset is to be used wholly or partly in connection with a non-taxable field”.



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### Textual Amendments

**F174** S. 190(5)(b) repealed (3.5.1994 with effect in accordance with s. 238 of the amending Act) by 1994 c. 9, ss. 238, 258, Sch. 26 Pt. VI Note 2

## 191 Time when expenditure is incurred.

- (1) Subject to the following provisions of this section, where a claim is made under the principal Act for the allowance of any expenditure and the claim is received by the Board after 16th March 1993, an amount of expenditure is to be taken to be incurred for the purposes of the Oil Taxation Acts on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).
- (2) Subject to subsection (3) below, where the amount of any expenditure incurred by any person at any time after 16th March 1993 under a contract—
  - (a) for the acquisition from any other person of, or of an interest in, an asset, or
  - (b) for the provision by any other person of services or other business facilities of whatever kind (whether in connection with the use of an asset or not), or
  - (c) for the grant or transfer to that person by any other person of any right, licence or interest (other than an interest in an asset)is disproportionate to the extent to which that other person has, at or before that time, performed his obligations under the contract then, for the purposes of the Oil Taxation Acts, only so much of the expenditure shall be taken to have been incurred at that time as is proportionate to those obligations which have been so performed.
- (3) If, in the case of a contract entered into after 16th March 1993 and falling within paragraph (a) or paragraph (b) of subsection (2) above—
  - (a) the expenditure referred to in that subsection is incurred before 1st July 1993, and
  - (b) the other person referred to in paragraph (a) or paragraph (b) (“the contractor”) has performed his obligations by entering into one or more further contracts,the contractor shall be treated for the purposes of subsection (2) above as having at any time performed his obligations under the contract only to the extent that, at that time, the asset or interest in question has been acquired by, or, as the case may be, the services or other business facilities have been provided to, the person incurring the expenditure.
- (4) In paragraph 2 of Schedule 4 to the principal Act (limitation of allowable expenditure on transactions between connected persons or otherwise than at arm’s length) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—
  - “(1) Where, in a transaction to which this paragraph applies, a person has incurred expenditure in acquiring, bringing into existence or enhancing the value of an asset, he shall at any time be treated for the purposes of—
    - (a) sections 3 and 4 of this Act, and
    - (b) sections 3 and 4 of and Schedule 1 to the<sup>M67</sup>Oil Taxation Act 1983,as having incurred that expenditure only to the extent that it does not exceed expenditure (other than loan expenditure) incurred up to that time in a transaction to which this paragraph does not apply (or, if there has been

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more than one such transaction, the later or latest of them) in acquiring, bringing into existence or enhancing the value of, that asset.

- (1A) Subsections (1) to (3) of section 191 of the Finance Act 1993 apply to determine for the purposes of this paragraph what expenditure has at any time been incurred under a transaction to which this paragraph does not apply, as they apply in relation to expenditure for the allowance of which a claim is received by the Board after 16th March 1993.
- (1B) In sub-paragraph (1) above “loan expenditure” means expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit.”
- (5) For sub-paragraph (3) of paragraph 2 of Schedule 4 to the principal Act there shall be substituted the following sub-paragraphs—
- “(3) The preceding provisions of this section shall, with any necessary modification, apply in relation to expenditure incurred by any person in acquiring an interest in an asset or in bringing into existence an asset in which he is to have an interest, or in enhancing the value of an asset in which he has an interest, as those provisions apply in relation to expenditure incurred by a person in acquiring, bringing into existence, or enhancing the value of an asset, as the case may be.
- (4) The provisions of sub-paragraphs (1) to (2) above shall, with any necessary modification, apply in relation to expenditure incurred by any person in respect of—
- (a) the use of an asset (including expenditure on renting or hiring), or
  - (b) the provision of services or other business facilities of whatever kind in connection with the use, otherwise than by that person, of an asset,
- as they have effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset.”
- (6) The amendments made by subsections (4) and (5) above have effect where the transaction to which paragraph 2 of Schedule 4 to the principal Act applies takes place on or after 16th March 1993.

**Modifications etc. (not altering text)**

**C32** S. 191(2) modified (3.5.1994 with application as mentioned in s. 231(1) of the amending Act) by 1994 c. 9, ss. 231, 234, **Sch. 22 Pt. II para. 13(2)**

**Marginal Citations**

**M67** 1983 c. 56.

**192 Chargeable periods in which expenditure may be brought into account.**

- (1) Where a claim which—
- (a) is made under Schedule 5 or Schedule 6 to the principal Act for the allowance of any expenditure, and
  - (b) is received by the Board after 16th March 1993,

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has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends earlier than the last day of the claim period in which the expenditure was incurred.

- (2) Where a claim has been made under Schedule 7 to the principal Act for the allowance of any expenditure incurred after 31st March 1993 and that claim has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends before the date on which the expenditure was incurred.
- (3) The preceding provisions of this section have effect notwithstanding anything in subsection (9) of section 2 of the principal Act (under which expenditure which had been allowed might in certain cases be taken into account in earlier chargeable periods) and, accordingly, at the beginning of that subsection there shall be inserted “ Subject to section 192 of the Finance Act 1993 ”.

### **193 Tariff receipts etc.**

- (1) In section 9 of the 1983 Act (tariff receipts allowance) in subsection (5) (definition of “user field”) in paragraph (a) after the words “other than the principal field” there shall be inserted “ or a non-taxable field ”, and at the end of that subsection there shall be inserted the following subsection—

“(5A) No order may be made under subsection (5)(b) above on or after 1st July 1993.”

- (2) Where a participator in a taxable field incurs any expenditure and,—
  - (a) apart from this subsection, the expenditure would be taken into account in determining the assessable profit or allowable loss accruing to that participator from the taxable field in any chargeable period, and
  - (b) in the hands of the recipient, the expenditure would, on the relevant assumptions, constitute tariff receipts or disposal receipts of a participator in a non-taxable field attributable to that field for any period, and
  - (c) at the time the expenditure is incurred, the participator referred to in paragraph (a) above is or is connected with a participator in the non-taxable field referred to in paragraph (b) above,

the expenditure shall be disregarded in determining the assessable profit or allowable loss referred to in paragraph (a) above.

- (3) For the purposes of subsection (2) above, the relevant assumptions are—
  - (a) that the non-taxable field is a taxable field; and
  - (b) that the asset which gives rise to the expenditure (by virtue of its use, the provision of services or other business facilities in connection with its use or its disposal) is a qualifying asset in relation to the participator in question.
- (4) In section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field asset), in subsection (3) after the words “oil field”, in the first place where they occur, there shall be inserted “ which is a taxable field and ”.
- (5) After subsection (3) of section 12 of the 1983 Act there shall be inserted the following subsection—

“(3A) No order may be made under subsection (2)(a) above on or after 1st July 1993.”

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- (6) In this section “disposal receipts”, “qualifying asset” and “tariff receipts” have the same meaning as in the 1983 Act; and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (2)(c) above.

#### **194 Double taxation relief in relation to petroleum revenue tax.**

- (1) For the purpose of giving relief from double taxation in relation to petroleum revenue tax in respect of the amount or value of consideration which is brought into charge to tax under section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field assets), section 788 of the Taxes Act 1988 (relief by agreement with other countries) shall have effect as if—
- (a) references therein to income tax included references to petroleum revenue tax; and
  - (b) references therein to income included references to any such consideration.
- (2) Section 788 of the Taxes Act 1988, as it has effect in accordance with subsection (1) above, shall apply with respect to any arrangements which—
- (a) are set out in an Order in Council made, or having effect as if made, under that section before as well as after the passing of this Act; and
  - (b) include petroleum revenue tax as a tax to which the arrangements apply.
- (3) In the application of section 788 of the Taxes Act 1988 in accordance with the preceding provisions of this section—
- (a) paragraphs (b) to (d) of subsection (3),
  - (b) subsections (4), (5) and (7), and
  - (c) in subsection (6) the words from “Except” to “this Part”,
- shall be omitted.
- (4) In relation to a claim for relief under section 788 of the Taxes Act 1988 which is made by virtue of this section, sections 42 and 43 of the <sup>M68</sup>Taxes Management Act 1970 shall have effect with the following modifications—
- (a) for any reference to income tax there shall be substituted a reference to petroleum revenue tax;
  - (b) any reference to income shall be construed as a reference to such consideration as is referred to in subsection (1) above;
  - (c) for any reference to a year of assessment there shall be substituted a reference to a chargeable period within the meaning of the principal Act; and
  - (d) any reference to a chargeable period shall be construed as a reference to a chargeable period within the meaning of the principal Act.
- (5) Section 816 of the Taxes Act 1988 (disclosure of information) shall apply in relation to petroleum revenue tax as it applies in relation to income tax.

#### **Marginal Citations**

**M68** 1970 c. 9.

#### **195 Interpretation of Part III and consequential amendments of assessments etc.**

- (1) In this Part—

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- (a) “the principal Act” means the <sup>M69</sup>Oil Taxation Act 1975 ;
  - (b) “the 1983 Act” means the <sup>M70</sup>Oil Taxation Act 1983 ;
  - (c) “the Oil Taxation Acts” means Parts I and III of the principal Act, the 1983 Act and any other enactment relating to petroleum revenue tax; and
  - (d) “taxable field” and “non-taxable field” shall be construed in accordance with section 185 above.
- (2) The Board may make all such amendments of assessments or determinations or of decisions on claims as may be necessary in consequence of the provisions of this Part.
- (3) This Part, other than section 194, shall be construed as one with Part I of the principal Act.

**Marginal Citations**

**M69** 1975 c. 22.

**M70** 1983 c. 56.

**PART IV**

INHERITANCE TAX

**196 Rate bands: no indexation in 1993.**

The Table substituted by section 72(1) of the <sup>M71</sup>Finance (No.2) Act 1992 shall apply to chargeable transfers made in the year beginning 6th April 1993, and accordingly section 8(1) of the <sup>M72</sup>Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to such transfers.

**Marginal Citations**

**M71** 1992 c. 48.

**M72** 1984 c. 51.

**197 Rate bands: indexation for 1994 onwards.**

- (1) In section 8 of the Inheritance Tax Act 1984 (indexation of rate bands)—
- (a) in subsection (1) for “December in 1984” there shall be substituted “September in 1993 ” and for “previous December” there shall be substituted “ previous September ”;
  - (b) in subsection (3) for “December” there shall be substituted “ September ”;
  - (c) in subsection (4) for “1985” there shall be substituted “ 1994 ”.
- (2) This section shall apply in relation to chargeable transfers made on or after 6th April 1994.

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## **198 Fall in value relief: qualifying investments.**

- (1) In the <sup>M73</sup>Inheritance Tax Act 1984, in Part VI (valuation) in Chapter III (sale of shares etc. from deceased’s estate) there shall be inserted after section 186—

### **“186A Cancelled investments.**

- (1) Where any qualifying investments comprised in a person’s estate immediately before his death are—
- (a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and
  - (b) held, immediately before cancellation, by the appropriate person,
- they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.
- (2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from “or” to the end.

### **186B Suspended investments.**

- (1) This section applies to any qualifying investments comprised in a person’s estate immediately before his death in respect of which quotation on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death (“the relevant period”).
- (2) Where—
- (a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and
  - (b) the value on death of those investments exceeds their value at the end of that period,
- they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.
- (3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from “or” to the end.”
- (2) This section shall have effect in relation to deaths occurring on or after 16th March 1992.

#### **Marginal Citations**

**M73** 1984 c. 51.

*Status: Point in time view as at 24/07/2002.*

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## **199 Fall in value relief: interests in land.**

- (1) In the <sup>M74</sup>Inheritance Tax Act 1984, in Part VI, in Chapter IV (sale of land from deceased’s estate) after section 197 there shall be inserted—

### **“197A Sales in fourth year after death.**

- (1) Where an interest in land—
- (a) is comprised in a person’s estate immediately before his death, and
  - (b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,
- the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.
- (2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.
- (3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.
- (4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect.”

- (2) This section shall have effect in relation to deaths occurring on or after 16th March 1990.

#### **Marginal Citations**

M74 1984 c. 51.

## **200 Appeals: questions as to value of land.**

- (1) In section 222 of the Inheritance Tax Act 1984 (appeals against determinations) for subsection (4) there shall be substituted the following subsections—

“(4) An appeal on any question as to the value of land in the United Kingdom may be to the appropriate tribunal.

(4A) If and so far as the question in dispute on any appeal under this section to the Special Commissioners or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate tribunal.

(4B) In this section “the appropriate tribunal” means—

- (a) where the land is in England or Wales, the Lands Tribunal;
- (b) where the land is in Scotland, the Lands Tribunal for Scotland;
- (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.”

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- (2) In section 242 of that Act (recovery of tax) in subsection (3) for the words “subsection (4)” there shall be substituted the words “ subsections (4) to (4B) ”.
- (3) This section shall apply in relation to any appeal which—
- (a) is made on or after the day on which this Act is passed, or
  - (b) is made, but has not begun to be heard, before that day.

## PART V

### STAMP DUTY

<sup>F175</sup>201 .....

#### Textual Amendments

**F175 S. 201** repealed (27.7.1999 with effect in accordance with Sch. 20 Pt. V(2) Notes 1, 2 of the amending Act) by 1999 c. 16, s. 138, **Sch. 20 Pt. V(2)** Notes 1, 2

#### 202 Rent to mortgage: England and Wales.

- (1) Subsection (2) below applies where—
- (a) a person exercises the right to acquire on rent to mortgage terms under Part V of the <sup>M75</sup>Housing Act 1985, and
  - (b) in pursuance of the exercise of that right a conveyance of the freehold is executed in his favour as regards the dwelling-house concerned.
- (2) For the purposes of the enactments relating to stamp duty chargeable under [<sup>F176</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)], the consideration for the sale shall be taken to be equal to the price which, by virtue of section 126 of the Housing Act 1985, would be payable for the dwelling-house on a conveyance if the person were exercising the right to buy under Part V of that Act.
- (3) Subsection (4) below applies where—
- (a) a person exercises the right to acquire on rent to mortgage terms under Part V of the Housing Act 1985, and
  - (b) in pursuance of the exercise of that right a lease is executed in his favour as regards the dwelling-house concerned.
- (4) In such a case—
- (a) the lease shall not be chargeable with stamp duty under [<sup>F177</sup>Part II of Schedule 13 to the Finance Act 1999 (lease)] but shall be chargeable with stamp duty under [<sup>F178</sup>Part I of that Schedule (conveyance or transfer on sale)] as if it were a conveyance on sale;
  - (b) for the purposes of the enactments relating to stamp duty chargeable under [<sup>F179</sup>Part I of that Schedule] the consideration for the sale mentioned in paragraph (a) above shall be taken to be equal to the price which, by virtue of section 126 of the <sup>M76</sup>Housing Act 1985, would be payable for the dwelling-house on a grant if the person were exercising the right to buy under Part V of that Act.



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- (5) This section shall apply where the conveyance or lease is executed after the day on which this Act is passed.

#### Textual Amendments

- F176** Words in s. 202(2) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(2)**
- F177** Words in s. 202(4)(a) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(3)(a)**
- F178** Words in s. 202(4)(a) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(3)(b)**
- F179** Words in s. 202(4)(b) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(4)**

#### Marginal Citations

- M75** 1985 c. 68.  
**M76** 1985 c. 68.

### 203 Rent to loan: Scotland.

- (1) Subsection (2) below applies where—
- a person exercises the right to purchase a house by way of the rent to loan scheme under Part III of the<sup>M77</sup>Housing (Scotland) Act 1987, and
  - in pursuance of the exercise of that right a heritable disposition of the house is executed in favour of him.
- (2) For the purposes of the enactments relating to stamp duty chargeable under [<sup>F180</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)], the consideration for the sale shall be taken to be equal to the price which, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.
- (3) This section shall apply where the disposition is executed after the day on which this Act is passed.

#### Textual Amendments

- F180** Words in s. 203(2) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 29**

#### Marginal Citations

- M77** 1987 c. 26.

### 204 Method of denoting stamp duty.

- (1) The Treasury may make regulations as to the method by which stamp duty is to be denoted.
- (2) In particular, regulations under this section may—

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- (a) provide for duty to be denoted by impressed stamps or adhesive stamps or by a record printed or made by a machine or implement or by such other method as may be prescribed;
  - (b) provide for one method only to be used, whether generally or in prescribed cases;
  - (c) provide for alternative methods to be available, whether generally or in prescribed cases;
  - (d) make different provision for different cases;
- and cases may be designated by reference to the type of instrument concerned, the geographical area involved, or such other factors as the Treasury think fit.
- (3) Regulations under this section may provide that where stamp duty is denoted by a method which (in the case of the instrument concerned) is required or permitted by the law in force at the time it is stamped, for the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of <sup>F181</sup> . . . execution) the method shall be treated as being in accordance with the law in force at the time when the instrument was <sup>F181</sup> . . . executed.
  - (4) Regulations under this section may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.
  - (5) Regulations under this section may make provision in such way as the Treasury think fit, and in particular may amend or repeal or modify the effect of any provision of any Act.
  - (6) In this section “prescribed” means prescribed by regulations under this section.
  - (7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

**Textual Amendments**

**F181** Words in s. 204(3) repealed (28.7.2000) by 2000 c. 17, s. 156, Sch. 40 Pt. III

**PART VI**

MISCELLANEOUS AND GENERAL

*Statutory effect of resolutions etc.*

**205 The 1968 Act.**

- (1) The <sup>M78</sup>Provisional Collection of Taxes Act 1968 shall be amended as follows.
- (2) In section 1(1) (taxes to which section 1 applies)—
  - (a) after “income tax,” there shall be inserted “corporation tax (including advance corporation tax) ”;
  - (b) the words “car tax” shall be omitted.

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- (3) Section 1(1A) (reference to income tax to include reference to amounts representing income tax) shall be omitted.
- (4) In section 1(3)(a) (resolution passed in March or April to have statutory effect for period expiring with 5th August) for “March or April” there shall be substituted “November or December ” and for “5th August in the same calendar year” there shall be substituted “ 5th May in the next calendar year ”.
- (5) In section 1(4) (resolution to cease to have statutory effect unless Bill read a second time within twenty-five sitting days) for “twenty-five” there shall be substituted “ thirty ”.
- (6) In section 5 (resolution giving provisional effect to motions)—
  - (a) in subsection (1), paragraph (c) and the word “or” immediately preceding it shall be omitted;
  - (b) in subsection (2) for “, sections 8(5) and 822 of the 1988 Act” there shall be substituted “ and section 822 of the Income and Corporation Taxes Act 1988 ”.
- (7) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

**Marginal Citations**

**M78** 1968 c. 2.

**206 Corporation tax.**

- (1) In section 8 of the Taxes Act 1988 (general scheme of corporation tax) subsections (4) to (6) (assessments where tax not charged for year etc.) shall be omitted.

<sup>F182</sup>(2) .....

<sup>F183</sup>(3) .....

**Textual Amendments**

**F182** S. 206(2) repealed (29.4.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(13)**

**F183** S. 206(3) repealed (31.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. III**

**207 Stamp duty.**

- (1) In section 50(2) of the <sup>M79</sup>Finance Act 1973 (period of temporary statutory effect of resolution affecting stamp duties)—
  - (a) in paragraph (a) (period by reference to twenty-fifth day of Commons sitting) for “twenty-fifth” there shall be substituted “ thirtieth ”;
  - (b) in paragraph (d) (period by reference to five months beginning with day resolution takes effect) for “five” there shall be substituted “ six ”.
- (2) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

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**Marginal Citations**

**M79** 1973 c. 51.

*Miscellaneous*

**208 Residence: available accommodation.**

(1) In section 336 of the Taxes Act 1988 (temporary residents in the United Kingdom) the following subsection shall be inserted after subsection (2)—

“(3) The question whether—

- (a) a person falls within subsection (1)(a) above, or
- (b) for the purposes of subsection (2) above a person is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there,

shall be decided without regard to any living accommodation available in the United Kingdom for his use.”

(2) In section 9 of the <sup>M80</sup>Taxation of Chargeable Gains Act 1992 (residence, including temporary residence) the following subsection shall be inserted after subsection (3)—

“(4) The question whether for the purposes of subsection (3) above an individual is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence there shall be decided without regard to any living accommodation available in the United Kingdom for his use.”

(3) In consequence of subsection (1) above, in section 267(4) of the <sup>M81</sup>Inheritance Tax Act 1984 (residence in United Kingdom determined as for purposes of income tax) the words “but without regard to any dwelling-house available in the United Kingdom for his use” shall be omitted.

(4) Subsections (1) and (2) above shall have effect for the year 1993-94 and subsequent years of assessment.

(5) Subsection (3) above shall have effect where the year of assessment concerned is 1993-94 or a subsequent year of assessment.

**Marginal Citations**

**M80** 1992 c. 12.

**M81** 1984 c. 51.

<sup>F184</sup>**209** .....

**Textual Amendments**

**F184** S. 209 repealed (31.7.1998 but without affecting any case in which the cessation of liability to gas levy was before the end of the year 1997-98) by 1998 c. 36, s. 165, Sch. 27 Pt. V(3) Notes 1, 2

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**210 Trading funds.**

Schedule 22 to this Act (which contains provisions about trading funds) shall have effect.

**F185 211 .....**

**Textual Amendments**

**F185** S. 211 repealed (31.7.1998 with effect in accordance with an order made under [Sch. 26 para. 3](#) of the amending Act) by [1998 c. 36, ss. 160, 165, Sch. 26 para. 3, Sch. 27 Pt. VI\(2\)](#) Note

*General*

**212 Interpretation.**

In this Act “the Taxes Act 1988” means the <sup>M82</sup>Income and Corporation Taxes Act 1988.

**Marginal Citations**

**M82** [1988 c. 1.](#)

**213 Repeals.**

The enactments specified in Schedule 23 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

**214 Short title.**

This Act may be cited as the Finance Act 1993.

**Status:**

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**Changes to legislation:**

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