

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 51.

LIFE ASSURANCE BUSINESS

PART I

GENERAL AMENDMENTS

Classes of life assurance business

1 In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), insert the following at the appropriate places in alphabetical order—

“pension business” has the meaning given by section 431B;

“life reinsurance business” has the meaning given by section 431C;

“overseas life assurance business” has the meaning given by section 431D;

“basic life assurance and general annuity business” has the meaning given by section 431F;

F1
...

Textual Amendments

F1 Sch. 8 para. 1 entry repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

2 After section 431A of the Taxes Act 1988 insert—

“ Classes of life assurance business

431B Meaning of “pension business”.

(1) In this Chapter “pension business” means so much of a company’s life assurance business as is referable to contracts of the following descriptions or to the reinsurance of liabilities under such contracts.

(2) The descriptions of contracts are—

(a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 623(1) and (2)) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under section 620 or a substituted contract within the meaning of section 622(3);

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- (b) any contract (including a contract of insurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme as defined in Chapter I of Part XIV, being a contract so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;
 - (c) any contract made under approved personal pension arrangements within the meaning of Chapter IV of Part XIV;
 - (d) any annuity contract entered into for the purposes of—
 - (i) a scheme which is approved or is being considered for approval under Chapter I of Part XIV;
 - (ii) a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV; or
 - (iii) a fund to which section 608 applies,
 being a contract which is made with the persons having the management of the scheme or fund, or those persons and a member of or contributor to the scheme or fund, and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
 - (e) any annuity contract which is entered into in substitution for a contract within paragraph (d) above and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
 - (f) any contract with the trustees or other persons having the management of a scheme approved under section 620 or, subject to subsection (5) below, of a superannuation fund which was approved under section 208 of the 1970 Act, being a contract which—
 - (i) was entered into for the purposes only of that scheme or fund or, in the case of a fund part only of which was approved under section 208, for the purposes only of that part of that fund, and
 - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme or fund (or the relevant part of the fund).
- (3) For the purposes of subsection (2)(d) and (e) above “relevant benefits” means relevant benefits as defined by section 612(1) which correspond—
- (a) where subsection (2)(d)(i) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(i), with benefits that could be provided by a scheme approved under Chapter I of Part XIV;
 - (b) where subsection (2)(d)(ii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(ii), with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;
 - (c) where subsection (2)(d)(iii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered

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into for the purposes of a fund falling within subsection (2)(d)(iii), with benefits that could be provided by a fund to which section 608 applies.

- (4) For the purposes of subsection (3)(a), (b) or (c) above a hypothetical scheme or fund (rather than any particular scheme or fund), and benefits provided by a scheme or fund directly (rather than by means of an annuity contract), shall be taken.
- (5) Subsection (2)(f) above shall not apply to a contract where the fund in question was approved under section 208 of the 1970 Act unless—
 - (a) immediately before 6th April 1980 premiums paid under the contract with the trustees or other persons having the management of the fund fell within section 323(4) of that Act (premiums referable to pension business); and
 - (b) the terms on which benefits are payable from the fund have not been altered since that time; and
 - (c) section 608 applies to the fund.
- (6) In subsection (5) above “premium” includes any consideration for an annuity.

431C Meaning of “life reinsurance business”.

- (1) In this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.
- (2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

431D Meaning of “overseas life assurance business”.

- (1) In this Chapter “overseas life assurance business” means life assurance business, other than pension business or life reinsurance business, which—
 - (a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and
 - (b) in the case of reinsurance business, is—
 - (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
 - (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.
- (2) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is an individual if—
 - (a) the policy holder or annuitant is not beneficially entitled to the rights conferred by the policy or contract for the business, or
 - (b) any benefits under the policy or contract for the business are or will be payable to a person other than the policy holder or annuitant (or his personal representatives) or to a number of persons not including him (or them).

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- (3) For the purposes of subsection (2) above any nomination by a policy holder or annuitant of an individual or individuals as the recipient or recipients of benefits payable on death shall be disregarded.
- (4) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is not an individual.
- (5) Subsections (2) and (4) above do not apply if—
- (a) the rights conferred by the policy or contract for the business are held subject to a trust,
 - (b) the settlor does not reside in the United Kingdom, and
 - (c) each beneficiary is either an individual not residing in the United Kingdom or a charity.
- (6) In subsection (5) above—
- (a) “settlor” means the person, or (where more than one) each of the persons, by whom the trust was directly or indirectly created (and for this purpose a person shall, in particular, be regarded as having created the trust if he provided or undertook to provide funds directly or indirectly for the purposes of the trust or made with any other person a reciprocal arrangement for that other person to create the trust),
 - (b) “beneficiary” means any person who is, or will or may become, entitled to any benefit under the trust (including any person who may become so entitled on the exercise of a discretion by the trustees of the trust), and
 - (c) “charity” means a person or body of persons established for charitable purposes only;
- and for the purpose of that subsection an individual who is a trustee (of any trust) shall not be regarded as an individual.
- (7) Subsections (2) and (4) above do not apply if the policy or contract for the business was effected solely to provide benefits for or in respect of—
- (a) persons all, or all but an insignificant number, of whom are relevant overseas employees, or
 - (b) spouses, widows, widowers, children or dependants of such persons.
- (8) In subsection (7) above “relevant overseas employees” means persons who are not residing in the United Kingdom and are—
- (a) employees of the policy holder or annuitant,
 - (b) employees of a person connected with the policy holder or annuitant, or
 - (c) employees in respect of whose employment there is established a superannuation fund to which section 615(3) applies;
- and section 839 applies for the purposes of this subsection.

431E Overseas life assurance business: regulations.

- (1) The Board may by regulations make provision for giving effect to section 431D.

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- (2) Such regulations may, in particular—
- (a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,
 - (b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,
 - (c) make provision for dealing with cases where any issue such as is mentioned in paragraph (a) above is (for any reason) wrongly determined, including provision allowing for the imposition of charges to tax (with or without limits on time) on the insurance company concerned or on the policy holders or annuitants concerned,
 - (d) require companies to supply information and make available books, documents and other records for inspection on behalf of the Board, and
 - (e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.
- (3) The regulations may—
- (a) make different provision for different cases, and
 - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

431F Meaning of “basic life assurance and general annuity business”.

In this Chapter “basic life assurance and general annuity business” means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.”.

^{F2}3

Textual Amendments

F2 Sch. 8 para. 3 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

- 4 (1) Section 438 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (1) for “life assurance fund and separate annuity fund, if any” substitute “ long term business fund ”.
- ^{F3}(3)

Textual Amendments

F3 Sch. 8 para. 4(3) repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

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5 (1) Section 440 of the Taxes Act 1988 is amended as follows.

^{F4}(2)

(3) For subsection (4) substitute—

“(4) The categories referred to in subsections (1) to (3) above are—

- (a) assets linked solely to pension business;
- (b) assets linked solely to life reinsurance business;
- (c) assets of the overseas life assurance fund;
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the long term business fund not within any of the preceding paragraphs;
- (f) other assets.”.

Textual Amendments

F4 Sch. 8 para. 5(2) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

6 In section 440A of the Taxes Act 1988, in subsection (2) for paragraphs (a) and (b) substitute—

- “(a) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
- (i) pension business, or
 - (ii) life reinsurance business, or
 - (iii) basic life assurance and general annuity business,
- shall be treated for the purposes of corporation tax as a separate holding linked solely to that business.”.

^{F57}

Textual Amendments

F5 Sch. 8 para. 7 repealed (with effect in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 2(3)

^{F68}

Textual Amendments

F6 Sch. 8 para. 8 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

9 (1) The ^{M1}Taxation of Chargeable Gains Act 1992 is amended as follows.

^{F7}(2)

^{F8}(3)

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Textual Amendments

- F7** Sch. 8 para. 9(2) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)
- F8** Sch. 8 para. 9(3) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(10)

Marginal Citations

- M1** 1992 c. 12.

^{F9}10

Textual Amendments

- F9** Sch. 8 para. 10 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

Linked assets

- 11 (1) In section 431(2) of the Taxes Act 1988, for the definition of “linked assets” substitute—

““linked assets”, and related expressions, shall be construed in accordance with section 432ZA;”.

- (2) After section 432 of the Taxes Act 1988 insert—

“432ZA Linked assets.

- (1) In this Chapter “linked assets” means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined.
- (2) Linked assets shall be taken—
 - (a) to be linked to long term business of a particular category if the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category; and
 - (b) to be linked solely to long term business of a particular category if all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.
- (3) Where an asset is linked to more than one category of long term business, a part of the asset shall be taken to be linked to each category; and references in this Chapter to assets linked (but not solely linked) to any category of business shall be construed accordingly.
- (4) Where subsection (3) above applies, the part of the asset linked to any category of business shall be a proportion determined as follows—
 - (a) where in the records of the company values are shown for the asset in funds referable to particular categories of business, the proportion shall be determined by reference to those values;

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(b) in any other case the proportion shall be equal to the proportion which the total of the linked liabilities of the company referable to that category of business bears to the total of the linked liabilities of the company referable to all the categories of business to which the asset is linked.

- (5) For the purposes of sections 432A to 432F—
 - (a) income arising in any period from assets linked but not solely linked to a category of business,
 - (b) gains arising in any period from the disposal of such assets, and
 - (c) increases and decreases in the value of such assets,

shall be treated as arising to that category of business in the proportion which is the mean of the proportions determined under subsection (4) above at the beginning and end of the period.

- (6) In this section “linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.
- (7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes long term business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute long term business other than life assurance business are to be determined by reference to the value of assets.”.

- 12 (1) In the following provisions for “linked solely” substitute “ linked ”
 - (a) ^{F10}... section 432E(3)(a) and (b) ^{F10}... of the Taxes Act 1988;
 - ^{F11}(b)
 - ^{F12}(c)
- (2) The amendments made by paragraph 11 above do not affect the meaning of “linked assets”, and related expressions, in sections 214 and 214A of the ^{M2}Taxation of Chargeable Gains Act 1992 (transitional provisions relating to changes made in 1990 and 1991).
- ^{F13}(3)

<p>Textual Amendments</p> <p>F10 Words in Sch. 8 para. 12(1)(a) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)</p> <p>F11 Sch. 8 para. 12(1)(b) repealed (11.5.2001 with effect as mentioned in s. 87 of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(12) Note</p> <p>F12 Sch. 8 para. 12(1)(c) repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note</p> <p>F13 Sch. 8 para. 12(3) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(8)</p> <hr/> <p>Marginal Citations</p> <p>M2 1992 c. 12.</p>
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- 13 (1) Section 432A of the Taxes Act 1988 is amended as follows.
- (2) For subsections (1) to (3) substitute—

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“(1) This section has effect where in any period an insurance company carries on more than one category of business and it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—

- (a) income arising from the assets of the company’s long term business fund, or
- (b) gains or losses accruing on the disposal of such assets,

are referable to any category of business.

(2) The categories of business referred to in subsection (1) above are—

- (a) pension business;
- (b) life reinsurance business;
- (c) overseas life assurance business;
- (d) basic life assurance and general annuity business which is ordinary life assurance business;
- (e) basic life assurance and general annuity business which is industrial assurance business; and
- (f) long term business other than life assurance business.

(3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.”.

(3) In subsections (5) and (6)(b)(i) for “any of the appropriate categories” substitute “any category”.

(4) For subsection (7) substitute—

“(7) For the purposes of subsections (5) and (6) above—

- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, and
- (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above.”.

^{F14}(5)

Textual Amendments

F14 Sch. 8 para. 13(5) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

^{F15}14

Textual Amendments

F15 Sch. 8 para. 14 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

^{F16}15

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Textual Amendments

F16 Sch. 8 para. 15 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

Receipts to be brought into account

16 (1) For section 83 of the ^{M3}Finance Act 1989 substitute—

“83 Receipts to be brought into account.

- (1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) So far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), shall be taken into account as receipts of the period—
 - (a) the company’s investment income from the assets of its long term business fund, and
 - (b) any increase in value (whether realised or not) of those assets.

If for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.

- (3) In ascertaining whether or to what extent a company has incurred a loss in respect of that business any amount transferred into the company’s long term business fund from other assets of the company, or otherwise added to that fund, shall be taken into account, in the period in which it is brought into account, as an increase in value of the assets of that fund within subsection (2)(b) above.

This subsection does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is otherwise taken into account under subsection (2) above, or
- (c) is specifically exempted from tax.

83A Meaning of “brought into account”.

- (1) In section 83 “brought into account” means brought into account in an account which is recognised for the purposes of that section.
- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of that section are—
 - (a) a revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of the company’s long term business;
 - (b) any separate revenue account required to be prepared under that Act in respect of a part of that business.

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Paragraph (b) above does not include accounts required in respect of internal linked funds.

- (3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.
- (4) If in any such case the total of the items brought into account in the separate accounts is not equal to the total amount brought into account in the account prepared for the whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.
- (5) Where a company carries on both ordinary long term business and industrial assurance business, the references above to the company's long term business shall be construed as references to either or both of those businesses, as the case may require."

(2) In section 432B of the Taxes Act 1988—

- (a) in subsection (1) for the words from "brought into account" to "1982" substitute " brought into account, within the meaning of that section, "; and
- (b) for subsection (2) substitute—

"(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account."

- F17 (3)
- F18 (4)
- F18 (5)
- F19 (6)

Textual Amendments

F17 Sch. 8 para. 16(3) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

F18 Sch. 8 para. 16(4)(5) repealed (29.4.1996 with effect as mentioned in s. 163, Sch. 31 para. 10(2) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(23) Note

F19 Sch. 8 para. 16(6) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(8)

Marginal Citations

M3 1989 c. 26.

Supplementary provisions as to apportionment

- 17 (1) In section 432B of the Taxes Act 1988 (apportionment of receipts brought into account)—
 - (a) in subsections (1) and (2) for "sections 432C to 432E" substitute " sections 432C to 432F ", and
 - (b) in subsection (3) for "section 432E applies" substitute " sections 432E and 432F apply ".

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^{F20}(2)

(3) After section 432E of the Taxes Act 1988 insert—

“432F Section 432B apportionment: supplementary provisions.

- (1) The provisions of this section provide for the reduction of the amount determined in accordance with section 432E(3) (“the subsection (3) figure”) for an accounting period in which that amount exceeds, or would otherwise exceed, the amount determined in accordance with section 432E(2) (“the subsection (2) figure”).
 - (2) For each category of business in relation to which section 432E falls to be applied there shall be determined for each accounting period the amount (if any) by which the subsection (2) figure, after making any reduction required by section 432E(5), exceeds the subsection (3) figure (“the subsection (2) excess”).
 - (3) Where there is a subsection (2) excess, the amount shall be carried forward and if in any subsequent accounting period the subsection (3) figure exceeds, or would otherwise exceed, the subsection (2) figure, it shall be reduced by the amount or cumulative amount of subsection (2) excesses so far as not previously used under this subsection.
 - (4) Where in an accounting period that amount is greater than is required to bring the subsection (3) figure down to the subsection (2) figure, the balance shall be carried forward and aggregated with any subsequent subsection (2) excess for use in subsequent accounting periods.”
- (4) In section 444A of the Taxes Act 1988 (transfers of business) after subsection (3) insert—
- “(3A) Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—
- (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
 - (b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),
- in relation to the revenue account of the transferee dealing with or including the business transferred.”
- (5) In section 444A(5) of the Taxes Act 1988 for “subsection (2) or (3)” substitute “subsection (2), (3) or (3A) ”.

Textual Amendments

F20 Sch. 8 para. 17(2) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

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Franked investment income: supplementary provisions

F21 18

Textual Amendments

F21 Sch. 8 para. 18 repealed (31.7.1998 with effect as mentioned in Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2) Note

19 (1) Section 434 of the Taxes Act 1988 is amended as follows.

F22 (2)

F23 (3)

Textual Amendments

F22 Sch. 8 para. 19(2) repealed (31.7.1997 with effect as mentioned in Sch. 3 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(6) Note (with s. 3(3))

F23 Sch. 8 para. 19(3) repealed (31.7.1998 with effect as mentioned in Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2) Note

Computation of losses

20 (1) For section 434A of the Taxes Act 1988 substitute—

“434A Computation of losses and limitation on relief.

- (1) In ascertaining whether or to what extent a company has incurred a loss on its life assurance business profits derived from investments held for the purposes of that business (including franked investment income of, and foreign income dividends arising to, a company resident in the United Kingdom) shall be treated as part of the profits of that business.
- (2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D, any loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—
 - (a) any losses for that period under section 436, 441 or 439B, and
 - (b) the amount of interest and annuities treated as charges on income in computing for the period otherwise than in accordance with the provisions of this Act applicable to Case I of Schedule D the profits or losses of the company’s life assurance business.
- (3) In the case of a company carrying on life assurance business, no relief shall be allowable under—
 - (a) Chapter II (loss relief) or Chapter IV (group relief) of Part X, or
 - (b) Chapter II of Part II of the Finance Act 1993 so far as it has effect in relation to losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994,

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against the policy holders’ share of the relevant profits for any accounting period.

For the purposes of this subsection “the policy holders’ share of the relevant profits” has the same meaning as in section 88 of the Finance Act 1989.”.

F²⁴(2)

Textual Amendments

F24 Sch. 8 para. 20(2) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(8)

Treatment of interest and annuities

21 [F²⁵(1) After section 434A of the Taxes Act 1988 insert—

“ Treatment of interest and annuities.

(1) Where the profits or losses arising to an insurance company from its life assurance business, or any class of life assurance business, fall to be computed for any purpose in accordance with the provisions of this Act applicable to Case I of Schedule D, section 337(2)(b) shall not prevent the deduction of any interest or annuity payable by the company under a liability of its long term business so far as referable to its life assurance business or any class of that business.

(2) Nothing in subsection (1) above or in section 338(2) shall be construed as preventing any such interest or annuity as is mentioned in subsection (1) above, so far as referable to the company’s basic life assurance and general annuity business, from being treated as a charge on income for the purposes of the computation of the profits or losses of that business otherwise than in accordance with Case I of Schedule D.”.]

(2) In section 88 of the Finance Act 1989, for subsection (3) substitute—

“(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company’s life assurance business reduced by the aggregate amount of—

- (a) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
- (b) charges on income,

so far as referable to the company’s life assurance business.”.

Textual Amendments

F25 Sch. 8 para. 21(1) repealed (19.3.1997 with effect in relation to accounting periods beginning after 5.3.1997) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(6) Note

Interest on repayment of advance corporation tax

F²⁶22

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Textual Amendments

- F26** Sch. 8 para. 22 repealed (31.7.1998 with effect as mentioned in Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2) Note

Capital allowances

- 23 ^{F27}(1)
(2) In section 75(4) of the Taxes Act 1988 omit the words “and insurance”.
^{F28}(3)

Textual Amendments

- F27** Sch. 8 para. 23(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, Sch. 4
F28 Sch. 8 para. 23(3) repealed (with effect in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 2(3)

- ^{F29}24

Textual Amendments

- F29** Sch. 8 para. 24 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, Sch. 4

Treatment of tax-free income

- 25 (1) In the Taxes Act 1988 omit—
(a) section 474(1)(b); and
(b) in section 475(2)(a), the words from “or,” to “life assurance business”.
(2) In section 474 of the Taxes Act 1988, at the end insert—
“(3) In this section any reference to insurance business includes a reference to insurance business of any category.”.

Taxation of pure reinsurance business

- ^{F30}26

Textual Amendments

- F30** Sch. 8 para. 26 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(8)

Life reinsurance business: separate charge on profits

- 27 ^{F31}(1)

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^{F31}(2)

(3) In section 724(3) and (4) of the Taxes Act 1988 after “section 436” insert “, 439B”.

Textual Amendments

F31 Sch. 8 para. 27(1)(2) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

Provisions applicable to charge under Case I of Schedule D

28 (1) After section 440A of the Taxes Act 1988 insert—

“440B Modifications where tax charged under Case I of Schedule D.

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D.
- (2) Section 438 applies as if in subsections (6), (6B) and (6E) for the reference to any profit arising to the company and computed under section 436 there were substituted a reference to the profit that would arise on a computation under section 436 if the profits of the company’s life assurance business were not charged to tax under Case I of Schedule D.
- (3) Section 440(1) and (2) apply as if the only categories set out in subsection (4) of that section were—
 - (a) assets of the long term business fund, and
 - (b) other assets.
- (4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—
 - (”) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business, and
 - (b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.”.
- (5) Section 212(1) of the 1992 Act does not apply, but without prejudice to the bringing into account of any amounts deferred under section 213(1) or 214A(2) of that Act from any accounting period beginning before 1st January 1995.”.

^{F32}(2)

(3) In section 440 of the Taxes Act 1988, after subsection (5) insert—

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“(6) In a case where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).”.

(4) In section 440A of the Taxes Act 1988, after subsection (6) insert—

“(7) In a case where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).”.

^{F33}(5)

Textual Amendments

F32 Sch. 8 para. 28(2) repealed (31.7.1997 with effect as mentioned in [Sch. 3](#) of the amending Act) by [1997 c. 58, s. 52, Sch. 8 Pt. II\(6\)](#) Note (with s. 3(3))

F33 Sch. 8 para. 28(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 27 Pt. 2\(8\)](#)

^{F34}29

Textual Amendments

F34 Sch. 8 para. 29 repealed (31.7.1997 with effect as mentioned in [Sch. 3](#) of the amending Act) by [1997 c. 58, s. 52, Sch. 8 Pt. II\(6\)](#) Note (with s. 3(3))

Overseas life assurance business

30 In section 441(1) of the Taxes Act 1988 omit the words “resident in the United Kingdom”.

[^{F35}31 In section 441A of the Taxes Act 1988 for subsections (3) to (6) substitute—

“(3) A company shall be entitled to such a tax credit if and to the extent that regulations made by the Board so provide.

(4) Regulations under subsection (3) above may, in particular, provide for the entitlement of a company to a tax credit, and the amount to which the company is entitled, to be determined by reference to—

- (a) the residence of any description of policy holders or annuitants prescribed by the regulations, or
- (b) the location of any branch or agency at or through which the policy or contract for any business is effected.

(5) Subsections (2) and (3) of section 431E apply in relation to regulations under subsection (3) above as they apply in relation to regulations under subsection (1) of that section but as if any issue which falls to be decided for the purposes of the regulations under subsection (3) above were an issue such as is mentioned in subsection (2)(a) of that section.”.]

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Textual Amendments

F35 Sch. 8 para. 31 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(10)** Note (with s. 3(3))

32 After section 441A of the Taxes Act 1988 insert—

“441B Treatment of UK land.

- (1) This section applies to land in the United Kingdom which—
 - (a) is held by a company as an asset linked to the company’s overseas life assurance business, or
 - (b) is held by a company which is charged to tax under Case I of Schedule D in respect of its life assurance business as an asset by reference to the value of which benefits under any policy or contract are to be determined, where the policy or contract (or, in the case of a reinsurance contract, the underlying policy or contract) is held by a person not residing in the United Kingdom.
- (2) Income arising from land to which this section applies shall be treated for the purposes of this Chapter as referable to basic life assurance and general annuity business.
- (3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any income of the company is treated as referable to such business by subsection (2) above.
- (4) A company may be charged to tax by virtue of this section—
 - (a) notwithstanding section 439A, and
 - (b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.
- (5) In this section “land” has the same meaning as in Schedule 19AA.”.

33 In paragraph 1(2) of Schedule 19AA to the Taxes Act 1988, at the end insert “ (including any modification of any of those provisions made by paragraph 14A of Schedule 19AC) ”.

Taxation of investment return where risk reinsured

34 After section 442 of the Taxes Act 1988 insert—

“442A Taxation of investment return where risk reinsured.

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company over the period of the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.

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- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
 - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
 - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
 - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
 - (d) such percentage rate of return as may be prescribed.
- (4) The regulations shall provide that the amount of investment return to be treated as accruing to the company in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.

If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

- (5) Regulations under this section—
 - (a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;
 - (b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and
 - (c) may make different provision for different cases or descriptions of case.
- (6) In this section “prescribed” means prescribed by regulations under this section.”.

PART II

APPLICATION OF PROVISIONS TO OVERSEAS LIFE INSURANCE COMPANIES

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 8. (See end of Document for details)

Textual Amendments

F36 Sch. 8 para. 35 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

36 In paragraph 5(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted subsection (6B)—

- (a) for “242” substitute “ section 242 ”, and
- (b) for “444D” substitute “ paragraph 5B of Schedule 19AC ”.

37 In paragraph 6 of Schedule 19AC to the Taxes Act 1988, omit sub-paragraphs (3) and (4).

F37 38

Textual Amendments

F37 Sch. 8 para. 38 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

F38 39

Textual Amendments

F38 Sch. 8 para. 39 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

F39 40

Textual Amendments

F39 Sch. 8 para. 40 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

41 In paragraph 9(1) of Schedule 19AC to the Taxes Act 1988 in the notionally inserted section 434(1A)—

- (a) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”; and
- (b) for the words from “as part of the profit” to the end substitute—
 - “(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
 - (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.

F40 42

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 8. (See end of Document for details)

Textual Amendments

F40 Sch. 8 para. 42 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

43 (1) In paragraph 10(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted section 438(3A)—

- (a) for “subsection (6)” substitute “ subsections (6) and (6B) ”;
- (b) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”;
- (c) after “taken into account” insert “ —(a) ”; and
- (d) after “pension business” insert—

“, or

- (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.

(2) In paragraph 10(2) for “subsections (6) and (6A)” substitute “ subsections (6), (6A), (6D) and (6E) ”.

^{F41}44

Textual Amendments

F41 Sch. 8 para. 44 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

^{F42}45

Textual Amendments

F42 Sch. 8 para. 45 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

^{F43}46

Textual Amendments

F43 Sch. 8 para. 46 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

47 In paragraph 12(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “ paragraph 5B of Schedule 19AC ”.

^{F44}48

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 8. (See end of Document for details)

Textual Amendments

F44 Sch. 8 para. 48 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

F45 49

Textual Amendments

F45 Sch. 8 para. 49 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

PART III

SUPPLEMENTARY PROVISIONS

Penalties

- 50 In the Table in section 98 of the ^{M4}Taxes Management Act 1970 (penalties for failure to comply with notice or to furnish information etc.), the entry “ regulations under section 431E(1) or 441A(3); ” shall be inserted—
- (a) in the first column after the entry relating to regulations under section 333 of the Taxes Act 1988, and
 - (b) in the second column after the entry relating to section 375(5) of that Act.

Marginal Citations

M4 1970 c. 9.

Miscellaneous

- 51 (1) The Taxes Act 1988 is amended as follows.
- (2) Before section 432 insert the heading “ *Separation of different categories of business* ”.
- F46** (3)
- (4) Before section 434 insert the heading “ *Miscellaneous provisions relating to life assurance business* ”.
- F47** (5)

Textual Amendments

F46 Sch. 8 para. 51(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(8)**

F47 Sch. 8 para. 51(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(7)**

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Commencement

- 52 The amendment made by paragraph 43(2) above shall be deemed always to have had effect.
- 53 (1) The amendments made by paragraph 17 above have effect in relation to accounting periods ending on or after 1st January 1994.
- (2) In the first accounting period of a company ending on or after 1st January 1994 in which the subsection (3) figure for any category of business exceeds the subsection (2) figure, the subsection (2) figure shall be treated as increased by an amount not exceeding the amount or aggregate amount of any subsection (2) excesses in relation to that category of business for accounting periods beginning on or after 1st January 1990 and ending before 1st January 1994, but not so as to produce a subsection (2) excess for that period.
- For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.
- Expressions used in this sub-paragraph have the same meaning as in section 432F of the Taxes Act 1988.
- (3) Where a transfer mentioned in section 444A of the Taxes Act 1988 took place at the end of an accounting period of the transferor beginning on or after 1st January 1990 and ending before 1st January 1994, section 444A(3A) shall have effect in relation to the transfer as if it read—
- “(3A) Any subsection (2) excess (within the meaning of section 432F(2)) of the transferor for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to increase the subsection (2) figure (within the meaning of section 432F(1)) of the transferor in the first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeded the subsection (2) figure—
- (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
- (b) shall be taken into account to increase the subsection (2) figure of the transferee in its first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeds the subsection (2) figure, but not so as to produce a subsection (2) excess for that period,
- in relation to the revenue account of the transferee dealing with or including the business transferred.
- For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.”.
- 54 The amendment made by paragraph 22 above applies in relation to distributions made by an insurance company in any accounting period ending after 30th September 1993.

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- 55 (1) Subject to sub-paragraphs (2) and (3) below, the amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st November 1994—
- paragraph 1 so far as relating to the definition of “overseas life assurance business”,
- paragraph 2 so far as relating to sections 431D and 431E of the Taxes Act 1988,
- paragraphs ^{F48} ... 25, 30 to 33, 37, 38 and 45(1) and (3),
- ^{F49} ...
- (2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential on those amendments) shall not have effect for determining whether the business is overseas life assurance business.
- (3) Where the policy or contract for any life assurance business effected by a company resident in the United Kingdom at or through a branch or agency outside the United Kingdom was made before 29th November 1994, subsections (2) to (8) of section 431D of the Taxes Act 1988 shall not have effect for determining whether the business is overseas life assurance business.

Textual Amendments

F48 Word in [Sch. 8 para. 55\(1\)](#) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

F49 Words in [Sch. 8 para. 55\(1\)](#) repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [reg. 1](#), [Sch. Pt. 1](#)

Modifications etc. (not altering text)

C1 [Sch. 8 para. 55\(1\)](#) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [regs. 1](#), [34](#)

- 56 The amendments made by paragraphs 41(a) and 43(1) above have effect in relation to foreign income dividends paid after 29th November 1994.
- 57 (1) Except as provided by paragraphs 52 to 56 above, and subject to sub-paragraph (2) below, the amendments made by provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st January 1995.
- (2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.
- [^{F50}(3) Where business consisting of or including an arrangement for the reinsurance of a policy or contract made before 29th November 1994 which was effected before that date has been transferred by an insurance business transfer scheme sub-paragraph (2) has effect in relation to the transferee.]

Textual Amendments

F50 [Sch. 8 para. 57\(3\)](#) inserted (with effect in accordance with [Sch. 9 para. 17\(1\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 15](#)

- 58 Any power to make regulations exercisable by virtue of an amendment made by any provision of this Schedule may be exercised so as to make provision having

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effect in relation to any accounting period in relation to which that provision has effect in accordance with paragraph 55 or 57 above.

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Changes to legislation:

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