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## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 6.

#### GENERAL BETTING DUTY

For sections 1 to 5 of the Betting and Gaming Duties Act 1981 (c. 63) (general betting duty: charge, rate and payment) substitute—

*“ General betting duty*

#### **The duty**

- 1 A duty of excise to be known as general betting duty shall be charged in accordance with sections 2 to 5D.

#### **Bookmakers: general bets**

- 2 (1) General betting duty shall be charged on a bet made with a bookmaker who is in the United Kingdom.
- (2) Subsection (1) does not apply to—
- (a) an on-course bet,
  - (b) a spread bet,
  - (c) a bet made by way of pool betting, or
  - (d) a bet made by way of coupon betting.
- (3) The amount of duty charged in respect of bets made with a bookmaker in an accounting period shall be 15 per cent. of the amount of his net stake receipts for that period.

#### **Bookmakers: spread bets**

- 3 (1) General betting duty shall be charged on a spread bet made with a bookmaker who—
- (a) is in the United Kingdom, and
  - (b) holds a bookmaker’s permit.
- (2) A bet is a spread bet if it constitutes a contract to which section 63 of the Financial Services Act 1986 applies by virtue of paragraphs 9 and 12 of Schedule 1 to that Act (gaming contracts: investments).
- (3) The amount of duty charged under subsection (1) in respect of spread bets made with a bookmaker in an accounting period shall be—
- (a) 3 per cent. of the amount of his net stake receipts in respect of financial spread bets for that period (if any), plus
  - (b) 10 per cent. of the amount of his net stake receipts in respect of other spread bets for that period (if any).
- (4) A “financial spread bet” is a spread bet the subject of which is a financial matter.

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- (5) The Commissioners may by order provide that a specified matter—
- (a) shall be treated as a financial matter for the purpose of subsection (4), or
  - (b) shall not be treated as a financial matter for that purpose.

### **Other betting**

- 4 (1) General betting duty shall be charged on sponsored pool betting.
- (2) General betting duty shall be charged on a bet made by means of facilities provided by the Horserace Totalisator Board.
- (3) General betting duty shall be charged on a bet made on an event on a track falling within subsection (4) if the bet is made—
- (a) by means of a totalisator which operates on that track, and
  - (b) on the day of the event.
- (4) A track falls within this subsection if—
- (a) a track betting licence is in force for the track under Schedule 3 to the Betting, Gaming and Lotteries Act 1963,
  - (b) a track betting licence is in force for the track under Article 37 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, or
  - (c) the Commissioners designate the track for the purposes of this subsection.
- (5) The amount of duty charged under subsections (1) to (3) in respect of bets made by means of facilities provided by a person in an accounting period shall be 15 per cent. of the amount of his net stake receipts for that period.
- (6) Subsections (1) to (3) do not apply to—
- (a) on-course bets, or
  - (b) coupon betting.

### **Net stake receipts**

- 5 (1) For the purposes of a charge under a provision of sections 2 to 4 in respect of the class of bets to which the provision applies, the amount of a person's net stake receipts for an accounting period is X minus Y, where—
- (a) X is the aggregate of amounts which fall due to that person in the accounting period in respect of bets of that class made with him, and
  - (b) Y is the aggregate of amounts paid by the person in that period by way of winnings to persons who made bets of that class with him (irrespective of when the bets were made or determined).
- (2) Where—
- (a) a person makes a bet other than a spread bet, and
  - (b) the sum which he will lose if unsuccessful is known when the bet is made, that sum shall be treated for the purposes of subsection (1)(a) as falling due when the bet is made (irrespective of when it is actually paid or required to be paid).
- (3) Where the amount of a person's net stake receipts is zero or a negative amount, it shall be disregarded for the purposes of sections 2 to 4.

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- (4) In calculating an amount due to a person in respect of a bet, no deduction shall be made in respect of—
- (a) any other benefit secured by the person who makes the bet as a result of paying the money,
  - (b) a person's expenses, whether in paying duty or otherwise, or
  - (c) any other matter.
- (5) Where a person makes a bet in pursuance of an offer which permits him to pay nothing or less than the amount which he would have been required to pay without the offer, he shall be treated for the purposes of this section as being due to pay that amount—
- (a) to the person with whom the bet is made, and
  - (b) at the time when the bet is made.
- (6) For the purpose of subsection (1)(b)—
- (a) the reference to paying an amount to a person includes a reference to holding it in an account if the person is notified that the amount is being held for him in the account and that he is entitled to withdraw it on demand,
  - (b) the return of a stake shall be treated as a payment by way of winnings, and
  - (c) only payments of money shall be taken into account.
- (7) In the application of this section to a charge under section 4(1) to (3), a reference to bets made with a person shall be treated as a reference to bets made by means of facilities provided by him.

### **Multiple bets**

- 5A (1) Subject to subsection (3), this section applies where—
- (a) a person bets on more than one contingency, and
  - (b) he bets on terms that if his bet in respect of one contingency is successful the stake or winnings will be carried forward as the stake in respect of another contingency.
- (2) Where this section applies—
- (a) the person mentioned in subsection (1)(a) shall be treated for the purposes of sections 2 to 4 as making a separate bet on each contingency, and
  - (b) each bet which depends on the result of an earlier bet shall be treated as being made at the time of that result.
- (3) This section does not apply where a person bets on more than one contingency if—
- (a) the betting takes the form of a single bet or of bets placed at a single time, and
  - (b) the terms mentioned in subsection (1) do not permit the arrangement for carrying forward to be varied or terminated.
- (4) In subsection (1)(b) the reference to “the stake or winnings” includes a reference to—
- (a) any part of the stake,
  - (b) any part of the winnings, and
  - (c) any combination of stake and winnings.

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### Liability to pay

- 5B (1) At the end of each accounting period all general betting duty chargeable in respect of bets made in the period shall become due.
- (2) In the case of bets made with a bookmaker in an accounting period the general betting duty shall be paid—
- (a) when it becomes due, and
  - (b) by the bookmaker.
- (3) But general betting duty which is due to be paid by a bookmaker in respect of bets may be recovered from the following persons as if they and the bookmaker were jointly and severally liable to pay the duty—
- (a) the holder of a bookmaker’s permit for the business in the course of which the bets were made;
  - (b) a person responsible for the management of that business;
  - (c) where the bookmaker is a company, a director.
- (4) In the case of bets made in an accounting period by means of facilities provided by a person as described in section 4(1) to (3) the general betting duty shall be paid—
- (a) when it becomes due, and
  - (b) by the person who provides the facilities.
- (5) This section is without prejudice to paragraph 2 of Schedule 1 to this Act or regulations made under it.

### Bet-brokers

- 5C (1) This section applies where—
- (a) one person (the “bettor”) makes a bet with another person (the “bet-taker”) using facilities provided in the course of a business by a third person (the “bet-broker”), or
  - (b) one person (the “bet-broker”) in the course of a business makes a bet with another person (the “bet-taker”) as the agent of a third person (the “bettor”) (whether the bettor is a disclosed principal or an undisclosed principal).
- (2) For the purposes of sections 2 to 5B—
- (a) the bet shall be treated as if it were made by the bettor with the bet-broker and not with the bet-taker,
  - (b) the bet-broker shall be treated as a bookmaker in respect of the bet,
  - (c) the aggregate of amounts due to be paid by the bettor in respect of the bet shall be treated as being due to the bet-broker, and
  - (d) a sum paid by the bet-taker by way of winnings in respect of the bet shall be treated as having been paid by the bet-broker at that time and for that purpose.
- (3) But subsection (2) does not apply to a bet if—
- (a) the bet-taker holds a bookmaker’s permit, and
  - (b) the bet would not be an on-course bet if the bet-broker were making the bet with the bet-taker as principal.
- (4) In the case of a bet which is excluded from subsection (2) by virtue of subsection (3), for the purposes of sections 2 to 5B—

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- (a) the bet shall be treated as if it were made separately by the bettor with the bet-broker and by the bet-broker with the bet-taker,
  - (b) the bet-broker shall be treated as a bookmaker in respect of the bet,
  - (c) the aggregate of amounts due to be paid by the bettor in respect of the bet shall be treated as being due separately to the bet-broker and to the bet-taker (and any amount due to be paid by the bet-broker to the bet-taker shall be disregarded), and
  - (d) a sum paid by the bet-taker by way of winnings in respect of the bet shall be treated as having been paid separately by the bet-taker and by the bet-broker at that time and for that purpose (and any sum paid by the bet-broker shall be disregarded).
- (5) This section does not apply—
- (a) to bets made by way of pool betting, or
  - (b) to bets made using facilities provided by a person holding (and relying on) a betting agency permit (within the meaning of section 9(2)(c)(ii) of the Betting, Gaming and Lotteries Act 1963).
- (6) Where there is any doubt as to which of two persons is the bettor and which the bet-taker for the purposes of subsection (1)(a), whichever of the two was the first to use the facilities of the bet-broker to offer the bet shall be treated as the bet-taker.

### Accounting period

- 5D (1) For the purposes of sections 2 to 5C—
- (a) each calendar month is an accounting period, but
  - (b) the Commissioners may provide in regulations under paragraph 2 of Schedule 1 to this Act for some other specified period to be an accounting period.
- (2) Regulations made by virtue of subsection (1)(b) may—
- (a) make provision which applies generally or only in relation to a specified person or class of person;
  - (b) make different provision for different purposes;
  - (c) make transitional provision.”

1 F1 .....

#### Textual Amendments

F1 Sch. 1 para. 1 repealed (retrospective to 31.3.2002) by 2002 c. 23, ss. 12(1)(5), 141, Sch. 40 Pt. 1(4)

- 2 For section 9(3)(a) of that Act (protection of revenue) substitute—
- “(a) to any bet which is made by way of pool betting or coupon betting if—
    - (i) the bet is not made by means of a totalisator,
    - (ii) the promoter is in the Isle of Man,
    - (iii) the bet is chargeable with a duty imposed by or under an Act of Tynwald which corresponds to pool betting duty, and

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- (iv) the duty mentioned in sub-paragraph (iii) is chargeable on the bet at a rate not less than the appropriate rate of pool betting duty; or
- (aa) to any bet which is made with a bookmaker if—
- (i) it is not made by way of pool betting or coupon betting,
  - (ii) the bookmaker is in the Isle of Man,
  - (iii) a duty is imposed by or under an Act of Tynwald in respect of bookmaker's receipts from bets of that kind, and
  - (iv) the rates and method of calculation of that duty result in no less duty being charged in respect of bets of that kind than is charged by way of general betting duty in respect of bets of that kind; or<sup>2</sup>.
- 3 Paragraph 2(4)(b) and (c) of Schedule 1 to that Act (general betting duty: administration: records) shall cease to have effect.

SCHEDULE 2 **U.K.**

Section 9.

RATES OF VEHICLE EXCISE DUTY ON GOODS VEHICLES

- 1 Part 8 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of vehicle excise duty: goods vehicles) is amended as follows.
- 2 For the Table in paragraph 9(1) (rigid goods vehicles not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

<i>Revenue weight of vehicle</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not Exceeding</i>	<i>Two axle vehicle</i>	<i>Three axle vehicle</i>	<i>Four or more axle vehicle</i>
<b>kgs</b>	<b>kgs</b>	<b>£</b>	<b>£</b>	<b>£</b>
3,500	7,500	165	165	165
7,500	12,000	200	200	200
12,000	13,000	200	200	200
13,000	14,000	200	200	200
14,000	15,000	200	200	200
15,000	17,000	650	200	200
17,000	19,000	650	200	200
19,000	21,000	650	200	200
21,000	23,000	650	450	200
23,000	25,000	650	650	450
25,000	27,000	650	650	650

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27,000	29,000	650	650	1,200
29,000	31,000	650	650	1,200
31,000	44,000	650	650	1,200

- 3 In paragraph 9(3) (rigid goods vehicles not satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for “£5,170” substitute “ £2,585 ”.
- 4 In paragraph 9A(3) (rigid goods vehicles satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for “£4,170” substitute “ £2,085 ”.
- 5 For the Table in paragraph 9B (rigid goods vehicles satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

<i>Revenue weight of vehicle</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not Exceeding</i>	<i>Two axle vehicle</i>	<i>Three axle vehicle</i>	<i>Four or more axle vehicle</i>
<b>kgs</b>	<b>kgs</b>	<b>£</b>	<b>£</b>	<b>£</b>
3,500	7,500	160	160	160
7,500	12,000	160	160	160
12,000	13,000	160	160	160
13,000	14,000	160	160	160
14,000	15,000	160	160	160
15,000	17,000	280	160	160
17,000	19,000	280	160	160
19,000	21,000	280	160	160
21,000	23,000	280	210	160
23,000	25,000	280	280	210
25,000	27,000	280	280	280
27,000	29,000	280	280	700
29,000	31,000	280	280	700
31,000	44,000	280	280	700

F26 .....

**Textual Amendments**

**F2** Sch. 2 para. 6 repealed (7.4.2005) by Finance Act 2005 (c. 7), Sch. 11 Pt. 1

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- 7 For the Table in paragraph 11(1) (tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

<i>Revenue weight of tractive unit</i>		<i>Rate for tractive unit with two axles</i>			<i>Rate for tractive unit with three or more axles</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>	<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<b>kgs</b>	<b>kgs</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
3,500	7,500	165	165	165	165	165	165
7,500	12,000	165	165	165	165	165	165
12,000	16,000	165	165	165	165	165	165
16,000	20,000	165	165	165	165	165	165
20,000	23,000	165	165	165	165	165	165
23,000	25,000	165	165	165	165	165	165
25,000	26,000	450	165	165	165	165	165
26,000	28,000	450	165	165	165	165	165
28,000	31,000	650	650	165	450	165	165
31,000	33,000	1,200	1,200	450	1,200	450	165
33,000	34,000	1,200	1,200	450	1,200	650	165
34,000	35,000	1,500	1,500	1,200	1,200	650	450
35,000	36,000	1,500	1,500	1,200	1,200	650	450
36,000	38,000	1,500	1,500	1,200	1,500	1,200	650
38,000	41,000	1,850	1,850	1,850	1,850	1,850	1,200
41,000	44,000	1,850	1,850	1,850	1,850	1,850	1,200

- 8 In paragraph 11(3) (tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for “£5,170” substitute “£2,585”.

- 9 In paragraph 11A(3) (tractive units satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for “£4,170” substitute “£2,085”.

- 10 For the Table in paragraph 11B (tractive units satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

<i>Revenue weight of tractive unit</i>	<i>Rate for tractive unit with two axles</i>	<i>Rate for tractive unit with three or more axles</i>
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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>	<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<b>kgs</b>	<b>kgs</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
3,500	7,500	160	160	160	160	160	160
7,500	12,000	160	160	160	160	160	160
12,000	16,000	160	160	160	160	160	160
16,000	20,000	160	160	160	160	160	160
20,000	23,000	160	160	160	160	160	160
23,000	25,000	160	160	160	160	160	160
25,000	26,000	210	160	160	160	160	160
26,000	28,000	210	160	160	160	160	160
28,000	31,000	280	280	160	210	160	160
31,000	33,000	700	700	210	700	210	160
33,000	34,000	700	700	210	700	280	160
34,000	35,000	1,000	1,000	700	700	280	210
35,000	36,000	1,000	1,000	700	700	280	210
36,000	38,000	1,000	1,000	700	1,000	700	280
38,000	41,000	1,350	1,350	1,350	1,350	1,350	700
41,000	44,000	1,350	1,350	1,350	1,350	1,350	700

- 11 In paragraph 11C(2)(a) (certain tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 41,000 kilograms but not exceeding 44,000 kilograms), for “£1,280” substitute “ £650 ”.

SCHEDULE 3 **U.K.**

Section 15.

## EXCISE DUTY: PAYMENTS BY COMMISSIONERS IN CASE OF ERROR OR DELAY

PART 1 **U.K.**

## PAYMENTS

*Duty paid in error*

- 1 (1) This paragraph applies if—  
 (a) the first condition set out below is satisfied, and

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- (b) either the second or the third condition set out below is satisfied.
- (2) The first condition is that, due to an error on the part of the Commissioners, any of the following occurs at any time—
- (a) a person is refused authorisation for the purposes of <sup>F3</sup>section 78 of the Finance (No. 2) Act 2023 (alcohol duty: authorised use for certain purposes)];
- <sup>F4</sup>(b) .....
- (c) a person is refused approval for the purposes of section 9(1) or 14(1) of the Hydrocarbon Oil Duties Act 1979 (c. 5);
- (d) a person is refused consent for the purposes of section 10(1) of that Act.
- (3) The second condition is that on or after the commencement day a person pays to the Commissioners an amount by way of excise duty which would not have been paid but for the error.
- (4) The third condition is that on or after the commencement day the person refused pays for goods an amount which includes an amount which—
- (a) represents a payment by way of excise duty, and
- (b) would not have been included but for the error.
- (5) If the second condition is satisfied the Commissioners may pay to the person refused an amount equal to the duty which would not have been paid.
- (6) If the third condition is satisfied the Commissioners may pay to the person refused an amount which appears to them to be equal to the payment by way of excise duty.
- (7) The person refused is the person refused an authorisation, direction, approval or consent.

#### Textual Amendments

- F3** Words in Sch. 3 para. 1(2)(a) substituted (1.8.2023) by Finance (No. 2) Act 2023 (c. 30), s. 120(2), Sch. 13 para. 16(a); S.I. 2023/884, reg. 2(1)(j) (with reg. 10)
- F4** Sch. 3 para. 1(2)(b) omitted (1.8.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), s. 120(2), Sch. 13 para. 16(b); S.I. 2023/884, reg. 2(1)(j) (with reg. 10)

#### *Error relating to rebate*

- 2 (1) This paragraph applies if the following two conditions are satisfied.
- (2) The first condition is that a person is entitled to use rebated heavy oil in particular circumstances.
- (3) The second condition is that—
- (a) due to an error on the part of the Commissioners he is unable to use rebated heavy oil in those circumstances,
- (b) he uses unrebated heavy oil instead in those circumstances, and
- (c) the use occurs on or after the commencement day.
- (4) The Commissioners may pay to the person an amount equal to the rebate which would have been allowable under section 11 of the Hydrocarbon Oil Duties Act 1979 (c. 5) if—

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- (a) the heavy oil used by him in those circumstances had (at the time of that use) been delivered for home use, and
  - (b) the other conditions for allowing rebate had been satisfied at that time.
- (5) Rebated heavy oil is heavy oil on whose delivery for home use a rebate has been allowed under section 11 of the Hydrocarbon Oil Duties Act 1979, and unrebated heavy oil is other heavy oil.

### Claims

- 3 No payment may be made to a person under this Part of this Schedule unless—
- (a) he makes a claim in such form and manner, and containing such matters, as the Commissioners may prescribe by regulations, and
  - (b) he satisfies such other conditions as the Commissioners may impose by regulations.

## PART 2 U.K.

### INTEREST

#### Commissioners' delay

- 4 (1) This paragraph applies if—
- (a) a person is entitled to obtain an amount by way of repayment or drawback in respect of excise duty paid to the Commissioners,
  - (b) on or after the commencement day he makes a claim for the repayment or drawback, and
  - (c) the Commissioners fail to authorise it within the allowable period.
- (2) The Commissioners must pay interest to the person on the amount for the applicable period.
- (3) The allowable period is the period of 30 days starting with the day on which the Commissioners receive the claim.
- (4) The applicable period is the period which—
- (a) starts with the day after the allowable period ends, and
  - (b) ends with the day when the Commissioners authorise the repayment or drawback.
- (5) Sub-paragraph (4) is subject to paragraph 6.
- 5 (1) This paragraph applies if—
- (a) a person is entitled to obtain an amount by way of repayment or drawback in respect of excise duty paid to the Commissioners,
  - (b) on or after the commencement day he makes a claim for the repayment or drawback,
  - (c) the Commissioners set off the amount against an assessment,
  - (d) the assessment is withdrawn, and
  - (e) the Commissioners authorise the repayment or drawback.

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- (2) The Commissioners must pay interest to the person on the amount for the applicable period.
  - (3) The applicable period is the period which—
    - (a) starts with the earlier of the days referred to in sub-paragraph (4), and
    - (b) ends with the day when the Commissioners authorise the repayment or drawback.
  - (4) The days are—
    - (a) the day the amount is set off;
    - (b) the day after the end of the period of 30 days starting with the day on which the Commissioners receive the claim.
  - (5) Sub-paragraphs (3) and (4) are subject to paragraph 6.
- 6
- (1) In deciding the applicable period for the purposes of paragraphs 4 and 5 any period by which the Commissioners' authorisation of the repayment or drawback is delayed by circumstances beyond their control must be ignored.
  - (2) In applying sub-paragraph (1) account must be taken in particular of any period referable to—
    - (a) any failure by any person to provide the Commissioners with information requested by them to enable the existence and amount of the claimant's entitlement to a repayment or drawback to be determined;
    - (b) the making (in connection with the claim for repayment or drawback) of a claim to anything to which the claimant is not entitled.
  - (3) In deciding for the purposes of sub-paragraph (2)(a) whether a period of delay is referable to a failure by a person to provide information requested, the period mentioned in sub-paragraph (4) must be taken to be so referable (except so far as may be prescribed by the Commissioners by regulations).
  - (4) The period is that which—
    - (a) starts with the day when the Commissioners request the person to provide information they reasonably consider relevant to the matter to be determined, and
    - (b) ends with the earliest day when it would be reasonable for them to conclude that they have received a complete answer to their request or all they need to answer it, or to conclude that it is unnecessary for them to be provided with information in answer to their request.

*Commissioners' error*

- 7
- (1) This paragraph applies if—
    - (a) due to an error on the part of the Commissioners a person pays to them an amount by way of excise duty,
    - (b) the person is entitled to obtain repayment of the amount,
    - (c) he makes a claim (at any time) for the repayment and the Commissioners authorise it on or after the commencement day, and
    - (d) he makes a claim for interest under this paragraph before the end of the period of [<sup>F54</sup>4 years] starting with the day when the Commissioners authorise the repayment.

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- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when the payment is received by the Commissioners, and
  - (b) ends with the day when they authorise repayment.
- (4) Sub-paragraph (3) is subject to paragraph 11.

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#### Textual Amendments

**F5** Words in [Sch. 3 para. 7\(1\)\(d\)](#) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 8\(a\)](#); [S.I. 2011/777, art. 2](#) (with [art. 8](#))

- 8 (1) This paragraph applies if—
- (a) a person pays to the Commissioners an amount by way of excise duty,
  - (b) he is entitled to obtain an amount by way of repayment, remission, rebate or drawback in respect of the duty,
  - (c) due to an error on the part of the Commissioners he fails to claim the amount when he would (apart from the error) have done so,
  - (d) the person makes a claim (at any time) for the repayment, remission, rebate or drawback and the Commissioners authorise it on or after the commencement day, and
  - (e) he makes a claim for interest under this paragraph before the end of the period of [<sup>F6</sup>4 years] starting with the day when the Commissioners authorise the repayment, remission, rebate or drawback.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when (apart from the error) the Commissioners might reasonably have been expected to authorise repayment, remission, rebate or drawback, and
  - (b) ends with the day when they authorise it.
- (4) Sub-paragraph (3) is subject to paragraph 11.

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#### Textual Amendments

**F6** Words in [Sch. 3 para. 8\(1\)\(e\)](#) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 8\(b\)](#); [S.I. 2011/777, art. 2](#) (with [art. 8](#))

- 9 (1) This paragraph applies if—
- (a) a person pays to the Commissioners an amount by way of excise duty,
  - (b) he is entitled to obtain an amount by way of repayment, remission, rebate or drawback in respect of the duty,
  - (c) he makes a claim (at any time) for the repayment, remission, rebate or drawback and the Commissioners authorise it,
  - (d) due to an error on the part of the Commissioners their authorisation is delayed,

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- (e) the Commissioners authorise the repayment, remission, rebate or drawback on or after the commencement day,
  - (f) neither paragraph 4 nor paragraph 5 applies in relation to the person, and
  - (g) the person makes a claim for interest under this paragraph before the end of the period of [<sup>F7</sup>4 years] starting with the day when the Commissioners authorise the repayment, remission, rebate or drawback.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when (apart from the error) the Commissioners might reasonably have been expected to authorise repayment, remission, rebate or drawback, and
  - (b) ends with the day when they authorise it.
- (4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F7** Words in [Sch. 3 para. 9\(1\)\(g\)](#) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 8\(c\)](#); [S.I. 2011/777, art. 2](#) (with [art. 8](#))

- 10 (1) This paragraph applies if—
- (a) a person makes a claim for a payment under paragraph 1 or 2 of this Schedule and the Commissioners authorise it, and
  - (b) he makes a claim for interest under this paragraph before the end of the period of [<sup>F8</sup>4 years] starting with the day when the Commissioners authorise the payment.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when the second or third condition in paragraph 1 or the second condition in paragraph 2 (as the case may be) is satisfied in relation to that person, and
  - (b) ends with the day when the Commissioners authorise the payment under that paragraph.
- (4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F8** Words in [Sch. 3 para. 10\(1\)\(b\)](#) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 8\(d\)](#); [S.I. 2011/777, art. 2](#) (with [art. 8](#))

- 11 (1) In deciding the applicable period for the purposes of paragraphs 7 to 10 any period by which the Commissioners' authorisation of the repayment, remission, rebate, drawback or payment is delayed by circumstances beyond their control must be ignored.

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- (2) In applying sub-paragraph (1) account must be taken in particular of any period referable to—
- (a) any unreasonable delay in claiming repayment, remission, rebate, drawback or payment;
  - (b) any failure by any person to provide the Commissioners with information requested by them to enable the existence and amount of a claimant's entitlement to repayment, remission, rebate, drawback, payment or interest to be determined;
  - (c) the making (in connection with the claim for repayment, remission, rebate, drawback or payment) of a claim to anything to which the claimant is not entitled.
- (3) In deciding for the purposes of sub-paragraph (2)(b) whether a period of delay is referable to a failure by a person to provide information requested, the period mentioned in sub-paragraph (4) must be taken to be so referable (except so far as may be prescribed by the Commissioners by regulations).
- (4) The period is that which—
- (a) starts with the day when the Commissioners request the person to provide information they reasonably consider relevant to the matter to be determined, and
  - (b) ends with the earliest day when it would be reasonable for them to conclude that they have received a complete answer to their request or all they need to answer it, or to conclude that it is unnecessary for them to be provided with information in answer to their request.

### Claims

- 12 (1) A claim for interest under a relevant paragraph must be made in such form and manner, and contain such matters, as the Commissioners may prescribe by regulations.
- (2) If a person makes a claim under a relevant paragraph for interest on an amount, he may not make a claim under another relevant paragraph for interest on that amount.
- (3) The relevant paragraphs are paragraphs 7 to 10.

### Rate of interest

- 13 In the case of interest under this Part of this Schedule, the rate is that applicable under section 197 of the Finance Act 1996 (c. 8) (rates of interest).

## PART 3 U.K.

### APPEALS

- 14 (1) This paragraph applies if—
- (a) a person (the appellant) appeals to a tribunal under section 16 of the Finance Act 1994 (c. 9) in relation to an assessment to excise duty,
  - (b) the appellant pays, or gives cash security for, the whole or any part of that duty, and

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- (c) the tribunal finds that the whole or any part of the amount paid or secured is not due.
- (2) The Commissioners must repay to the appellant an amount equal to—
- (a) so much of the duty paid as is found not to be due, or
  - (b) so much of the cash security as relates to the duty found not to be due.
- (3) The Commissioners must pay interest to the appellant on the amount referred to in sub-paragraph (2) for the period which—
- (a) starts with the day when the duty is paid or the cash security is given, and
  - (b) ends with the day when the Commissioners authorise the repayment.
- [<sup>F9</sup>(4) The rate of interest is the rate applicable under section 197 of the Finance Act 1996.]
- (5) In this paragraph “cash security” means such adequate security as enables the Commissioners to place the amount in question on deposit.

#### Textual Amendments

- F9** Sch. 3 para. 14(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 308** (with Sch. 3 para. 9(2)(g))

## PART 4 U.K.

### GENERAL

#### *Amendments*

- 15 In section 137A of the Customs and Excise Management Act 1979 (c. 2) (recovery of overpaid excise duty) insert after subsection (5)—
- “(6) This section does not apply in a case where the Commissioners are—
- (a) entitled to pay an amount under Part 1 of Schedule 3 to the Finance Act 2001, or
  - (b) required to repay an amount under Part 3 of that Schedule.”.
- 16 In section 16(9) of the Finance Act 1994 (c. 9) (matters which are not ancillary matters) for the words from “paragraph 9(e)” to the end substitute—
- “the following paragraphs of Schedule 5—
- (a) paragraph 3(4);
  - (b) paragraph 4(3);
  - (c) paragraph 9(e);
  - (d) paragraph 9A.”.
- 17 (1) Schedule 5 to the Finance Act 1994 (decisions subject to review and appeal) is amended as follows.
- (2) In paragraph 3 (decisions about alcoholic liquor) insert after sub-paragraph (3)—
- “(4) Any decision which—



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- (a) is made under paragraph 1 of Schedule 3 to the Finance Act 2001, and
  - (b) relates to the Alcoholic Liquor Duties Act 1979.”.
- (3) In paragraph 4 (decisions about hydrocarbon oil) insert after sub-paragraph (2)—
- “(3) Any decision which—
- (a) is made under paragraph 1 or 2 of Schedule 3 to the Finance Act 2001, and
  - (b) relates to the Hydrocarbon Oil Duties Act 1979.”.
- (4) After paragraph 9 insert—
- “The Finance Act 2001**
- 9A Any decision under or for the purposes of Part 2 of Schedule 3 to the Finance Act 2001 (interest).”.
- 18 (1) Section 197(2) of the Finance Act 1996 (c. 8) (setting rates of interest) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) paragraph 7 of Schedule 6 to the Finance Act 1994 (interest payable to the Commissioners of Customs and Excise in connection with air passenger duty);”.
- (3) After paragraph (h) (which is inserted by section 49(2) of this Act) insert—
- “(i) Parts 2 and 3 of Schedule 3 to the Finance Act 2001 (interest payable on repayments etc.).”.
- 19 (1) Schedule 5 to the Finance Act 1997 (c. 16) (recovery of excess payments) is amended as follows.
- (2) In paragraph 14 (assessment for excessive repayment) at the end of sub-paragraph (3) (b) omit “or” and after sub-paragraph (3)(c) insert—
- “or
- (d) Part 1 of Schedule 3 to the Finance Act 2001 (payments made and rebates disallowed in error).”.
- (3) In paragraph 15 (assessment for overpayments of interest) omit sub-paragraph (2)(a), at the end of sub-paragraph (2)(b) omit “or”, and after sub-paragraph (2)(c) insert—
- “or
- (d) Part 2 of Schedule 3 to the Finance Act 2001 (interest).”.
- (4) In paragraph 19 (review of decisions and appeals) in sub-paragraph (1)(c) for “the relevant interest provision is paragraph 9 of Schedule 6 to the Finance Act 1994” substitute “ Part 1 of Schedule 3 to the Finance Act 2001 or the relevant interest provision is Part 2 of that Schedule ”.
- (5) In paragraph 20 (interpretation of Part 5) in sub-paragraph (2)(a)(ii) for “paragraph 9 of Schedule 6 to the Finance Act 1994” substitute “ Part 2 of Schedule 3 to the Finance Act 2001 ”.

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- 20 In Schedule 6 to the Finance Act 1994 (c. 9), paragraphs 9 and 10 (interest in relation to air passenger duty) are omitted.

*General*

- 21 (1) This Schedule shall come into force in accordance with provision made by the Commissioners by order.
- (2) A reference in a provision of this Schedule to the commencement day is to such day as the Commissioners appoint by such order for the purposes of that provision.

**Subordinate Legislation Made**

**P1** Sch. 3 para. 21(1) power fully exercised: 1.11.2001 appointed by S.I. 2001/3300, art. 2 (with art. 3)

- 22 (1) A power to make an order or regulations under this Schedule is exercisable by statutory instrument.
- (2) An order or regulations under this Schedule—
- (a) may make different provision for different purposes;
  - (b) may make incidental, supplemental, saving or transitional provision.
- (3) Regulations under this Schedule are subject to annulment in pursuance of a resolution of either House of Parliament.
- 23 References in this Schedule to the Commissioners are to the Commissioners of Customs and Excise.

SCHEDULE 4 **U.K.**

Section 24.

AGGREGATES LEVY: REGISTRATION

*Notification of registrability etc.*

- 1 <sup>[F10]</sup>(1) An unregistered person who—
- (a) is required to be registered for the purposes of aggregates levy, or
  - (b) has formed the intention of carrying out taxable activities that are registrable,
- shall notify the Commissioners of that fact.
- (1A) An unregistered person who—
- (a) would be required to be registered for the purposes of aggregates levy but for an exemption by virtue of regulations under section 24(4) of this Act, or
  - (b) has formed the intention of carrying out taxable activities that would be registrable but for such an exemption,
- shall, in such cases or circumstances as may be prescribed in the regulations, notify the Commissioners of that fact.
- (1B) For the purposes of sub-paragraphs (1) and (1A) above, taxable activities are registrable if a person carrying them out is, by reason of doing so, required by section 24(2) of this Act to be registered for the purposes of aggregates levy.]

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- F11(2) .....
- F11(3) .....
- F11(4) .....
- F11(5) .....
- F11(6) .....

**Textual Amendments**

- F10** Sch. 4 para. 1(1)-(1B) substituted for Sch. 4 para. 1(1) (*retrospective to 1.4.2002*) by 2002 c. 23, s. 132(3), **Sch. 38 para. 9(2)**
- F11** Sch. 4 para. 1(2)-(6) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(I)**; S.I. 2009/511, art. 2 (with art. 4)

*Form of registration*

- 2
- (1) The Commissioners shall register a person who is required to be registered for the purposes of aggregates levy with effect from the time when the requirement arose.
  - (2) Where any two or more bodies corporate are members of the same group they shall be registered together as one person in the name of the representative member.
  - (3) The registration of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
  - (4) The registration of—
    - (a) any two or more persons carrying on a business in partnership, or
    - (b) an unincorporated body,may be in the name of the firm or body concerned.

*Notification of loss or prospective loss of registrability*

- 3
- (1) A person who, having become liable to give a notification by virtue of paragraph 1 above, ceases (whether before or after being registered) to have the intention of carrying out taxable activities shall notify the Commissioners of that fact.
  - (2) A person who fails to comply with sub-paragraph (1) above shall be liable to a penalty of £250.

*Cancellation of registration*

- 4
- (1) If the Commissioners are satisfied that a registered person—
    - (a) has ceased to carry out taxable activities, and
    - (b) does not have the intention of carrying out taxable activities,they may cancel his registration with effect from such time after he last carried out such activities as appears to them to be appropriate.

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- (2) Sub-paragraph (1) above applies whether or not the registered person has notified the Commissioners under paragraph 3 above.
- (3) Where a registered person is exempted from the requirement to be registered by virtue of regulations under section 24(4), the Commissioners may cancel his registration with effect from the time when he became so exempted or such later time as appears to them to be appropriate.
- (4) The Commissioners shall be under a duty to exercise the power conferred by sub-paragraph (1) or (3) above with effect from any time if, where the power is exercisable, they are satisfied that the conditions specified in sub-paragraph (5) below are satisfied and were or will be satisfied at that time.
- (5) Those conditions are—
- (a) that the person in question—
    - (i) has given a notification under paragraph 3 above; or
    - (ii) is exempted from the requirement to be registered by virtue of regulations under section 24(4) of this Act;
  - (b) that no aggregates levy due from that person, and no amount recoverable as if it were such levy, remains unpaid;
  - (c) that no tax credit to which that person is entitled by virtue of any tax credit regulations is outstanding; and
  - (d) that that person is not subject to any outstanding liability to make a return for the purposes of aggregates levy.
- (6) Where—
- (a) a registered person notifies the Commissioners under paragraph 3 above, and
  - (b) they are satisfied that (if he had not been registered) he would not have been required to be registered at any time since the time when he was registered,
- they shall cancel his registration with effect from the date of his registration.
- (7) Where—
- (a) a registered person is exempted from the requirement to be registered by virtue of regulations under section 24(4) of this Act, and
  - (b) the Commissioners are satisfied that he has been so exempted at all times since being registered,
- they shall cancel his registration with effect from the date of his registration.

*Correction of the register etc.*

- 5 (1) The Commissioners may by regulations make provision for and with respect to the correction of entries in the register.
- (2) Regulations under this paragraph may, to such extent as appears to the Commissioners appropriate for keeping the register up to date, make provision requiring—
- (a) registered persons, and
  - (b) persons who are required to be registered, and
  - (c) persons who would be so required but for any exemption by virtue of regulations under section 24(4) of this Act,

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to notify the Commissioners of changes in circumstances relating to themselves, their businesses or any other matter with respect to which particulars are contained in the register (or would be, were the person registered).

#### *Supplemental regulations about notifications*

- 6 (1) For the purposes of any provision made by or under section 24 of this Act or this Schedule for any matter to be notified to the Commissioners, regulations made by the Commissioners may make provision—
- (a) as to the time within which the notification is to be given;
  - (b) as to the form and manner in which the notification is to be given; and
  - (c) as to the information and other particulars to be contained in or provided with any notification.
- (2) For those purposes the Commissioners may also by regulations impose obligations requiring a person who has given a notification to notify the Commissioners if any information contained in or provided in connection with that notification is or becomes inaccurate.
- (3) The power under this paragraph to make regulations as to the time within which any notification is to be given shall include power to authorise the Commissioners to extend the time for the giving of a notification.

#### *Publication of information on the register*

- 7 (1) The Commissioners may publish, by such means as they think fit, any information which—
- (a) is derived from the register; and
  - (b) falls within any of the descriptions set out below.
- (2) The descriptions are—
- (a) the names of registered persons;
  - (b) particulars of registered sites;
  - (c) the fact (where it is the case) that the registered person is a body corporate which is a member of a group;
  - (d) the names of the other bodies corporate which are members of the group.
- (3) Information may be published in accordance with this paragraph notwithstanding any obligation not to disclose the information that would otherwise apply.

#### *Interpretation of Schedule*

- 8 (1) In this Schedule—
- (a) references to the register are references to the register maintained under section 24 of this Act;
  - (b) references to registering a person are references to registering him in that register; and
  - (c) references to a person's registration are references to his registration in that register;
- and “unregistered” shall be construed accordingly.

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- (2) For the purposes of this Schedule a person carries out a taxable activity if a quantity of aggregate is subjected to commercial exploitation in [<sup>F12</sup>England, Wales or Northern Ireland] in circumstances in which he is responsible for its being so subjected.

**Textual Amendments**

**F12** Words in [Sch. 4 para. 8\(2\)](#) substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 10](#)

SCHEDULE 5 U.K.

Section 27.

AGGREGATES LEVY: RECOVERY AND INTEREST

*Recovery of levy as debt due*

- 1 Aggregates levy shall be recoverable as a debt due to the Crown.

*Assessments of amounts of levy due*

- 2 (1) Where it appears to the Commissioners—
- (a) that any period is an accounting period by reference to which a person is liable to account for aggregates levy,
  - (b) that any aggregates levy for which that person is liable to account by reference to that period has become due, and
  - (c) that there has been a default by that person that falls within sub-paragraph (2) below,
- they may assess the amount of the levy due from that person for that period to the best of their judgement and notify that amount to that person.
- (2) The defaults falling within this sub-paragraph are—
- (a) any failure to make a return required to be made by any provision made by or under this Part of this Act;
  - (b) any failure to keep any documents necessary to verify returns required to be made under any such provision;
  - (c) any failure to afford the facilities necessary to verify returns required to be made under any such provision;
  - (d) the making, in purported compliance with any requirement of any such provision to make a return, of an incomplete or incorrect return;
  - (e) any failure to comply with a requirement imposed by or under Schedule 4 to this Act.
- (3) Where it appears to the Commissioners that a default falling within sub-paragraph (2) above is a default by a person on whom the requirement to make a return is imposed in his capacity as the representative of another person, sub-paragraph (1) above shall apply as if the reference to the amount of aggregates levy due included a reference to any aggregates levy due from that other person.
- (4) In a case where—

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- (a) the Commissioners have made an assessment for any accounting period as a result of any person's failure to make a return for that period,
- (b) the levy assessed has been paid but no proper return has been made for that period,
- (c) as a result of a failure (whether by that person or a representative of his) to make a return for a later accounting period, the Commissioners find it necessary to make another assessment under this paragraph in relation to the later period, and
- (d) the Commissioners think it appropriate to do so in the light of the absence of a proper return for the earlier period,

they may, in the assessment in relation to the later period, specify an amount of aggregates levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

- (5) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable on the basis that it is an amount of aggregates levy due from him.
- (6) Sub-paragraph (5) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

#### *Supplementary assessments*

- 3 (1) If, where an assessment has been notified to any person under paragraph 2 above or this paragraph, it appears to the Commissioners that the amount which ought to have been assessed as due for any accounting period exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.
- (2) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable on the basis that it is an amount of aggregates levy due from him.
- (3) Sub-paragraph (2) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

#### *Time limits for assessments*

- 4 (1) An assessment under paragraph 2 or 3 above of an amount of aggregates levy due for any accounting period—
  - (a) shall not be made more than two years after the end of the accounting period unless it is made within the period mentioned in sub-paragraph (2) below; and
  - (b) subject to sub-paragraph (3) below, shall not in any event be made more than [<sup>F13</sup>4 years] after the end of that accounting period.
- (2) The period referred to in sub-paragraph (1)(a) above is the period of one year after evidence of facts sufficient in the Commissioners' opinion to justify the making of the assessment first came to their knowledge.
- <sup>F14</sup>(3) An assessment of an amount due from a person in a case involving a loss of aggregates levy—
  - (a) brought about deliberately by the person (or by another person acting on that person's behalf), or

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- (b) attributable to a failure by the person to comply with an obligation under section 24(2) or paragraph 1 of Schedule 4,  
 may be made at any time not more than 20 years after the end of the accounting period to which it relates (subject to sub-paragraph (4)).
- (3A) In sub-paragraph (3)(a) the reference to a loss brought about deliberately by the person includes a loss brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]
- (4) Where, after a person's death, the Commissioners propose to assess an amount of aggregates levy as due by reason of some conduct of the deceased—
- (a) the assessment shall not be made more than [<sup>F15</sup>4 years] after the death, <sup>F16</sup>...
- <sup>F16</sup>(b) .....
- (5) Nothing in this paragraph shall prejudice the powers of the Commissioners under paragraph 2(4) above.

#### **Textual Amendments**

- F13** Words in Sch. 5 para. 4(1)(b) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), [Sch. 51 para. 29\(2\)](#); S.I. 2010/867, art. 2(1) (with art. 10)
- F14** Sch. 5 para. 4(3)(3A) substituted for Sch. 5 para. 4(3) (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), [Sch. 51 para. 29\(3\)](#); S.I. 2010/867, art. 2(1) (with art. 11)
- F15** Words in Sch. 5 para. 4(4)(a) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), [Sch. 51 para. 29\(4\)\(a\)](#); S.I. 2010/867, art. 2(1) (with art. 12)
- F16** Sch. 5 para. 4(4)(b) and word omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 99(2), [Sch. 51 para. 29\(4\)\(b\)](#); S.I. 2010/867, art. 2(1) (with art. 12)

#### *Penalty interest on unpaid levy*

- 5 (1) Where—
- (a) a person makes a return for the purposes of any regulations made under section 25 of this Act (whether or not at the time required by the regulations), and
- (b) the return shows that an amount of aggregates levy is due from him for the accounting period for which the return is made,  
 that amount shall carry penalty interest for the period specified in sub-paragraph (2) below.
- (2) That period is the period which—
- (a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and
- (b) ends with the day before that on which the amount shown in the return is paid.

#### *Interest on overdue levy paid before assessment*

- 6 (1) Where—



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- (a) the circumstances are such that there was a time when an assessment could have been made under paragraph 2 or 3 above of an amount of levy due from any person, but
- (b) before the making and notification to that person of any assessment of that amount, the amount was paid,

the whole of the amount paid shall be taken to have carried interest for the period specified in sub-paragraph (2).

- (2) That period is the period which—
  - (a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period to which the amount in question relates; and
  - (b) ends with the day before that on which that amount was paid.
- (3) The interest payable by virtue of this paragraph shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8).

#### *Penalty interest on levy where no return made*

- 7 (1) Where—
- (a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him, and
  - (b) the assessment is made at a time after the time by which a return is required by regulations under section 25 of this Act to be made by that person for that accounting period and before any such return has been made,
- that amount shall carry penalty interest for the period specified in sub-paragraph (2) below.
- (2) That period is the period which—
    - (a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and
    - (b) ends with the day before that on which the assessed amount is paid.

#### *Ordinary and penalty interest on under-declared levy*

- 8 (1) Subject to sub-paragraph (4) below, where—
- (a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him,
  - (b) the assessment is made after a return for the purposes of any regulations under section 25 has been made by that person for that accounting period, and
  - (c) the assessment is made on the basis that the amount (“the additional amount”) is due from him in addition to any amount shown in the return, or in a previous assessment made in relation to the accounting period,
- the additional amount shall carry interest for the period specified in sub-paragraph (2) below.
- (2) That period is the period which—

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- (a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and
  - (b) ends with the day before the day on which the additional amount is paid.
- (3) Interest under this paragraph—
- (a) in respect of so much of the period specified in sub-paragraph (2) above as falls before the day on which the assessment is notified to the person in question, shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8); and
  - (b) in respect of the remainder (if any) of that period, shall be penalty interest.
- (4) Where—
- (a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him,
  - (b) they also specify a date for the purposes of this sub-paragraph, and
  - (c) the amount assessed is paid on or before that date,
- the only interest carried by that amount under this paragraph shall be interest, at the rate given by sub-paragraph (3)(a) above, for the period before the day on which the assessment is notified.

*Penalty interest on unpaid ordinary interest*

- 9 (1) Subject to sub-paragraph (2) below, where the Commissioners make an assessment under paragraph 12 below of an amount of interest payable at the rate given by paragraph 8(3)(a) above, that amount shall carry penalty interest for the period which—
- (a) begins with the day on which the assessment is notified to the person on whom the assessment is made; and
  - (b) ends with the day before the day on which the assessed interest is paid.
- (2) Where—
- (a) the Commissioners make an assessment under paragraph 12 below of an amount of interest due from any person,
  - (b) they also specify a date for the purposes of this sub-paragraph, and
  - (c) the amount of interest assessed is paid on or before that date,
- the amount paid before that date shall not carry penalty interest under this paragraph.

*Penalty interest*

- 10 (1) Penalty interest under any of paragraphs 5 to 9 above shall be compound interest calculated—
- (a) at the penalty rate; and
  - (b) with monthly rests.
- (2) For this purpose the penalty rate is the rate found by—
- (a) taking the rate applicable under section 197 of the Finance Act 1996 (c. 8) for the purposes of paragraph 8(3)(a) above; and
  - (b) adding 10 percentage points to that rate.

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- (3) Where a person is liable under any of paragraphs 5 to 9 above to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (4) Subject to sub-paragraph (5) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (3) above.
- (5) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (4) above, no account shall be taken of any of the following matters, that is to say—
  - (a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the interest;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of aggregates levy;
  - (c) the fact that the person liable to pay the interest or a person acting on his behalf has acted in good faith.
- (6) In the case of interest reduced by the Commissioners under sub-paragraph (3) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

#### *Supplemental provisions about interest*

- 11 (1) Interest under any of paragraphs 5 to 9 above shall be paid without any deduction of income tax.
- (2) Sub-paragraph (3) below applies where—
  - (a) an amount carries interest under any of paragraphs 5 to 9 above (or would do so apart from that sub-paragraph); and
  - (b) all or part of the amount turns out not to be due.
- (3) In such a case—
  - (a) the amount or part that turns out not to be due shall not carry interest under the applicable paragraph and shall be treated as never having done so; and
  - (b) all such adjustments as are reasonable shall be made, including (subject to section 32 of, and Schedule 8 to, this Act) adjustments by way of repayment.

#### *Assessments to interest*

- 12 (1) Where a person is liable for interest under any of paragraphs 5 to 9 above, the Commissioners may assess the amount due by way of interest and notify it to him accordingly.
- (2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.

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- (4) Sub-paragraph (3) above—
- (a) shall not apply so as to require any interest to be payable on interest except—
    - (i) in accordance with paragraph 9 above; or
    - (ii) in so far as it falls to be compounded in accordance with paragraph 10 above;
 and
  - (b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (5) Paragraph 4 above shall apply in relation to assessments under this paragraph as if any assessment to interest were an assessment under paragraph 2 above to aggregates levy due for the period which is the relevant accounting period in relation to that interest.
- (6) Subject to sub-paragraph (7) below, where a person—
- (a) is assessed under this paragraph to an amount due by way of any interest, and
  - (b) is also assessed under paragraph 2 or 3 above for the accounting period which is the relevant accounting period in relation to that interest,
- the assessments may be combined and notified to him as one assessment.
- (7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the interest being assessed.
- (8) The relevant accounting period for the purposes of this paragraph is—
- (a) in the case of interest on the levy due for any accounting period, that accounting period; and
  - (b) in the case of interest on interest (whether under paragraph 9 above or by virtue of any compounding under paragraph 10 above) the period which is the relevant accounting period for the interest on which the interest is payable.
- (9) In a case where—
- (a) the amount of any interest falls to be calculated by reference to aggregates levy which was not paid at the time when it should have been, and
  - (b) that levy cannot be readily attributed to any one or more accounting periods,
- that levy shall be treated for the purposes of interest on any of that levy as aggregates levy due for such period or periods as the Commissioners may determine to the best of their judgement and notify to the person liable.

*Further assessments to penalty interest*

- 13 (1) Where an assessment is made under paragraph 12 above to an amount of penalty interest under any of paragraphs 5 to 9 above—
- (a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and
  - (b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under paragraph 12 above in respect of the amounts so accruing.
- (2) Where—

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- (a) an assessment to penalty interest is made specifying a date for the purposes of sub-paragraph (1)(a) above, and
  - (b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,
- that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

#### *Recovery by distress*

- 14 In section 51(5) of the Finance Act 1997 (c. 16) (definition of relevant taxes for the purposes of the power to make provision by regulations for enforcement by distress of the relevant taxes), after paragraph (d) there shall be inserted—
- “(da) aggregates levy;”.

#### *Walking possession agreements*

- 15 (1) This paragraph applies where—
- (a) in accordance with regulations made by virtue of paragraph 14 above a distress is authorised to be levied on the goods and chattels of a person;
  - (b) that person (“the person in default”) has refused or neglected to pay an amount of aggregates levy due from him or an amount recoverable from him as if it were aggregates levy; and
  - (c) the person levying the distress and the person in default have entered into a walking possession agreement.
- (2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to sub-paragraph (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to one half of the levy or other amount referred to in sub-paragraph (1) (b) above.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.

[<sup>F17</sup>(5) This paragraph extends only to Northern Ireland.]

#### **Textual Amendments**

- F17** Sch. 5 para. 15(5) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 141](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

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*Recovery by diligence*

- 16 In section 52(5) of the Finance Act 1997 (c. 16) (definition of relevant taxes for the purposes of the power to make provision by regulations for enforcement by diligence of the relevant taxes), after paragraph (d) there shall be inserted—  
  - “(da) aggregates levy;”.

*Preferential debts in England and Wales and Northern Ireland*

- 17 <sup>F18</sup>(1) .....
- <sup>F18</sup>(2) .....
- <sup>F19</sup>(3) .....
- <sup>F19</sup>(4) .....

**Textual Amendments**

**F18** Sch. 5 para. 17(1)(2) repealed (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 4)

**F19** Sch. 5 para. 17(3)(4) repealed (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455), art. 1(3), **Sch. 9**; S.R. 2006/21, art. 2 (subject to S.R. 2006/22, arts. 2-7)

*Preferred debts in Scotland*

- <sup>F20</sup>18 .....

**Textual Amendments**

**F20** Sch. 5 para. 18 repealed (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 4)

*Interpretation of Schedule etc.*

- 19 (1) In this Schedule “penalty interest” shall be construed in accordance with paragraph 10 above.
- (2) Any notification of an assessment under any provision of this Schedule to a person’s representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.
- (3) In this Schedule “representative”, in relation to any person, means—
  - (a) any of that person’s personal representatives;
  - (b) that person’s trustee in bankruptcy or liquidator;
  - (c) any person holding office as a receiver in relation to that person or any of his property;
  - (d) that person’s tax representative or any other person for the time being acting in a representative capacity in relation to that person.
- (4) In this paragraph “trustee in bankruptcy” includes, as respects Scotland—

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- (a) [<sup>F21</sup>a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;] and
- (b) a trustee acting under a trust deed (within the meaning of that Act).

#### Textual Amendments

**F21** Word in Sch. 5 para. 19(4)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 24(3)

## SCHEDULE 6 U.K.

Section 28.

### AGGREGATES LEVY: EVASION, MISDECLARATION AND NEGLECT

#### PART 1 U.K.

#### CRIMINAL OFFENCES

##### *Evasion*

- 1 (1) A person is guilty of an offence if he is knowingly concerned in, or in the taking of steps with a view to—
  - (a) the fraudulent evasion by that person of any aggregates levy with which he is charged; or
  - (b) the fraudulent evasion by any other person of any aggregates levy with which that other person is charged.
- (2) The references in sub-paragraph (1) above to the evasion of aggregates levy include references to obtaining, in circumstances where there is no entitlement to it, either a tax credit or a repayment of aggregates levy.
- (3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—
  - (a) on summary conviction, to a penalty of [<sup>F22</sup>the statutory maximum][<sup>F22</sup>£20,000] or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.
- (4) In the case of any offence under this paragraph, where [<sup>F23</sup>the statutory maximum][<sup>F23</sup>the amount of £5,000 mentioned in paragraph 1(3)(a)] is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded, the penalty on summary conviction shall be the amount equal to three times that sum (instead of [<sup>F23</sup>the statutory maximum][<sup>F23</sup>the amount of £5,000 mentioned in paragraph 1(3)(a)]).
- (5) For the purposes of sub-paragraph (4) above the amounts of levy that were or were intended to be evaded shall be taken to include—
  - (a) the amount of any tax credit, and

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- (b) the amount of any repayment of aggregates levy,  
 which was, or was intended to be, obtained in circumstances where there was no entitlement to it.
- (6) In determining for the purposes of sub-paragraph (4) above how much aggregates levy (in addition to any amount falling within sub-paragraph (5) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayment of aggregates levy to which he was, or would have been, entitled.

#### Textual Amendments

- F22** Sum in Sch. 6 para. 1(3)(a) substituted (E.W.) (12.3.2015) for words by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(a)** (with reg. 5(1))
- F23** Words in Sch. 6 para. 1(4) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(b)** (with reg. 5(1))

#### Misstatements

- 2 (1) A person is guilty of an offence if, with the requisite intent and for purposes connected with aggregates levy—
- (a) he produces or provides, or causes to be produced or provided, any document which is false in a material particular; or
- (b) he otherwise makes use of such a document;
- and in this sub-paragraph “the requisite intent” means the intent to deceive any person or to secure that a machine will respond to the document as if it were a true document.
- (2) A person is guilty of an offence if, in providing any information under any provision made by or under this Part of this Act—
- (a) he makes a statement which he knows to be false in a material particular; or
- (b) he recklessly makes a statement which is false in a material particular.
- (3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—
- (a) on summary conviction, to a penalty of [<sup>F24</sup>the statutory maximum][<sup>F24</sup>£20,000] or to imprisonment for a term not exceeding six months, or to both;
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.
- (4) In the case of any offence under this paragraph, where—
- (a) the document referred to in sub-paragraph (1) above is a return required under any provision made by or under this Part of this Act, or
- (b) the information referred to in sub-paragraph (2) above is contained in or otherwise relevant to such a return,
- the amount of the penalty on summary conviction shall be whichever is the greater of [<sup>F25</sup>the statutory maximum][<sup>F25</sup>the amount of £20,000 mentioned in sub-paragraph (3)



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- (a)] and the amount equal to three times the sum of the amounts (if any) by which the return understates any person's liability to aggregates levy.
- (5) In sub-paragraph (4) above the reference to the amount by which any person's liability to aggregates levy is understated shall be taken to be equal to the sum of—
- (a) the amount (if any) by which his gross liability was understated; and
  - (b) the amount (if any) by which any entitlements of his to tax credits and repayments of aggregates levy were overstated.
- (6) In sub-paragraph (5) above “gross liability” means liability to aggregates levy before any deduction is made in respect of any entitlement to any tax credit or repayments of aggregates levy.

#### Textual Amendments

- F24** Sum in Sch. 6 para. 2(3)(a) substituted (E.W.) (12.3.2015) for words by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(c)** (with reg. 5(1))
- F25** Words in Sch. 6 para. 2(4) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(d)** (with reg. 5(1))

#### Conduct involving evasions or misstatements

- 3 (1) A person is guilty of an offence under this paragraph if his conduct during any particular period must have involved the commission by him of one or more offences under the preceding provisions of this Schedule.
- (2) For the purposes of any proceedings for an offence under this paragraph it shall be immaterial whether the particulars of the offence or offences that must have been committed are known.
- (3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—
- (a) on summary conviction, to a penalty of [<sup>F26</sup>the statutory maximum][<sup>F26</sup>£20,000] or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.
- (4) In the case of any offence under this paragraph, where [<sup>F27</sup>the statutory maximum][<sup>F27</sup>the amount of £20,000 mentioned in sub-paragraph (3)(a)] is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded by the conduct in question, the penalty on summary conviction shall be the amount equal to three times that sum (instead of [<sup>F27</sup>the statutory maximum][<sup>F27</sup>the amount of £20,000 mentioned in sub-paragraph (3) (a)]).
- (5) For the purposes of sub-paragraph (4) above the amounts of levy that were or were intended to be evaded by any conduct shall be taken to include—
- (a) the amount of any tax credit, and
  - (b) the amount of any repayment of aggregates levy,

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which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

- (6) In determining for the purposes of sub-paragraph (4) above how much aggregates levy (in addition to any amount falling within sub-paragraph (5) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayments of aggregates levy to which he was, or would have been, entitled.

#### Textual Amendments

- F26** Sum in Sch. 6 para. 3(3)(a) substituted (E.W.) (12.3.2015) for words by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(e)** (with reg. 5(1))
- F27** Words in Sch. 6 para. 3(4) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(f)** (with reg. 5(1))

#### Preparations for evasion

- 4 (1) Where a person—
- (a) becomes a party to any agreement under or by means of which a quantity of taxable aggregate is or is to be subjected to commercial exploitation in [<sup>F28</sup>England, Wales or Northern Ireland], or
  - (b) makes arrangements for any other person to become a party to such an agreement,
- he is guilty of an offence if he does so in the belief that aggregates levy chargeable on the aggregate in question will be evaded.
- (2) Subject to sub-paragraph (3) below, a person guilty of an offence under this paragraph shall be liable, on summary conviction, to a penalty of [<sup>F29</sup>level 5 on the standard scale][<sup>F29</sup>£20,000].
- (3) In the case of any offence under this paragraph, where [<sup>F30</sup>level 5 on the standard scale][<sup>F30</sup>the amount of £20,000 mentioned in sub-paragraph (2)] is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded in respect of the aggregate in question, the penalty shall be the amount equal to three times that sum (instead of [<sup>F30</sup>level 5 on the standard scale][<sup>F30</sup>the amount of £20,000 mentioned in sub-paragraph (2)] ).
- (4) For the purposes of sub-paragraph (3) above the amounts of levy that were or were intended to be evaded shall be taken to include—
- (a) the amount of any tax credit, and
  - (b) the amount of any repayment of aggregates levy,
- which was, or was intended to be, obtained in circumstances where there was no entitlement to it.
- (5) In determining for the purposes of sub-paragraph (3) above how much aggregates levy (in addition to any amount falling within sub-paragraph (4) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any

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liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayments of aggregates levy to which he was, or would have been, entitled.

#### Textual Amendments

- F28** Words in Sch. 6 para. 4(1)(a) substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\)](#), s. 72(3), **Sch. 1 para. 11**
- F29** Sum in Sch. 6 para. 4(2) substituted (E.W.) (12.3.2015) for words by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(g)** (with reg. 5(1))
- F30** Words in Sch. 6 para. 4(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 12(3)(h)** (with reg. 5(1))

#### *Criminal proceedings etc.*

- 5 Sections 145 to 155 of the Customs and Excise Management Act 1979 (c. 2) (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences and penalties under this Part of this Schedule as they apply in relation to offences and penalties under the customs and excise Acts.

#### *Arrest*

- <sup>F31</sup>6 .....

#### Textual Amendments

- F31** Sch. 6 para. 6 repealed (1.12.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(5), Sch. 22 para. 12(a), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 3(a)

## PART 2 **U.K.**

### CIVIL PENALTIES

#### *Evasion*

- <sup>F32</sup>7 .....

#### Textual Amendments

- F32** Sch. 6 paras. 7-9 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), **Sch. 40 para. 21(i)**; S.I. 2009/571, art. 2 (with art. 6)

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

- C1** Sch. 6 para. 7 savings for effects of 2008 c. 9, Sch. 40 para. 21 (5.3.2009) by [The Finance Act 2008, Schedule 41 \(Appointed Day and Transitional Provisions\) Order 2009 \(S.I. 2009/511\)](#), art. 4(e)(i)

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*Liability of directors etc. for civil penalties*

<sup>F32</sup>8 . . . . .

**Textual Amendments**

**F32** Sch. 6 paras. 7-9 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(i\)](#); [S.I. 2009/571](#), art. 2 (with art. 6)

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

**C2** Sch. 6 para. 8 savings for effects of 2008 c. 9, Sch. 40 para. 21 (5.3.2009) by [The Finance Act 2008](#), [Schedule 41 \(Appointed Day and Transitional Provisions\) Order 2009 \(S.I. 2009/511\)](#), [art. 4\(e\)\(i\)](#)

*Misdeclaration or neglect*

<sup>F32</sup>9 . . . . .

**Textual Amendments**

**F32** Sch. 6 paras. 7-9 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(i\)](#); [S.I. 2009/571](#), art. 2 (with art. 6)

*Incorrect records etc evidencing claim for tax credit*

- <sup>F33</sup>9A (1) This paragraph applies where—
- (a) a claim is made for a tax credit in such a case as is mentioned in—
    - (i) section 30(1)(c) of this Act (aggregate used in a prescribed industrial or agricultural process), <sup>F34</sup>...
    - (ii) section 30A of this Act (transitional tax credit in Northern Ireland)<sup>F35</sup>, or
    - (iii) section 30B(3) of this Act (special tax credit in Northern Ireland);]
  - (b) a record or other document is provided to the Commissioners as evidence for the claim; and
  - (c) the record or document is incorrect.
- (2) The person who provided the document to the Commissioners, and any person who provided it to anyone else with a view to its being used as evidence for a claim for a tax credit, shall be liable to a penalty.
- (3) The amount of the penalty shall be equal to 105 per cent of the difference between—
- (a) the amount of tax credit that would have been due on the claim if the record or document had been correct, and
  - (b) the amount (if any) of tax credit actually due on the claim.
- (4) The providing of a record or other document shall not give rise to a penalty under this paragraph if the person who provided it satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his having provided it.
- (5) Where by reason of providing a record or other document—
- (a) a person is convicted of an offence (whether under this Act or otherwise), <sup>F36</sup> . . .

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

that person shall not by reason of the providing of the record or document be liable also to a penalty under this paragraph.]

**Textual Amendments**

- F33** Sch. 6 para. 9A inserted (*retrospective* from 1.5.2002 ) by [2002 c. 23](#), 133(5)(6)
- F34** Word in Sch. 6 para. 9A(1)(a)(i) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [s. 61\(5\)\(a\)](#)
- F35** Sch. 6 para. 9A(1)(a)(iii) and word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [s. 61\(5\)\(b\)](#)
- F36** Sch. 6 para. 9A(5)(b) and word omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), [s. 122\(2\)](#), [Sch. 40 para. 21\(i\)](#); [S.I. 2009/571](#), [art. 2](#) (with [art. 6](#))

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

- C3** Sch. 6 para. 9A(5)(b) savings for effects of 2008 c. 9, Sch. 40 para. 21 (5.3.2009) by [The Finance Act 2008, Schedule 41 \(Appointed Day and Transitional Provisions\) Order 2009 \(S.I. 2009/511\)](#), [art. 4\(e\)\(ii\)](#)

**PART 3 U.K.**

INTERPRETATION OF SCHEDULE

- 10 (1) References in this Schedule to obtaining a tax credit are references to bringing an amount into account as a tax credit for the purposes of aggregates levy on the basis that that amount is an amount which may be so brought into account in accordance with tax credit regulations.
- (2) References in this Schedule to obtaining a repayment of aggregates levy are references to obtaining either—
  - (a) the payment or repayment of any amount, or
  - (b) the acknowledgement of a right to receive any amount,on the basis that that amount is the amount of a repayment of aggregates levy to which there is an entitlement.

SCHEDULE 7 **U.K.**

Section 29.

AGGREGATES LEVY: INFORMATION AND EVIDENCE ETC

*Provision of information*

<sup>F37</sup><sub>1</sub> .....

**Textual Amendments**

- F37** Sch. 7 para. 1 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), [art. 1](#), [Sch. para. 9](#) (with [art. 6](#))

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### Records

- 2 (1) The Commissioners may by regulations impose obligations to keep records on persons who are or are required to be registered and on persons who would be so required but for an exemption by virtue of regulations under section 24(4) of this Act.
- (2) Regulations under this paragraph may be framed by reference to such records as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Regulations under this paragraph may—
- (a) require any records kept in pursuance of the regulations to be preserved for such period, not exceeding six years, as may be specified in the regulations;
  - (b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations;
  - (c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.
- [<sup>F38</sup>(4) A duty under regulations under this paragraph to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners.]
- (6) Subject to sub-paragraphs (7) and (8) below, a person who fails to preserve any record in compliance with—
- (a) any regulations under this paragraph, or
  - (b) any notice, direction or requirement given or imposed under such regulations,
- shall be liable to a penalty of £250.
- (7) A failure such as is mentioned in sub-paragraph (6) above shall not give rise to any penalty under that sub-paragraph if the person required to preserve the record satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (8) Where, by reason of any such failure by any person as is mentioned in sub-paragraph (6) above—
- (a) that person is convicted of an offence (whether under this Act or otherwise), or
  - (b) that person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion) [<sup>F39</sup>or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)],
- that person shall not by reason of that failure be liable also to a penalty under this paragraph.
- (9) The Commissioners may if they think fit at any time modify or withdraw any <sup>F40</sup>... requirement <sup>F40</sup>... imposed for the purposes of this paragraph.

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**Textual Amendments**

- F38** Sch. 7 para. 2(4) substituted for Sch. 7 para. 2(4)(5) (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 16\(2\)](#); S.I. 2010/815, art. 2
- F39** Words in Sch. 7 para. 2(8)(b) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 25](#)
- F40** Words in Sch. 7 para. 2(9) omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 16\(3\)](#); S.I. 2010/815, art. 2

*Evidence of records that are required to be preserved*

**F41**<sub>3</sub> .....

**Textual Amendments**

- F41** Sch. 7 para. 3 omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 17](#); S.I. 2010/815, art. 2

*Production of documents*

**F42**<sub>4</sub> .....

**Textual Amendments**

- F42** Sch. 7 para. 4 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 9](#) (with art. 6)

*Powers in relation to documents produced*

**F43**<sub>5</sub> .....

**Textual Amendments**

- F43** Sch. 7 para. 5 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 9](#)

*Entry and inspection*

**F44**<sub>6</sub> .....

**Textual Amendments**

- F44** Sch. 7 para. 6 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 9](#)

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### Entry and search

F457 .....

#### Textual Amendments

**F45** Sch. 7 para. 7 repealed (1.12.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 22 para. 12(b), Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 3(a)

### Order for access to recorded information etc.

- 8 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46)) is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with aggregates levy is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature at all) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
  - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of seven days beginning with the date of the order, or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information—
- (a) in a form in which it is visible and legible; and
  - (b) if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to the preceding paragraphs of this Schedule.

### Removal of documents etc.

- 9 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 7 or 8 above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.



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- (3) Subject to sub-paragraph (7) below, if a request for permission to be allowed access to anything which—
- (a) has been removed by an authorised person, and
  - (b) is retained by the Commissioners for the purposes of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above, the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to allow access to anything, or to supply a photograph or copy of anything, if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge.

#### *Enforcement of paragraph 9*

- 10 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 9 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall not be made except—
- (a) in the case of a failure to comply with any of the requirements imposed by paragraph 9(1) and (2) above—

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- (i) by the occupier of the premises from which the thing in question was removed; or
  - (ii) by the person who had custody or control of it immediately before it was so removed;
  - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff;
  - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) .
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

#### *Power to take samples*

- 11 (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from material which he has reasonable cause to believe is aggregate which is intended to be, is being, or has been subjected to exploitation in [<sup>F46</sup>England, Wales or Northern Ireland], such samples as he may require with a view to determining how the material ought to be treated, or to have been treated, for the purposes of aggregates levy.
- (2) Any sample taken under this paragraph shall be disposed of in such manner as the Commissioners may direct.

#### **Textual Amendments**

**F46** Words in Sch. 7 para. 11(1) substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 12\(2\)](#)

#### *Evidence by certificate*

- 12 (1) In any proceedings a certificate of the Commissioners—
- (a) that a person was or was not at any time registered, [<sup>F47</sup> or ]
  - (b) that any return required by regulations made under section 25 of this Act has not been made or had not been made at any time,
  - <sup>F48</sup>(c) .....
  - <sup>F49</sup>(d) .....
- shall be evidence or, in Scotland, sufficient evidence of that fact.
- (2) A photograph of any document provided to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

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- (3) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be taken to be such a certificate unless the contrary is shown.

#### Textual Amendments

- F47** Word in Sch. 7 para. 12(1)(a) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 9\(a\)](#)  
**F48** Sch. 7 para. 12(1)(c) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 9\(b\)](#)  
**F49** Sch. 7 para. 12(1)(d) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 9\(b\)](#)

#### *Inducements to provide information*

- 13 (1) This paragraph applies—
- (a) to any criminal proceedings against a person in respect of an offence in connection with or in relation to aggregates levy; and
  - (b) to any proceedings against a person for the recovery of any sum due from him in connection with or in relation to that levy.
- (2) Statements made or documents produced or provided by or on behalf of a person shall not be inadmissible in any proceedings to which this paragraph applies by reason only that—
- (a) a matter falling within sub-paragraph (3) or (4) below has been drawn to that person's attention; and
  - (b) he was or may have been induced, as a result, to make the statements or to produce or provide the documents.
- (3) The matters falling within this sub-paragraph are—
- (a) that, in relation to aggregates levy, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings;
  - (b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person—
    - (i) has made a full confession of any dishonest conduct to which he has been a party; and
    - (ii) has otherwise co-operated to the full with any investigation.
- (4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power under any provision of this Part of this Act to reduce a penalty.

#### *Disclosure of information*

- 14 (1) Notwithstanding any obligation not to disclose information that would otherwise apply but subject to sub-paragraph (2) below, the Commissioners may disclose any information obtained or held by them in or in connection with the carrying out of their functions in relation to aggregates levy to any of the following—
- (a) any Minister of the Crown;
  - (b) the Scottish Ministers;
  - (c) any Minister, within the meaning of the Northern Ireland Act 1998 (c. 47), or any Northern Ireland department;

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- (d) the National Assembly for Wales;
  - (e) the Environment Agency;
  - (f) the Scottish Environment Protection Agency;
  - (g) a mineral planning authority in England and Wales (within the meaning of the Town and Country Planning Act 1990 (c. 8));
  - (h) a planning authority in Scotland;
  - (i) a district council in Northern Ireland;
  - (j) an authorised officer of any person mentioned in paragraphs (a) to (i) above.
- (2) Information shall not be disclosed under sub-paragraph (1) above except for the purpose of assisting a person falling within paragraphs (a) to (j) of that sub-paragraph in the performance of his duties.
- (3) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above, any person mentioned in sub-paragraph (1)(a) to (j) above may disclose information—
- (a) to the Commissioners, or
  - (b) to an authorised officer of the Commissioners,
- for the purpose of assisting the Commissioners in the performance of duties in relation to aggregates levy.
- (4) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made; or
  - (b) for the purpose of any proceedings connected with the operation of any provision made by or under any enactment relating to the environment or to aggregates levy.
- (5) References in the preceding provisions of this paragraph to an authorised officer of any person (“the principal”) are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.
- (6) Where the principal is a person falling within any of paragraphs (a) to (c) above, the principal shall notify the Commissioners in writing of the name of any person designated by the principal for the purposes of this paragraph.
- (7) No charge may be made for any disclosure made by virtue of this paragraph.
- (8) In this paragraph “enactment” includes an enactment contained in an Act of the Scottish Parliament or in any Northern Ireland legislation.

### *Interpretation of Schedule*

15 In this Schedule—

“authorised person” means any person acting under the authority of the Commissioners;

“connected activities”, in relation to the exploitation of aggregate in [F50 England, Wales or Northern Ireland], means any activities carried out—

- (a) for purposes connected with the carrying out of any such exploitation or with any transaction involving the carrying out of any such exploitation; or

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- (b) for the purposes of, in connection with or in relation to the carrying on of any business involving any such exploitation.

**Textual Amendments**

**F50** Words in Sch. 7 para. 15 substituted (with effect in accordance with s. 18(4) of the amending Act) by Scotland Act 2016 (c. 11), s. 72(3), **Sch. 1 para. 12(3)**

SCHEDULE 8 **U.K.**

Section 32.

AGGREGATES LEVY: REPAYMENTS AND CREDITS

*Reimbursement arrangements*

- 1 (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 32(2) of this Act except where the arrangements—
- (a) contain such provision as may be required by the regulations; and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means any arrangements for the purposes of a claim to a repayment of aggregates levy which—
- (a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be required by regulations under this paragraph to be contained in reimbursement arrangements includes—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
  - (b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
  - (c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this paragraph may impose obligations on such persons as may be specified in the regulations—

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- (a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of sub-paragraph (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of sub-paragraph (3)(d) above.
- (5) Regulations under this paragraph may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.

*Interest payable by the Commissioners*

- 2 (1) Where, due to an error on the part of the Commissioners, a person—
- (a) has paid to them by way of aggregates levy an amount which was not levy due and which they are in consequence liable to repay to him,
  - (b) has failed to claim a repayment of levy to which he was entitled, under tax credit regulations, in respect of any tax credits, or
  - (c) has suffered delay in receiving payment of an amount due to him from them in connection with aggregates levy,
- then, if and to the extent that they would not be liable to do so apart from this paragraph, they shall (subject to the following provisions of this paragraph) pay interest to him on that amount for the applicable period.
- (2) In sub-paragraph (1) above, the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied.
- (3) In that sub-paragraph the amounts referred to in paragraph (c)—
- (a) do not include any amount payable under this paragraph;
  - (b) do not include the amount of any interest for which provision is made by virtue of section 30(3)(f) [<sup>F51</sup> or 30B(6)(d);]
  - [<sup>F52</sup>(ba) do not include the amount of any tax credit to which a person is entitled by virtue of section 30B(1); but]
  - (c) do include any amount due (in respect of an adjustment of overpaid interest) by way of a repayment under—
    - (i) paragraph 11(3) of Schedule 5 to this Act; or
    - (ii) paragraph 6(3) of Schedule 10 to this Act.
- (4) The applicable period, in a case falling within sub-paragraph (1)(a) above, is the period—
- (a) beginning with the date on which the payment is received by the Commissioners; and
  - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (5) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—
- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable; and

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- (b) ending with the date on which they in fact authorise payment of that amount.
- (6) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by circumstances beyond their control.
- (7) The reference in sub-paragraph (6) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by circumstances beyond their control includes, in particular, any period which is referable to—
- (a) any unreasonable delay in the making of any claim for the payment or repayment of the amount on which interest is claimed;
  - (b) any failure by any person to provide the Commissioners—
    - (i) at or before the time of the making of a claim, or
    - (ii) subsequently in response to a request for information by the Commissioners,with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment to be determined; and
  - (c) the making, as part of or in association with any claim for the payment or repayment of the amount on which interest is claimed, of a claim to anything to which the claimant was not entitled.
- (8) In determining for the purposes of sub-paragraph (7) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.
- (9) The Commissioners shall not be liable to pay interest under this paragraph except on the making of a claim for that purpose.
- (10) A claim under this paragraph must be in writing and must be made not more than [<sup>F53</sup>4 years] after the end of the applicable period to which it relates.
- (11) References in this paragraph—
- (a) to receiving payment of any amount from the Commissioners, or
  - (b) to the authorisation by the Commissioners of the payment of any amount,
- include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 9 or 10 below or otherwise) of the Commissioners' liability to pay that amount.
- (12) Interest under this paragraph shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8).

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#### Textual Amendments

- F51** Words in Sch. 8 para. 2(3)(b) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 61\(6\)\(a\)](#)  
**F52** Sch. 8 para. 2(3)(ba) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 61\(6\)\(b\)](#)  
**F53** Words in Sch. 8 para. 2(10) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 30; S.I. 2010/867, art. 2\(1\)](#) (with [art. 9](#))

#### *Assessment for excessive repayment*

- 3 (1) Where—
- (a) any amount has been paid at any time to any person by way of a repayment of aggregates levy, and
  - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person,
- the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.
- (2) Where—
- (a) any amount has been paid to any person by way of repayment of levy,
  - (b) the repayment is in respect of a tax credit the entitlement to which arose in a case falling within section 30(1)(e) (bad debts),
  - (c) the whole or any part of the credit is withdrawn on account of the payment of the whole or any part of the debt taken as bad,
  - (d) the amount of the repayment exceeded the amount which the Commissioners would have been liable to repay had the withdrawal taken place before the determination of the amount of the repayment,
- the Commissioners may, to the best of their judgement, assess the excess repaid to that person and notify it to him.
- (3) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 1(4)(a) above, the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.
- (4) Subject to sub-paragraph (5) below, where—
- (a) an assessment is made on any person under this paragraph in respect of a repayment of levy made in relation to any accounting period, and
  - (b) the Commissioners have power under Schedule 5 to this Act to make an assessment on that person to an amount of aggregates levy due from that person for that period,
- the assessments may be combined and notified to him as one assessment.
- (5) A notice of a combined assessment under sub-paragraph (4) above must separately identify the amount being assessed in respect of repayments of levy.

#### *Assessment for overpayments of interest*

- 4 Where—
- (a) any amount has been paid to any person by way of interest under paragraph 2 above, but
  - (b) that person was not entitled to that amount under that paragraph,



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the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.

*Assessments under paragraphs 3 and 4*

- 5
- (1) An assessment under paragraph 3 or 4 above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
  - (2) Where an amount has been assessed and notified to any person under paragraph 3 or 4 above, it shall be recoverable as if it were aggregates levy due from him.
  - (3) Sub-paragraph (2) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

*Interest on amounts assessed*

- 6
- (1) Where an assessment is made under paragraph 3 or 4 above, the whole of the amount assessed shall carry interest, for the period specified in sub-paragraph (2) below, as follows—
    - (a) so much of that amount as represents the amount of a tax credit claimed by a person who was not entitled to it shall carry penalty interest; and
    - (b) so much of that amount as does not carry penalty interest under paragraph (a) above shall carry interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8).
  - (2) That period is the period which—
    - (a) begins with the day after that on which the person is notified of the assessment; and
    - (b) ends with the day before that on which payment is made of the amount assessed.
  - (3) Interest under this paragraph shall be paid without any deduction of income tax.
  - (4) Penalty interest under this paragraph shall be compound interest calculated—
    - (a) at the penalty rate; and
    - (b) with monthly rests.
  - (5) For this purpose the penalty rate is the rate found by—
    - (a) taking the rate applicable under section 197 of the Finance Act 1996 for the purposes of sub-paragraph (1)(b) above; and
    - (b) adding 10 percentage points to that rate.
  - (6) Where a person is liable under this paragraph to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
  - (7) Subject to sub-paragraph (8) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (6) above.

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- (8) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (7) above, no account shall be taken of any of the following matters, that is to say—
- (a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the interest;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of aggregates levy;
  - (c) the fact that the person liable to pay the interest or a person acting on his behalf has acted in good faith.
- (9) In the case of interest reduced by the Commissioners under sub-paragraph (6) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

*Assessments to interest under paragraph 6*

- 7 (1) Where any person is liable to interest under paragraph 6 above the Commissioners may assess the amount due by way of interest and notify it to him accordingly.
- (2) Without prejudice to the power to make assessments under this paragraph for later periods, the interest to which an assessment under this paragraph may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment under this paragraph is made.
- (3) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were aggregates levy due from him.
- (4) Sub-paragraph (3) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (5) Where an assessment is made under this paragraph to an amount of interest under paragraph 6 above—
- (a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and
  - (b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of the amounts so accruing.
- (6) Where—
- (a) an assessment to interest is made specifying a date for the purposes of sub-paragraph (5)(a) above, and
  - (b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,
- that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

*Supplementary assessments*

- 8 If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 3, 4 or 7 above exceeds the amount which was so assessed, then—

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- (a) under the same paragraph as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and notify the person concerned accordingly.

*Set-off of or against amounts due under this Part of this Act*

- 9 (1) The Commissioners may by regulations make provision in relation to any case where—
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of aggregates levy; and
  - (b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of that levy or any of the other taxes under their care and management.
- (2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.
- (3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.
- (4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.
- (5) Regulations under this paragraph may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of aggregates levy to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above.
- (6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.
- (7) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (8) In this paragraph “tax” includes levy or duty.

*Set-off of or against other taxes and duties*

- 10 (1) The Commissioners may by regulations make provision in relation to any case where—
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax (or taxes) under their care and management other than aggregates levy; and

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- (b) the Commissioners are under a duty, at the same time, to make any repayment of aggregates levy to that person or to make any other payment to him of any amount or amounts in respect of aggregates levy.
- (2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.
- (3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.
- (4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.
- (5) Regulations under this paragraph may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of any of the taxes under their care and management to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1) (a) above.
- (6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.
- (7) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (8) In this paragraph “tax” includes levy or duty.

*Restriction on powers to provide for set-off*

- 11 (1) Regulations made under paragraph 9 or 10 above shall not require any such amount or amounts as are mentioned in sub-paragraph (1)(b) of that paragraph (“the credit”) to be set against any such amount or amounts as are mentioned in sub-paragraph (1) (a) of that paragraph (“the debit”) in any case where—
- (a) an insolvency procedure has been applied to the person entitled to the credit;
  - (b) the credit became due after that procedure was so applied; and
  - (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.
- (2) For the purposes of this paragraph, an insolvency procedure is applied to a person if—
- (a) a bankruptcy order, winding-up order or administration order is made [<sup>F54</sup>or an administrator is appointed] in relation to that person or an award of sequestration is made on that person’s estate;
  - (b) that person is put into administrative receivership;

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- (c) that person passes a resolution for voluntary winding up;
  - (d) any voluntary arrangement approved in accordance with—
    - (i) Part 1 or 8 of the Insolvency Act 1986 (c. 45), or
    - (ii) Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),comes into force in relation to that person;
  - (e) a deed of arrangement registered in accordance with—
    - <sup>F55</sup>(i) .....
    - (ii) Chapter I of Part VIII of that Order,takes effect in relation to that person;
  - (f) <sup>F56</sup> .....
  - (g) .....
  - (h) .....
  - (i) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act [<sup>F57</sup>2016]).
- (3) In this paragraph references, in relation to any person, to the application of an insolvency procedure to that person shall not include—
- (a) the making of a bankruptcy order, winding-up order<sup>F58</sup>... or award of sequestration [<sup>F59</sup>or the appointment of an administrator] at a time when any such arrangement or deed as is mentioned in paragraph (d), (e) or (i) of subparagraph (2) above is in force in relation to that person;
  - (b) the making of a winding-up order at any of the following times, that is to say—
    - [<sup>F60</sup>(i) immediately upon the appointment of an administrator in respect of the person ceasing to have effect;]
    - (ii) when that person is being wound up voluntarily;
    - (iii) when that person is in administrative receivership;or
  - (c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.
- (4) For the purposes of this paragraph a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person.
- (5) In this paragraph—
- “administration order” means an administration order under [<sup>F61</sup>Schedule B1 to] the Insolvency Act 1986 (c. 45) or Article 21 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) ;
  - “administrative receiver” means an administrative receiver within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989.

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### Textual Amendments

- F54** Words in Sch. 8 para. 11(2)(a) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 37(a)** (with art. 6)
- F55** Sch. 8 para. 11(2)(e)(i) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 6 para. 2(15)(b)** (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F56** Sch. 8 para. 11(2)(f)(g)(h) repealed (*retrospective* to 1.4.2002) by [2002 c. 23](#), ss. 132(3), 141, Sch. 38 para. 10, **Sch. 40 Pt. 4(3)**
- F57** Word in Sch. 8 para. 11(2)(i) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 24(4)(a)**
- F58** Words in Sch. 8 para. 11(3)(a) omitted (15.9.2003) by virtue of [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 37(b)(i)** (with art. 6)
- F59** Words in Sch. 8 para. 11(3)(a) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 37(b)(ii)** (with art. 6)
- F60** Sch. 8 para. 11(3)(b)(i) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 37(c)** (with art. 6)
- F61** Words in Sch. 8 para. 11(5) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 37(d)** (with art. 6)

### Supplemental provisions of Schedule

- 12 (1) Any notification of an assessment under any provision of this Schedule to a person's representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.
- (2) In this paragraph "representative", in relation to any person, means—
- (a) any of that person's personal representatives;
  - (b) that person's trustee in bankruptcy or liquidator;
  - (c) any person holding office as a receiver in relation to that person or any of his property;
  - (d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.
- (3) In this paragraph "trustee in bankruptcy" includes, as respects Scotland—
- (a) [<sup>F62</sup>a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;] and
  - (b) a trustee acting under a trust deed (within the meaning of that Act).
- (4) The powers conferred by paragraphs 9 and 10 of this Schedule are without prejudice to any power of the Commissioners to provide by tax credit regulations for any amount to be set against another.

### Textual Amendments

- F62** Words in Sch. 8 para. 12(3)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 24(4)(b)**

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## SCHEDULE 9 **U.K.**

Section 35.

### AGGREGATES LEVY: GROUP TREATMENT

#### *Eligibility for group treatment*

- 1 Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Act if—
- (a) each of them has an established place of business in the United Kingdom; and
  - (b) they are all under the same control.

#### *Application for group treatment*

- 2 (1) Subject to sub-paragraph (3) below, where an application is made to the Commissioners with respect to two or more bodies corporate and those bodies are all eligible to be treated as members of the same group, then, from the specified time—
- (a) they shall be so treated for the purposes of this Part of this Act; and
  - (b) such one of them as is specified in the application shall be the representative member.
- (2) Subject to sub-paragraph (3) below, where—
- (a) any bodies corporate are treated as members of a group for the purposes of this Part of this Act, and
  - (b) an application is made to the Commissioners for the addition to the group of a body corporate that is eligible to be treated as a member of the group,
- then, from the specified time, that body shall be included among the bodies so treated.
- (3) The Commissioners may refuse an application under sub-paragraph (1) or (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue; and an application that is refused under this sub-paragraph shall be, and be treated as always having been, ineffective.
- (4) Where—
- (a) it appears to the Commissioners that an application has been made for the purposes of this paragraph for a body corporate to be treated as a member of a group, but
  - (b) that body is not eligible to be treated as a member of that group,
- the Commissioners shall give notice to the applicant that the application is ineffective.
- (5) The Commissioners shall not refuse an application under sub-paragraph (3) above after the end of the period of ninety days beginning with the day on which the application is received by the Commissioners.

#### *Modification of group treatment*

- 3 (1) Subject to sub-paragraph (2) below, where any bodies corporate are treated as members of a group for the purposes of this Part of this Act and an application for the purpose is made to the Commissioners, then, from the specified time—
- (a) a body corporate shall be excluded from the bodies so treated;

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- (b) one of those bodies corporate shall be substituted for another body corporate as the representative member; or
  - (c) the bodies corporate shall no longer be treated as members of a group.
- (2) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(a) or (c) above if, and only if—
- (a) the case is not one appearing to them to fall within paragraph 4(2)(a) and (b) below; and
  - (b) it appears to them necessary to refuse the application for the protection of the revenue.
- (3) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(b) above if, and only if, it appears to them necessary to do so for the protection of the revenue.
- (4) An application that is refused under this paragraph shall be, and be treated as always having been, ineffective.
- (5) The specified time for the purposes of an application under sub-paragraph (1) above shall not be before the beginning of the accounting period which is current when the application is made.

#### *Termination of group treatment*

- 4 (1) If it appears to the Commissioners necessary to do so for the protection of the revenue, the Commissioners may, by notice given to any body corporate that is treated as a member of a group and to the representative member, terminate that treatment from such time as may be specified in the notice.
- (2) Where—
- (a) a body corporate is treated as a member of a group, and
  - (b) it appears to the Commissioners that it is not eligible to be treated as a member of that group,
- they shall, by notice given to the body corporate and the representative member, terminate that treatment from such time as may be specified in the notice.
- (3) Where—
- (a) a body corporate ceases as from any time to be treated as a member of a group,
  - (b) immediately before that time that body was the representative member,
  - (c) there are two or more other bodies corporate which will continue after that time to be treated as members of the group, and
  - (d) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group under paragraph 3(1)(b) above,
- the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (c) above as they think fit, substitute that body corporate as the representative member as from that time.
- (4) The time specified in a notice under sub-paragraph (1) above shall not be a time before the day on which the notice is given to the representative member.



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- (5) Subject to sub-paragraph (6) below, the time specified in a notice under sub-paragraph (2) or (3) above may be a time before the giving of the notice.
- (6) In the case of a notice given under sub-paragraph (2) above in respect of a body corporate's having ceased to be eligible to be treated as a member of a group, the time specified in the notice shall not be before the time when it so ceased.

#### *Applications relating to group treatment*

- 5 An application under this Schedule with respect to any bodies corporate must be made by one of those bodies or by the person controlling them.

#### *Notifications relating to group treatment*

- 6 (1) Where—
  - (a) two or more bodies corporate are treated as members of a group for the purposes of this Part of this Act, and
  - (b) any of those bodies ceases to be eligible to be so treated,the body corporate which ceases to be so eligible shall notify the Commissioners of that fact.
- (2) A body corporate which is designated as representative member in relation to any other bodies corporate shall not cease to have an established place of business in the United Kingdom without first notifying the Commissioners of that fact.
- (3) A body corporate which fails to comply with sub-paragraph (1) or (2) above shall be liable to a penalty of £250.

#### *Supplemental regulations about applications and notifications*

- 7 (1) For the purposes of any provision made by or under this Schedule for an application to be made to the Commissioners, regulations made by the Commissioners may make provision—
  - (a) as to the time within which the application is to be made;
  - (b) as to the form and manner in which the application is to be made;
  - (c) as to the information and other particulars to be contained in or provided with any application.
- (2) For those purposes the Commissioners may also by regulations impose obligations requiring a person who has made an application to notify the Commissioners if any information contained in or provided in connection with that application is or becomes inaccurate.
- (3) The power under this paragraph to make regulations as to the time within which any application is to be made shall include power to authorise the Commissioners to extend the time for the making of an application.
- (4) Sub-paragraphs (1) to (3) above shall apply for the purposes of any provision made by or under this Schedule for any matter to be notified to the Commissioners as they apply for the purposes of any provision so made for an application to be made to them; and for this purpose references to the making of the application shall be construed as references to the giving of the notification.

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### Interpretation of Schedule

- 8 (1) For the purposes of this Schedule two or more bodies are under the same control if—
- (a) one of them controls each of the others;
  - (b) one person (whether a body corporate or an individual) controls all of them; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) For the purposes of this Schedule a body corporate shall be taken to control another body corporate if, and only if—
- (a) it is empowered by statute to control that body's activities; or
  - (b) it is that body's holding company within the meaning of section <sup>F63</sup>1159 of and Schedule 6 to] the Companies Act <sup>F63</sup>2006] (<sup>F64</sup>c. 46]).
- (3) For the purposes of this Schedule an individual or individuals shall be taken to control a body corporate if, and only if (were he or they a company) he or they would be that body's holding company within the meaning of <sup>F65</sup>those provisions].
- (4) In this Schedule “the specified time”, in relation to an application made under paragraph 2(1) or (2) or 3(1) above, means the beginning of such accounting period as may be specified in the application.

#### Textual Amendments

- F63** Words in Sch. 9 para. 8(2)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(e)**
- F64** Word in Sch. 9 para. 8(2)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(e)**
- F65** Words in Sch. 9 para. 8(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(2)**

## SCHEDULE 10 U.K.

Section 46.

### AGGREGATES LEVY: ASSESSMENT OF CIVIL PENALTIES AND INTEREST ON THEM

#### Preliminary

- 1 (1) In this Schedule “civil penalty” means any penalty liability to which—
- (a) is imposed by or under this Part of this Act; and
  - (b) arises otherwise than in consequence of a person's conviction for a criminal offence.
- (2) In this Schedule—
- (a) references to a person's being liable to a civil penalty include references to his being a person from whom the whole or any part of a civil penalty is recoverable by virtue of paragraph 8 of Schedule 6 to this Act; and

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- (b) references, in relation to a person from whom the whole or any part of a civil penalty is so recoverable, to the penalty to which he is liable are references to so much of the penalty as is recoverable from him.
- (3) Any notification of an assessment under any provision of this Schedule to a person's representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.
- (4) In this paragraph “representative”, in relation to any person, means—
  - (a) any of that person's personal representatives;
  - (b) that person's trustee in bankruptcy or liquidator;
  - (c) any person holding office as a receiver in relation to that person or any of his property;
  - (d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.
- (5) In this paragraph “trustee in bankruptcy” includes, as respects Scotland—
  - <sup>F66</sup>(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;] and
  - (b) a trustee acting under a trust deed (within the meaning of that Act).

#### Textual Amendments

**F66** Sch. 10 para. 1(5)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 24\(5\)](#)

#### *Assessments to penalties etc.*

- 2 (1) Where a person is liable to a civil penalty, the Commissioners may assess the amount due by way of penalty and notify it to him accordingly.
- (2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.
- (3) The fact that any conduct giving rise to a civil penalty may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.
- (4) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.
- (5) Sub-paragraph (4) above—
  - (a) shall not apply so as to require any interest to be payable on a penalty otherwise than in accordance with this Schedule; and
  - (b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (6) Subject to sub-paragraph (7) below, where a person—
  - (a) is assessed under this paragraph to an amount due by way of a penalty, and

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- (b) is also assessed under any one or more provisions of Schedule 5 to this Act for an accounting period to which the conduct attracting the penalty is referable,  
the assessments may be combined and notified to him as one assessment.
- (7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the penalty being assessed.
- (8) The power to make an assessment under this paragraph is subject to paragraph 8(4) of Schedule 6 to this Act.

*Further assessments to daily penalties*

- 3 (1) This paragraph applies where an assessment is made under paragraph 2 above to an amount of a civil penalty to which any person is liable—
  - (a) under paragraph 1(3) of Schedule 7 to this Act (failure to provide information); or
  - (b) under paragraph 4(4) of that Schedule (failure to produce a document).
- (2) The notice of assessment shall specify a time, not later than the end of the day of the giving of the notice of assessment, to which the amount of any daily penalty is calculated.
- (3) For the purposes of sub-paragraph (2) above “daily penalty” means—
  - (a) in a case within sub-paragraph (1)(a) above, a penalty imposed by virtue of paragraph 1(3)(b) of Schedule 7 to this Act; and
  - (b) in a case within sub-paragraph (1)(b) above, a penalty imposed by virtue of paragraph 4(4)(b) of that Schedule.
- (4) If further penalties accrue in respect of a continuing failure after that date to provide the information or, as the case may be, produce the document, a further assessment or further assessments may be made under paragraph 2 above in respect of the amounts so accruing.
- (5) Where—
  - (a) an assessment to a civil penalty is made specifying a date for the purposes of sub-paragraph (2) above, and
  - (b) the failure in question is remedied within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the penalty,
the failure shall be deemed for the purposes of any further liability to civil penalties to have been remedied on the specified date.

*Time limits on penalty assessments*

- 4 (1) Subject to sub-paragraphs (2) and (3) below, an assessment under paragraph 2 above to a civil penalty shall not be made more than [<sup>F67</sup>4 years] after the conduct to which the penalty relates.
- [<sup>F68</sup>(2) An assessment of a person to a civil penalty in a case involving a loss of aggregates levy—
  - (a) brought about deliberately by the person (or by another person acting on that person's behalf), or

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- (b) attributable to a failure by the person to comply with an obligation under section 24(2) or paragraph 1 of Schedule 4,  
may be made at any time not more than 20 years after the conduct to which the penalty relates (subject to sub-paragraph (3)).
- (2A) In sub-paragraph (2)(a) the reference to a loss brought about deliberately by the person includes a loss brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]
- (3) Where, after a person's death, the Commissioners propose to assess an amount of a civil penalty due by reason of some conduct of the deceased—
- (a) the assessment shall not be made more than [<sup>F69</sup>4 years] after the death, <sup>F70</sup> ...
- <sup>F70</sup>(b) .....

#### Textual Amendments

- F67** Words in Sch. 10 para. 4(1) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 31\(2\)](#); S.I. 2010/867, art. 2(1) (with art. 13)
- F68** Sch. 10 para. 4(2) (2A) substituted for Sch. 10 para. 4(2) (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 31\(3\)](#); S.I. 2010/867, art. 2(1) (with art. 14)
- F69** Words in Sch. 10 para. 4(3)(a) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 31\(4\)\(a\)](#); S.I. 2010/867, art. 2(1) (with art. 15)
- F70** Sch. 10 para. 4(3)(b) and word omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 31\(4\)\(b\)](#); S.I. 2010/867, art. 2(1) (with art. 15)

#### Penalty interest on unpaid penalties

- 5 (1) Subject to sub-paragraph (2) below, where the Commissioners make an assessment under paragraph 2 above of any civil penalty to which a person is liable the amount of that penalty shall carry penalty interest for the period which—
- (a) begins with the day on which the assessment is notified to the person on whom the assessment is made; and
- (b) ends with the day before the day on which the assessed penalty is paid.
- (2) Where—
- (a) the Commissioners make an assessment under paragraph 2 above of an amount of any civil penalty to which any person is liable,
- (b) they also specify a date for the purposes of this sub-paragraph, and
- (c) the amount of the penalty assessed is paid on or before that date,
- the amount paid before that date shall not carry penalty interest under this paragraph.
- (3) Penalty interest under this paragraph shall be compound interest calculated—
- (a) at the penalty rate; and
- (b) with monthly rests.
- (4) For this purpose the penalty rate is the rate found by—
- (a) taking the rate applicable under section 197 of the Finance Act 1996 (c. 8) for the purposes of paragraph 8(3)(a) of Schedule 5 to this Act; and
- (b) adding 10 percentage points to that rate.

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- (5) Where a person is liable under this paragraph to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (6) Subject to sub-paragraph (7) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (5) above.
- (7) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (6) above, no account shall be taken of any of the following matters, that is to say—
  - (a) the insufficiency of the funds available to any person for paying any aggregates levy or penalty due or for paying the amount of the interest;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of aggregates levy;
  - (c) the fact that the person liable to pay the interest or a person acting on his behalf has acted in good faith.
- (8) In the case of interest reduced by the Commissioners under sub-paragraph (5) above, an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

*Supplemental provisions about interest*

- 6 (1) Interest under paragraph 5 above shall be paid without any deduction of income tax.
- (2) Sub-paragraph (3) below applies where—
  - (a) an amount carries interest under paragraph 5 above (or would do so apart from that sub-paragraph); and
  - (b) all or part of the amount turns out not to be due.
- (3) In such a case—
  - (a) the amount or part that turns out not to be due shall not carry interest under paragraph 5 above and shall be treated as never having done so; and
  - (b) all such adjustments as are reasonable shall be made, including (subject to section 32 of, and Schedule 8 to, this Act) adjustments by way of repayment.

*Assessments to penalty interest on unpaid penalties*

- 7 (1) Where a person is liable for interest under paragraph 5 above, the Commissioners may assess the amount due by way of interest and notify it to him accordingly.
- (2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.
- (4) Sub-paragraph (3) above—

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- (a) shall not apply so as to require any interest to be payable on interest (except in so far as it falls to be compounded in accordance with paragraph 5(3) above); and
  - (b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.
- (5) Paragraph 4 above shall apply in relation to assessments under this paragraph as if any assessment to interest on a penalty were an assessment under paragraph 2 above to the penalty in question.
- (6) Subject to sub-paragraph (7) below, where a person—
- (a) is assessed under this paragraph to an amount due by way of any interest on a penalty, and
  - (b) is also assessed under any one or more provisions of Schedule 5 to this Act for the accounting period to which the conduct attracting the penalty is referable,
- the assessments may be combined and notified to him as one assessment.
- (7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the interest being assessed.

*Further assessments to interest on penalties*

- 8 (1) Where an assessment is made under paragraph 7 above to an amount of penalty interest under paragraph 5 above—
- (a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and
  - (b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under paragraph 7 above in respect of the amounts so accruing.
- (2) Where—
- (a) an assessment to penalty interest is made specifying a date for the purposes of sub-paragraph (1)(a) above, and
  - (b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,
- that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

.....

**Textual Amendments**

**F71** Sch. 11 repealed (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/962, art. 2(3)(e), Sch. 1

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SCHEDULE 12 **U.K.**

Section 57.

MILEAGE ALLOWANCES

<sup>F72</sup>**PART 1 U.K.**

NEW SCHEDULE 12AA TO THE TAXES ACT 1988

**Textual Amendments**

**F72** Sch. 12 Pt. 1 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**PART 2 U.K.**

CONSEQUENTIAL AMENDMENTS

*The Taxes Act 1988*

<sup>F73</sup><sub>1</sub> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F73</sup><sub>2</sub> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F73</sup><sub>3</sub> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F73</sup><sub>4</sub> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)



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F73<sup>5</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F73<sup>6</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F73<sup>7</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F73<sup>8</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F73<sup>9</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F73<sup>10</sup> .....

**Textual Amendments**

**F73** Sch. 12 paras. 1-10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

11 In section 578A(1) of that Act (deductions for expenditure on car hire)—  
(a) after paragraph (a) insert “ or ”; and  
(b) omit paragraph (c) and the word “or” immediately preceding it.

F74<sup>12</sup> .....

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**Textual Amendments**

**F74** Sch. 12 paras. 12-16 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F74</sup>13 .....

**Textual Amendments**

**F74** Sch. 12 paras. 12-16 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F74</sup>14 .....

**Textual Amendments**

**F74** Sch. 12 paras. 12-16 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F74</sup>15 .....

**Textual Amendments**

**F74** Sch. 12 paras. 12-16 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Finance Act 2000 (c. 17)*

<sup>F74</sup>16 .....

**Textual Amendments**

**F74** Sch. 12 paras. 12-16 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**Textual Amendments**

**F75** Sch. 13 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

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<sup>F76</sup>SCHEDULE 14 **U.K.**

Section 62.

**Textual Amendments**

**F76** Sch. 14 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

SCHEDULE 15 **U.K.**

Section 63.

ENTERPRISE INVESTMENT SCHEME: AMENDMENTS

<sup>F77</sup>PART 1 **U.K.**

INCOME TAX RELIEF

**Textual Amendments**

**F77** Sch. 15 Pt. 1 repealed (with effect in accordance with s. 1034(1)(3) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

PART 2 **U.K.**

POSTPONEMENT OF CHARGEABLE GAIN ON REINVESTMENT

*Introductory*

25 Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with this Part.

*Requirement as to the money raised*

<sup>F78</sup>26 .....

**Textual Amendments**

**F78** Sch. 15 paras. 26-28 omitted (with effect in accordance with Sch. 8 para. 11 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 8 para. 10(a)**

<sup>F78</sup>27 .....

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**Textual Amendments**

**F78** Sch. 15 paras. 26-28 omitted (with effect in accordance with Sch. 8 para. 11 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 8 para. 10(a)

<sup>F78</sup>28 . . . . .

**Textual Amendments**

**F78** Sch. 15 paras. 26-28 omitted (with effect in accordance with Sch. 8 para. 11 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 8 para. 10(a)

*Designated period*

29 In paragraph 3(1) (chargeable events) in both paragraph (c) and paragraph (d) for “within the designated period” substitute “ before the termination date relating to those shares ”.

*Value received by investor*

30 (1) In paragraph 13 (value received by investor) in sub-paragraph (1) after “any value” insert “ (other than insignificant value) ”.

(2) In that sub-paragraph for “designated period” substitute “ period of restriction ”.

(3) After that sub-paragraph insert—

“(1A) This paragraph is subject to paragraph 13B below.

(1B) Where—

- (a) the individual who subscribes for the shares receives value (“the relevant receipt”) from the company during the period of restriction,
- (b) the individual has received from the company one or more receipts of insignificant value at a time or times—
  - (i) during that period, but
  - (ii) not later than the time of the relevant receipt, and
- (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Schedule as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this sub-paragraph.”.

(4) Omit sub-paragraph (4) of that paragraph (certain payments etc. received on a winding up or dissolution treated as receipts of value).

(5) In sub-paragraph (10) of that paragraph (interpretation of provisions applying to paragraph 13) after “this paragraph” insert “ and paragraph 13A(1) below ”.

(6) After sub-paragraph (11) of that paragraph insert—

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- “(12) In paragraphs 13A to 13C below (except paragraph 13C(4))—
- (a) references to “the shares” shall be construed in accordance with sub-paragraph (1) above, and
  - (b) references to “the period of restriction” shall be construed as references to the period of restriction relating to the shares.”.

31 After paragraph 13 insert—

**“Provision supplemental to paragraph 13**

13A (1) For the purposes of paragraph 13 above, the value received by the individual in question is—

- (a) in a case within sub-paragraph (2)(a), (b) or (c) of that paragraph, the amount received by the individual or, if greater, the market value of the share capital, securities or debt in question;
- (b) in a case within sub-paragraph (2)(d) of that paragraph, the amount of the liability;
- (c) in a case within sub-paragraph (2)(e) of that paragraph, the amount of the loan or advance reduced by the amount of any repayment made before the issue of the shares;
- (d) in a case within sub-paragraph (2)(f) of that paragraph, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
- (e) in a case within sub-paragraph (2)(g) or (h) of that paragraph, the difference between the market value of the asset and the consideration (if any) given for it;
- (f) in a case within sub-paragraph (2)(i) of that paragraph, the amount of the payment;
- (g) in a case within sub-paragraph (5) of that paragraph, the amount received by the individual or, if greater, the market value of the share capital or securities in question.

(2) In this paragraph and paragraph 13 above references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to sub-paragraph (4) below.

(3) For the purposes of this paragraph and paragraph 13 above “an amount of insignificant value” means an amount of value which—

- (a) does not exceed £1,000, or
- (b) if it exceeds that amount, is insignificant in relation to the total amount of expenditure on the shares which is set under this Schedule against a corresponding total amount of the whole or any part of any chargeable gains.

(4) For the purposes of paragraph 13 above, if, at any time in the period—

- (a) beginning one year before the shares are issued, and
- (b) expiring at the end of the issue date,

arrangements are in existence which provide for the individual who subscribes for the shares to receive or to be entitled to receive, at any time in the period of restriction, any value from the company that issued the shares,

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no amount of value received by the individual shall be treated as a receipt of insignificant value.

- (5) In sub-paragraph (4) above—
- (a) any reference to the individual includes a reference to any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time), and
  - (b) the reference to the company includes a reference to any person who, at any time in the period of restriction, is connected with the company (whether or not that person is so connected at the material time).

### **Receipt of replacement value**

13B(1) Where—

- (a) by reason of a receipt of value within sub-paragraph (2) (other than paragraph (b)) or sub-paragraph (5) of paragraph 13 above (“the original value”), the shares would, in the absence of this paragraph, be treated as never having been eligible shares or as ceasing to be eligible shares on the date when the value is received,
- (b) the original supplier receives value (“the replacement value”) from the original recipient by reason of a qualifying receipt, and
- (c) the amount of the replacement value is not less than the amount of the original value,

the receipt of the original value shall be disregarded for the purposes of paragraph 13 above.

- (2) This paragraph is subject to paragraph 13C below.
- (3) For the purposes of this paragraph and paragraph 13C below—
  - “the original recipient” means the person who receives the original value, and
  - “the original supplier” means the person from whom that value was received.
- (4) A receipt of the replacement value is a qualifying receipt for the purposes of sub-paragraph (1) above if it arises—
  - (a) by reason of the original recipient doing one or more of the following—
    - (i) making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which sub-paragraph (5) below applies;
    - (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;
    - (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;
  - (b) where the receipt of the original value was within paragraph 13(2) (d) above, by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or

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- (c) where the receipt of the original value was within paragraph 13(5) above, by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.
- (5) This sub-paragraph applies to—
- (a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—
- (i) the original supplier, or
  - (ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that supplier (whether or not that person is such an associate, or so connected, at the material time),
- which is reasonable in relation to the market value of those goods, services or facilities;
- (b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—
- (i) the original recipient, or
  - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);
- (c) any payment for the acquisition of an asset which does not exceed its market value;
- (d) any payment, as rent for any property occupied by—
- (i) the original recipient, or
  - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),
- of an amount not exceeding a reasonable and commercial rent for the property;
- (e) any payment in discharge of an ordinary trade debt (within the meaning of paragraph 13(11) above); and
- (f) any payment for shares in or securities of any company in circumstances that do not fall within sub-paragraph (4)(a)(ii) above.
- (6) For the purposes of this paragraph, the amount of the replacement value is—
- (a) in a case within paragraph (a) of sub-paragraph (4) above, the aggregate of—
- (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
  - (ii) the difference between the market value of any asset within sub-paragraph (ii) or (iii) of that paragraph and the amount or value of the consideration (if any) received for it,
- (b) in a case within sub-paragraph (4)(b) above, the same as the amount of the original value, and
- (c) in a case within sub-paragraph (4)(c) above, the amount or value of the consideration received by the original supplier,
- and paragraph 13A(1) above applies for the purposes of determining the amount of the original value.

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- (7) In this paragraph any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit.

**Provision supplemental to paragraph 13B**

13C (1) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of paragraph 13B above, as it applies in relation to the shares, to the extent to which that receipt has previously been set (under that paragraph) against any receipts of value which are, in consequence, disregarded for the purposes of paragraph 13 above as that paragraph applies in relation to those shares or any other shares subscribed for by the individual in question (“the individual”).

- (2) The receipt of the replacement value by the original supplier (“the event”) shall also be disregarded for the purposes of paragraph 13B above if—
- (a) the event occurs before the start of the period of restriction, or
  - (b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or
  - (c) where an appeal has been brought by the individual against an assessment made by virtue of paragraph 3(1)(e) above by reason of that receipt, the event occurs more than 60 days after the appeal has been finally determined.

But nothing in paragraph 13B above or this paragraph requires the replacement value to be received after the original value.

- (3) Sub-paragraph (4) below applies where—
- (a) the receipt of the replacement value by the original supplier is a qualifying receipt for the purposes of paragraph 13B(1) above, and
  - (b) the event which gives rise to the receipt is (or includes) a subscription for shares by—
    - (i) the individual, or
    - (ii) any person who, at any time in the period of restriction, is an associate of the individual, whether or not he is such an associate at the material time.
- (4) Where this sub-paragraph applies, the person who subscribes for the shares shall not—
- (a) be eligible for any relief under Chapter 3 of Part 7 of the Taxes Act (enterprise investment scheme: income tax relief) in relation to those shares or any other shares in the same issue, or
  - (b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of this Schedule.

- (5) In this paragraph “the original value” and “the replacement value” shall be construed in accordance with paragraph 13B above.”.



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*Value received by persons other than the investor*

- 32 (1) In paragraph 14 (value received by persons other than the investor), in sub-paragraph (1)—
- (a) for “designated period” substitute “ period of restriction ”, and
  - (b) for “paragraph 14A” substitute “ paragraphs 14AA and 14A ”.
- (2) In sub-paragraph (3) of that paragraph (repayments etc. excluded from the effects of paragraph 13(1))—
- (a) in paragraph (c) after “relief” insert “ attributable to shares held by that person ”, and
  - (b) after paragraph (c) insert—  

“or it would have the effect mentioned in paragraph (a), (b) or (c) above were it not a receipt of insignificant value for the purposes of paragraph 13 above, section 300 of the Taxes Act or paragraph 47 of Schedule 15 to the Finance Act 2000, as the case may be”.
- (3) In sub-paragraph (7) of that paragraph (meaning of “subsidiary” in paragraph 14) after “this paragraph” insert “ and paragraph 14AA below ”.

*Certain receipts to be disregarded*

- 33 After paragraph 14 insert—

**“Insignificant repayments disregarded for purposes of paragraph 14**

14A(A) Any repayment shall be disregarded for the purposes of paragraph 14 above if whichever is the greater of—

- (a) the market value of the shares to which it relates (“the target shares”) immediately before the event occurs, and
- (b) the amount received by the member in question,

is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to sub-paragraph (4) below.

- (2) For the purposes of this paragraph “repayment” means a repayment, redemption, repurchase or payment mentioned in paragraph 14(1) above.
- (3) For the purposes of sub-paragraph (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.
- (4) Where an individual subscribes for eligible shares in a company, sub-paragraph (1) above does not apply to prevent paragraph 14(2) above having effect in relation to the shares if, at a relevant time, arrangements are in existence that provide—
  - (a) for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or
  - (b) for anyone to be entitled to such a repayment, at any time in the period of restriction.

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(5) For the purposes of sub-paragraph (4) above “a relevant time” means any time in the period—

- (a) beginning one year before the eligible shares were issued, and
- (b) expiring at the end of the issue date.”.

34 In paragraph 14A (certain receipts to be disregarded for purposes of paragraph 14)

(a) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph “repayment” has the meaning given in paragraph 14AA(2) above.”,

- (b) omit sub-paragraph (7) (repayments treated, for the purposes of the corporate venturing scheme, as causing insignificant changes to share capital to be disregarded), and
- (c) in sub-paragraph (8)(a) for “that Schedule” substitute “ Schedule 15 to the Finance Act 2000 (corporate venturing scheme) ”.

### *Information*

35 (1) In paragraph 16 (information), in sub-paragraph (1)(a) for “in the designated period” substitute “ before the termination date relating to those shares ”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2A) In determining, for the purposes of sub-paragraph (1) or (2) above, whether a chargeable event falling within paragraph 3(1)(e) above has occurred by virtue of paragraph 13(1)(b) above, the effect of paragraph 13B above shall be disregarded.”.

(3) After sub-paragraph (3) of that paragraph insert—

“(3A) Where—

- (a) a person is required to give a notice under sub-paragraph (1) or (2) above in respect of a chargeable event which occurs by virtue of paragraph 13(1)(b) above or would occur by virtue of that paragraph but for the operation of paragraph 13B above, and
- (b) that person has knowledge of the replacement value received (or expected to be received) from the original recipient by the original supplier by reason of a qualifying receipt,

the notice shall include particulars of that receipt of the replacement value (or expected receipt).

In this sub-paragraph “the replacement value”, “the original recipient”, “the original supplier” and “qualifying receipt” shall be construed in accordance with paragraph 13B above.”.

(4) In sub-paragraph (5) of that paragraph, for “If” to “particular case,” substitute—

“If the inspector has reason to believe—

- (a) that a person has not given a notice which he is required to give—
  - (i) under sub-paragraph (1) or (2) above in respect of any chargeable event, or

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- (ii) under sub-paragraph (4) above in respect of any particular case, or
  - (b) that a person has given or received value (within the meaning of paragraph 13(2) or (5) above) which, but for the fact that the amount given or received was an amount of insignificant value (within the meaning of paragraph 13A(3) above), would have triggered a requirement to give a notice under sub-paragraph (1) or (2) above, or
  - (c) that a person has made or received any repayment (within the meaning of paragraph 14AA(2) above) which, but for the fact that it falls to be disregarded for the purposes of paragraph 14 above by virtue of paragraph 14AA(1) above, would have triggered a requirement to give a notice under sub-paragraph (2) above,”.
- (5) The amendments made by this paragraph have effect in relation to events occurring on or after 7th March 2001.

#### *Trustees: anti-avoidance*

- 36 In paragraph 18 (trustees: anti-avoidance)—
- (a) in sub-paragraph (1) after “13” insert “ to 13C ”, and
  - (b) in sub-paragraph (2)—
    - (i) in paragraph (a) for “paragraph 13 above applies” substitute “ sub-paragraph (1) of paragraph 13 above applies, or that sub-paragraph would apply were it not for the fact that the amount of value is an amount of insignificant value for the purposes of that sub-paragraph ”, and
    - (ii) after that paragraph insert—
      - “(ab) in a case where paragraph 13(1) above would apply were it not for the operation of paragraph 13B above, the time when the original value (within the meaning of paragraph 13B above) in question is received;”.

#### *Interpretation*

- 37 In paragraph 19 (interpretation), in sub-paragraph (1)—
- (a) after the definition of “ordinary shares” insert—
    - ““the period of restriction”, in relation to any shares, means the period—
    - (a) beginning one year before the shares are issued, and
    - (b) ending immediately before the termination date relating to the shares;”,
  - (b) in the definition of “qualifying company” after “Act” insert “ (except that for the purposes of this Schedule the reference in section 293(1B)(b)(i) of that Act to section 304A of that Act shall be read as a reference to paragraph 8 above) ”, and
  - (c) at the end insert—
    - ““termination date”, in relation to any shares, means the date found by applying the definition of “termination date” in section 312(1)

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of the Taxes Act by reference to the company that issued the shares and by reference to the shares.”.

### PART 3 U.K.

#### MISCELLANEOUS AND GENERAL

##### *Loss relief*

<sup>F79</sup>38 .....

##### **Textual Amendments**

**F79** Sch. 15 para. 38 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

##### *Penalties in connection with returns etc.*

<sup>F80</sup>39 .....

##### **Textual Amendments**

**F80** Sch. 15 para. 39 repealed (with effect in accordance with s. 1034(1)(3) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

##### *Commencement*

- 40 (1) Except where provision is made to the contrary, the amendments made by this Schedule have effect in accordance with the following provisions of this paragraph.
- (2) The amendments made by paragraphs <sup>F81</sup>... 26 to 29 and 37 have effect—
- (a) in relation to shares issued on or after 7th March 2001, and
  - (b) in respect of the application of <sup>F81</sup>... Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001 in relation to shares—
    - (i) that were issued after 31st December 1993 but before 7th March 2001, and
    - (ii) to which income tax relief or deferral relief was attributable immediately before 7th March 2001.
- (3) The amendments made by paragraphs <sup>F82</sup>... 30 to 34 and 36 have effect—
- (a) in relation to shares issued on or after 7th March 2001, and
  - (b) in relation to shares issued before that date, in respect of the application of the provisions mentioned in sub-paragraph (2)(b) in relation to—
    - (i) value received (within the meaning of <sup>F82</sup>... paragraph 13 of Schedule 5B to the Taxation of Chargeable Gains Act 1992), and
    - (ii) repayments made,
 on or after that date.

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- (4) For the purposes of this paragraph—
- “deferral relief” has the same meaning as in Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) (enterprise investment scheme: reinvestment);
- “income tax relief” means relief under Chapter 3 of Part 7 of the Taxes Act 1988 (enterprise investment scheme); and
- “repayment” means a repayment, redemption, repurchase or payment mentioned in section 303(1) of the Taxes Act 1988 or paragraph 14(1) of Schedule 5B to the Taxation of Chargeable Gains Act 1992.

#### Textual Amendments

- F81** Words in Sch. 15 para. 40(2) repealed (with effect in accordance with s. 1034(1)(3) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))
- F82** Words in Sch. 15 para. 40(3) repealed (with effect in accordance with s. 1034(1)(3) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

## SCHEDULE 16 **U.K.**

Section 64.

### VENTURE CAPITAL

#### <sup>F83</sup>PART 1 **U.K.**

#### VENTURE CAPITAL TRUSTS

.....

#### Textual Amendments

- F83** Sch. 16 Pt. 1 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### PART 2 **U.K.**

### CORPORATE VENTURING SCHEME

#### *Introductory*

- 4 Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) is amended in accordance with this Part.

#### *Money raised by issue of shares*

- 5 (1) In paragraph 36 (requirement that money raised is employed for purposes of a relevant trade), for sub-paragraph (1) substitute—

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“(1) At least 80% of the money raised by the issuance of the relevant issue of shares must have been employed wholly for the purposes of a relevant trade not later than the time determined in accordance with sub-paragraph (1B).

(1A) All of the money so raised must have been so employed not later than 12 months after that time.

(1B) The time referred to in sub-paragraph (1) is—

- (a) the end of the period of 12 months beginning with the issue of the shares, or
- (b) where the relevant trade was not being carried on at the time the shares were issued, the end of the period of 12 months beginning when the issuing company or a subsidiary begins to carry on the relevant trade.

(1C) Sub-paragraphs (1) and (1A) are subject to sub-paragraph (5).”.

(2) In sub-paragraph (5) of that paragraph—

- (a) in paragraph (a) for “any of the money mentioned in sub-paragraph (1)” substitute “ any of the money raised by the issuance of the relevant issue of shares ”, and
- (b) for “the requirement of sub-paragraph (1)” substitute “ the requirement of sub-paragraph (1) does not apply and the requirement of sub-paragraph (1A) ”.

(3) The amendments made by this paragraph have effect—

- (a) in relation to shares issued on or after 7th March 2001, and
- (b) in respect of the application of Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) on or after 7th March 2001 in relation to shares—
  - (i) that were issued after 31st March 2000 but before 7th March 2001, and
  - (ii) to which investment relief (within the meaning of that Schedule) was attributable immediately before 7th March 2001.

#### *Receipt of replacement value*

6 (1) In paragraph 54 (receipt of replacement value), at the beginning of sub-paragraph (1) (c) insert “ the amount of ”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2A) Where the amount of the original value is, by virtue of paragraph 51, treated as reduced for the purposes of paragraph 47, the reference in sub-paragraph (1)(c) to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.”.

(3) In sub-paragraph (3) of that paragraph (qualifying receipts), for paragraphs (a) to (c) substitute—

- “(a) by reason of the original recipient doing one or more of the following—
  - (i) making a payment to the original supplier other than an excepted payment;

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- (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;
  - (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset; or
- (b) where the receipt of the original value was within paragraph 49(1)(d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value.”.

(4) After that sub-paragraph insert—

“(3A) For the purposes of sub-paragraph (3)(a)(i), the following are excepted payments—

- (a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—
  - (i) the original supplier, or
  - (ii) any other person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),which is reasonable in relation to the market value of those goods, services or facilities;
- (b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—
  - (i) the original recipient, or
  - (ii) any other person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that recipient (whether or not he is such an associate, or so connected, at the material time);
- (c) any payment, as rent for any property occupied by—
  - (i) that recipient, or
  - (ii) any person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that recipient (whether or not he is such an associate, or so connected, at the material time),of an amount not exceeding a reasonable and commercial rent for the property;
- (d) any payment within paragraph (c), (d) or (f) of the definition of “qualifying payment” in paragraph 49(5); and
- (e) any payment for shares in or securities of any company in circumstances that do not fall within sub-paragraph (3)(a)(ii).”.

(5) For sub-paragraph (4) of that paragraph (calculation of amounts of original and replacement value) substitute—

“(4) For the purposes of this paragraph, the amount of the replacement value is—

- (a) in a case within paragraph (a) of sub-paragraph (3), the aggregate of—
  - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and

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- (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it, and
  - (b) in a case within sub-paragraph (3)(b), the amount of the original value,
- and paragraph 50 shall apply for the purposes of determining the amount of the original value.”.
- (6) The amendment made by sub-paragraph (1) shall be deemed always to have had effect.
- (7) Subject to that, the amendments made by this paragraph have effect—
- (a) in relation to shares issued on or after 7th March 2001, and
  - (b) in relation to shares issued after 31st March 2000 but before 7th March 2001, in respect of value received (within the meaning of paragraph 49 of Schedule 15 to the Finance Act 2000 (c. 17)) on or after 7th March 2001.
- 7 (1) In paragraph 55 (provision supplementary to paragraph 54), after sub-paragraph (4) insert—
- “(5) In this paragraph “the original value” and “the replacement value” shall be construed in accordance with paragraph 54.”.
- (2) The amendment made by this paragraph shall be deemed always to have had effect.

#### *Value received by other persons*

- 8 (1) In paragraph 56 (reduction or withdrawal of investment relief as a result of value received by certain persons), in sub-paragraph (3) (receipts of value which do not result in the withdrawal or reduction of relief), after paragraph (c) insert—
- “or it would have the effect mentioned in paragraph (a), (b) or (c) were it not a receipt of insignificant value for the purposes of paragraph 47 (value received by the investing company), section 300 of the Taxes Act 1988 or paragraph 13 of Schedule 5B to the 1992 Act, as the case may be”.
- (2) The amendment made by this paragraph has effect—
- (a) in relation to shares issued on or after 7th March 2001, and
  - (b) in respect of shares issued after 31st March 2000 but before 7th March 2001, in relation to any repayment (within the meaning of paragraph 57(2) of Schedule 15 to the Finance Act 2000) made on or after 7th March 2001.

#### *Insignificant repayments disregarded*

- 9 (1) In paragraph 57 (repayments etc. of insignificant amounts disregarded for the purposes of paragraph 56), in sub-paragraph (1) after “remaining” insert “ issued ”.
- (2) In sub-paragraph (3) of that paragraph for “payment” substitute “ repayment ”.
- (3) The amendment made by sub-paragraph (1) has effect—
- (a) in relation to shares issued on or after 7th March 2001, and



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- (b) in respect of shares issued after 31st March 2000 but before 7th March 2001, in relation to repayments (within the meaning of paragraph 57(2) of Schedule 15 to the Finance Act 2000) made on or after 7th March 2001.
- (4) The amendment made by sub-paragraph (2) shall be deemed always to have had effect.

<sup>F84</sup>SCHEDULE 17 **U.K.**

Section 65.

**Textual Amendments**

**F84** Sch. 17 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(i\)](#)

SCHEDULE 18 **U.K.**

Section 66.

CAPITAL ALLOWANCES: FIXTURES PROVIDED IN  
CONNECTION WITH ENERGY MANAGEMENT SERVICES

- 1 In section 172(3) of the Capital Allowances Act 2001 (c. 2) (scope of Chapter 14 of Part 2)—
- (a) for “195” substitute “ 195B ”; and
  - (b) for “192” substitute “ 192A ”.
- 2 After section 175 of that Act insert—

**“175A Meaning of “energy services agreement”**

- (1) In this Chapter “energy services agreement” means an agreement entered into by an energy services provider (“the energy services provider”) and another person (“the client”) that makes provision, with a view to saving energy or using energy more efficiently, for—
- (a) the design of plant or machinery, or one or more systems incorporating plant or machinery,
  - (b) obtaining and installing the plant or machinery,
  - (c) the operation of the plant or machinery,
  - (d) the maintenance of the plant or machinery, and
  - (e) the amount of any payments in respect of the operation of the plant or machinery to be linked (wholly or in part) to energy savings or increases in energy efficiency resulting from the provision or operation of the plant or machinery.
- (2) In this Chapter “energy services provider” means a person carrying on a qualifying activity consisting wholly or mainly in the provision of energy management services.”.

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3 In section 176(4) of that Act (treatment of fixture where expenditure incurred by person with interest in relevant land), for “section 177(4)” substitute “ sections 177(4) and 180A(4) ”.

4 After section 180 of that Act insert—

**“180A Energy services providers**

(1) If—

- (a) an energy services agreement is entered into,
- (b) the energy services provider incurs capital expenditure under the agreement on the provision of plant or machinery,
- (c) the plant or machinery becomes a fixture,
- (d) at the time the plant or machinery becomes a fixture—
  - (i) the client has an interest in the relevant land, and
  - (ii) the energy services provider does not,
- (e) the plant or machinery—
  - (i) is not provided for leasing, and
  - (ii) is not provided for use in a dwelling-house,
- (f) the operation of the plant or machinery is carried out wholly or substantially by the energy services provider or a person connected with him,
- (g) the energy services provider and the client are not connected persons, and
- (h) they elect that this section should apply,

the energy services provider is to be treated, on and after the time at which he incurs the expenditure, as the owner of the fixture as a result of incurring the expenditure.

(2) But if the client would not have been entitled to a section 176 allowance in respect of the expenditure if he had incurred it, subsection (1) does not apply unless the plant or machinery belongs to a class of plant or machinery specified by Treasury order.

(3) In subsection (2) a “section 176 allowance” means an allowance to which a person is entitled as a result of section 176.

(4) If an election is made under this section, the client is not to be treated under section 176 as the owner of the fixture.

(5) An election under this section must be made by notice to the Inland Revenue—

- (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
- (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.

(6) The “relevant chargeable period” means the chargeable period in which the capital expenditure was incurred.”.

5 In section 181(4) of that Act (purchaser of land giving consideration for fixture), for “section 182” substitute “ sections 182 and 182A ”.

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6 After section 182 of that Act insert—

**“182A Purchaser of land discharging obligations of client under energy services agreement**

(1) If—

- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
- (b) that interest was in existence before the purchaser’s acquisition of it,
- (c) before that acquisition, the plant or machinery was provided under an energy services agreement, and
- (d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the client under the energy services agreement,

the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.

(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.

(3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).”.

7 (1) Section 188 of that Act (cessation of ownership when person ceases to have qualifying interest) is amended as follows.

(2) In subsection (1), after paragraph (c) insert—

“(ca) section 182A (purchaser of land discharging obligations of client under energy services agreement),”.

(3) In subsection (3)(a), for “or 182” substitute “, 182 or 182A ”.

8 After section 192 of that Act insert—

**“192A Cessation of ownership of energy services provider**

(1) This section applies if an energy services provider is treated under section 180A as the owner of a fixture.

(2) If—

- (a) the energy services provider at any time assigns his rights under the energy services agreement, or
- (b) the financial obligations of the client in respect of the fixture under an energy services agreement are at any time discharged (on the payment of a capital sum or otherwise),

the energy services provider is to be treated as ceasing to be the owner of the fixture at that time (or, as the case may be, the earliest of those times).

(3) The reference in subsection (2)(b) to the client is, in a case where the financial obligations of the client have become vested in another person (by assignment, operation of law or otherwise), a reference to the person in whom the obligations are vested when the capital sum is paid.”.

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9 After section 195 of that Act insert—

**“195A Acquisition of ownership by assignee of energy services provider**

- (1) If section 192A(2)(a) applies (cessation of ownership of energy services provider as a result of assignment), the assignee is to be treated, on and after the assignment—
  - (a) as having incurred expenditure, consisting of the consideration given by him for the assignment, on the provision of the fixture, and
  - (b) as being the owner of the fixture.
- (2) For the purposes of section 192A (and subsection (1) and section 195B) the assignee is to be treated as being an energy services provider who owns the fixture under section 180A.

**195B Acquisition of ownership by client**

- (1) If section 192A(2)(b) applies (discharge of obligations of client) because the client has paid a capital sum, the client is to be treated—
  - (a) as having incurred expenditure, consisting of the capital sum, on the provision of the fixture, and
  - (b) as being, on and after the time of payment, the owner of the fixture.
- (2) Section 192A(3) (assignee of client) applies in relation to subsection (1).”.

10 (1) Section 196 of that Act (disposal values in relation to fixtures) is amended as follows.  
 (2) In subsection (1), in the Table, after item 8 insert—

“8A. Cessation of ownership of the fixture because section 192A(2)(a) (assignment of rights) applies.	The consideration given by the assignee for the assignment.
8B. Cessation of ownership of the fixture because section 192A(2)(b) (discharge of client’s obligations) applies on the payment of a capital sum.	The capital sum paid to discharge the financial obligations of the client.”

- (3) After subsection (4) insert—
  - “(4A) Section 192A(3) (assignee of client) applies in relation to item 8B of the Table.”.
- (4) In subsection (5), for “192” substitute “ 192A ”.

11 In section 203(2)(b) of that Act (reasons for amendment of returns), after “182(2)” insert “, 182A(2) ”.

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### Textual Amendments

**F85** Sch. 19 repealed (with effect in accordance with Sch. 39 para. 40 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 39\(a\)](#) (with [Sch. 39 paras. 41, 42](#))

## SCHEDULE 20 **U.K.**

Section 68.

### CAPITAL ALLOWANCES: OFFSHORE OIL INFRASTRUCTURE

#### PART 1 **U.K.**

#### CHARGEABLE PERIODS ENDING BEFORE 1ST OR 6TH APRIL 2001

*Writing-down allowances: infrastructure from UK or non-UK oil fields*

1 In Chapter 7 of Part 2 of the Capital Allowances Act 1990 (c. 1) (machinery and plant: miscellaneous expenditure), after section 62 insert—

#### “62AA Reuse etc. of offshore oil infrastructure

- (1) This section applies where—
  - (a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and
  - (b) the machinery or plant concerned—
    - (i) has been brought into use for the purposes of the trade, and
    - (ii) is, or was when last in use for those purposes, offshore infrastructure.
- (2) In this section—

“decommissioning expenditure” has the meaning given by section 62AB;

“offshore infrastructure” has the meaning given by section 62AC.
- (3) The person’s qualifying expenditure for the chargeable period in which the decommissioning expenditure is incurred is treated for the purposes of sections 24 and 25 as increased by the amount of the decommissioning expenditure.
- (4) Subsection (3) above is subject to subsections (5) and (6) below and section 62A(4A).
- (5) Subsection (3) above does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—
  - (a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or
  - (b) any condition to which the approval of such a programme is subject.

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- (6) Subsection (3) above does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person's income for any purpose of income tax or corporation tax.
- (7) For the purposes of subsection (5) above, decommissioning expenditure is "on UK infrastructure" if the machinery or plant concerned—
  - (a) is offshore infrastructure within section 62AC(1)(a) or (c), or
  - (b) is not offshore infrastructure but was offshore infrastructure within section 62AC(1)(a) or (c) when last in use for the purposes of the trade.

#### **62AB Meaning of "decommissioning expenditure" in section 62AA**

- (1) In section 62AA "decommissioning expenditure" means expenditure in connection with—
  - (a) preserving machinery or plant pending its reuse or demolition,
  - (b) preparing machinery or plant for reuse,
  - (c) arranging for the reuse of machinery or plant, or
  - (d) demolishing machinery or plant.
- (2) It is immaterial for the purposes of subsection (1)(a) above whether the machinery or plant is reused, is demolished or is partly reused and partly demolished.
- (3) It is immaterial for the purposes of subsection (1)(b) and (c) above whether the machinery or plant is in fact reused.

#### **62AC Meaning of "offshore infrastructure" in section 62AA**

- (1) In section 62AA "offshore infrastructure" means—
  - (a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 or a part of such an installation, or
  - (b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section "relevant waters" meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or
  - (c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—
    - (i) the territorial sea adjacent to the United Kingdom, or
    - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or
  - (d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.
- (2) In subsection (1)(b) and (d) above—
 

"foreign sector of the continental shelf" means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

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“foreign tidal waters” means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.”.

*Ring fence trades: special allowance for pre-cessation abandonment expenditure*

- 2 (1) Section 62A of the Capital Allowances Act 1990 (c. 1) (special allowance for costs of demolition of offshore machinery or plant) is amended as follows.
- (2) In subsection (1) (section applies to expenditure that would otherwise fall within section 62(1)(b)), after “section 62(1)(b)” insert “ or 62AA(3) ”.
- (3) In subsection (1)(c)—
- (a) for “the demolition of” substitute “ decommissioning ”; and
  - (b) after “which is or forms part of” insert “ , or when last in use for the purposes of the trade was or formed part of, ”.
- (4) In subsection (3)(a), for “demolition” (in both places) substitute “ decommissioning ”.
- (5) After subsection (3) insert—
- “(3A) In this section “decommissioning”, in relation to any machinery or plant, means—
- (a) demolishing the machinery or plant,
  - (b) preserving the machinery or plant pending its reuse or demolition,
  - (c) preparing the machinery or plant for reuse, or
  - (d) arranging for the reuse of the machinery or plant.
- (3B) For the purposes of this section—
- (a) in determining whether expenditure is incurred on preserving machinery or plant pending its reuse or demolition, it is immaterial whether the machinery or plant is reused, is demolished or is partly reused and partly demolished; and
  - (b) in determining whether expenditure is incurred on preparing machinery or plant for reuse, or on arranging for the reuse of machinery or plant, it is immaterial whether the machinery or plant is in fact reused.”.

(6) For subsection (4) (entitlement to special allowance) substitute—

“(4) If the person incurring any abandonment expenditure so elects, for the chargeable period in which that expenditure is incurred there shall be made to that person an allowance equal to so much of the abandonment expenditure to which the election relates as is incurred in that period.

(4A) If a person makes such an election, neither of sections 62(1)(b) and 62AA(3) applies.

(4B) If machinery or plant is demolished, the total of any allowances under subsection (4) above in respect of expenditure on the decommissioning of the machinery or plant is reduced by the amount of any moneys received for the remains of the machinery or plant.

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(4C) Effect is given to subsection (4B) above by setting the amount (until wholly utilised)—

first, against any allowance under subsection (4) above for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (4B));

second, against allowances under that subsection for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and

third, against allowances under that subsection for later chargeable periods (as so reduced and taking earlier such periods before later ones).”.

(7) In subsection (5)(a) (election must specify amounts received for remains), for “subsection (4)(a)” substitute “ subsection (4B) ”.

(8) In the sidenote, for “demolition” substitute “ decommissioning ”.

*Ring fence trades: allowances for post-cessation expenditure*

- 3
- (1) Section 62B of the Capital Allowances Act 1990 (c. 1) (abandonment expenditure incurred within 3 years of ceasing ring fence trade) is amended as follows.
  - (2) In subsection (1)(b) (section applies where expenditure incurred within 3 years of ceasing trade), for “the demolition of” substitute “ decommissioning ”.
  - (3) In subsection (1)(c) (section applies where expenditure would have been abandonment expenditure under section 62A if incurred earlier), for “demolition” substitute “ decommissioning ”.
  - (4) In subsection (2) (expenditure net of receipts for remains is eligible for allowances), for “the machinery or plant referred to in that paragraph” substitute “ any of the machinery or plant referred to in that paragraph on whose demolition any of the post-cessation expenditure was incurred ”.

*Commencement of Part 1*

- 4
- (1) The amendments made by this Part of this Schedule apply to expenditure that is incurred—
    - (a) on or after 7th August 2000, and
    - (b) in a relevant chargeable period.
  - (2) The amendments made by paragraph 1 also apply to expenditure incurred before 7th August 2000 if the expenditure—
    - (a) is incurred in a relevant chargeable period, and
    - (b) is within sub-paragraph (3) or (4).
  - (3) Expenditure is within this sub-paragraph if—
    - (a) it is decommissioning expenditure on UK infrastructure, and
    - (b) it is incurred in connection with an abandonment programme approved on or after 7th August 2000.
  - (4) Expenditure is within this sub-paragraph if—
    - (a) it is decommissioning expenditure,



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- (b) it is not decommissioning expenditure on UK infrastructure, and
  - (c) it is incurred in connection with a decommissioning activity that takes place on or after 7th August 2000.
- (5) The amendments made by paragraphs 2 and 3 also apply to expenditure incurred before 7th August 2000 if the expenditure—
- (a) is incurred in a relevant chargeable period, and
  - (b) is incurred in connection with an abandonment programme approved on or after 7th August 2000.
- (6) In sub-paragraphs (3) and (4), “decommissioning expenditure” and “decommissioning expenditure on UK infrastructure” have the same meaning as in the section 62AA inserted by paragraph 1.
- (7) In sub-paragraph (4)(c) “decommissioning activity” means an activity mentioned in any of paragraphs (a) to (d) of the section 62AB(1) inserted by paragraph 1.
- (8) In this paragraph “relevant chargeable period” means—
- (a) for income tax purposes, a chargeable period ending before 6th April 2001, and
  - (b) for corporation tax purposes, a chargeable period ending before 1st April 2001.

## PART 2 U.K.

### CHARGEABLE PERIODS ENDING ON OR AFTER 1ST OR 6TH APRIL 2001

*Writing-down allowances: infrastructure from UK or non-UK oil fields*

- 5 (1) In Chapter 13 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery allowances: provisions affecting mining and oil industries), after section 161 insert—

*“ Expenditure connected with reuse etc. of offshore oil infrastructure*

#### **161A Meaning of “offshore infrastructure”**

- (1) In sections 161C and 161D “offshore infrastructure” means—
- (a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 (c. 17) or a part of such an installation, or
  - (b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section “relevant waters” meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or
  - (c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—
    - (i) the territorial sea adjacent to the United Kingdom, or
    - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or

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- (d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.

- (2) In subsection (1)(b) and (d)—

“foreign sector of the continental shelf” means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

“foreign tidal waters” means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.

### **161B Meaning of “decommissioning expenditure”**

- (1) In sections 161C and 161D “decommissioning expenditure” means expenditure in connection with—
- (a) preserving plant or machinery pending its reuse or demolition,
  - (b) preparing plant or machinery for reuse, or
  - (c) arranging for the reuse of plant or machinery.
- (2) It is immaterial for the purposes of subsection (1)(a) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (3) It is immaterial for the purposes of subsection (1)(b) and (c) whether the plant or machinery is in fact reused.

### **161C Expenditure related to reuse etc. qualifies for writing-down allowances**

- (1) This section applies where—
- (a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and
  - (b) the plant or machinery concerned—
    - (i) has been brought into use for the purposes of the trade, and
    - (ii) is, or was when last in use for those purposes, offshore infrastructure.
- (2) The decommissioning expenditure is allocated to the appropriate pool for the chargeable period in which it is incurred.
- (3) Subsection (2) is subject to sections 161D and 164(4).
- (4) In subsection (2) “the appropriate pool” means the pool to which the expenditure on the plant or machinery concerned has been or would be allocated in accordance with this Part.

### **161D Exceptions to section 161C(2)**

- (1) Subsection (2) of section 161C does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—

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- (a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or
  - (b) any condition to which the approval of such a programme is subject.
- (2) Subsection (2) of section 161C does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person's income for any tax purpose.
- (3) For the purposes of subsection (1), decommissioning expenditure is “on UK infrastructure” if the plant or machinery concerned—
- (a) is offshore infrastructure within section 161A(1)(a) or (c), or
  - (b) is not offshore infrastructure but was offshore infrastructure within section 161A(1)(a) or (c) when last in use for the purposes of the trade.”.
- (2) In section 57(2) of the Capital Allowances Act 2001 (c. 2) (available qualifying expenditure in pool includes amounts allocated to pool under specified provisions), before the entry for section 165(3) insert—
- “section 161C(2) (decommissioning expenditure incurred by person carrying on trade of oil extraction);”.

*Ring fence trades: meaning of “abandonment expenditure”*

- 6 (1) Section 163 of the Capital Allowances Act 2001 (c. 2) (meaning of “abandonment expenditure”) is amended as follows.
- (2) In subsection (2)(b), for “the demolition of” substitute “decommissioning”.
  - (3) In subsection (2)(b)(ii), at the end insert “or which, when last in use for the purposes of a ring-fence trade, was, or formed part of, such an installation or pipeline.”.
  - (4) In subsection (3), for “demolition” substitute “decommissioning”.
  - (5) After subsection (4) insert—
    - “(4A) In this section “decommissioning”, in relation to any plant or machinery, means—
      - (a) demolishing the plant or machinery,
      - (b) preserving the plant or machinery pending its reuse or demolition,
      - (c) preparing the plant or machinery for reuse, or
      - (d) arranging for the reuse of the plant or machinery.
    - (4B) In determining whether expenditure is incurred on preserving plant or machinery pending its reuse or demolition, it is immaterial whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
    - (4C) In determining whether expenditure is incurred on preparing plant or machinery for reuse, or on arranging for the reuse of plant or machinery, it is immaterial whether the plant or machinery is in fact reused.”.

*Ring fence trades: special allowance for pre-cessation expenditure*

- 7 (1) Section 164 of the Capital Allowances Act 2001 (c. 2) (abandonment expenditure incurred before cessation of ring fence trade) is amended as follows.

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- (2) In subsection (1) (person carrying on ring-fence trade may elect for special allowance if he incurs abandonment expenditure), after “incurs abandonment expenditure,” insert “ and the plant or machinery concerned has been brought into use for the purposes of that trade, ”
- (3) For paragraph (b) of subsection (3) (election must specify amounts received for remains of demolished plant or machinery) substitute—
- “(b) where the plant or machinery concerned has been or is to be demolished, any amounts received for its remains.”.
- (4) In subsection (4)(a) (entitlement to special allowance), the words “, of an amount equal to the net abandonment cost,” are omitted.
- (5) For paragraph (b) of subsection (4) (section 26(3) does not apply where election made) substitute—
- “(b) neither of sections 26(3) and 161C(2) (net cost of demolition where plant or machinery not replaced, or cost of preparing for reuse, added to existing pool) applies.”.
- (6) For subsection (5) (meaning of “net abandonment cost”) substitute—
- “(5) The amount of the special allowance for a chargeable period is equal to so much of the abandonment expenditure to which the election relates as is incurred in that period.
- (6) If plant or machinery is demolished, the total of any special allowances in respect of expenditure on decommissioning the plant or machinery is reduced by any amount received for the remains of the plant or machinery.
- Here “decommissioning” has the meaning given by section 163(4A).
- (7) Effect is given to subsection (6) by setting the amount (until wholly utilised)
- 
- first, against any special allowance for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (6));
- second, against special allowances for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and
- third, against special allowances for later chargeable periods (as so reduced and taking earlier such periods before later ones).”

*Ring fence trades: allowances for post-cessation expenditure*

- 8 (1) Section 165 of the Capital Allowances Act 2001 (c. 2) (abandonment expenditure incurred within 3 years of ceasing ring fence trade) is amended as follows.
- (2) In subsection (1)(b) (section applies where abandonment expenditure incurred within 3 years of ceasing trade), the words “on the demolition of plant or machinery” are omitted.
- (3) In subsection (3)(b) (amounts received for remains of plant or machinery are not taxable income), before “any amount received” insert “ where any of the abandonment expenditure was incurred on the demolition of plant or machinery, ”.

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- (4) In subsection (4), in the definition of “the relevant abandonment cost”, for “the plant or machinery” substitute “ any plant or machinery on whose demolition any of the abandonment expenditure was incurred ”.

### *Commencement of Part 2*

- 9 (1) The amendments made by this Part of this Schedule (but see sub-paragraph (9)) apply to expenditure that is incurred—
- (a) on or after 7th August 2000, and
  - (b) in a relevant chargeable period.
- (2) The amendments made by paragraph 5 also apply to expenditure incurred before 7th August 2000 if the expenditure—
- (a) is incurred in a relevant chargeable period, and
  - (b) is within sub-paragraph (3) or (4).
- (3) Expenditure is within this sub-paragraph if—
- (a) it is decommissioning expenditure on UK infrastructure, and
  - (b) it is incurred in connection with an abandonment programme approved on or after 7th August 2000.
- (4) Expenditure is within this sub-paragraph if—
- (a) it is decommissioning expenditure,
  - (b) it is not decommissioning expenditure on UK infrastructure, and
  - (c) it is incurred in connection with a decommissioning activity that takes place on or after 7th August 2000.
- (5) The amendments made by paragraphs 6 to 8 (but see sub-paragraph (9)) also apply to expenditure incurred before 7th August 2000 if the expenditure—
- (a) is incurred in a relevant chargeable period, and
  - (b) is incurred in connection with an abandonment programme approved on or after 7th August 2000.
- (6) In sub-paragraphs (3) and (4), “decommissioning expenditure” and “decommissioning expenditure on UK infrastructure” have the same meaning as in the sections 161C and 161D inserted by paragraph 5.
- (7) In sub-paragraph (4)(c) “decommissioning activity” means an activity mentioned in any of paragraphs (a) to (c) of the section 161B(1) inserted by paragraph 5.
- (8) In this paragraph “relevant chargeable period” means—
- (a) for income tax purposes, a chargeable period ending on or after 6th April 2001, and
  - (b) for corporation tax purposes, a chargeable period ending on or after 1st April 2001.
- (9) Sub-paragraphs (1) to (8) do not apply to the amendments made by paragraphs 7(2) and 8(2).

Those amendments shall be deemed always to have had effect.

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SCHEDULE 21 U.K.

Section 69.

CAPITAL ALLOWANCES: MINOR AMENDMENTS

*Thermal insulation of industrial buildings*

- 1 In section 28(2) of the Capital Allowances Act 2001 (c. 2) (expenditure on thermal insulation of industrial buildings), after “ordinary Schedule A business” insert “ or an overseas property business ”.

*Fixtures: purchasers of land and incoming lessees*

- 2 (1) In section 181 of that Act (purchaser of land giving consideration for fixture), for subsection (2) substitute—
- “(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.”.
- (2) In section 181(3) of that Act—
- (a) for “subsection (2)(b), the person holding the other interest” substitute “ subsection (2), a person ”; and
- (b) for “subsection (2)(a)” substitute “ subsection (2) ”.
- (3) In section 182 of that Act (purchaser of land discharging obligations of equipment lessee), for subsections (2) and (3) substitute—
- “(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.
- (3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).”.
- (4) In section 184 of that Act (incoming lessee where lessor not entitled to allowances), for subsections (2) and (3) substitute—
- “(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time when the lease is granted, a person has a prior right in relation to the fixture.
- (3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).”.

*Meaning of “sale and finance leaseback”*

- 3 In section 221(1) of that Act (meaning of “sale and finance leaseback”), in paragraph (b)(iii), for “any person” substitute “ S or by a person (other than B) who is connected with S ”.

*Effect of partnership changes*

- 4 <sup>F86</sup>(1) .....

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(2) In section 558 of that Act (effect of partnership changes for the purpose of other allowances), in subsection (1), for paragraph (c) substitute—

“(c) the change does not result in the relevant activity being treated as permanently discontinued under section 113(1) or 337(1) of ICTA (changes in persons carrying on a trade etc. and effect of company ceasing to trade etc).”

**Textual Amendments**

**F86** Sch. 21 para. 4(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Enterprise zones*

**F87**5 .....

**Textual Amendments**

**F87** Sch. 21 para. 5 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 23\(3\)](#)

*Highway concessions*

**F88**6 .....

**Textual Amendments**

**F88** Sch. 21 para. 6 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 23\(3\)](#)

**Textual Amendments**

**F89** Sch. 22 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 525](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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SCHEDULE 23 U.K.

Section 70.

LAND REMEDIATION: CONSEQUENTIAL AMENDMENTS

*Computation under Schedule A*

F90<sub>1</sub> .....

**Textual Amendments**

**F90** Sch. 23 para. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

*Computation of profits of insurance companies*

F91<sub>2</sub> .....

**Textual Amendments**

**F91** Sch. 23 para. 2 repealed (with effect in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 2(3)

*Interest*

3 (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) is amended as follows.

(2) In subsection (1) (payments which carry interest) after paragraph (d) insert—

“; or

(e) a payment of land remediation tax credit or life assurance company tax credit falls to be made to a company under Schedule 22 to the Finance Act 2001 in respect of an accounting period.”

(3) After subsection (3A) (material date for payments of R&D tax credits) insert—

“(3B) In relation to a payment of land remediation tax credit or life assurance company tax credit falling within subsection (1)(e) above the material date is whichever is the later of—

(a) the filing date for the company’s company tax return for the accounting period for which the land remediation tax credit or the life assurance company tax credit is claimed, and

(b) the date on which the company tax return or amended company tax return containing the claim for payment of the land remediation tax credit or the life assurance company tax credit is delivered to the Inland Revenue.

For this purpose “the filing date”, in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998.”

(4) In subsection (8A) (recovery of overpaid interest)—

(a) in paragraph (a), after “subsection (1)(a) or (d)” insert “ or (e) ”, and



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- (b) in paragraph (b)(ii), after “R&D tax credit” insert “ , land remediation tax credit or life assurance company tax credit ”.
- (5) In subsection (8BA) (cases where there is change in amount of tax credit)—
- (a) after “amount of the R&D tax credit” insert “ , the land remediation tax credit or the life assurance company tax credit ”, and
  - (b) after “amount of R&D tax credit” insert “ , land remediation tax credit or life assurance company tax credit ”.

*Claim must be made in tax return*

- 4 In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns, assessments and related matters), in paragraph 10 (other claims and elections to be included in return), after sub-paragraph (2) insert—
- “(2A) A claim to which Part 9B of this Schedule applies (claims for land remediation tax credit and life assurance company tax credit) can only be made by being included in a company tax return (see paragraph 83H).”.

*Recovery of excessive tax credit*

- 5 In paragraph 52 of that Schedule (recovery of excessive repayments, etc.)—
- (a) in sub-paragraph (2) (excessive repayments to which paragraphs 41 to 48 apply), before “or” at the end of paragraph (ba) insert—
    - “(bb) land remediation tax credit or life assurance company tax credit under Schedule 22 to the Finance Act 2001,”;
  - (b) in that sub-paragraph, in paragraph (c) (interest paid under section 826 of the Taxes Act 1988) for “that Act” substitute “ the Taxes Act 1988 ”;
  - (c) in sub-paragraph (5) (connection of assessment for excessive payment to an accounting period), before “or” at the end of paragraph (ab) insert—
    - “(ac) an amount of land remediation tax credit or life assurance company tax credit paid to a company for an accounting period,”;
- and
- (d) at the end of that sub-paragraph after “(ab)” insert “ , (ac) ”.

*Claims relating to remediation of contaminated land*

- 6 After Part 9A of that Schedule (claims for R&D tax credits) insert—

**“PART 9B U.K.**

**CLAIMS RELATING TO REMEDIATION OF CONTAMINATED LAND**

***Introduction***

- 83G This Part of this Schedule applies to claims for—
- (a) land remediation tax credits under paragraph 14 of Schedule 22 to the Finance Act 2001 (“land remediation tax credits”), and

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- (b) life assurance company tax credits under paragraph 24 of that Schedule (“life assurance company tax credits”).

***Claim to be included in company tax return***

- 83H (1) A claim for a land remediation tax credit or a life assurance company tax credit must be made by being included in the claimant company’s company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

***Content of claim***

- 83I A claim for a land remediation tax credit or a life assurance company tax credit must specify the amount of the tax credit claimed, which must be an amount quantified at the time the claim is made.

***Amendment or withdrawal of claim***

- 83J A claim for a land remediation tax credit or a life assurance company tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

***Time limit for claims***

- 83K (1) A claim for a land remediation tax credit or a life assurance company tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.
- (2) The claim may be made, amended or withdrawn at a later date if the Inland Revenue allow it.

***Penalty***

- 83L (1) The company is liable to a penalty where it—
- (a) fraudulently or negligently makes a claim for a land remediation tax credit or a life assurance company tax credit and that claim is incorrect, or
  - (b) discovers that such a claim made by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay.
- (2) The penalty is an amount not exceeding the excess land remediation tax credit or excess life assurance company tax credit claimed, that is, the difference between—
- (a) the amount of the land remediation tax credit or the life assurance company tax credit claimed by the company for the accounting period to which the claim relates, and
  - (b) the amount of the land remediation tax credit or the life assurance company tax credit to which the company is entitled for that period.”.

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SCHEDULE 24 **U.K.**

Section 71.

CREATIVE ARTISTS: RELIEF FOR FLUCTUATING PROFITS

<sup>F92</sup>**PART 1 U.K.**

NEW SCHEDULE 4A TO THE TAXES ACT 1988

**Textual Amendments**

**F92** Sch. 24 Pt. 1 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 3 (with Sch. 2)

**PART 2 U.K.**

CONSEQUENTIAL AMENDMENTS

<sup>F93</sup>**2** .....

**Textual Amendments**

**F93** Sch. 24 para. 2 omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 310

- 3 (1) In Schedule 1B to that Act (claims for relief involving two or more years), in paragraph 1 (preliminary definitions) for sub-paragraphs (2) and (3) substitute—
- “(2) For the purposes of this Schedule, two or more claims made by the same person are associated with each other if each of them is any of the following—
- (a) a claim to which this Schedule applies, or
  - (b) a claim to which Schedule 4A to the principal Act applies (creative artists: relief for fluctuating profits),
- and the same year of assessment is the earlier year in relation to each of those claims.
- (3) In sub-paragraph (2) above, any reference to claims includes—
- (a) in the case of a claim to which this Schedule applies, a reference to amendments and revocations to which paragraph 4 below applies;
  - (b) in the case of a claim to which Schedule 4A to the principal Act applies, a reference to amendments and revocations to which paragraph 9 of that Schedule applies.”.

(2) This paragraph applies for the year 2000-01 and subsequent years of assessment.

<sup>F94</sup>**4** .....

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#### Textual Amendments

- F94** Sch. 24 para. 4 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

## SCHEDULE 25 U.K.

Section 76.

### LIMITED LIABILITY PARTNERSHIPS: INVESTMENT LLPS AND PROPERTY INVESTMENT LLPS

#### *Meaning of “investment LLP” and “property investment LLP”*

1 <sup>F95</sup>(1) .....

<sup>F96</sup>(2) .....

- (3) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) (interpretation), at the appropriate place insert—

““property investment LLP” has the meaning given by section 842B of the Taxes Act;”.

#### Textual Amendments

- F95** [Sch. 25 para. 1\(1\)](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F96** Sch. 25 para. 1(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### *Pension funds, &c.: exclusion of exemptions from tax in case of income from property investment LLPs*

- 2 In Chapter 6 of Part 14 of the Taxes Act 1988 (pension schemes, &c.: miscellaneous provisions), after section 659D insert—

#### “659E Treatment of income from property investment LLPs

- (1) The exemptions specified below do not apply to income derived from investments, deposits or other property held as a member of a property investment LLP.
- (2) The exemptions are those provided by—
- section 592(2) (exempt approved schemes),
  - section 608(2)(a) (former approved superannuation funds),
  - section 613(4) (Parliamentary pension funds),
  - section 614(3) (certain colonial, &c. pension funds),
  - section 614(4) (the Overseas Service Pension Fund),
  - section 614(5) (other pension funds for overseas employees),
  - section 620(6) (retirement annuity trust schemes), and

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section 643(2) (approved personal pension schemes).

- (3) The income to which subsection (1) above applies includes relevant stock lending fees, in relation to any investments, to which any of the provisions listed in subsection (2) above would apply by virtue of section 129B.
- (4) Section 659A (treatment of futures and options) applies for the purposes of subsection (1) above.”.

*Pension funds, &c.: exclusion of exemption from trusts rate in case of income from property investment LLPs*

F97<sup>3</sup> .....

**Textual Amendments**

**F97** Sch. 25 para. 3 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

*Pension funds, &c.: exclusion of exemptions in case of gains from property investment LLPs*

4 In section 271 of the Taxation of Chargeable Gains Act 1992 (c. 12) (miscellaneous exemptions), after subsection (11) insert—

“(12) Subsection (1)(b), (c), (d), (g) and (h) and subsection (2) above do not apply to gains accruing to a person from the acquisition and disposal by him of assets held as a member of a property investment LLP.”.

*Insurance companies: treatment of income or gains arising from property investment LLP*

F98<sup>5</sup> .....

**Textual Amendments**

**F98** Sch. 25 para. 5 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(7)**

*Insurance companies: double taxation relief*

F99<sup>6</sup> .....

**Textual Amendments**

**F99** Sch. 25 para. 6 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(7)**

*Insurance companies: capital allowances*

7 In section 545 of the Capital Allowances Act 2001 (c. 2) (life assurance business: investment assets), for subsection (3) substitute—

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“(3) Any allowance under this Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable.

If income so arising is or would be referable to more than one category of business, the allowance shall be apportioned in accordance with sections 432ZA to 432E, or section 438B, of ICTA in the same way as the income.”.

*Friendly societies: exclusion of exemptions from tax*

F1008 .....

**Textual Amendments**  
F100 Sch. 25 para. 8 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

*Exclusion of relief on loans to buy into investment LLP*

F1019 .....

**Textual Amendments**  
F101 Sch. 25 para. 9 repealed (with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

F102 SCHEDULE 26 U.K. Section 78.

.....

**Textual Amendments**  
F102 Sch. 26 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(d)(ii)

SCHEDULE 27 U.K. Section 81.

DOUBLE TAXATION RELIEF

*Computation of income subject to foreign tax*

F1031 .....

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**Textual Amendments**

**F103** Sch. 27 para. 1 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

*Restriction of relief for underlying tax*

**F104**<sub>2</sub> .....

**Textual Amendments**

**F104** Sch. 27 para. 2 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

*Credit for underlying tax: UK company related through overseas company*

**F105**<sub>3</sub> .....

**Textual Amendments**

**F105** Sch. 27 para. 3 repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), **Sch. 11 Pt. 2(9)**

*Dividends that give rise to eligible unrelieved foreign tax*

**F106**<sub>4</sub> .....

**Textual Amendments**

**F106** Sch. 27 para. 4 omitted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 14 para. 30(c)**

*The amounts that are eligible unrelieved foreign tax*

**F107**<sub>5</sub> .....

**Textual Amendments**

**F107** Sch. 27 para. 5 omitted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 14 para. 30(c)**

*Underlying tax excluded from claim not to be allowed under section 811*

**F108**<sub>6</sub> .....

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#### Textual Amendments

**F108** Sch. 27 para. 6 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

#### *Relief for non-resident persons with branches or agencies in the UK*

**F109** .....

#### Textual Amendments

**F109** Sch. 27 para. 7 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

## SCHEDULE 28 **U.K.**

Section 83.

### LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

#### **F110** PART 1 **U.K.**

#### ASSIGNMENT OR SURRENDER OF PART OF THE RIGHTS

#### Textual Amendments

**F110** Sch. 28 Pt. 1 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 14 para. 17(j)**

#### PART 2 **U.K.**

#### PROVISION OF INFORMATION BY INSURERS

#### *Information: duty of insurers*

18 For section 552 of the Taxes Act 1988 substitute—

#### “552 Information: duty of insurers

- (1) Where a chargeable event within the meaning of this Chapter has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall—
- (a) unless satisfied that no gain is to be treated as arising by reason of the event, deliver to the appropriate policy holder before the end of the relevant three month period a certificate specifying the information described in subsection (5) below; and



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- (b) if the condition in paragraph (a) or (b) of subsection (2) below is satisfied, deliver to the inspector before the end of the relevant three month period a certificate specifying the information described in subsection (5) below together with the name and address of the appropriate policy holder.
- (2) For the purposes of this section—
- (a) the condition in this paragraph is that the event is an assignment for money or money's worth of the whole of the rights conferred by the policy or contract; or
  - (b) the condition in this paragraph is that the amount of the gain, or the aggregate amount of the gain and any gains connected with it, exceeds one half of the basic rate limit for the relevant year of assessment.
- (3) If, in the case of every certificate which a body delivers under subsection (1) (a) above which relates to a gain attributable to a year of assessment (or, where the appropriate policy holder is a company, the corresponding financial year), the body also delivers to the inspector—
- (a) before the end of the relevant three month period for the purposes of subsection (1)(b) above,
  - (b) by a means prescribed by the Board for the purposes of this subsection under section 552ZA(5), and
  - (c) in a form so prescribed in the case of that means,
- a certificate specifying the same information as the certificate under subsection (1)(a) together with the name and address of the appropriate policy holder, the body shall be taken to have complied with the requirements of subsection (1)(b) above in relation to that year of assessment, and the corresponding financial year, so far as relating to the chargeable events to which the certificates relate.
- (4) Where a certificate is not required to be delivered under subsection (1)(b) above in the case of any chargeable event—
- (a) the inspector may by notice require the body to deliver to him a copy of any certificate that the body was required to deliver under subsection (1)(a) above which relates to the chargeable event; and
  - (b) it shall be the duty of the body to deliver such a copy within 30 days of receipt of the notice.
- (5) The information to be given to the appropriate policy holder pursuant to subsection (1)(a) above or the inspector pursuant to subsection (1)(b) above is—
- (a) any unique identifying designation given to the policy or contract;
  - (b) the nature of the chargeable event and—
    - (i) the date on which it happened; and
    - (ii) if it is a chargeable event by virtue of section 546C(7)(a), the date on which the year ends;
  - (c) if the event is the assignment of all the rights conferred by the policy or contract, such of the following as may be required for computing the amount of the gain to be treated as arising by virtue of this Chapter—
    - (i) the amount or value of any relevant capital payments;

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- (ii) the amounts previously paid under the policy or contract by way of premiums or otherwise by way of consideration for an annuity;
  - (iii) the capital element in any payment previously made on account of an annuity;
  - (iv) the value of any previously assigned parts of or shares in the rights conferred by the policy or contract;
  - (v) the total of the amounts of gains treated as arising on previous chargeable events by reason, or in consequence, of the occurrence of a section 546 excess at the end of a year;
  - (d) except where paragraph (c) above applies, the amount of the gain treated as arising by reason of the event;
  - (e) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 550(3), apart from section 553(8);
  - (f) on the assumption that section 547(1)(a) has effect in relation to the gain—
    - (i) whether an individual would fall to be treated as having paid income tax at the basic rate on the amount of the gain in accordance with section 547(5)(a); and
    - (ii) if so, except in a case where paragraph (c) above applies, the amount of such tax that would fall to be so treated as paid.
- (6) For the purposes of subsection (1)(a) above, the relevant three month period is whichever of the following periods ends the latest—
- (a) the period of three months following the happening of the chargeable event;
  - (b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;
  - (c) if the event is a death or an assignment of the whole of the rights or a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months beginning with receipt of written notification of the event.
- (7) For the purposes of subsection (1)(b) above, the relevant three month period is whichever of the following periods ends the latest—
- (a) the period of three months following the end of the year of assessment, or, where the policy holder is a company, the financial year, in which the event happened;
  - (b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;
  - (c) if the event is a death or an assignment, the period of three months beginning with receipt of written notification of the event;
  - (d) if a certificate under subsection (1)(b) above would not be required in respect of the event apart from the happening of another event, and that other event is one of those mentioned in paragraph (c) above, the period of three months beginning with receipt of written notification of that other event.

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- (8) For the purposes of this section the cases where a gain is connected with another gain are those cases where—
- (a) both gains arise in connection with policies or contracts containing obligations which, immediately before the chargeable event, were obligations of the same body;
  - (b) the policy holder of those policies or contracts is the same;
  - (c) both gains are attributable to the same year of assessment or, where the policy holder is a company, to the same financial year;
  - (d) the terms of the policies or contracts are the same, apart from any difference in their maturity dates; and
  - (e) the policies or contracts were issued in respect of insurances made, or were entered into or effected, on the same date.
- (9) For the purposes of this section, the year of assessment or financial year to which a gain is attributable is—
- (a) in the case of a gain treated as arising by virtue of section 546C(7)
  - (b), the year of assessment or financial year which includes the end of the year as at which the section 546 excess in question occurs; or
  - (b) in any other case, the year of assessment or financial year in which happens the chargeable event by reason of which the gain is treated as arising.
- (10) In this section—
- “amount”, in relation to any gain, means the amount of the gain apart from section 553(3);
- “appropriate policy holder” means—
- (a) in relation to an assignment of part of or a share in the rights conferred by a policy or contract, any person who is both—
    - (i) the policy holder, or one of the policy holders, immediately before the assignment; and
    - (ii) the assignor or one of the assignors; and
  - (b) in relation to any other chargeable event, the person who is the policy holder immediately before the happening of the event;
- “financial year” means a period of 12 months beginning with 1st April;
- “the relevant year of assessment”, in the case of any gain, means—
- (a) the year of assessment to which the gain is attributable, or
  - (b) if the gain arises to a company, the year of assessment which corresponds to the financial year to which the gain is attributable;
- “section 546 excess” has the meaning given in section 546B(4);
- “year”, in relation to any policy or contract, has the meaning given by section 546(4).
- (11) For the purposes of this section a year of assessment and a financial year correspond to each other if the financial year ends with 31st March in the year of assessment.
- (12) This section is supplemented by section 552ZA.

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### **552ZA Information: supplementary provisions**

- (1) This section supplements section 552 and shall be construed as one with it.
- (2) Where the obligations under any policy or contract of the body that issued, entered into or effected it (“the original insurer”) are at any time the obligations of another body (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, section 552 shall have effect in relation to that time, except where the chargeable event—
  - (a) happened before the transfer, and
  - (b) in the case of a death or an assignment, is an event of which the notification mentioned in subsection (6) or (7) of that section was given before the transfer,
 as if the policy or contract had been issued, entered into or effected by the transferee.
- (3) Where, in consequence of section 546C(7)(a), paragraph (a) or (b) of section 552(1) requires certificates to be delivered in respect of two or more surrenders, happening in the same year, of part of or a share in the rights conferred by the policy or contract, a single certificate may be delivered under the paragraph in question in respect of all those surrenders (and may treat them as if they together constituted a single surrender) unless between the happening of the first and the happening of the last of them there has been—
  - (a) an assignment of part of or a share in the rights conferred by the policy or contract; or
  - (b) an assignment, otherwise than for money or money’s worth, of the whole of the rights conferred by the policy or contract.
- (4) Where the appropriate policy holder is two or more persons—
  - (a) section 552(1)(a) requires a certificate to be delivered to each of them; but
  - (b) nothing in section 552 or this section requires a body to deliver a certificate under subsection (1)(a) of that section to any person whose address has not been provided to the body (or to another body, at a time when the obligations under the policy or contract were obligations of that other body).
- (5) A certificate under section 552(1)(b) or (3)—
  - (a) shall be in a form prescribed for the purpose by the Board; and
  - (b) shall be delivered by any means prescribed for the purpose by the Board;
 and different forms, or different means of delivery, may be prescribed for different cases or different purposes.
- (6) The Board may by regulations make such provision as they think fit for securing that they are able—
  - (a) to ascertain whether there has been or is likely to be any contravention of the requirements of section 552 or this section; and
  - (b) to verify any certificate under that section.

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- (7) Regulations under subsection (6) above may include, in particular, provisions requiring persons to whom premiums under any policy are or have at any time been payable—
- (a) to supply information to the Board; and
  - (b) to make available books, documents and other records for inspection on behalf of the Board.
- (8) Regulations under subsection (6) above 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.”.

*Duties of overseas insurers’ tax representatives*

- 19 In section 552B of the Taxes Act 1988, for subsection (2) (which specifies the relevant duties) substitute—

“(2) For the purposes of this section “the relevant duties” are—

- (a) the duties imposed by section 552,
- (b) the duties imposed by section 552ZA(2), (4) or (5), and
- (c) any duties imposed by regulations made under subsection (6) of section 552ZA by virtue of subsection (7) of that section,

so far as relating to relevant insurances under which the overseas insurer in question has any obligations.”.

*Penalties*

- 20 In section 98 of the Taxes Management Act 1970 (c. 9), in the second column of the Table—

- (a) for the entry “section 552(1) to (4);” substitute “ section 552; ”; and
- (b) for the entry “regulations under section 552(4A)” substitute “ regulations under section 552ZA(6); ”.

SCHEDULE 29 **U.K.**

Section 88.

AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

**PART 1 U.K.**

AMENDMENT OR CORRECTION OF RETURN

*Assessment by Revenue treated as included in return*

- 1 (1) In section 9(3) of the Taxes Management Act 1970 (personal or trustee return to include self-assessment: assessment on the taxpayer’s behalf) omit the words following the paragraphs.
- (2) After that subsection insert—

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“(3A) An assessment under subsection (3) above is treated for the purposes of this Act as a self-assessment and as included in the return.”.

*Power to amend or correct personal or trustee return*

- 2 (1) In section 9 of the Taxes Management Act 1970 (personal or trustee return to include self-assessment) omit subsections (4) to (6).
- (2) After that section insert—

**“9ZA Amendment of personal or trustee return by taxpayer**

- (1) A person may amend his return under section 8 or 8A of this Act by notice to an officer of the Board.
- (2) An amendment may not be made more than twelve months after the filing date.
- (3) In this section “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.

**9ZB Correction of personal or trustee return by Revenue**

- (1) An officer of the Board may amend a return under section 8 or 8A of this Act so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- (2) A correction under this section is made by notice to the person whose return it is.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or
  - (b) if the correction is required in consequence of an amendment of the return under section 9ZA of this Act, the day on which that amendment was made.
- (4) A correction under this section is of no effect if the person whose return it is gives notice rejecting the correction.
- (5) Notice of rejection under subsection (4) above must be given—
- (a) to the officer of the Board by whom the notice of correction was given,
  - (b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.”.

*Power to amend or correct partnership return*

- 3 (1) In section 12AB of the Taxes Management Act 1970 (c. 9) (partnership returns) omit subsections (2) to (4) and the definition in subsection (5) of “filing date”.
- (2) After that section insert—

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#### **“12ABA Amendment of partnership return by taxpayer**

- (1) A partnership return may be amended by the partner who made and delivered the return, or his successor, by notice to an officer of the Board.
- (2) An amendment may not be made more than twelve months after the filing date.
- (3) Where a partnership return is amended under this section, the officer shall by notice to each of the partners amend—
  - (a) the partner’s return under section 8 or 8A of this Act, or
  - (b) the partner’s company tax return,so as to give effect to the amendment of the partnership return.
- (4) In this section “the filing date” means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

#### **12ABB Correction of partnership return by Revenue**

- (1) An officer of the Board may amend a partnership return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- (2) A correction under this section is made by notice to the partner who made and delivered the return, or his successor.
- (3) No such correction may be made more than nine months after—
  - (a) the day on which the return was delivered, or
  - (b) if the correction is required in consequence of an amendment of the return under section 12ABA of this Act, the day on which that amendment was made.
- (4) A correction under this section is of no effect if the person to whom the notice of correction was given, or his successor, gives notice rejecting the correction.
- (5) Notice of rejection under subsection (4) above must be given—
  - (a) to the officer of the Board by whom the notice of correction was given,
  - (b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.
- (6) Where a partnership return is corrected under this section, the officer shall by notice to each of the partners amend—
  - (a) the partner’s return under section 8 or 8A of this Act, or
  - (b) the partner’s company tax return,so as to give effect to the correction of the partnership return.  
Any such amendment shall cease to have effect if the correction is rejected.”.

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## PART 2 U.K.

### ENQUIRIES INTO RETURNS

#### *Enquiry into personal or trustee return*

- 4 (1) For section 9A of the Taxes Management Act 1970 (c. 9) (power to enquire into returns) substitute—

#### **“9A Notice of enquiry**

- (1) An officer of the Board may enquire into a return under section 8 or 8A of this Act if he gives notice of his intention to do so (“notice of enquiry”)—
- (a) to the person whose return it is (“the taxpayer”),
  - (b) within the time allowed.

- (2) The time allowed is—

- (a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;
- (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
- (c) if the return is amended under section 9ZA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

- (3) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under section 9ZA of this Act.
- (4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.
- (5) If the notice of enquiry is given as a result of an amendment of the return under section 9ZA of this Act—
  - (a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or
  - (b) after an enquiry into the return has been completed,
 the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.
- (6) In this section “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.

#### **9B Amendment of return by taxpayer during enquiry**

- (1) This section applies if a return is amended under section 9ZA of this Act (amendment of personal or trustee return by taxpayer) at a time when an enquiry is in progress into the return.



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- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and—
  - (a) if the officer states in the closure notice that he has taken the amendment into account and that—
    - (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
    - (ii) his conclusion is that the amendment is incorrect,the amendment shall not take effect;
  - (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
  - (a) beginning with the day on which notice of enquiry is given, and
  - (b) ending with the day on which the enquiry is completed.

#### **9C Amendment of self-assessment during enquiry to prevent loss of tax**

- (1) This section applies where an enquiry is in progress into a return as a result of notice of enquiry by an officer of the Board under section 9A(1) of this Act.
- (2) If the officer forms the opinion—
  - (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
  - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,he may by notice to the taxpayer amend the assessment to make good the deficiency.
- (3) In the case of an enquiry which under section 9A(5) of this Act is limited to matters arising from an amendment of the return, subsection (2) above only applies so far as the deficiency is attributable to the amendment.
- (4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
  - (a) beginning with the day on which notice of enquiry is given, and
  - (b) ending with the day on which the enquiry is completed.

#### **9D Choice between different Cases of Schedule D**

- (1) Where in the case of a return under section 8 or 8A of this Act—
  - (a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,
  - (b) the return is made using one of those methods but could have been made using an alternative method, and
  - (c) an officer of the Board determines which of the alternative methods is to be used,

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the officer's determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.

- (2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are where they may be brought into charge either—
- (a) in computing profits chargeable to tax under Case I or II of Schedule D, or
  - (b) as amounts within Case III, IV or V of that Schedule.”.
- (2) In section 9A(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by subparagraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for “up to the end of the period of twelve months after the filing date” substitute “ twelve months beginning with that date ”.

#### *Enquiry into partnership return*

- 5 (1) For section 12AC of the Taxes Management Act 1970 (c. 9) (power to enquire into partnership return) substitute—

#### **“12AC Notice of enquiry**

- (1) An officer of the Board may enquire into a partnership return if he gives notice of his intention to do so (“notice of enquiry”)—
- (a) to the partner who made and delivered the return, or his successor,
  - (b) within the time allowed.
- (2) The time allowed is—
- (a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;
  - (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
  - (c) if the return is amended under section 12ABA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

- (3) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under section 12ABA of this Act.
- (4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.
- (5) If the notice of enquiry is given as a result of an amendment of the return under section 12ABA of this Act—
- (a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or
  - (b) after an enquiry into the return has been completed,

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the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

- (6) The giving of notice of enquiry under subsection (1) above at any time shall be deemed to include the giving of notice of enquiry—
- (a) under section 9A(1) of this Act to each partner who at that time has made a return under section 8 or 8A of this Act or at any subsequent time makes such a return, or
  - (b) under paragraph 24 of Schedule 18 to the Finance Act 1998 to each partner who at that time has made a company tax return or at any subsequent time makes such a return.
- (7) In this section “the filing date” means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

#### **12AD Amendment of partnership return by taxpayer during enquiry**

- (1) This section applies if a partnership return is amended under section 12ABA of this Act (amendment of partnership return by taxpayer) at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects any amount stated in the partnership statement included in the return, it does not take effect while the enquiry is in progress and—
- (a) if the officer states in the closure notice that he has taken the amendment into account and that—
    - (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
    - (ii) his conclusion is that the amendment is incorrect,the amendment shall not take effect;
  - (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) Where the effect of an amendment is deferred under subsection (3) above—
- (a) no amendment to give effect to that amendment (“the deferred amendment”) shall be made under section 12ABA(3) of this Act (consequential amendment of partners’ returns) while the enquiry is in progress;
  - (b) if the deferred amendment does not take effect but is taken into account as mentioned in subsection (3)(a)(i) above, section 28B(4) of this Act (amendment of partners’ returns consequential on amendment of partnership return by closure notice) applies accordingly; and
  - (c) if the deferred amendment takes effect under subsection (3)(b) above, any necessary amendment under section 12ABA(3) of this Act may then be made.
- (5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

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- (a) beginning with the day on which notice of enquiry is given, and
- (b) ending with the day on which the enquiry is completed.

### 12AE Choice between different Cases of Schedule D

- (1) Where in the case of a partnership return—
- (a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,
  - (b) the return is made using one of those methods but could have been made using an alternative method, and
  - (c) an officer of the Board determines which of the alternative methods is to be used,

the officer’s determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.

- (2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are those specified—
- (a) for income tax purposes, in section 9D(2) of this Act;
  - (b) for corporation tax purposes, in paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.”.

- (2) In section 12AC(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by sub-paragraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for “up to the end of the period of twelve months after the filing date” substitute “ twelve months beginning with that date ”.

## PART 3 U.K.

### REFERRAL OF QUESTIONS DURING ENQUIRY

*Enquiry into personal, trustee or partnership return*

- 6 (1) After Part 3 of the Taxes Management Act 1970 insert—

#### “PART 3A U.K.

### REFERRAL OF QUESTIONS DURING ENQUIRY

#### Referral of questions during enquiry

28Z(A) At any time when an enquiry is in progress under section 9A(1) or 12AC(1) of this Act, any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.

- (2) Notice of referral must be given—
- (a) jointly by the taxpayer and an officer of the Board,
  - (b) in writing,
  - (c) to the Special Commissioners.

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- (3) The notice of referral must specify the question or questions being referred.
- (4) More than one notice of referral may be given under this section in relation to an enquiry.
- (5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
  - (a) beginning with the day on which notice of enquiry is given, and
  - (b) ending with the day on which the enquiry is completed.
- (6) In this section “the taxpayer” means—
  - (a) in relation to an enquiry under section 9A(1) of this Act, the person to whom the notice of enquiry was given;
  - (b) in relation to an enquiry under section 12AC(1) of this Act, the person to whom the notice of enquiry was given or his successor.

#### **Withdrawal of notice of referral**

28Z~~B~~) Either party may withdraw a notice of referral under section 28ZA of this Act by notice in accordance with this section.

- (2) Notice of withdrawal must be given—
  - (a) in writing,
  - (b) to the other party to the referral and to the Special Commissioners,
  - (c) before the first hearing by the Special Commissioners in relation to the referral.

#### **Regulations with respect to referrals**

28Z~~C~~) The Lord Chancellor may make provision by regulations with respect to referrals to the Special Commissioners under—

- (a) section 28ZA of this Act, or
  - (b) paragraph 31A of Schedule 18 to the Finance Act 1998.
- (2) Regulations under subsection (1) above may, in particular—
    - (a) make provision with respect to any of the matters dealt with in the following provisions of this Act—
      - (i) section 50 (procedure before the Special Commissioners),
      - (ii) section 56 (statement of case for opinion of the High Court),
      - (iii) section 56A (appeals from the Special Commissioners), and
      - (iv) section 58 (proceedings in Northern Ireland), or
    - (b) provide for any of those provisions to apply, with such modifications as may be specified in the regulations, in relation to a referral to the Special Commissioners under the provisions mentioned in subsection (1) above.
  - (3) Regulations under subsection (1) above may—
    - (a) make different provision for different cases or different circumstances, and
    - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.

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- (4) Regulations under subsection (1) above shall—
  - (a) be made by statutory instrument, and
  - (b) be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In the following provisions any reference to an appeal includes a reference to a referral under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998—
  - (a) sections 56B, 56C and 56D of this Act (power of the Lord Chancellor to make regulations about the practice and procedure to be followed in connection with appeals to the Special Commissioners); and
  - (b) section 57 of this Act (power of the Board to make regulations about appeals relating to chargeable gains).
- (6) Any regulations under section 56B or 57 of this Act which are in force immediately before the commencement of subsection (1) above shall apply in relation to referrals under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998, subject to any necessary modifications, as they apply in relation to appeals to the Special Commissioners.
- (7) Regulations under this section relating to proceedings in Scotland shall not be made except with the consent of the Scottish Ministers.

#### **Effect of referral on enquiry**

- 28ZD) While proceedings on a referral under section 28ZA of this Act are in progress in relation to an enquiry—
  - (a) no closure notice shall be given in relation to the enquiry, and
  - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this section proceedings on a referral are in progress where—
  - (a) notice of referral has been given,
  - (b) the notice has not been withdrawn, and
  - (c) the questions referred have not been finally determined.
- (3) For the purposes of subsection (2)(c) above a question referred is finally determined when—
  - (a) it has been determined by the Special Commissioners, and
  - (b) there is no further possibility of that determination being varied or set aside (disregarding any power to give permission to appeal out of time).

#### **Effect of determination**

- 28ZE) The determination of a question referred to the Special Commissioners under section 28ZA of this Act is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by an officer of the Board—
  - (a) in reaching his conclusions on the enquiry, and

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- (b) in formulating any amendments of the return required to give effect to those conclusions.
- (3) Any right of appeal under section 31(1)(a), (b) or (c) of this Act may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.”
- (2) This paragraph applies—
  - (a) where the notice of enquiry is given after the passing of this Act, or
  - (b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer’s enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (c. 9) (as those provisions had effect apart from this Schedule).

#### *Enquiry into company tax return*

- 7 (1) In Part 4 of Schedule 18 to the Finance Act 1998 (c. 36) (enquiry into company tax return), after paragraph 31 insert—

#### **“Referral of questions to Special Commissioners during enquiry**

- 31A (1) At any time when an enquiry is in progress into a company’s tax return any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.
- (2) Notice of referral must be given—
  - (a) jointly by the company and the Inland Revenue,
  - (b) in writing,
  - (c) to the Special Commissioners.
- (3) The notice of referral must specify the question or questions being referred.
- (4) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
  - (a) beginning with the day on which the Inland Revenue give notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

#### **Withdrawal of notice of referral**

- 31B (1) The Inland Revenue or the company may withdraw a notice of referral under paragraph 31A by notice in accordance with this paragraph.
- (2) Notice of withdrawal must be given—
  - (a) in writing,
  - (b) to the other party to the referral and to the Special Commissioners,

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- (c) before the first hearing by the Special Commissioners in relation to the referral.

### **Effect of referral on enquiry**

- 31C (1) While proceedings on a referral under paragraph 31A are in progress in relation to an enquiry—
- (a) no closure notice shall be given in relation to the enquiry, and
  - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this paragraph proceedings on a referral are in progress where—
- (a) notice of referral has been given,
  - (b) the notice has not been withdrawn, and
  - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—
- (a) it has been determined by the Special Commissioners, and
  - (b) there is no further possibility of that determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

### **Effect of determination**

- 31D (1) The determination of a question referred to the Special Commissioners under paragraph 31A is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by the Inland Revenue in reaching their conclusions on the enquiry.
- (3) Any right of appeal under paragraph 30 or 34(3) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.”.
- (2) This paragraph applies in relation to an enquiry under Part 4 of Schedule 18 to the Finance Act 1998 (c. 36)—
- (a) in relation to which notice of enquiry is given after the passing of this Act, or
  - (b) which is in progress (within the meaning of paragraph 31(5) of that Schedule) immediately before the passing of this Act.

## **PART 4 U.K.**

### **PROCEDURE ON COMPLETION OF ENQUIRY**

#### *Procedure on completion of enquiry into personal or trustee return*

- 8 (1) For section 28A of the Taxes Management Act 1970 (c. 9) (amendment of self-assessment where enquiries made) substitute—



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### **“28A Completion of enquiry into personal or trustee return**

- (1) An enquiry under section 9A(1) of this Act is completed when an officer of the Board by notice (a “closure notice”) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section “the taxpayer” means the person to whom notice of enquiry was given.

- (2) A closure notice must either—
- (a) state that in the officer’s opinion no amendment of the return is required, or
  - (b) make the amendments of the return required to give effect to his conclusions.
- (3) A closure notice takes effect when it is issued.
- (4) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- (5) Any such application shall be heard and determined in the same way as an appeal.
- (6) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.”

- (2) This paragraph applies—
- (a) where the notice of enquiry is given after the passing of this Act, or
  - (b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer’s enquiries fall to be treated as completed under section 28A(5) of the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

### *Procedure on completion of enquiry into partnership return*

- 9 (1) For section 28B of the Taxes Management Act 1970 (amendment of partnership statement where enquiries made) substitute—

### **“28B Completion of enquiry into partnership return**

- (1) An enquiry under section 12AC(1) of this Act is completed when an officer of the Board by notice (a “closure notice”) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section “the taxpayer” means the person to whom notice of enquiry was given or his successor.

- (2) A closure notice must either—
- (a) state that in the officer’s opinion no amendment of the return is required, or

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- (b) make the amendments of the return required to give effect to his conclusions.
- (3) A closure notice takes effect when it is issued.
- (4) Where a partnership return is amended under subsection (2) above, the officer shall by notice to each of the partners amend—
  - (a) the partner’s return under section 8 or 8A of this Act, or
  - (b) the partner’s company tax return,
 so as to give effect to the amendments of the partnership return.
- (5) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- (6) Any such application shall be heard and determined in the same way as an appeal.
- (7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.”.
- (2) This paragraph applies—
  - (a) where the notice of enquiry is given after the passing of this Act, or
  - (b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer’s enquiries fall to be treated as completed under section 28B(5) of the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

*Procedure on completion of enquiry into claims, &c. not included in returns*

- 10 (1) Schedule 1A to the Taxes Management Act 1970 (claims, &c. not included in returns) is amended as follows.
- (2) For paragraph 7 (amendments of claims where enquiries made) substitute—

**“Completion of enquiry into claim**

- 7 (1) An enquiry under paragraph 5 above is completed when an officer of the Board by notice (a “closure notice”) informs the claimant that he has completed his enquiries and states his conclusions.
- (2) In the case of a claim for discharge or repayment of tax, the closure notice must either—
  - (a) state that in the officer’s opinion no amendment of the claim is required, or
  - (b) if in the officer’s opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.

In the case of an enquiry falling within paragraph 5(1)(b) above, paragraph (b) above only applies so far as the deficiency or excess is attributable to the claimant’s amendment.

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- (3) In the case of a claim that is not a claim for discharge or repayment of tax, the closure notice must either—
    - (a) allow the claim, or
    - (b) disallow the claim, wholly or to such extent as appears to the officer appropriate.
  - (4) A closure notice takes effect when it is issued.
  - (5) The claimant may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.
  - (6) Any such application shall be heard and determined in the same way as an appeal.
  - (7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.
  - (8) In relation to a partnership claim, references in this paragraph to the claimant are to the person who made the claim or his successor.”.
- (3) This paragraph applies—
- (a) where the notice of enquiry is given after the passing of this Act, or
  - (b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer’s enquiries fall to be treated as completed under paragraph 7(4) of Schedule 1A to the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

## PART 5 U.K.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Appeals*

- 11 (1) For section 31 of the Taxes Management Act 1970 (right of appeal) substitute—

#### **“31 Appeals: right of appeal**

- (1) An appeal may be brought against—
  - (a) any amendment of a self-assessment under section 9C of this Act (amendment by Revenue during enquiry to prevent loss of tax),
  - (b) any conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act (amendment by Revenue on completion of enquiry into return),
  - (c) any amendment of a partnership return under section 30B(1) of this Act (amendment by Revenue where loss of tax discovered), or
  - (d) any assessment to tax which is not a self-assessment.

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- (2) An appeal under subsection (1)(a) above against an amendment of a self-assessment made while an enquiry is in progress shall not be heard and determined until the enquiry is completed.
- (3) A determination under section 9D or 12AE of this Act (choice between different Cases of Schedule D) may not be questioned on an appeal under this section.
- (4) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision making one kind of assessment conclusive in an appeal against another kind of assessment.

### **31A Appeals: notice of appeal**

- (1) Notice of an appeal under section 31 of this Act must be given—
  - (a) in writing,
  - (b) within 30 days after the specified date,
  - (c) to the relevant officer of the Board.
- (2) In relation to an appeal under section 31(1)(a) or (c) of this Act—
  - (a) the specified date is the date on which the notice of amendment was issued, and
  - (b) the relevant officer of the Board is the officer by whom the notice of amendment was given.
- (3) In relation to an appeal under section 31(1)(b) of this Act—
  - (a) the specified date is the date on which the closure notice was issued, and
  - (b) the relevant officer of the Board is the officer by whom the closure notice was given.
- (4) In relation to an appeal under section 31(1)(d) of this Act—
  - (a) the specified date is the date on which the notice of assessment was issued, and
  - (b) the relevant officer of the Board is the officer by whom the notice of assessment was given.
- (5) The notice of appeal must specify the grounds of appeal.
- (6) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.

### **31B Appeals: appeals to General Commissioners**

- (1) An appeal under section 31(1) of this Act shall be to the General Commissioners, subject to—
  - (a) section 31C of this Act (appeals to be brought to Special Commissioners),
  - (b) any provision made by or under Part 5 of this Act, and

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- (c) any other provision of the Taxes Acts providing for an appeal to be brought to the Special Commissioners to the exclusion of the General Commissioners.
- (2) Subsection (1) above has effect subject to any election under section 31D of this Act (election to take appeal to Special Commissioners).

### **31C Appeals: appeals to Special Commissioners**

- (1) Unless the Special Commissioners otherwise direct, an appeal under section 31(1)(a), (b) or (c) of this Act shall be to the Special Commissioners if—
- (a) the appeal relates to a return in relation to which notice of enquiry has been given under section 9A(1) or 12AC(1) of this Act, and
  - (b) notice has been given under section 28ZA of this Act referring a question relating to the subject-matter of that enquiry to the Special Commissioners.

This applies even if the notice of referral was subsequently withdrawn.

- (2) An appeal under section 31(1)(d) of this Act (appeal against assessment other than self-assessment) shall be to the Special Commissioners if the assessment was made—
- (a) by the Board, or
  - (b) under section 350 of the principal Act.

### **31D Appeals: election to bring appeal before Special Commissioners**

- (1) The appellant may elect (in accordance with section 46(1) of this Act) to bring before the Special Commissioners an appeal under section 31(1) of this Act that would otherwise be to the General Commissioners.
- (2) Any such election above shall be disregarded if—
- (a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded, or
  - (b) the General Commissioners have given a direction under subsection (5) below and have not revoked it.
- (3) Where an election has been made under subsection (1) above, the inspector or other officer of the Board may refer the election to the General Commissioners.
- (4) A reference under subsection (3) above must be made—
- (a) after giving notice to the appellant, and
  - (b) before the determination of the appeal in respect of which the election has been made.
- (5) On a reference under subsection (3) above the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.

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- (6) If at any time after giving a direction under subsection (5) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
  - (7) A decision to give or revoke a direction under subsection (5) above shall be final.”.
- (2) This paragraph applies in relation to—
- (a) amendments of a self-assessment under section 9C of the Taxes Management Act 1970 (c. 9) as inserted by paragraph 4 of this Schedule,
  - (b) closure notices issued under section 28A(1) or 28B(1) of that Act as substituted by paragraphs 8 and 9 of this Schedule,
  - (c) amendments of partnership returns under section 30B(1) of that Act where notice of the amendment is issued after the passing of this Act, and
  - (d) assessments to tax which are not self-assessments where the notice of the assessment is issued after the passing of this Act.
- 12 (1) Schedule 1A to the Taxes Management Act 1970 (c. 9) (claims etc. not included in returns) is amended as follows.
- (2) For paragraph 9(1) (appeals against amendments under paragraph 7) substitute—
- “(1) An appeal may be brought against—
- (a) any conclusion stated or amendment made by a closure notice under paragraph 7(2) above, or
  - (b) any decision contained in a closure notice under paragraph 7(3) above.
- (1A) Notice of the appeal must be given—
- (a) in writing,
  - (b) within 30 days after the date on which the closure notice was issued,
  - (c) to the officer of the Board by whom the closure notice was given.”.

(3) In paragraph 9(2) (extended time limit for appeal) for “(1)” substitute “ (1A)(b) ”.

(4) In paragraph 9(3) (Commissioners’ power to vary amendment) for “amendment under paragraph 7(3) above” substitute “ amendment made by a closure notice under paragraph 7(2) above ”.

(5) In paragraph 9(4) (application of paragraph 8 where amendment varied) for “an amendment made under paragraph 7(3) above” substitute “ any such amendment ”.

(6) In paragraph 9(5) (claims disallowed) for “specified in a notice under paragraph 7(3A)” substitute “ which was the subject of a decision contained in a closure notice under paragraph 7(3) ”.

(7) In paragraph 10 (appeals to be heard by the Special Commissioners) for “an amendment under paragraph 7(3) above of” substitute “ any conclusion stated or amendment made by a closure notice under paragraph 7(2) above relating to ”.

(8) This paragraph applies in relation to closure notices issued under paragraph 7 of Schedule 1A to the Taxes Management Act 1970 as substituted by paragraph 10 of this Schedule.

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- 13 (1) Part 11 of Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns: supplementary provisions) is amended as follows.
- (2) In paragraph 93 (general jurisdiction of Special or General Commissioners) after sub-paragraph (2) insert—
- “(2A) Unless the Special Commissioners otherwise direct, an appeal under paragraph 30 or 34(3) shall be to the Special Commissioners if—
- (a) the appeal relates to a return in relation to which notice of enquiry has been given under paragraph 24, and
- (b) notice has been given under paragraph 31A referring a question relating to the subject-matter of that enquiry to the Special Commissioners.
- This applies even if the notice of referral was subsequently withdrawn.”.

*Due date for payment after amendment or correction of return*

- 14 (1) Section 59B of the Taxes Management Act 1970 (c. 9) (payment of income tax and capital gains tax) is amended as follows.
- (2) In subsection (4A)(a)—
- (a) for “28A(5)” substitute “ 28A(1) ”, and
- (b) for “the officer’s enquiries are treated as” substitute “ the enquiry is ”.
- (3) For subsection (5) substitute—
- “(5) An amount of tax which is payable or repayable as a result of the amendment or correction of a self-assessment under—
- (a) section 9ZA, 9ZB, 9C or 28A of this Act (amendment or correction of return under section 8 or 8A of this Act), or
- (b) section 12ABA(3)(a), 12ABB(6)(a), 28B(4)(a), 30B(2)(a), 33A(4)(a) or 50(9)(a) of this Act (amendment of partner’s return to give effect to amendment or correction of partnership return),
- is payable (or repayable) on or before the day specified by the relevant provision of Schedule 3ZA to this Act.”.

- 15 After Schedule 3 to the Taxes Management Act 1970 insert—

“SCHEDULE  
3ZA U.K.

DATE BY WHICH PAYMENT TO BE MADE AFTER  
AMENDMENT OR CORRECTION OF SELF-ASSESSMENT

**General**

- 1 (1) This Schedule specifies the day by which tax has to be paid (or repaid) following the amendment or correction of a self-assessment.
- (2) If in any case the general rules in section 59B(3) and (4) of this Act give a later day, those rules apply instead.

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- (3) The provisions of this Schedule have effect subject to section 55(6) and (9) of this Act (provisions as to postponement of payment, etc. in case of appeal).

***Amendment of personal or trustee return by the taxpayer***

- 2 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9ZA of this Act (amendment of personal or trustee return by taxpayer).
- (2) Subject to sub-paragraph (3) below, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.
- (3) If section 9B(3) of this Act applies (amendment of self-assessment by taxpayer during enquiry: deferral of effect), then—
- (a) if the amendment is taken into account as mentioned in paragraph (a) (i) of that subsection, paragraph 5 below (amendment of personal or trustee return by closure notice) applies accordingly; and
  - (b) if the amendment takes effect under paragraph (b) of that subsection on the issue of the closure notice, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

***Correction of personal or trustee return by Revenue***

- 3 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the correction of a self-assessment under section 9ZB of this Act (correction of personal or trustee return by the Revenue).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of correction was given.

***Amendment of personal or trustee return to prevent loss of tax***

- 4 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9C of this Act (amendment of personal or trustee return by Revenue to prevent loss of tax).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

***Amendment of personal or trustee return by closure notice***

- 5 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28A of this Act (amendment of personal or trustee return by closure notice following enquiry).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.



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***Amendment consequential on amendment of partnership return by taxpayer***

- 6 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABA(3)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by taxpayer).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABA(3)(a) of this Act was given.

***Amendment consequential on correction of partnership return by Revenue***

- 7 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABB(6)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected by Revenue).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABB(6)(a) of this Act was given.

***Amendment consequential on amendment of partnership return by closure notice***

- 8 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28B(4)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by closure notice).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 28B(4)(a) of this Act was given.

***Amendment consequential on amendment of partnership return to prevent loss of tax***

- 9 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 30B(2)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by Revenue to prevent loss of tax).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 30B(2)(a) of this Act was given.

***Amendment consequential on amendment of partnership return by way of error or mistake relief***

- 10 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 33A(4)(a) of this Act (consequential amendment of partner's personal or trustee return where

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partnership return amended by Revenue to afford relief in case of error or mistake).

- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 33A(4)(a) of this Act was given.

***Amendment consequential on reduction or increase on appeal of amounts stated in partnership statement***

11 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 50(9)(a) of this Act (consequential amendment of partner’s personal or trustee return where partnership statement amended by Revenue following decision on appeal).

- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 50(9)(a) of this Act was given.”

- 16 (1) Paragraphs 14 and 15 above apply where the relevant day is, or is after, the day on which this Act is passed.
- (2) In sub-paragraph (1) the “relevant day” means the first day of the period of 30 days specified in the relevant provision of Schedule 3ZA to the Taxes Management Act 1970 (c. 9) (as inserted by paragraph 15 above).

*Effect of return on recovery proceedings*

- 17 (1) In section 28C of the Taxes Management Act 1970 (determination of tax in absence of personal or trustee return), in subsection (4) (effect of subsequent self-assessment on recovery proceedings), for “an officer of the Board has commenced any proceedings” substitute “ proceedings have been commenced ”.
- (2) In paragraph 40 of Schedule 18 to the Finance Act 1998 (c. 36) (determination of tax in absence of company tax return), in sub-paragraph (4) (effect of subsequent self-assessment on recovery proceedings), for “the Inland Revenue have begun proceedings” substitute “ proceedings have been begun ”.
- (3) This paragraph applies in relation to proceedings begun after the passing of this Act.

*Other amendments of the Taxes Management Act 1970*

- 18 (1) Section 12AA of the Taxes Management Act 1970 (partnership return) is amended as follows.
- (2) After subsection (10) insert—
- “(10A) In this Act a “partnership return” means a return in pursuance of a notice under subsection (2) or (3) above.”.
- (3) In subsection (11) for “a return in pursuance of a notice under subsection (2) or (3) above” substitute “ a partnership return ”.
- 19 In section 12AB(1) of the Taxes Management Act 1970 (partnership return to include partnership statement), for “return under section 12AA of this Act” substitute “ partnership return ”.

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- 20 (1) Section 12B of the Taxes Management Act 1970 (preservation of records) is amended as follows.
- (2) In subsection (1)(b)(i)—
- (a) omit “or any amendment of the return”,
  - (b) for “28A(5) or 28B(5)” substitute “ 28A(1) or 28B(1) ”, and
  - (c) omit “treated as”.
- (3) In subsection (1)(b)(ii) omit “or any amendment of the return”.

F11121 .....

**Textual Amendments**

**F111** Sch. 29 para. 21 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), Sch. 36 para. 92(h) (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

- 22 In section 29(7)(a)(ii) of the Taxes Management Act 1970 (assessment where loss of tax discovered), for “any return with respect to the partnership under section 12AA of this Act” substitute “ any partnership return with respect to the partnership ”.
- 23 (1) Section 30 of the Taxes Management Act 1970 (recovery of overpayment of tax, etc.) is amended as follows.
- (2) In subsection (5)(b)—
- (a) omit “, or an amendment of such a return”,
  - (b) for “28A(5)” substitute “ 28A(1) ”, and
  - (c) for “the officer’s enquiries are treated as” substitute “ the enquiry is ”.
- 24 (1) Section 30B of the Taxes Management Act 1970 (amendment of partnership statement where loss of tax discovered) is amended as follows.
- (2) In subsection (1) for “amend the statement” substitute “ amend the partnership return ”.
- (3) For subsection (2) substitute—
- “(2) Where a partnership return is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend—
- (a) the partner’s return under section 8 or 8A of this Act, or
  - (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership return.”.
- (4) In subsections (6)(a) and (7)(b) for “return under section 12AA of this Act” substitute “ partnership return ”.
- 25 (1) Section 33A of the Taxes Management Act 1970 (c. 9) (error or mistake in partnership statement) is amended as follows.
- (2) In the sidenote and in subsections (1), (3), (5) and (9) for “partnership statement” substitute “ partnership return ”.
- (3) For subsection (4) substitute—
- “(4) Where a partnership return is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend—

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- (a) the partner’s return under section 8 or 8A of this Act, or
  - (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership return.”.

26 In section 42(6)(a) of the Taxes Management Act 1970 (procedure for making claims, etc.), for “return under section 12AA of this Act” substitute “ partnership return ”.

F112<sup>27</sup> .....

**Textual Amendments**  
**F112** Sch. 29 para. 27 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 311**

F113<sup>28</sup> .....

**Textual Amendments**  
**F113** Sch. 29 para. 28 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 311**

29 (1) Section 46D(2) of the Taxes Management Act 1970 (c. 9) (questions to be determined by Lands Tribunal: appeals to which the section applies) is amended as follows.

- (2) For paragraphs (a), (b) and (c) substitute—
- “(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;
  - (aa) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;
  - (b) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;
  - (c) an appeal against an amendment of a partnership return under section 30B(1) of this Act;”.

(3) In paragraph (e), for “an amendment under paragraph 7(3) of Schedule 1A to this Act of” substitute “a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to”.

(4) In paragraph (f), for “notice under paragraph 7(3A)” insert “closure notice under paragraph 7(3)”.

30 (1) Section 50 of the Taxes Management Act 1970 (procedure on appeals) is amended as follows.

- (2) In subsection (6)—
- (a) in paragraph (a), omit the words from “by reason of” to “Finance Act 1998”, and
  - (b) in paragraph (b), omit the words from “by reason of” to “this Act”.

(3) In subsection (7)—

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- (a) in paragraph (a), omit the words from “which has been amended” to the end of the paragraph, and
  - (b) in paragraph (b), omit the words from “which has been amended” to “this Act”.
- (4) In subsection (7A) for “specified in a notice under section 28A(4A)” substitute “which was the subject of a decision contained in a closure notice under section 28A”.
- (5) In subsection (9) for paragraph (a) substitute—
  - “(a) the partner’s return under section 8 or 8A of this Act, or”.
- 31 (1) Section 55 of the Taxes Management Act 1970 (recovery of tax) is amended as follows.
  - (2) For subsection (1)(a) substitute—
    - “(a) an amendment of a self-assessment—
      - (i) under section 9C of this Act, or
      - (ii) under paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998,
    - (aa) a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act,”.
  - (3) In subsection (2) for “by the amendment or assessment” substitute—
    - “—
    - (a) by the amendment or assessment, or
    - (b) where the appeal is against a conclusion stated by a closure notice, as a result of that conclusion,”.
  - (4) In subsection (3)—
    - (a) after “or assessment” insert “, or as a result of the conclusion stated in the closure notice,”, and
    - (b) for “the date of the issue of the notice of amendment or assessment” substitute “the specified date”.
  - (5) In subsection (3A)—
    - (a) for “the date of the issue of the notice of amendment or assessment” substitute “the specified date”, and
    - (b) after “the amendment or assessment” insert “, or as a result of the conclusion stated in the closure notice”.
  - (6) In subsection (9)(a) after “the amendment or assessment” insert “, or as a result of the conclusion stated in the closure notice,”.
  - (7) For subsection (10) substitute—
    - “(10) In subsection (3) above, “inspector” means the inspector or other officer of the Board—
      - (a) by whom the notice of amendment or assessment was issued, or
      - (b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, by whom the closure notice was issued.
  - (10A) In this section “the specified date” means the date of—
    - (a) the issue of the notice of amendment or assessment, or

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(b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, the issue of the closure notice.

(10B) References in this section to an agreement being come to with an appellant, and to the giving of notice to or by an appellant, include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.”.

F11432 .....

**Textual Amendments**  
F114 Sch. 29 para. 32 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 5(5)

33 (1) Section 118(1) of the Taxes Management Act 1970 (interpretation) is amended as follows.

(2) At the appropriate place insert—

““partnership return” has the meaning given by section 12AA(10A) of this Act,”.

(3) In the definition of “successor” for “a return under section 12AA of this Act” substitute “ a partnership return ”.

34 (1) Schedule 1A to the Taxes Management Act 1970 (claims etc. not included in returns) is amended as follows.

(2) In paragraph 2A(2)(a) (keeping and preserving records until enquiries completed)—

(a) for “7(4)” substitute “ 7(1) ”, and

(b) omit “treated as”.

(3) In paragraph 4(3)(a) (giving effect to claims and amendments where there is an enquiry)—

(a) for “7(4)” substitute “ 7(1) ”, and

(b) for “the officer’s enquiries are treated as” substitute “ the enquiry is ”.

(4) In paragraph 8(1) (giving effect to amendments of non-partnership claim) for “of a claim other than a partnership claim being amended under paragraph 7(2) or (3)” substitute “ after the date of issue of a closure notice amending a claim other than a partnership claim under paragraph 7(2) ”.

(5) In paragraph 8(2) (giving effect to amendments of partnership claim) for “of a claim being amended under paragraph 7(2) or (3)” substitute “ after the date of issue of a closure notice amending a partnership claim under paragraph 7(2) ”.

*Consequential amendments of other enactments*

F11535 .....

**Textual Amendments**  
F115 Sch. 29 para. 35 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 2 (with Sch. 9 paras. 1-9, 22)

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F116<sup>36</sup> .....

**Textual Amendments**

**F116** Sch. 29 para. 36 repealed (with effect in accordance with Sch. 11 Pt. 2(11) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(11)**

37 (1) In Schedule 22 to the Finance Act 1995 (c. 4) (prevention of exploitation of self-assessment transitional provisions), Part 3 (procedural and other provisions) is amended as follows.

(2) In paragraph 11(2) for “partnership statement” substitute “ partnership return ”.

(3) In paragraph 11(3)—

(a) in paragraph (a)—

(i) for “an assessment under section 9 of the Management Act” substitute “ a return under section 8 or 8A of the Management Act (personal or trustee return) ”;

(ii) for “partnership statement under section 12AB of that Act” substitute “ partnership return ”; and

(iii) for “assessment or statement” substitute “return”; and

(b) for paragraph (b) substitute—

“(b) no such return has been so made.”.

(4) In paragraph 12(1) for “an assessment made under section 9 of the Management Act (returns to include self-assessment)” substitute “ a return under section 8 or 8A of the Management Act (personal or trustee return) ”.

(5) In paragraph 12(2)—

(a) in paragraph (a)—

(i) for “an assessment under section 9 of the Management Act” substitute “ a return under section 8 or 8A of the Management Act (personal or trustee return) ”; and

(ii) for “that assessment” substitute “ that return ”; and

(b) for paragraph (b) substitute—

“(b) no such return has been so made.”.

38 F117(1) .....

F117(2) .....

F117(3) .....

F118(4) .....

**Textual Amendments**

**F117** Sch. 29 para. 38(1)-(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9, 22)

**F118** Sch. 29 para. 38(4) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(h)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

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- 39 In section 12(5) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (application of section 31(5A) to (5E) of the 1970 Act in relation to elections under section 12(4))—
- (a) for “(5A) to (5E) of section 31” substitute “(2) to (7) of section 31D”, and
- (b) for “subsection (4) of that section” substitute “subsection (1) of that section”.
- 40 In Article 11(5) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (application of section 31(5A) to (5E) of the 1970 Act in relation to elections under Article 11(4))—
- (a) for “(5A) to (5E) of section 31” substitute “(2) to (7) of section 31D”, and
- (b) for “subsection (4) of that section” substitute “subsection (1) of that section”.

## F119 SCHEDULE 30 U.K.

### Textual Amendments

**F119** Sch. 30 repealed (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 7\(1\)](#) (with [Sch. 39 paras. 7\(3\), 11-13](#))

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## SCHEDULE 31 U.K.

Section 99.

### VALUE ADDED TAX: RE-ENACTMENT OF REDUCED RATE PROVISIONS

#### PART 1 U.K.

##### NEW SCHEDULE 7A TO THE VALUE ADDED TAX ACT 1994

- 1 The Schedule inserted after Schedule 7 to the Value Added Tax Act 1994 (c. 23) is as follows—

#### “SCHEDULE 7A U.K.

##### CHARGE AT REDUCED RATE

#### PART 1 U.K.

##### INDEX TO REDUCED-RATE SUPPLIES OF GOODS AND SERVICES

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Children’s car seats..... Group 5



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Domestic fuel or power.....	Group 1
Energy-saving materials: installation.....	Group 2
Heating equipment, security goods and gas supplies: grant-funded installation or connection.....	Group 3
Renovation and alteration of dwellings.....	Group 7
Residential conversions.....	Group 6
Women’s sanitary products.....	Group 4

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## PART 2 **U.K.**

### THE GROUPS

#### GROUP 1 — SUPPLIES OF DOMESTIC FUEL OR POWER **U.K.**

##### ITEM NO.

- 1 Supplies for qualifying use—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
  - (d) fuel oil, gas oil or kerosene; or
  - (e) electricity, heat or air-conditioning.

##### NOTES:

##### *Matters included or not included in the supplies*

- 1 (1) Item 1(a) shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (2) Item 1(b) and (c) shall not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979 (c. 5)) on which a duty of excise has been charged or is chargeable.
- (3) Item 1(d) shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.

##### *Meaning of “fuel oil”, “gas oil” and “kerosene”*

- 2 (1) In this Group “fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.

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- (2) In this Group “gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (3) In this Group “kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (4) In this paragraph “heavy oil” has the same meaning as in the Hydrocarbon Oil Duties Act 1979.

***Meaning of “qualifying use”***

- 3 In this Group “qualifying use” means—
- (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.

***Supplies only partly for qualifying use***

- 4 For the purposes of this Group, where there is a supply of goods partly for qualifying use and partly not—
- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
  - (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

***Supplies deemed to be for domestic use***

- 5 For the purposes of this Group the following supplies are always for domestic use—
- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within item 1(b), or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
  - (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
  - (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the

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premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

***Other supplies that are for domestic use***

- 6 For the purposes of this Group supplies not within paragraph 5 are for domestic use if and only if the goods supplied are for use in—
- (a) a building, or part of a building, that consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.

***Interpretation of paragraph 6***

- 7 (1) For the purposes of this Group, “use for a relevant residential purpose” means use as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (c) a hospice,
  - (d) residential accommodation for students or school pupils,
  - (e) residential accommodation for members of any of the armed forces,
  - (f) a monastery, nunnery or similar establishment, or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (2) For the purposes of this Group “self-catering holiday accommodation” includes any accommodation advertised or held out as such.
- (3) In paragraph 6 “houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.

**GROUP 2 — INSTALLATION OF ENERGY-SAVING MATERIALS** **U.K.**

ITEM NO.

- 1 Supplies of services of installing energy-saving materials in—
- (a) residential accommodation, or
  - (b) a building intended for use solely for a relevant charitable purpose.
- 2 Supplies of energy-saving materials by a person who installs those materials in—

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- (a) residential accommodation, or
- (b) a building intended for use solely for a relevant charitable purpose.

NOTES:

***Meaning of “energy-saving materials”***

- 1 For the purposes of this Group “energy-saving materials” means any of the following—
- (a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;
  - (b) draught stripping for windows and doors;
  - (c) central heating system controls (including thermostatic radiator valves);
  - (d) hot water system controls;
  - (e) solar panels;
  - (f) wind turbines;
  - (g) water turbines.

***Meaning of “residential accommodation”***

- 2 (1) For the purposes of this Group “residential accommodation” means—
- (a) a building, or part of a building, that consists of a dwelling or a number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) a caravan used as a place of permanent habitation; or
  - (d) a houseboat.
- (2) For the purposes of this Group “use for a relevant residential purpose” has the same meaning as it has for the purposes of Group 1 (see paragraph 7(1) of the Notes to that Group).
- (3) In sub-paragraph (1)(d) “houseboat” has the meaning given by paragraph 7(3) of the Notes to Group 1.

***Meaning of “use for a relevant charitable purpose”***

- 3 For the purposes of this Group “use for a relevant charitable purpose” means use by a charity in either or both of the following ways, namely—
- (a) otherwise than in the course or furtherance of a business;
  - (b) as a village hall or similarly in providing social or recreational facilities for a local community.

**GROUP 3 — GRANT-FUNDED INSTALLATION OF HEATING EQUIPMENT  
 OR SECURITY GOODS OR CONNECTION OF GAS SUPPLY** U.K.

ITEM NO.

- 1 Supplies to a qualifying person of any services of installing heating appliances in the qualifying person’s sole or main residence.

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- 2 Supplies of heating appliances made to a qualifying person by a person who installs those appliances in the qualifying person's sole or main residence.
- 3 Supplies to a qualifying person of services of connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence.
- 4 Supplies of goods made to a qualifying person by a person connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence, being goods whose installation is necessary for the connection, or reconnection, of the mains gas supply.
- 5 Supplies to a qualifying person of services of installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence.
- 6 Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the central heating system.
- 7 Supplies consisting in the leasing of goods that form the whole or part of a central heating system installed in the sole or main residence of a qualifying person.
- 8 Supplies of goods that form the whole or part of a central heating system installed in a qualifying person's sole or main residence and that, immediately before being supplied, were goods leased under arrangements such that the consideration for the supplies consisting in the leasing of the goods was, in whole or in part, funded by a grant made under a relevant scheme.
- 9 Supplies to a qualifying person of services of installing qualifying security goods in the qualifying person's sole or main residence.
- 10 Supplies of qualifying security goods made to a qualifying person by a person who installs those goods in the qualifying person's sole or main residence.

NOTES:

***Supply only included so far as grant-funded***

- 1 (1) Each of items 1 to 7, 9 and 10 applies to a supply only to the extent that the consideration for the supply is, or is to be, funded by a grant made under a relevant scheme.
- (2) Item 8 applies to a supply only to the extent that the consideration for the supply—
  - (a) is, or is to be, funded by a grant made under a relevant scheme; or
  - (b) is a payment becoming due only by reason of the termination (whether by the passage of time or otherwise) of the leasing of the goods in question.

***Meaning of “relevant scheme”***

- 2 (1) For the purposes of this Group a scheme is a “relevant scheme” if it is one which satisfies the conditions specified in this paragraph.

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- (2) The first condition is that the scheme has as one of its objectives the funding of the installation of energy-saving materials in the homes of any persons who are qualifying persons.
- (3) The second condition is that the scheme disburses, whether directly or indirectly, its grants in whole or in part out of funds made available to it in order to achieve that objective—
  - (a) by the Secretary of State,
  - (b) by the Scottish Ministers,
  - (c) by the National Assembly for Wales,
  - (d) by a Minister (within the meaning given by section 7(3) of the Northern Ireland Act 1998 (c. 47)) or a Northern Ireland department,
  - (e) by the <sup>[F120]</sup>European Union],
  - (f) under an arrangement approved by the Gas and Electricity Markets Authority,
  - (g) under an arrangement approved by the Director General of Electricity Supply for Northern Ireland, or
  - (h) by a local authority.
- (4) The reference in sub-paragraph (3)(f) to an arrangement approved by the Gas and Electricity Markets Authority includes a reference to an arrangement approved by the Director General of Electricity Supply, or the Director General of Gas Supply, before the transfer (under the Utilities Act 2000 (c. 27)) of his functions to the Authority.

***Apportionment of grants that also cover other supplies***

- 3 Where a grant is made under a relevant scheme in order—
  - (a) to fund a supply of a description to which any of items 1 to 10 applies (“the relevant supply”), and
  - (b) also to fund a supply to which none of those items applies (“the non-relevant supply”),

the proportion of the grant that is to be attributed, for the purposes of paragraph 1, to the relevant supply shall be the same proportion as the consideration reasonably attributable to that supply bears to the consideration for that supply and for the non-relevant supply.

***Meaning of “heating appliances”***

- 4 For the purposes of items 1 and 2 “heating appliances” means any of the following—
  - (a) gas-fired room heaters that are fitted with thermostatic controls;
  - (b) electric storage heaters;
  - (c) closed solid fuel fire cassettes;
  - (d) electric dual immersion water heaters with foam-insulated hot water tanks;
  - (e) gas-fired boilers;
  - (f) oil-fired boilers;
  - (g) radiators.

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### **Meaning of “qualifying security goods”**

- 5 For the purposes of items 9 and 10 “qualifying security goods” means any of the following—
- (a) locks or bolts for windows;
  - (b) locks, bolts or security chains for doors;
  - (c) spy holes;
  - (d) smoke alarms.

### **Meaning of “qualifying person”**

- 6 (1) For the purposes of this Group, a person to whom a supply is made is “a qualifying person” if at the time of the supply he—
- (a) is aged 60 or over; or
  - (b) is in receipt of one or more of the benefits mentioned in sub-paragraph (2).
- (2) Those benefits are—
- (a) council tax benefit under Part 7 of the Contributions and Benefits Act;
  - (b) disability living allowance under Part 3 of the Contributions and Benefits Act or Part 3 of the Northern Ireland Act;
  - (c) disabled person’s tax credit, working families’ tax credit, housing benefit or income support under Part 7 of the Contributions and Benefits Act or Part 7 of the Northern Ireland Act;
  - (d) an income-based jobseeker’s allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (c. 18) or Article 3(4) of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/275 (N.I. 15));
  - (e) disablement pension under Part 5 of the Contributions and Benefits Act, or Part 5 of the Northern Ireland Act, that is payable at the increased rate provided for under section 104 (constant attendance allowance) of the Act concerned;
  - (f) war disablement pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) that is payable at the increased rate provided for under article 14 (constant attendance allowance) or article 26A (mobility supplement) of that Order.
- (3) In sub-paragraph (2)—
- (a) “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (c. 4); and
  - (b) “the Northern Ireland Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

## **GROUP 4 — WOMEN’S SANITARY PRODUCTS U.K.**

### ITEM NO.

- 1 Supplies of women’s sanitary products.

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NOTES:

***Meaning of “women’s sanitary products”***

- 1 (1) In this Group “women’s sanitary products” means women’s sanitary products of any of the following descriptions—
- (a) subject to sub-paragraph (2), products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow;
  - (b) panty liners, other than panty liners that are designed as being primarily for use as incontinence products;
  - (c) sanitary belts.
- (2) Sub-paragraph (1)(a) does not include protective briefs or any other form of clothing.

**GROUP 5 — CHILDREN’S CAR SEATS U.K.**

ITEM NO.

- 1 Supplies of children’s car seats.

NOTES:

***Meaning of “children’s car seats”***

- 1 (1) For the purposes of this Group, the following are “children’s car seats”—
- (a) a safety seat;
  - (b) the combination of a safety seat and a related wheeled framework;
  - (c) a booster seat;
  - (d) a booster cushion.
- (2) In this Group “child” means a person aged under 14 years.

***Meaning of “safety seat”***

- 2 In this Group “safety seat” means a seat—
- (a) designed to be sat in by a child in a road vehicle,
  - (b) designed so that, when in use in a road vehicle, it can be restrained—
    - (i) by a seat belt fitted in the vehicle, or
    - (ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or
    - (iii) in either of those ways, and
  - (c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

***Meaning of “related wheeled framework”***

- 3 For the purposes of this Group, a wheeled framework is “related” to a safety seat if the framework and the seat are each designed so that—



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- (a) when the seat is not in use in a road vehicle it can be attached to the framework, and
- (b) when the seat is so attached, the combination of the seat and the framework can be used as a child’s pushchair.

**Meaning of “booster seat”**

- 4 In this Group “booster seat” means a seat designed—
- (a) to be sat in by a child in a road vehicle, and
  - (b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

**Meaning of “booster cushion”**

- 5 In this Group “booster cushion” means a cushion designed—
- (a) to be sat on by a child in a road vehicle, and
  - (b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle

**GROUP 6 — RESIDENTIAL CONVERSIONS** **U.K.**

ITEM NO.

- 1 The supply, in the course of a qualifying conversion, of qualifying services related to the conversion.
- 2 The supply of building materials if—
  - (a) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and
  - (b) those services include the incorporation of the materials in the building concerned or its immediate site.

NOTES:

**Supplies only partly within item 1**

- 1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.
- (2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.
- (3) An apportionment may be made to determine that extent.

**Meaning of “qualifying conversion”**

- 2 (1) A “qualifying conversion” means—
  - (a) a changed number of dwellings conversion (see paragraph 3);
  - (b) a house in multiple occupation conversion (see paragraph 5); or
  - (c) a special residential conversion (see paragraph 7).
- (2) Sub-paragraph (1) is subject to paragraphs 9 and 10.

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**Meaning of “changed number of dwellings conversion”**

- 3 (1) A “changed number of dwellings conversion” is—
- (a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or
  - (b) a conversion of premises consisting of a part of a building where those conditions are satisfied.
- (2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—
- (a) different from the number (if any) that the premises contain before the conversion, and
  - (b) greater than, or equal to, one.
- (3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

**Meaning of “single household dwelling” and “multiple occupancy dwelling”**

- 4 (1) For the purposes of this Group “single household dwelling” means a dwelling—
- (a) that is designed for occupation by a single household, and
  - (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.
- (2) For the purposes of this Group “multiple occupancy dwelling” means a dwelling—
- (a) that is designed for occupation by persons not forming a single household, and
  - (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions are—
- (a) that the dwelling consists of self-contained living accommodation,
  - (b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,
  - (c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and
  - (d) that the separate disposal of the dwelling is not prohibited by any such terms.
- (4) For the purposes of this paragraph, a dwelling “is designed” for occupation of a particular kind if it is so designed—
- (a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or
  - (b) as a result of adaptation.

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**Meaning of “house in multiple occupation conversion”**

- 5 (1) A “house in multiple occupation conversion” is—
- (a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or
  - (b) a conversion of premises consisting of a part of a building where that condition is satisfied.
- (2) The condition is that—
- (a) before the conversion the premises being converted contain only a single household dwelling or two or more such dwellings,
  - (b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and
  - (c) the use to which those premises are intended to be put after the conversion is not to any extent use for a relevant residential purpose.

**Meaning of “use for a relevant residential purpose”**

- 6 For the purposes of this Group “use for a relevant residential purpose” means use as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (c) a hospice,
  - (d) residential accommodation for students or school pupils,
  - (e) residential accommodation for members of any of the armed forces,
  - (f) a monastery, nunnery or similar establishment, or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

**Meaning of “special residential conversion”**

- 7 (1) A “special residential conversion” is a conversion of premises consisting of—
- (a) a building or two or more buildings,
  - (b) a part of a building or two or more parts of buildings, or
  - (c) a combination of—
    - (i) a building or two or more buildings, and
    - (ii) a part of a building or two or more parts of buildings,where the conditions specified in this paragraph are satisfied.
- (2) The first condition is that, before the conversion, the premises being converted contain only—
- (a) a dwelling or two or more dwellings, or

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- (b) a dwelling, or two or more dwellings, and
  - (i) an ancillary outbuilding occupied together with the dwelling or one or more of the dwellings, or
  - (ii) two or more ancillary outbuildings each occupied together with the dwelling or one or more of the dwellings.
- (3) In sub-paragraph (2) “dwelling” means single household dwelling or multiple occupancy dwelling.
- (4) The second condition is that where before the conversion the premises being converted contain a multiple occupancy dwelling or two or more such dwellings, the use to which that dwelling, or any of those dwellings, was last put before the conversion was not to any extent use for a relevant residential purpose.
- (5) The third condition is that the premises being converted must be intended to be used after the conversion solely for a relevant residential purpose.
- (6) The fourth condition is that, where the relevant residential purpose is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.
- (7) In sub-paragraph (6) “institutional purpose” means a purpose within paragraph 6(a) to (c), (f) or (g).

***Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation***

- 8 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.
- (2) Item 1 or 2 does not apply to a supply unless—
  - (a) it is made to a person who intends to use the premises being converted for the relevant residential purpose, and
  - (b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3).
- (3) Those requirements are that the certificate—
  - (a) is in such form as may be specified in a notice published by the Commissioners, and
  - (b) states that the conversion is a special residential conversion.
- (4) In sub-paragraph (2)(a) “the relevant residential purpose” means the purpose within paragraph 6 for which the premises being converted are intended to be used after the conversion.

***“Qualifying conversion” includes related garage works***

- 9 (1) A qualifying conversion includes any garage works related to the—
  - (a) changed number of dwellings conversion,
  - (b) house in multiple occupation conversion, or
  - (c) special residential conversion,
 concerned.

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- (2) In this paragraph “garage works” means—
- (a) the construction of a garage, or
  - (b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.
- (3) For the purposes of sub-paragraph (1), garage works are “related” to a conversion if—
- (a) they are carried out at the same time as the conversion, and
  - (b) the resulting garage is intended to be occupied with—
    - (i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,
    - (ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or
    - (iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.
- (4) In sub-paragraph (2) “non-residential” means neither designed, nor adapted, for use—
- (a) as a dwelling or two or more dwellings, or
  - (b) for a relevant residential purpose.

***Conversion not “qualifying” if planning consent and building control approval not obtained***

- 10 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.
- (2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

***Meaning of “supply of qualifying services”***

- 11 (1) In the case of a conversion of a building, “supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the building, or
  - (b) the carrying out of works within the immediate site of the building that are in connection with—
    - (i) the means of providing water, power, heat or access to the building,
    - (ii) the means of providing drainage or security for the building, or
    - (iii) the provision of means of waste disposal for the building.
- (2) In the case of a conversion of part of a building, “supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the part, or

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- (b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—
  - (i) the means of providing water, power, heat or access to the part,
  - (ii) the means of providing drainage or security for the part, or
  - (iii) the provision of means of waste disposal for the part.
- (3) In this paragraph—
  - (a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials;
  - (b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

**Meaning of “building materials”**

- 12 In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).

**GROUP 7 — RENOVATION AND ALTERATION OF DWELLINGS U.K.**

ITEM NO.

- 1 The supply, in the course of the renovation or alteration of a single household dwelling, of qualifying services related to the renovation or alteration.
- 2 The supply of building materials if—
  - (a) the materials are supplied by a person who, in the course of the renovation or alteration of a single household dwelling, is supplying qualifying services related to the renovation or alteration, and
  - (b) those services include the incorporation of the materials in the dwelling concerned or its immediate site.

NOTES:

**Supplies only partly within item 1**

- 1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.
- (2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.
- (3) An apportionment may be made to determine that extent.

**Meaning of “alteration” and “single household dwelling”**

- 2 For the purposes of this Group—
  - “alteration” includes extension;
  - “single household dwelling” has the meaning given by paragraph 4 of the Notes to Group 6.

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***Items 1 and 2 only apply where dwelling has been empty for at least 3 years***

- 3 (1) Item 1 or 2 does not apply to a supply unless either of the empty home conditions is satisfied.
- (2) The first “empty home condition” is that the dwelling concerned has not been lived in during the period of 3 years ending with the commencement of the relevant works.
- (3) The second “empty home condition” is that—
- (a) the dwelling was not lived in during a period of at least 3 years;
  - (b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—
    - (i) no later than the end of that period, and
    - (ii) when the dwelling had been not lived in for at least 3 years;
  - (c) no works by way of renovation or alteration were carried out to the dwelling during the period of 3 years ending with the acquisition;
  - (d) the supply is made to a person who is—
    - (i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a), and
    - (ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b); and
  - (e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.
- (4) In this paragraph “the relevant works” means—
- (a) where the supply is of the description set out in item 1, the works that constitute the services supplied;
  - (b) where the supply is of the description set out in item 2, the works by which the materials concerned are incorporated in the dwelling concerned or its immediate site.
- (5) In sub-paragraph (3), references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

***Items 1 and 2 only apply if planning consent and building control approval obtained***

- 4 (1) Item 1 or 2 does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.
- (2) Item 1 or 2 does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

***Meaning of “supply of qualifying services”***

- 5 (1) “Supply of qualifying services” means a supply of services that consists in—

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- (a) the carrying out of works to the fabric of the dwelling, or
  - (b) the carrying out of works within the immediate site of the dwelling that are in connection with—
    - (i) the means of providing water, power, heat or access to the dwelling,
    - (ii) the means of providing drainage or security for the dwelling, or
    - (iii) the provision of means of waste disposal for the dwelling.
- (2) In sub-paragraph (1)(a), the reference to the carrying out of works to the fabric of the dwelling does not include the incorporation, or installation as fittings, in the dwelling of any goods that are not building materials.

**Meaning of “building materials”**

6 In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).”.

**Textual Amendments**  
**F120** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))

**PART 2 U.K.**

**CONSEQUENTIAL AMENDMENTS**

*Value Added Tax Act 1994 (c.23)*

- 2 In section 2 of the Value Added Tax Act 1994 (rate of VAT), in each of subsections (2) and (3) (power to vary rate by up to 25% for up to one year), after “for the time being in force” insert “ under this section ”.
- 3 In section 62(1)(a)(i) of the Value Added Tax Act 1994 (penalty for giving incorrect certificate as to entitlement to reduced rate etc.), for “paragraph 1 of Schedule A1,” substitute “ any of the Groups of Schedule 7A, ”.
- 4 (1) Section 88 of the Value Added Tax Act 1994 (supplies spanning change of rate etc.) is amended as follows.
  - (2) In subsection (1) (section applies where there is a change in the rate of VAT in force under section 2 or the descriptions of exempt or zero-rated supplies or acquisitions)—
    - (a) after “section 2” insert “ or 29A ”, and
    - (b) for “or zero-rated” (in both places) substitute “ , zero-rated or reduced-rate ”.
  - (3) In subsection (2) (election to disregard time of supply rules), after “any question whether it is zero-rated or exempt” insert “ or a reduced-rate supply ”.

F121(4) .....

F122(5) .....



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### Textual Amendments

**F121** Sch. 31 para. 4(4) repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(c\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

**F122** Sch. 31 para. 4(5) repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(c\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

- 5 In section 96(9) of the Value Added Tax Act 1994 (notes in Schedules 8 and 9 to be used for interpretation and capable of being varied), after “Schedules” insert “7A,”.
- 6 (1) Section 97(4) of the Value Added Tax Act 1994 (orders that cease to have effect if not approved by the House of Commons within 28 days of being made) is amended as follows.
- (2) In paragraph (c)(i) (orders increasing rate of VAT in force), after “in force” insert “under section 2”.
- (3) In paragraph (c), after sub-paragraph (ii) insert—  
“(ia) for varying Schedule 7A so as to cause VAT to be charged on a supply at the rate in force under section 2 instead of that in force under section 29A;”.
- (4) In paragraph (d)(i) (exception for orders under section 51 that are consequential on orders that vary Schedule 8 or 9 but do not fall within paragraph (c)), after “Schedule” insert “7A,”.

### Finance Act 2000 (c.17)

- 7 In paragraph 9 of Schedule 6 to the Finance Act 2000 (climate change levy: meaning of “for domestic use”), after sub-paragraph (4) (power under section 2(1C) of the Value Added Tax Act 1994 (c. 23) to amend Schedule A1 to that Act includes power to make corresponding amendments to paragraph 9) there is inserted—  
“(5) The power to make provision under section 29A(3) of the Value Added Tax Act 1994 varying Schedule 7A to that Act (charge at reduced rate) includes power to make provision for any appropriate corresponding variation of this paragraph.”.

### PETROLEUM REVENUE TAX: UNRELIEVABLE FIELD LOSSES

*Schedule applies where there has been a transfer to which Parts 2 and 3 of Schedule 17 to the Finance Act 1980 do not apply*

- 1 (1) This Schedule applies where—

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- (a) there has been a transfer of the whole or part of the interest in an oil field of a participator in the field (see paragraph 4),
- (b) the transfer is an excluded transfer (see paragraph 2), and
- (c) an allowable loss has accrued from the field to—
  - (i) the old participator,
  - (ii) the new participator, or
  - (iii) a subsequent new owner (see paragraph 3).

(2) In this Schedule—

“the loss-maker” means the person to whom the allowable loss accrues;

“the old participator” means the person whose interest is wholly or partly transferred by the transfer and “the new participator” means the person to whom the interest or part is transferred by the transfer;

“the transferred interest” means—

- (a) where the transfer is of the whole of the old participator’s interest in the field, that interest, and
- (b) where the transfer is of part of the old participator’s interest in the field, that part.

#### *Meaning of “excluded transfer”*

- 2 For the purposes of this Schedule, a transfer of the whole or part of the interest in an oil field of a participator in the field is an “excluded transfer” if—
- (a) Parts 2 and 3 of Schedule 17 to the Finance Act 1980 (c. 48) do not apply to the transfer, and
  - (b) either—
    - (i) the transfer is made pursuant to an agreement made on or after 7th March 2001, or
    - (ii) the transfer is made pursuant to a conditional agreement made before 7th March 2001 and the condition is satisfied on or after 7th March 2001.

#### *Meaning of “subsequent new owner”*

- 3 For the purposes of this Schedule, a “subsequent new owner” is any participator in the field who has the transferred interest, or any part of the transferred interest, as a result of—
- (a) a transfer by the new participator of the whole or part of the transferred interest, or
  - (b) the combination of such a transfer as is mentioned in paragraph (a) and—
    - (i) a transfer by a subsequent new owner of the whole or part of the transferred interest, or
    - (ii) two or more such transfers as are mentioned in sub-paragraph (i).

#### *Transfers of interests in oil fields: interpretation*

- 4 (1) For the purposes of this Schedule, a participator in an oil field transfers the whole or part of his interest in the field whenever as a result of a transaction or event other than—

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- (a) the making of an agreement or arrangement of the kind mentioned in paragraph 5 of Schedule 3 to the Oil Taxation Act 1975 (c. 22) (agreement or arrangement for transfer of participator's rights to associated company), or
- (b) a re-determination under a unitisation agreement,

the whole or part of his share in the oil to be won and saved from the field becomes the share or part of the share of another person who is or becomes a participator in the field.

- (2) Paragraph 1(2) of Schedule 17 to the Finance Act 1980 (c. 48) (meaning of "unitisation agreement" and "re-determination") applies for the purposes of sub-paragraph (1) above as for those of paragraph 1(1) of that Schedule.

*Schedule applies in place of section 6(1C) of the Oil Taxation Act 1975*

- 5 Where this Schedule makes provision for determining the unrelievable portion of an allowable loss, that portion is determined in accordance with the provisions of this Schedule instead of in accordance with the provisions of section 6(1C) of the Oil Taxation Act 1975.

*General rule for determinations under this Schedule of "unrelievable portion" of loss*

- 6 (1) The unrelievable portion of the allowable loss is so much of the intermediate unrelieved loss as cannot be relieved under paragraph 7 against relevant profits.
- (2) In this Schedule—
  - "the intermediate unrelieved loss" is so much of the allowable loss as cannot be relieved under section 7 of the Oil Taxation Act 1975 against assessable profits accruing from the field to the loss-maker;
  - "relevant profits" means assessable profits—
    - (a) accruing from the field to any participator in the field other than the loss-maker,
    - (b) computed as if the amounts mentioned in section 2(8)(a) of that Act did not include expenditure unrelated to the field except where it has been allowed in pursuance of a claim or election for its allowance received by the Board before 29th November 1994, and
    - (c) reduced (after being so computed) under section 7 of that Act.
- (3) In sub-paragraph (2) "expenditure unrelated to the field" has the meaning given by section 6(9) of that Act.

*Loss to be relieved against other participators' profits*

- 7 (1) The intermediate unrelieved loss shall (but only for the purposes of determinations under this Schedule) be relieved against relevant profits accruing to a different owner.
- (2) The provisions of paragraphs 8 to 10 apply for the purposes of relieving the intermediate unrelieved loss under this paragraph.
- (3) In this paragraph and paragraph 8, a "different owner" means any participator in the field who—
  - (a) has the loss-maker's interest at any time (whether before or after the transfer) when the loss-maker does not have that interest, or

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- (b) has a part of the loss-maker's interest at any time (whether before or after the transfer) when the loss-maker does not have that part.
- (4) In sub-paragraph (3) "the loss-maker's interest" means—
- (a) if the loss-maker is the old participator or the new participator, the transferred interest;
  - (b) if the loss-maker is a subsequent new owner and at any time (whether before or after the transfer) has the whole of the transferred interest, that interest; and
  - (c) if the loss-maker is a subsequent new owner and paragraph (b) does not apply, the aggregate of each part of the transferred interest that at any time (whether before or after the transfer) is a part that the loss-maker has.

*Extent to which losses to be relieved*

- 8 (1) Where the interest in the field of a different owner is the transferred interest, the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.
- (2) Where the interest in the field of a different owner is part of the transferred interest, the corresponding part (but only that part) of the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.
- (3) Where—
- (a) a different owner's interest in the field includes the transferred interest, but
  - (b) the transferred interest is only part of the different owner's interest in the field,
- the intermediate unrelieved loss is to be relieved against the corresponding part (but no other part) of any relevant profits accruing to the different owner.
- (4) Sub-paragraph (5) applies where—
- (a) a different owner's interest in the field includes part only of the transferred interest ("the owned part of the transferred interest"), and
  - (b) the owned part of the transferred interest is only part of the different owner's interest in the field.
- (5) Only the part of the intermediate unrelieved loss corresponding to the owned part of the transferred interest is to be relieved, and it is to be relieved against (but only against) the part of any relevant profits accruing to the different owner that corresponds to the part which the owned part of the transferred interest forms of the different owner's interest in the field.

*Profits not to be utilised more than once*

- 9 The intermediate unrelieved loss may not be relieved against relevant profits to the extent that those profits have already been utilised for the purposes of paragraph 7.

*Relieving different losses against the same profits*

- 10 (1) Where intermediate unrelieved losses accruing to each of two or more persons fall to be relieved under paragraph 7 against the same relevant profits, such a loss accruing to a person who last had the transferred interest (or part of it) at an earlier time shall

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be so relieved before one accruing to a person who last had the interest (or part) at a later time.

- (2) Where—
- (a) two or more persons each last had a part of the transferred interest at the same time, and
  - (b) intermediate unrelieved losses accruing to each of them fall to be relieved under paragraph 7 against the same relevant profits,
- those losses shall be so relieved in such a manner as ensures that the same proportion of each is so relieved.
- (3) In this paragraph, references to an intermediate unrelieved loss accruing to a person are to the intermediate unrelieved loss in respect of an allowable loss accruing to the person.

*Construction as one with Part 1 of the Oil Taxation Act 1975*

- 11 This Schedule shall be construed as one with Part 1 of the Oil Taxation Act 1975 (c. 22).

SCHEDULE 33 **U.K.**

Section 110.

REPEALS

**Commencement Information**

- II** [Sch. 33](#) in force at Royal Assent but for coming into force of individual repeals, see appropriate notes

**PART 1** **U.K.**

EXCISE DUTIES

(1) HYDROCARBON OILS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Hydrocarbon Oil Duties Act 1979 (c. 5)	In section 1— <ul style="list-style-type: none"><li>(a) in subsection (3A), the words “(other than higher octane unleaded petrol)”;</li><li>(b) subsection (3C).</li></ul> Section 2(1A). In section 2A(1), the words ““higher octane unleaded petrol;””.In section 27(1), the definition of “higher octane unleaded petrol”.In Schedule 2A—

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	(a) paragraph 2;
	(b) in paragraph 3, the word “, 2”;
	(c) paragraph 8(3);
	(d) in paragraph 10(1), the words “Subject to sub-paragraph (2),”;
	(e) paragraphs 10(2) and 11(2).
Finance Act 1996 (c. 8)	Section 4(4) and (5).
Finance Act 2000 (c. 17)	Section 5(2) and (4).
	In Schedule 1, paragraphs 2, 3(4) and 4.

These repeals shall be deemed to have come into force in accordance with section 2(5) of this Act.

## (2) GENERAL BETTING DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	In Schedule 1, paragraph 2(4)(b) and (c).

These repeals have effect in accordance with section 6(2) of this Act.

## (3) VEHICLE EXCISE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vehicle Excise and Registration Act 1994 (c. 22)	Section 19(3).
	In Schedule 1—
	(a) in paragraph 2(1)(a), the words “or the motorcycle is an electrically propelled vehicle”;
	(b) Part 4A;
	(c) paragraph 5(5A);
	(d) in paragraph 7(2), the words “IVA,”;
	(e) in paragraph 16(1)(a), the words “IVA,”.
Finance Act 1995 (c. 4)	In Schedule 4, paragraph 10.
Finance Act 1996 (c. 8)	Section 15(1) and (2).
	Section 16(6) and (7).
	In Schedule 2, paragraph 8.

- 1 The repeals of—
- (a) section 19(3) of the Vehicle Excise and Registration Act 1994, and
  - (b) paragraph 8 of Schedule 2 to the Finance Act 1996,

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come into force on the passing of this Act.

- 2 The other repeals have effect in relation to licences issued on or after 1st April 2001 and shall be deemed to have come into force on 1st April 2001.

These repeals have effect in accordance with paragraph 21 of Schedule 3 to this Act.

#### (4) EXCISE DUTY: PAYMENTS BY COMMISSIONERS IN CASE OF ERROR OR DELAY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1994 (c. 9)	In Schedule 6, paragraphs 9 and 10.
Finance Act 1997 (c. 16)	In Schedule 5— (a) in paragraph 14(3)(b), the word “or”; (b) paragraph 15(2)(a); (c) in paragraph 15(2)(b), the word “or”.

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## PART 2 **U.K.**

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) MILEAGE ALLOWANCES

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Sections 197B to 197F.  Section 578A(1)(c) and the word “or” immediately preceding it.
Finance Act 1990 (c. 29)	Section 23 and Schedule 4.
Capital Allowances Act 2001 (c. 2)	Section 80.

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These repeals have effect for the year 2002-03 and subsequent years of assessment.

#### (2) EMPLOYEE SHARE OWNERSHIP PLANS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	In Schedule 8, paragraph 82(2).

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This repeal shall be deemed always to have had effect.

#### (3) ENTERPRISE INCENTIVES

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
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Income and Corporation Taxes Act 1988  
(c. 1)

In section 289—

(a) in subsection (1), the word “and” at the end of paragraph (ba);

(b) in subsection (2), paragraph (c) and the word “or” immediately preceding it;

(c) subsections (4) and (5).

In section 289A(7), paragraph (c) and the word “and” immediately preceding it.

Section 289A(9).

Section 291(6).

In section 293(2), the words “be an unquoted company and”.

In section 293(3B)(b), the words “and oil exploration”.

Section 297(2)(d) and (9).

In section 303—

(a) subsections (3) to (7);

(b) in subsection (9A), the words “or, as the case may be, the receipt of value in question”.

Section 303A(8).

In section 312(1), the definitions of—

“appraisal licence”;

“the designated period”;

“development licence”;

“exploration licence”;

“modified appraisal licence”, “modified development licence” and “modified exploration licence”;

“Northern Ireland licence” (and in relation to such a licence “the initial term”, “the 30 year renewal term” and “the five year renewal term”);

“oil” and “oil extraction activities”;

“oil exploration”; and

“the 1984 Regulations” and the word “and” immediately preceding the definition of “the 1984 Regulations”.

Section 312(7) and (8).



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	In section 576—
	(a) in subsection (4), the words from “at all times” to “and which”;
	(b) in subsection (4B)(a), the words “, the words “an unquoted company and be” in subsection (2),”.
	In Schedule 15B, paragraph 1(7).
Taxation of Chargeable Gains Act 1992 (c. 12)	In Schedule 5B—
	(a) in paragraph 1(2), the word “and” at the end of paragraph (f);
	(b) paragraph 13(4);
	(c) paragraph 14A(7);
	(d) in paragraph 19(1), the definition of “the designated period”.
Finance Act 1994 (c. 9)	In Schedule 15, paragraphs 10(d), 17(b) and (c) and 21(a)(i).
Finance Act 1998 (c. 36)	In Schedule 13, paragraphs 6(1), 7(1), 15(2), 20(1)(a) and 30(1)(a).
Finance Act 2000 (c. 17)	In Schedule 17, paragraphs 2, 3(2), 4, 5(2) and (5), 6(2) and 7.

- 1 The repeal of section 289A(9) of the Taxes Act 1988 has effect in accordance with paragraph 9(2) of Schedule 15 to this Act.
- 2 The repeals in the following provisions have effect in accordance with paragraph 40(3) of Schedule 15 to this Act—
- 3 The repeals in section 576 of the Taxes Act 1988 have effect in accordance with paragraph 38(5) of Schedule 15 to this Act.
- 4 The repeal in Schedule 15B to the Taxes Act 1988 has effect in accordance with paragraph 3(2) of Schedule 16 to this Act.
- 5 The repeal in paragraph 21 of Schedule 15 to the Finance Act 1994 has effect in accordance with paragraph 22(2) of Schedule 15 to this Act.
- 6 The remaining repeals have effect in accordance with paragraph 40(2) of Schedule 15 to this Act.

These repeals have effect in accordance with section 65 of this Act.

#### (4) CAPITAL ALLOWANCES: ENERGY-SAVING PLANT AND MACHINERY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Capital Allowances Act 2001 (c. 2)	In section 39, the word “or” immediately preceding the words “section 45”.

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In section 46(1), the word “or” immediately preceding the words “section 45”.

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(5) CAPITAL ALLOWANCES: OFFSHORE OIL INFRASTRUCTURE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Capital Allowances Act 2001 (c. 2)	In section 164(4)(a), the words “, of an amount equal to the net abandonment cost,”.  In section 165(1)(b), the words “on the demolition of plant or machinery”.

1 The repeal in section 164 of the Capital Allowances Act 2001 has effect in accordance with paragraph 9(1), (5) and (8) of Schedule 20 to this Act.

2 The repeal in section 165 of that Act shall be deemed always to have had effect.

These repeals have effect in accordance with section 71(3) of this Act.

This repeal has effect in accordance with section 78 of this Act.

This repeal has effect in accordance with paragraph 6(3) of Schedule 27 to this Act.

This repeal has effect in accordance with section 83(2) of this Act.

These repeals apply in relation to payments made after the day on which this Act is passed.

This repeal applies for the purposes of accounting periods ending on or after 1st April 2001.

With the exception of the repeals of paragraph 12(2) of Schedule 3 to the Finance (No. 2) Act 1997 and section 90(3) of the Finance Act 1998 (which come into force on the passing of this Act), these repeals have effect in accordance with section 87 of this Act.

These repeals have effect in accordance with section 88 of, and Schedule 29 to, this Act.

(6) CREATIVE ARTISTS: RELIEF FOR FLUCTUATING PROFITS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In Schedule 1B, paragraph 6.
Income and Corporation Taxes Act 1988 (c. 1)	Sections 534, 535, 537A and 538.
Finance Act 1996 (c. 8)	Section 128(5) to (10).

(7) CAPITAL GAINS TAX: TAPER RELIEF: BUSINESS ASSETS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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Taxation of Chargeable Gains Act 1992 In Schedule A1, paragraph 23(8).  
(c. 12)

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(8) DOUBLE TAXATION RELIEF

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 811(2), the word “and” immediately preceding paragraph (b).

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(9) LIFE POLICIES, LIFE ANNUITY CONTRACTS  
AND CAPITAL REDEMPTION, POLICIES

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 541(4).

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(10) DIVIDENDS PAID TO GROUP MEMBERS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 6(4), the words “, 247”.
	In section 231(1), the words “, 247”.
	Sections 247 and 248.
	In Schedule 24, paragraph 6.
Finance Act 1989 (c. 26)	Section 99.
Finance Act 1996 (c. 8)	In Schedule 14, paragraph 13.
Finance Act 1998 (c. 36)	In Schedule 3, paragraph 19(3) and (4) (a).

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(11) SMALL COMPANIES’ RELIEF

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 13(7)(a), the words “resident in the United Kingdom”.

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(12) ENDING OF PROVISIONAL REPAYMENT REGIME

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 438A.
	Schedule 19AB.
	In Schedule 19AC, paragraph 15.
Finance Act 1991 (c. 31)	Section 49.

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	Schedule 8.
Finance Act 1993 (c. 34)	Section 121.
Finance Act 1995 (c. 4)	In Schedule 8, paragraph 12(1)(b).
Finance Act 1996 (c. 8)	Section 169.
	Schedule 34.
Finance (No. 2) Act 1997 (c. 58)	In Schedule 3, paragraphs 10 to 12 and 13(13).
Finance Act 1998 (c. 36)	Section 37(2).
	Section 90(3).
	Section 91.
	In Schedule 18, in paragraph 9(3), paragraph (b) and the word “and” preceding it.
	In Schedule 19, paragraph 51.

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(13) AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 9— (a) in subsection (3), the words following the paragraphs; (b) subsections (4) to (6). In section 12AB— (a) subsections (2) to (4); (b) in subsection (5), the definition of “filing date”. In section 12B(1)— (a) in paragraph (b)(i), the words “or any amendment of the return” and “treated as”; (b) in paragraph (b)(ii), the words “or any amendment of the return”. In section 30(5)(b), the words “, or an amendment of such a return,”. In section 50— (a) in subsection (6)(a), the words from “by reason of” to “Finance Act 1998”; (b) in subsection (6)(b), the words from “by reason of” to “this Act”;

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	(c) in subsection (7)(a), the words from “which has been amended” to the end of the paragraph;
	(d) in subsection (7)(b), the words from “which has been amended” to “this Act”.
	In Schedule 1A, in paragraph 2A(2)(a), the words “treated as”.
Finance Act 1984 (c. 43)	In Schedule 22, paragraph 3(1).
Finance Act 1990 (c. 29)	Section 104(2)(b).
Finance Act 1994 (c. 9)	Sections 180, 186, 188 and 189. In Schedule 19, paragraph 7.
Finance Act 1996 (c. 8)	In section 123, subsections (6) and (7). In Schedule 19— (a) in paragraph 2, the words “9A(1),” and “12AC(1), 19A(1), 28A(1) and 28B(1)”; (b) paragraphs 4, 5, 6, 9 and 10(1). In Schedule 22, paragraphs 3 and 4. In Schedule 24, paragraph 5.
Finance Act 1998 (c. 36)	In Schedule 19, paragraphs 4, 5, 8, 10, 14(2), 16(3), 24, 25, 26 and 27(2) and (3).

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#### (14) RECOVERY PROCEEDINGS: MINOR AMENDMENTS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 66(1), the words “under any assessment”. In section 67(1), the words “under any assessment”.
Finance (No.2) Act 1987 (c. 51)	Section 86(1).
Finance Act 1994 (c. 9)	In Schedule 19, paragraph 20.
Finance Act 1998 (c. 36)	In Schedule 4, paragraph 3(2). In Schedule 19, paragraph 31.

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- 1 The repeals in the Taxes Management Act 1970 have effect in relation to proceedings begun after the passing of this Act.
- 2 The other repeals have effect in relation to—
  - (a) proceedings begun (or a counterclaim made) after the passing of this Act, and
  - (b) a set-off first claimed after the passing of this Act.

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### PART 3 **U.K.**

#### OTHER TAXES

##### (1) VALUE ADDED TAX: REDUCED RATE

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
Value Added Tax Act 1994 (c. 23)	Section 2(1A) to (1C). Section 97(4)(aa). Schedule A1.
Finance Act 1995 (c. 4)	Section 21.
Finance (No. 2) Act 1997 (c. 58)	Section 6.
Value Added Tax (Reduced Rate) Order 1998 (S.I. 1998/ 1375)	The whole Order.
Finance Act 2000 (c. 17)	Section 135. In Schedule 6, paragraph 9(4). Schedule 35.
Value Added Tax (Reduced Rate) Order 2000 (S.I. 2000/ 2954)	The whole Order.

- 1 The repeals of—
  - (a) sections 2(1C) and 97(4)(aa) of the Value Added Tax Act 1994, and
  - (b) paragraph 9(4) of Schedule 6 to the Finance Act 2000,
 come into force on 1st November 2001.
- 2 The other repeals and revocations have effect in accordance with section 99(7) of this Act.

##### (2) PETROLEUM REVENUE TAX

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1991 (c. 31)	Section 103(7)(b) and (c).
Finance Act 1995 (c. 4)	Section 146(1) and (2).

- 1 The repeals in the Finance Act 1991 have effect in accordance with section 103(2) of this Act.
- 2 The repeals in the Finance Act 1995 have effect in accordance with section 101(5) of this Act.  
  
The repeal in paragraph 15(2)(b) of Schedule 6 to the Finance Act 2000 has effect in accordance with section 105(7) of this Act.

##### (3) LANDFILL TAX AND CLIMATE CHANGE LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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Finance Act 1998 (c. 36)

Section 148(2) to (4).

Finance Act 2000 (c. 17)

In Schedule 6—

(a) in paragraph 14(2)(a), the word “and”;

(b) in paragraph 15(2)(b), the words “by that person”;

(c) paragraph 141.

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**Changes and effects yet to be applied to :**

- s. 16(4) sum substituted by [2024 c. 3 s. 30\(1\)](#)
- s. 17(3)(e)(f) omitted by [2014 c. 26 s. 94\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 17(3)(db) inserted by [2014 c. 26 s. 94\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 17(4)(a) omitted by [2014 c. 26 s. 94\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 17(4)(c) omitted by [2014 c. 26 s. 94\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 17(4)(f) word omitted by [2014 c. 26 s. 94\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 18(1)(a) words substituted by [2014 c. 26 s. 94\(6\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 18(1)(b) word substituted by [2014 c. 26 s. 94\(6\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 18(2)(d)(e) inserted by [2014 c. 26 s. 94\(7\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 19(1) words inserted by [2014 c. 26 s. 94\(9\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 19(1A)(1B) inserted by [2014 c. 26 s. 94\(10\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- s. 22(1)(c)-(ce) substituted for s. 22(1)(c)(d) by [2014 c. 26 s. 94\(11\)](#) (This amendment not applied to legislation.gov.uk. The amendments and repeals by 2014 c. 26, s. 94 are treated as never made by virtue of 2015 c. 33, s. 48(1))
- Sch. 6 para. 1(3)(b) word substituted by [2024 c. 3 s. 32\(1\)](#)
- Sch. 6 para. 2(3)(b) word substituted by [2024 c. 3 s. 32\(1\)](#)
- Sch. 6 para. 3(3)(b) word substituted by [2024 c. 3 s. 32\(1\)](#)
- Sch. 6 para. 8(5) words substituted by [S.I. 2009/56 Sch. 1 para. 309\(2\)](#)
- Sch. 6 para. 8(6) words substituted by [S.I. 2009/56 Sch. 1 para. 309\(3\)\(a\)](#)
- Sch. 6 para. 8(6) words substituted by [S.I. 2009/56 Sch. 1 para. 309\(3\)\(b\)](#)
- Sch. 6 para. 8(7) words substituted by [S.I. 2009/56 Sch. 1 para. 309\(4\)\(a\)](#)
- Sch. 6 para. 8(7) words substituted by [S.I. 2009/56 Sch. 1 para. 309\(4\)\(b\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 5 para. 14A inserted by [2007 c. 15 Sch. 13 para. 140](#)



– Sch. 5 para. 14A omitted by [2008 c. 9 Sch. 43 para. 8](#)