

# **INCOME TAX (TRADING AND OTHER INCOME) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 7: Income charged under this Act: rent-a-room and foster-care relief**

##### ***Chapter 1: Rent-a-room relief***

##### **Overview**

2921. The sections in this Part are based on section 59 of and Schedule 10 to F(No 2)A 1992. These provisions are entitled “Furnished Accommodation” in the source legislation but are commonly known as “rent-a-room”, the name adopted in this Act.
2922. “Rent-a-room” gives relief in one of two forms for householders who provide furnished accommodation in their homes for lodgers. One form is complete tax exemption for the rent, provided it does not exceed a certain level - the “full relief” form. If the rent does exceed that level the rent-a-room profit is taxable. But taxpayers can choose to have the profit calculated by deducting a fixed amount as expenses, rather than their actual expenses, if that is advantageous - the “alternative method of calculation” form of the relief.
2923. References to “profits or gains” in the source legislation which relate only to income are rewritten in this Chapter omitting the reference to “gains”. This continues the tidying up of such references started in section 46(3) of and Schedule 7 to FA 1998.

##### ***Section 784: Overview of Chapter 1***

2924. This section introduces the relief. It is new.
2925. *Subsection (2)* introduces the key factor in determining the form of relief available: the level of gross receipts.
2926. *Subsection (3)* introduces the full form of the relief where gross receipts are modest.
2927. *Subsection (4)* introduces the alternative method of calculation form of the relief where gross receipts are larger.

##### ***Section 785: Person who qualifies for relief***

2928. This section states the basic conditions that an individual must satisfy to obtain the relief. It is based on paragraph 2 of Schedule 10 to F(No 2)A 1992.
2929. *Subsection (1)(a)* is a general condition that is satisfied only if the taxpayer claiming rent-a-room relief satisfies the more detailed conditions in respect of the letting.
2930. *Subsection (1)(b)* helps in restricting the relief to the simpler cases for which it is intended. In referring to the income types to which rent-a-room relief is relevant it

avoids reference to a “source” – the term used in paragraph 2(3) of Schedule 10 to F(No 2)A 1992 – because what is meant by a “source” in this context may not always be clear. So in rewriting references to a “source”, subsection (1)(b) refers to trades, lettings or agreements.

2931. Paragraph 2(3) of Schedule 10 to F(No 2)A 1992 disqualifies an individual from relief if the income from any source from which his or her rent-a-room income is derived also includes income that is not rent-a-room income. “Source” is not defined.
2932. The source of the income arising from a trade is the trade itself.
2933. When Schedule 10 to F(No 2)A 1992 was enacted, relief was available on income from furnished lettings if the income fell within Schedule D Case VI (rather than Schedule A). The source of such income was considered to be the letting in question. FA 1995 brought income from furnished lettings in the United Kingdom within Schedule A and consequentially amended Schedule 10 to F(No 2)A 1992 to make relief available on such income. The amendment was not intended to be read as changing the source of the income for the purposes of that Schedule. For a Schedule A business to be a “source” for this purpose could have capricious results: running a separate business of letting commercial property would disqualify an individual from rent-a-room relief on Schedule A income for letting a room in his or her house (but rent-a-room relief could still be available to a person who ran both a bed-and-breakfast business at home and a separate commercial trade).
2934. As regards amounts incidental to the letting, and within Schedule D Case VI, on which rent-a-room relief might be available (for example, receipts for goods or services such as meals or laundry) the source of the income is the agreement to provide the goods or services in question.
2935. So subsection (1)(b) refers to whatever is the appropriate source for each kind of income for which rent-a-room relief is available.
2936. [Section 785](#), unlike the provision in paragraph 2(1) of Schedule 10 to F(No 2)A 1992, does not impose the condition that to be within rent-a-room, *all* the letting income (or income related to a letting) must be trade or UK property business income. Specifically, it allows rent-a-room relief to apply where certain income related to a letting is received that would, in the source legislation, be within Schedule D Case VI. The existence of any such amounts would, under the source legislation, disqualify the taxpayer from rent-a-room relief in respect of all his or her income. See *Change 128* in Annex 1.
2937. The approach in subsection (1)(b) also removes a potential disqualification from rent-a-room relief in particular circumstances. See *Change 129* in Annex 1.

### ***Section 786: Meaning of “rent-a-room receipts”***

2938. This section defines “rent-a-room receipts”. It is based on paragraphs 2, 4 and 8 of Schedule 10 to F(No 2)A 1992.
2939. *Subsection (1)(a)* makes explicit what is merely implicit in the source legislation: that the let accommodation must be in the United Kingdom to be within rent-a-room. This approach also removes a disqualification from rent-a-room relief that can arise in respect of a let United Kingdom residence when exceptionally the individual also lets an overseas residence at the same time. See *Change 129* in Annex 1.
2940. *Subsection (1)(b)* refers to an “income period”. The period for which receipts must satisfy certain conditions is identified in the source legislation as the “basis period”. “Basis period” was appropriate to Schedule D Case I income but less so when applied to Schedule A income where it was potentially confusing. The use of “income period” in the rewritten section makes it possible to avoid using “basis period” for property income and income charged under Chapter 8 of Part 5 of this Act: the conditions have to be satisfied by reference to the events of an “income period”. That is, for trade profits,

the basis period (see *subsection (3)*). But for property income and income charged under Chapter 8 of Part 5 of this Act it is the tax year or, if letting begins or ends during the tax year, the date of, respectively, the beginning and the end of the letting (see *subsection (4)*).

2941. One incidental consequence of this approach is the way in which it works in conjunction with the requirement in *subsection (1)(c)*. It makes explicit the period during which the “only or main residence” requirement must be met in the years when a letting begins or ends and the income is taxable as property income (in the source legislation it was not clear what was meant by “basis period” in these cases). Now it is explicit that the period is concurrent with the period of the letting and does not extend to the whole of the tax year.
2942. *Subsection (1)(d)* ensures that when the relief is in respect of income chargeable under the trading or property income Parts of this Act, it continues to apply only to amounts to which it applies under the source legislation, that is, to rent-a-room lettings which give rise to trade or property business profits. This provision is necessary because the charges under the trading income and property income Parts of this Act go wider than purely trade and property business profits and include (for example) post-cessation receipts.
2943. *Subsection (1)(d)* also extends rent-a-room relief to income from the provision of the incidental services mentioned in *subsection (1)(a)* that would, in the source legislation, be charged under Schedule D Case VI and excluded from rent-a-room. See *Change 128* in Annex 1.

#### **Section 787: Meaning of “residence”**

2944. This section is based on paragraph 7 of Schedule 10 to F(No 2)A 1992.
2945. *Subsection (1)(b)* refers to a “caravan or houseboat”. There is an Act-wide definition of “caravan”: see the commentary on section 875 of this Act and *Change 148* in Annex 1.
2946. There is also an Act-wide definition of “houseboat”: see the commentary on section 878(1) of this Act and *Change 150* in Annex 1.

#### **Section 788: Meaning of “total rent-a-room amount”**

2947. This section introduces and defines a key rent-a-room term: “total rent-a-room amount”. It is based on paragraphs 9 and 11 of Schedule 10 to F(No 2)A 1992.
2948. The term “total rent-a-room amount” is new. It sets out how the amount of income to be compared with the limit is calculated. The level of an individual’s “total rent-a-room amount” determines which form of rent-a-room relief the individual is entitled to: the full relief or the alternative method of calculation.
2949. *Subsection (1)(b)* includes any relevant balancing charges in the “total rent-a-room amount” to remove an anomaly in the source legislation. See *Change 130* in Annex 1.

#### **Section 789: The individual’s limit**

2950. This section determines the individual’s rent-a-room limit for the tax year. The “limit” is the maximum amount of rent-a-room income that is exempt from tax. It is based on paragraphs 5 and 6 of Schedule 10 to F(No 2)A 1992.
2951. *Subsection (1)* signposts to the section which sets out the full conditions that must be met to qualify for the full “basic amount”.

#### **Section 790: Exclusive receipts condition**

2952. This section states the detail of the conditions that must be met to qualify for the full “basic amount”. It is based on paragraph 5 of Schedule 10 to F(No 2)A 1992.

2953. *Subsection (1)(a)* makes it clear that a third party letting of *any* kind in the same residence triggers the halving rule. That in turn reflects the policy in the source legislation that only the “simplest” cases should get the full value of the relief.
2954. The source legislation refers to a “basis period”. The approach of section 786 (described in the commentary on that section) is reflected in section 790 where reference to basis periods is avoided.

***Section 791: Full rent-a-room relief: introduction***

2955. This section introduces the sections that provide for full relief. It is based on paragraph 9 of Schedule 10 to F(No 2)A 1992.

***Section 792: Full rent-a-room relief: trading income***

2956. This section provides for full relief when the rent-a-room income is trading income. It is based on paragraph 9 of Schedule 10 to F(No 2)A 1992.
2957. This section is simpler than the two sections that immediately follow it. That is because for both of the latter the rent-a-room income element may have to be separately identified from non rent-a-room income taxable under the same Part of this Act. That is not the case for rent-a-room income that is trading income. If receipts of a single trade include both rent-a-room and non rent-a-room income none of that income is eligible for relief (paragraph 2(3) of Schedule 10 to F(No 2)A 1992 rewritten as section 785(1)). So a trade qualifies for rent-a-room relief only if its income consists wholly of rent-a-room income.
2958. A person carrying on a trade is normally eligible for capital allowances or liable to balancing charges under CAA. The effect of *subsection (2)* is that neither are taken into account when full relief is due under section 792. Saying that the profits and losses are nil achieves that because capital allowances and balancing charges are taken into account in calculating those profits and losses.

***Section 793: Full rent-a-room relief: property income***

2959. This section provides for full relief when the rent-a-room income is property income. It is based on paragraph 9 of Schedule 10 to F(No 2)A 1992.
2960. *Subsection (3)* states explicitly what is merely implicit in the source legislation. That is, in calculating the profits of a property business, no capital allowances or balancing charges are to be made in respect of rent-a-room related assets.
2961. This form of the rule is needed because the rent-a-room letting may be part of a property business comprising other lettings. Tax under Part 3 of this Act is charged on the profits of a UK property business, which may include activities other than rent-a-room lettings. Section 793 cannot treat the profits of the whole UK property business as nil, but instead expressly excludes all amounts relating to rent-a-room activities from the calculation of the profits of the UK property business. Those amounts include capital allowances and balancing charges which relate to rent-a-room lettings and, accordingly, section 793(3) excludes them.

***Section 794: Full rent-a-room relief: income chargeable under Chapter 8 of Part 5***

2962. This section provides for full relief when the rent-a-room income includes income charged under Chapter 8 of Part 5 of this Act. It is new.
2963. *Subsection (1)* reflects the change referred to in the last paragraph of the commentary on section 786. The extension of rent-a-room relief to certain income charged under Schedule D Case VI in the source legislation requires the rule in this section to relieve such income when the relevant conditions are met. See *Change 128* in Annex 1.

2964. There is no equivalent in this section of section 793(3). Such a provision is not needed for rent-a-room income charged under Chapter 8 of Part 5 of this Act because there is no statutory provision for capital allowances for that type of income.

***Section 795: Alternative calculation of profits: introduction***

2965. This section introduces the sections that provide for the second form of the relief – the alternative method of calculating profits. It is based on paragraph 11 of Schedule 10 to F(No 2)A 1992.
2966. *Paragraphs (a) to (c)* state the three conditions that must be met. See *Change 130* in Annex 1.

***Section 796: Alternative calculation of profits: trading income***

2967. This section sets out the basis of calculation when the rent-a-room income is wholly or partly trading income and it exceeds the rent-a-room limit. It is based on paragraph 11 of Schedule 10 to F(No 2)A 1992.
2968. *Subsection (2)(a)* makes explicit what is merely implicit in the source legislation: the retention of any balancing charge where the alternative method of calculation applies. As in exemption cases, there is no entitlement to capital allowances if the taxpayer elects for the alternative method of calculation (paragraph 11(6) of Schedule 10 to F(No 2)A 1992). But - and this differs from exemption cases - any balancing charge remains. In the source legislation the retention of the balancing charge is merely implicit in paragraph 11(6) of Schedule 10 to F(No 2)A 1992: it is simply not mentioned as part of the disapplication of the allowance under section 55 of CAA.
2969. *Subsection (3)(b)* gives a formula for calculating the correct deduction when the rent-a-room income consists of trading income and another type of income. In these circumstances the total rent-a-room deduction is apportioned between the rent-a-room income types.

***Section 797: Alternative calculation of profits: property income***

2970. This section sets out the basis of calculation when the rent-a-room income is wholly or partly property income and it exceeds the rent-a-room limit. It is based on paragraph 11 of Schedule 10 to F(No 2)A 1992.
2971. *Subsection (3)(b)* makes explicit what is merely implicit in the source legislation: the capital allowances adjustments that are required. Like section 796(2)(a), subsection (3)(b) refers explicitly to the retention of any balancing charge where the alternative method of calculation applies. But subsection (3)(b) also refers to an allowance. That is required because this section deals with profits that may represent only part of the overall profits of a property business. So to give proper effect to the rent-a-room adjustment it needs to state explicitly what is to be included in, and excluded from, the overall calculation of the profits of that business.

***Section 798: Alternative calculation of profits: income chargeable under Chapter 8 of Part 5***

2972. This section sets out the basis of calculation when the rent-a-room income is income that is taxed under Chapter 8 of Part 5 of this Act and it exceeds the rent-a-room limit. It is new.
2973. *Subsection (1)* reflects the extension of rent-a-room relief to certain income that is, in the source legislation, charged under Schedule D Case VI. See *Change 128* in Annex 1. It gives a deduction rule for income charged under Chapter 8 of Part 5 of this Act that reflects similar rules for trading and property income in, respectively, section 796 and section 797.

*These notes refer to the Income Tax (Trading and Other Income)  
Act 2005 (c.5) which received Royal Assent on 24 March 2005*

2974. *Subsection (3)* provides for an apportionment of the available rent-a-room deduction between income charged under Chapter 8 of Part 5 of this Act and other income. It does not address the case where an individual's rent-a-room income consists wholly of income charged under Chapter 8 of Part 5 of this Act. That is because such income can, in the rent-a-room context, exist only in company with other (normally property business) rent-a-room letting income.
2975. There is no reference to any capital allowances adjustments because there is no statutory provision for capital allowances for income within Chapter 8 of Part 5 of this Act.

***Section 799: Election not to apply full relief***

2976. This section allows a taxpayer to opt out of full relief (it may not always be beneficial, for example, if he or she has losses to use). It is based on paragraph 10 of Schedule 10 to F(No 2)A 1992.
2977. It follows the approach of the source legislation in making the exemption automatic unless the taxpayer opts out. That is because, in the type of small case to which the exemption will most frequently apply, the likelihood is that it will be beneficial.
2978. *Subsection (3)* converts references, in the source legislation, to the Board of Inland Revenue and to an officer of the Board of Inland Revenue into references to the Inland Revenue. See *Change 149* in Annex 1.
2979. *Subsection (3)* expresses the time limit by reference to the normal Self Assessment rules.

***Section 800: Election for alternative method of calculating profits***

2980. This section provides a rule that allows a taxpayer to choose the alternative method of calculation if he or she qualifies. It is based on paragraph 12 of Schedule 10 to F(No 2)A 1992.
2981. This section follows the approach of the source legislation in making an election necessary in order to benefit from the alternative method of calculation. That is because this form of the relief is likely to apply to larger, more complex cases. Whether or not the relief is beneficial in these cases will depend on the particular circumstances.
2982. *Subsection (5)* converts references, in the source legislation, to the Board of Inland Revenue and to an officer of the Board of Inland Revenue into references to the Inland Revenue. See *Change 149* in Annex 1.
2983. *Subsection (5)(a)* expresses the time limit by reference to the normal Self Assessment rules.

***Section 801: Time limit on adjustment of assessment***

2984. This section allows adjustments to be made to assessments within a certain time to give effect to rent-a-room elections or withdrawals of elections. It is based on paragraphs 10 and 12 of Schedule 10 to F(No 2)A 1992.
2985. *Subsection (2)* expresses the time limit by reference to the normal Self Assessment rules.

***Section 802: Minor definitions***

2986. This section provides interpretation for terms not defined elsewhere. It is based on paragraphs 9 and 11 of Schedule 10 to F(No 2)A 1992 and paragraph 86 of Schedule 2 to CAA.

## **Chapter 2: Foster-care relief**

### **Overview**

2987. The sections in this Chapter are based on section 176 of and Schedule 36 to FA 2003. These provisions are entitled “Foster carers” in the source legislation.
2988. They give relief in one of two forms for individuals who provide foster care. One form is complete tax exemption for their foster-care income provided their gross receipts do not exceed a certain level - the “full” form of relief. If gross receipts do exceed that level the income is taxable. But taxpayers can choose to have it calculated by deducting a fixed amount as expenses, rather than their actual expenses, if that is advantageous - the “alternative method of calculation” form of the relief.
2989. Foster-care relief shares certain features with rent-a-room relief (see Chapter 1 of this Part) on which the source legislation was modelled.

### **Section 803: Overview of Chapter 2**

2990. This section introduces the relief. It is based on paragraph 1 of Schedule 36 to FA 2003.
2991. *Subsection (2)* introduces the key factor in determining the form of relief available: the level of gross foster-care receipts, that is receipts before any deductions for expenses.
2992. *Subsection (3)* introduces the full form of the relief where gross receipts are modest: they are simply not charged to tax.
2993. *Subsection (4)* introduces the alternative method of calculation form of the relief where gross receipts are larger.
2994. Not all taxpayers prepare accounts to 5 April. *Subsection (5)* alerts the reader to the fact that special rules apply in that case.
2995. The nature of the activity requires a rather different approach to capital allowances than that in rent-a-room. *Subsection (5)(b)* introduces the special provisions.

### **Section 804: Person who qualifies for relief**

2996. This section states the basic condition that an individual must satisfy to obtain the relief. It is based on paragraph 2 of Schedule 36 to FA 2003.
2997. *Subsection (1)* is a general condition that is satisfied only if the taxpayer claiming foster-care relief satisfies the more detailed conditions in the sections that follow.
2998. *Subsection (1)(b)* refers to an “arrangement” as well as a trade. This covers cases where the foster care does not amount to a trade and where any profits from it would be taxed, in the source legislation, under Schedule D Case VI as profits from the contractual provision of services.
2999. *Subsection (1)(b)* prevents relief in cases where the foster care that would otherwise qualify for relief is combined with activities that would not. In so doing it limits the relief to the simpler cases.

### **Section 805: Meaning of “foster-care receipts”**

3000. This section defines “foster-care receipts”. It is based on paragraph 3 of Schedule 36 to FA 2003.

### **Section 806: Meaning of providing foster care**

3001. This section explains what is meant by references in this Chapter to the provision of foster care. It is based on paragraph 4 of Schedule 36 to FA 2003.

3002. Foster care is regulated by a number of non-tax laws. These are cited in the source legislation as a part of the qualifying conditions to benefit from the relief: an individual will qualify only if he or she is a foster carer by virtue of those non-tax laws.
3003. *Subsections (3) and (4)* list the relevant non-tax tax laws. They do not reproduce the references in paragraph 4(3)(a) and (b)(i) of Schedule 36 to FA 2003 to the particular provision of the regulations at 9 April 2003. Those references are of no substantive effect and if the regulations are altered the references will not be helpful.

***Section 807: Calculation of “total foster-care receipts”***

3004. This section clarifies the meaning of a key term, “total foster-care receipts”. It is based on paragraph 5 of Schedule 36 to FA 2003.
3005. “Total foster-care receipts” is a key term because the level of an individual’s “total foster-care receipts” determines which form of relief the individual is entitled to: full relief or the alternative method of calculation.

***Section 808: The individual’s limit***

3006. This section defines the individual’s “limit” for the tax year. It is based on paragraphs 7 and 9 of Schedule 36 to FA 2003.
3007. This section is the first of a group of four sections which explain how to work out an individual’s limit for a tax year. The “limit” is the maximum amount of foster-care income that is not charged to tax. It is the amount with which the taxpayer’s “total foster-care receipts” are compared to determine which type of relief is due.
3008. *Subsection (1)* introduces the two elements that make up the limit. One is a fixed amount (apportioned between foster carers in a single residence) and the other varies according to the number and ages of the children fostered.

***Section 809: Share of fixed amount: residence used by more than one foster carer***

3009. This section reduces the fixed amount when a residence is used by more than one foster carer. It is based on paragraph 7 of Schedule 36 to FA 2003.
3010. *Subsection (2)* apportions the fixed amount equally between each foster carer in the same residence.
3011. *Subsections (3) and (4)* define “residence”. The definition refers to a “caravan or houseboat”. There is an Act-wide definition of “caravan”: see the commentary on section 875 of this Act and *Change 148* in Annex 1.
3012. There is also an Act-wide definition of “houseboat”: see the commentary on section 878(1) of this Act and *Change 150* in Annex 1.

***Section 810: Share of fixed amount: income period not a year***

3013. This section reduces the fixed amount when the foster-care period is for less than a year. It is based on paragraph 7 of Schedule 36 to FA 2003.
3014. *Subsection (2)* makes it clear that the reduction applies to an individual’s *share* of the fixed amount if section 809 applies because there is more than one foster carer in the same residence.

***Section 811: The amount per child***

3015. This section determines the variable component in calculating the individual’s “limit” for the tax year: “the amount per child”. It is based on paragraphs 8 and 9 of Schedule 36 to FA 2003.



3016. The amount per child for a tax year depends on the duration of the foster care and the age of the child fostered.
3017. The duration of the foster care is measured in weeks. *Subsections (4) to (6)* give rules that identify relevant weeks.

***Section 812: Full foster-care relief: introduction***

3018. This section provides for the full form of the relief when the individual's foster-care receipts do not exceed his or her limit. It is based on paragraph 10 of Schedule 36 to FA 2003.
3019. The reference to the limit is in terms that make it clear that foster-care receipts that equal the individual's limit are within the full relief.
3020. The majority of foster carers who are trading prepare accounts to 5 April. There are special rules for those who do not, which are located later in the Chapter. *Paragraph (c) excludes such cases from the main full relief provisions and signposts the reader to the other relevant provisions.*

***Section 813: Full foster-care relief: trading income***

3021. This section authorises the full form of the relief when the foster-care income is trading income. It is based on paragraph 10 of Schedule 36 to FA 2003.

***Section 814: Full foster-care relief: income chargeable under Chapter 8 of Part 5.***

3022. This section authorises the full form of the relief when the income derives from foster care that does not amount to a trade. It is based on paragraph 10 of Schedule 36 to FA 2003.
3023. *Subsection (2)* limits the effect of the relief to the foster-care income and associated expenses.

***Section 815: Alternative calculation of profits: introduction***

3024. This section is the first of five sections that provide for the alternative form of the relief. It is based on paragraph 11 of Schedule 36 to FA 2003.
3025. The alternative calculation form of the relief applies when the individual's foster-care receipts exceed his or her limit.
3026. Unlike the full form of the relief the alternative calculation form applies only if the individual elects for it.
3027. As in the case of the full form of the relief (see the commentary on section 812) there are special rules for those who do not prepare trading accounts to 5 April. These are located later in the Chapter.

***Section 816: Alternative calculation of profits: trading income***

3028. This section sets out the basis of calculation when the foster-care income is trading income and it exceeds the individual's limit. It is based on paragraph 12 of Schedule 36 to FA 2003.

***Section 817: Alternative calculation of profits: income chargeable under Chapter 8 of Part 5***

3029. This section sets out the basis of calculation when the income is from foster care that does not amount to trading and it exceeds the individual's limit. It is based on paragraph 13 of Schedule 36 to FA 2003.

***Section 818: Election for alternative method of calculating profits***

3030. This section provides for a foster carer to elect for the alternative form of the relief. It is based on paragraph 14 of Schedule 36 to FA 2003.
3031. This section also provides explicitly for a procedure to withdraw an election within the stated time limit. The absence of such a procedure in the source legislation for foster-care relief is in contrast to the source legislation for rent-a-room on which the former is otherwise closely modelled. It was not considered necessary in the source foster-care relief legislation because, unlike the rent-a-room relief election, a foster-care relief election is made only for one year. It was implicit in the year by year approach that the foster-care election could be withdrawn within the Self Assessment time limits by, for example, an amendment to a return. This Part puts these similar reliefs side by side and a contrast in approach might wrongly suggest a different intended legal effect. To make the position clear this section provides explicitly for the withdrawal of an election.
3032. *Subsection (2)* makes it clear that the election applies only to the year for which it is made.
3033. *Subsection (3)* converts references, in the source legislation, to the Board of Inland Revenue into references to the Inland Revenue. See *Change 149* in Annex 1.

***Section 819: Adjustment of assessment***

3034. This section provides for an election for the alternative form of relief to be made following an adjustment to an individual's return of foster-care profit. It is based on paragraph 14 of Schedule 36 to FA 2003.
3035. Without this section an individual might be prevented from electing for the alternative form of relief if his or her return of foster-care profits were adjusted after the normal election time limit in section 818.
3036. *Subsection (3)* makes it clear that the election applies only to the year for which it is made.
3037. *Subsections (3)* and *(4)* follow the approach described in the commentary on section 818 in providing for the withdrawal of an election under this section.

***Section 820: Periods of account not ending on 5th April***

3038. This section is the first of four sections that deal with cases where the foster-care activities amount to a trade and accounts are prepared to a date other than 5 April. It is based on paragraph 15 of Schedule 36 to FA 2003.
3039. The rules that apply to this sort of case have been extracted from the main body of the rules and grouped together in a place of less prominence as they are believed to apply only to a minority of foster carers.

***Section 821: Meaning of "relevant limit"***

3040. This section introduces and defines the term "relevant limit". It is based on paragraph 15 of Schedule 36 to FA 2003.
3041. For cases where the foster-care activities amount to a trade and accounts are prepared to a date other than 5 April, the amount with which the individual's total foster-care receipts are compared to determine what form of relief is available is the individual's "relevant limit" (and not, as normally, "the limit"). The calculation of the relevant limit reflects the fact that the basis period of the trade will not coincide with the periods (tax years) for which the "fixed amount" and the "amount per child" are determined. This section give rules to link the "fixed amount" and the "amount per child" for tax years to basis periods.

**Section 822: Full relief**

3042. This section provides for full relief in “accounting date other than 5 April” cases. It is based on paragraph 15 of Schedule 36 to FA 2003.
3043. It achieves the same effect for these cases as section 812 and section 813 together achieve for other cases.

**Section 823: Alternative method of calculating profits**

3044. This section provides for the alternative form of relief in “accounting date other than 5 April” cases. It is based on paragraphs 14 and 15 of Schedule 36 to FA 2003.
3045. It achieves the same effect for these cases as section 815 and section 816 together achieve for other cases.
3046. *Subsection (3)* applies the election and adjustment of assessment provisions in section 818 and section 819. In so doing it imports (through section 818(3) and section 819(4)) the conversion of references, in the source legislation, to the Board of Inland Revenue into a reference to the Inland Revenue. See *Change 149* in Annex 1. It expresses the time limits by reference to the Self Assessment rules.

**Section 824: Capital allowances: introduction**

3047. This section is the first of four sections that deal with the capital allowances aspects of foster-care relief. It is based on paragraphs 16 and 20 of Schedule 36 to FA 2003.
3048. The section introduces key terms and links the language of this Chapter with that of CAA: the language and concepts have to link directly with those of CAA. The “chargeable period” mentioned in *subsection (2)(a)* is an example. In CAA “chargeable period” does not necessarily mean, for individuals, “tax year”. It can mean (for trades) “period of account” (section 6(1) of CAA). *Subsection (3)* provides the link so that the provisions work properly.
3049. The overall effect of the four capital allowances sections is that, in tax years when either form of foster-care relief applies, capital allowances and balancing charges are not relevant.
3050. Unlike paragraph 16 of Schedule 36 to FA 2003, the capital allowances sections in this Chapter make no reference to the rules that apply when the foster care does not amount to a trade and the foster-care receipts are chargeable under Schedule D Case VI. That is because an arrangement to provide foster care is not a qualifying activity within section 15(1) of CAA and therefore the question of capital allowances and balancing charges cannot arise.
3051. Dropping these references will have no practical effect because entitlement to an allowance or liability to a balancing charge does not arise from Schedule 36 to FA 2003 but from CAA. The references in Schedule 36 to FA 2003 are, however, potentially confusing and removing them makes the rewritten legislation clearer.

**Section 825: Carried forward unrelieved qualifying expenditure**

3052. This section provides for the temporary suspension of allowances and charges in respect of pool expenditure during tax years when foster-care relief applies. It is based on paragraph 17 of Schedule 36 to FA 2003.
3053. *Subsection (3)* deals with the transition from a year when foster-care relief does not apply to a year when it does.
3054. *Subsection (4)* deals with the transition from a year when foster-care relief does apply to a year when it does not.

***Section 826: Excluded capital expenditure***

3055. This section prevents an allowance for capital expenditure incurred at a time when foster-care relief applies. It is based on paragraph 18 of Schedule 36 to FA 2003.

***Section 827: Excluded capital expenditure: subsequent treatment of asset***

3056. This section provides for an allowance, when foster-care relief ceases to apply, in respect of capital expenditure incurred at a time when foster-care relief did apply (and for which therefore no allowance was due in accordance with section 826). It is based on paragraph 19 of Schedule 36 to FA 2003.

***Section 828: Overlap profit***

3057. This section preserves entitlement to overlap relief when the foster-care activities are a trade. It is based on paragraphs 10 and 15 of Schedule 36 to FA 2003.

3058. *Subsection (2)(a)* allows relief for overlap profit against foster-care profits calculated under the rules in this Part. That may include relief for overlap profit that was created before the introduction of foster-care relief. If foster-care profits are treated as nil (because full foster-care relief under section 813 or section 822 applies) the overlap relief can create a loss.

3059. *Subsection (2)(b)* allows the creation of overlap profit when the foster-care alternative basis of calculation applies (no overlap profit can be created when full foster-care relief applies). The overlap profit is calculated by reference to the profit after the foster-care rules have applied.