

## SCHEDULES

### SCHEDULE 1

Section 27

#### GROUP RELIEF WHERE SURRENDERING COMPANY NOT RESIDENT IN UK

##### PART 1

##### AMENDMENTS OF CHAPTER 4 OF PART 10 OF ICTA

##### *Availability of relief*

1 (1) Section 402 of ICTA (surrender of relief between members of groups and consortia) is amended as follows.

(2) In subsection (1) (availability of relief) for the words from the beginning to “set out” substitute—

“(1) Subject to and in accordance with this Chapter and section 492(8)—

- (a) relief for trading losses and other amounts eligible for relief from corporation tax, or
- (b) losses and other amounts not eligible for relief from corporation tax, may, in the cases set out”.

(3) For subsection (2) (group claims) substitute—

“(2) In respect of amounts falling within subsection (1)(a) above, group relief shall be available in a case where—

- (a) the surrendering company and the claimant company are both members of the same group,
- (b) the surrendering company is resident in the United Kingdom or is not so resident but carries on a trade there through a permanent establishment, and
- (c) the claimant company is resident in the United Kingdom or is not so resident but carries on a trade there through a permanent establishment,

and, in respect of amounts falling within subsection (1)(b) above, group relief shall be available in a case where the condition in subsection (2A) below is satisfied.

A claim made by virtue of this subsection is referred to as a “group claim”.

(2A) The condition in this subsection is satisfied if the surrendering company is within the charge to tax under the law of any EEA territory and—

- (a) the surrendering company is a 75 per cent. subsidiary of the claimant company and the claimant company is resident in the United Kingdom, or

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) both the surrendering company and the claimant company are 75 per cent. subsidiaries of a third company that is resident in the United Kingdom.
- (2B) For the purposes of subsection (2A) above, the surrendering company is within the charge to tax under the law of any EEA territory if—
- (a) it is a non-resident company which is resident in any EEA territory, or
  - (b) it is a non-resident company which is not resident in any EEA territory but which carries on a trade in any EEA territory through a permanent establishment.”.
- (4) In subsection (3A) (group relief not available unless both companies satisfy following condition) for “Group relief is not available” substitute “A consortium claim shall not be made”.

*Limits on group relief*

- 2 (1) Section 403A of ICTA (limits on group relief) is amended as follows.
- (2) In subsection (10) (qualifying conditions for the purposes of subsection (9)), for paragraph (a) (group claims) substitute—
- “(a) if (or so far as) the claim is a group claim for the surrender of any loss or other amount other than a qualifying overseas loss, whenever the conditions in paragraphs (a) to (c) of section 402(2) are satisfied;
  - (ab) if (or so far as) the claim is a group claim for the surrender of a qualifying overseas loss, whenever the condition specified in section 402(2A) is satisfied; and”.
- (3) After that subsection insert—
- “(11) For the purposes of subsection (10) above a “qualifying overseas loss” means a loss or other amount that is available for surrender by way of group relief in accordance with sections 403F and 403G and Schedule 18A (relief in respect of overseas losses of non-resident companies).”.

*Relief for or in respect of non-resident companies within the charge to corporation tax*

- 3 (1) Section 403D of ICTA (relief for or in respect of non-resident companies) is amended as follows.
- (2) In subsection (1) (provision for determining amounts available for surrender by a non-resident company), in the opening words,—
- (a) after “non-resident company” insert “carrying on a trade in the United Kingdom through a permanent establishment”, and
  - (b) after “as so available” insert “(but see also subsection (11) below)”.
- (3) At the end insert—
- “(11) Any loss or other amount that is available for surrender by way of group relief in accordance with this section is in addition to any loss or other amount that is so available in accordance with sections 403F and 403G and Schedule 18A (relief in respect of overseas losses of non-resident companies).”.

- (4) In consequence of the amendments made by this paragraph, the title to the section becomes “Relief for or in respect of UK losses of non-resident companies”.

*Relief in respect of overseas losses of non-resident companies*

- 4 (1) After section 403E of ICTA (relief for overseas losses of UK resident companies) insert—

**“403F Relief in respect of overseas losses of non-resident companies**

- (1) This section has effect for determining for the purposes of this Chapter the extent to which a loss or other amount is available for surrender by way of group relief by a non-resident company—
- (a) which is resident in an EEA territory, or
  - (b) which is not so resident but which carries on a trade in an EEA territory through a permanent establishment,
- in a case where a group claim may be made as a result of the condition in section 402(2A) being satisfied.
- (2) A loss or other amount is not available for surrender by way of group relief by the non-resident company except in so far as, in relation to the EEA territory, the amount meets—
- (a) the equivalence condition,
  - (b) the EEA tax loss condition,
  - (c) the qualifying loss condition, and
  - (d) the precedence condition.
- (3) Part 1 of Schedule 18A determines, in the case of any amount and any EEA territory, the extent to which those conditions are met.
- (4) In so far as a loss or other amount meets those conditions, Part 2 of Schedule 18A applies—
- (a) for calculating the amount of the loss or other amount (if any) that is available for surrender by way of group relief, and
  - (b) otherwise for making provision in relation to the application of this Chapter to the non-resident company.
- (5) This section is subject to section 403G (unallowable overseas losses of non-resident companies).”.

- (2) After section 403F of ICTA (as inserted by sub-paragraph (1)) insert—

**“403G Unallowable overseas losses of non-resident companies**

- (1) This section applies in the case of a loss or other amount arising to a non-resident company—
- (a) which is resident in any EEA territory, or
  - (b) which is not so resident but which carries on a trade in an EEA territory through a permanent establishment,
- where the amount is not attributable for corporation tax purposes to any UK permanent establishment of the non-resident company.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) The amount is not available for surrender by way of group relief by the non-resident company in so far as conditions A and B are met.
- (3) Condition A is that—
  - (a) the amount would not qualify for group relief but for any relevant arrangements, or
  - (b) the amount would not have arisen to the non-resident company but for any relevant arrangements.
- (4) Condition B is that the main purpose, or one of the main purposes, of the relevant arrangements was to secure that the amount would qualify for group relief.
- (5) In this section references to relevant arrangements, in relation to any amount, are to—
  - (a) arrangements made on or after 20th February 2006, or
  - (b) arrangements made before that date where the amount would (but for this section) first qualify for group relief on or after that date or (as the case may be) the amount arises on or after that date.
- (6) In this section—
  - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
  - “UK permanent establishment”, in relation to the non-resident company, means any permanent establishment through which it carries on a trade in the United Kingdom.”.

*Interpretation of Chapter 4 of Part 10 of ICTA*

- 5 (1) Section 413 of ICTA (interpretation) is amended as follows.
- (2) In subsection (1) (general definitions), after the definition of “consortium claim”, insert—
  - ““EEA territory”, in relation to any time, means a territory outside the United Kingdom which is within the European Economic Area at that time;”.

*Group relief: equity holders and profits or assets available for distribution*

- 6 (1) Schedule 18 to ICTA (group relief: equity holders and profits or assets available for distribution) is amended as follows.
- (2) In paragraph 5F (special rules in the case of non-resident companies), in sub-paragraph (1)(b) (application of paragraph for relevant purposes) for “by the consortium” substitute “by the consortium;
  - but this paragraph does not have effect in relation to any determination in the case of amounts falling within section 402(1)(b).”.
- (3) In paragraph 7 (supplemental matters), in sub-paragraph (1) (definition of “the relevant accounting period”), in the opening words, after “means” insert “(subject to sub-paragraphs (1A) to (1C) below)”.

(4) After that sub-paragraph insert—

“(1A) In this Schedule “the relevant accounting period” means, in the case of a non-resident company which is not within the charge to corporation tax, the accounting period which the company would have on the following assumption.

(1B) The assumption is that the company became resident in the United Kingdom (and, accordingly, within the charge to corporation tax) at the time when it became a 75 per cent. subsidiary as mentioned in section 402(2A).

(1C) For the purposes of sub-paragraph (1B) above the reference to the company’s being a 75 per cent. subsidiary is to its being such a subsidiary disregarding section 413(7).”.

*Meaning of conditions in section 403F etc*

7 After Schedule 18 to ICTA (group relief: equity holders and profits or assets available for distribution) insert—

“SCHEDULE  
18A

Section 403F

GROUP RELIEF: OVERSEAS LOSSES OF NON-RESIDENT COMPANIES

**PART 1**

MEANING OF CONDITIONS FOR THE PURPOSES OF SECTION 403F

*Introduction*

1 This Part of this Schedule applies, in the case of any non-resident company, for the purposes of section 403F (relief in respect of overseas losses of non-resident companies).

*The equivalence condition*

2 An amount meets the equivalence condition if it corresponds (in all material respects) to an amount of a kind that, for the purposes of section 403, could be available for surrender by way of group relief by a company resident in the United Kingdom.

*The EEA tax loss condition: companies resident in EEA territory*

3 (1) In the case of a non-resident company which is resident in an EEA territory (“the relevant territory”), an amount meets the EEA tax loss condition in relation to the relevant territory in so far as conditions A and B are met.

(2) Condition A is that the amount is calculated in accordance with the applicable rules under the law of the relevant territory for determining, in

---

*Status: This is the original version (as it was originally enacted).*

---

the case of the company, the amount of any loss or other amount eligible for relief from any tax under the relevant territory.

- (3) Condition B is that, for the purposes of corporation tax, the amount is not attributable to a UK permanent establishment of the company.
- (4) “UK permanent establishment”, in relation to the company, means any permanent establishment through which it carries on a trade in the United Kingdom.
- (5) For the meaning of tax under any territory outside the United Kingdom, see paragraph 17.

*The EEA tax loss condition: companies not resident in EEA territory*

- 4 (1) In the case of a non-resident company which is not resident in any EEA territory but which carries on a trade in an EEA territory (“the relevant territory”) through a permanent establishment, an amount meets the EEA tax loss condition for any period in relation to the relevant territory in so far as conditions A and B are met.
- (2) Condition A is that the amount is calculated in accordance with the applicable rules under the law of the relevant territory for determining, in the case of the company, the amount of any loss or other amount eligible for relief from any tax under the relevant territory.
- (3) Condition B is that the amount is not attributable to activities of the company which are made exempt from tax under the relevant territory for the period by any double taxation arrangements.
- (4) For this purpose, activities of the company are made exempt from tax under the relevant territory for the period by any double taxation arrangements if those arrangements—
  - (a) have the following effect, or
  - (b) would have the following effect if a claim were made.
- (5) The effect is that the income and gains (if any) arising for the period from those activities are ignored in calculating the company’s profits, income or gains chargeable to tax under the relevant territory for the period.
- (6) For the purposes of this paragraph, arrangements are double taxation arrangements if they are made with a view to affording relief from double taxation in relation to—
  - (a) any tax under the relevant territory and any other territory outside the United Kingdom, or
  - (b) any tax under the relevant territory and United Kingdom income or corporation tax.

*The qualifying loss condition*

- 5 (1) This paragraph applies in the case of a non-resident company—
  - (a) which is resident in any EEA territory, or
  - (b) which is not so resident but which carries on a trade in an EEA territory through a permanent establishment,

---

*Status: This is the original version (as it was originally enacted).*

---

and for the purposes of this paragraph “the EEA territory concerned” means the EEA territory in which the company is resident or (as the case may be) in which it carries on a trade through a permanent establishment.

- (2) An amount meets the qualifying loss condition in so far as the amount—
  - (a) cannot be given qualifying relief for any period (“the current period”) or any other period, and
  - (b) has not been given any other qualifying relief under the law of any territory outside the United Kingdom (other than the EEA territory concerned).
- (3) Paragraph 6 determines whether the amount cannot be given qualifying relief for the current period or any previous period.
- (4) Paragraph 7 determines whether the amount cannot be given qualifying relief for any period after the current period.
- (5) Paragraph 8 determines whether the amount has not been given qualifying relief under the law of any territory outside the United Kingdom (other than the EEA territory concerned).

*Qualifying relief for current period and previous periods*

- 6 (1) For the purposes of paragraph 5, an amount cannot be given qualifying relief for the current period or any previous period if conditions A and B are met.
- (2) Condition A is that, for the purposes of any tax under the EEA territory concerned or under any relevant territory, the amount cannot be taken into account in calculating any profits, income or gains which—
  - (a) arise to the company or any other person in the current period or any previous period, and
  - (b) are chargeable to that tax for the current period or any previous period.
- (3) Condition B is that, for the purposes of any tax under the EEA territory concerned or under any relevant territory, the amount cannot be relieved in the current period or any previous period—
  - (a) by the payment of a credit,
  - (b) by the elimination or reduction of a tax liability, or
  - (c) by any other means of any kind.
- (4) An amount is to be regarded for the purposes of this paragraph as meeting conditions A and B if (but only if) every step to secure that the amount is so taken into account or relieved is taken (whether by the company or any other person).
- (5) In this paragraph “relevant territory” means—
  - (a) if the company is resident in any EEA territory and is also resident in any other territory outside the United Kingdom, that other territory,
  - (b) if the company is not resident in any EEA territory but carries on a trade in an EEA territory through a permanent establishment, the territory (or territories) in which it is resident.

---

*Status: This is the original version (as it was originally enacted).*

---

*Qualifying relief for future periods*

- 7 (1) For the purposes of paragraph 5, an amount cannot be given qualifying relief for any period after the current period if conditions A and B are met.
- (2) Condition A is that, for the purposes of any tax under the EEA territory concerned or under any relevant territory, the amount cannot be taken into account in calculating any profits, income or gains which—
- (a) might arise to the company or any other person in any period after the current period, and
  - (b) (if there were any) would be chargeable to that tax for any period after the current period.
- (3) Condition B is that, for the purposes of any tax under the EEA territory concerned or under any relevant territory, the amount cannot be relieved in any period after the current period—
- (a) by the payment of a credit,
  - (b) by the elimination or reduction of a tax liability, or
  - (c) by any other means of any kind.
- (4) In determining for the purposes of conditions A and B whether an amount can be so taken into account or relieved, the time at which the determination is to be made is the time immediately after the end of the current period.
- (5) In this paragraph “relevant territory” means—
- (a) if the company is resident in any EEA territory and is also resident in any other territory outside the United Kingdom, that other territory,
  - (b) if the company is not resident in any EEA territory but carries on a trade in an EEA territory through a permanent establishment, the territory (or territories) in which it is resident.

*Amount not given other qualifying relief under law of territory outside UK*

- 8 (1) For the purposes of paragraph 5, an amount has not been given qualifying relief under the law of any territory outside the United Kingdom (other than the EEA territory concerned) if conditions A and B are met.
- (2) Condition A is that, for the purposes of any tax under any territory outside the United Kingdom (other than the EEA territory concerned), the amount has not been taken into account in calculating any profits, income or gains which—
- (a) have arisen to the company or any other person in any period, and
  - (b) were chargeable to that tax for the period (or, but for so taking the amount into account, would have been so chargeable).



- (3) Condition B is that, for the purposes of any tax under any territory outside the United Kingdom (other than the EEA territory concerned), the amount has not been relieved in any period—
- (a) by the payment of a credit,
  - (b) by the elimination or reduction of a tax liability, or
  - (c) by any other means of any kind.

*Precedence condition*

- 9 (1) This paragraph applies in the case of a non-resident company (“the relevant company”)—
- (a) which is resident in any EEA territory, or
  - (b) which is not so resident but which carries on a trade in an EEA territory through a permanent establishment.
- (2) An amount meets the precedence condition in relation to the EEA territory concerned in so far as relief for the amount cannot be given in any other territory outside the United Kingdom which is a qualifying territory in relation to the relevant company.
- (3) For this purpose a territory is a qualifying territory in relation to the relevant company if—
- (a) another company is resident in that territory (which need not be an EEA territory),
  - (b) that other company owns directly or indirectly any ordinary share capital in the relevant company,
  - (c) a third company which is resident in the United Kingdom owns directly or indirectly any ordinary share capital of that other company,
  - (d) the relevant company is a 75 per cent. subsidiary of that third company, and
  - (e) the relevant company is not a 75 per cent. subsidiary of that third company as a result of its being a 75 per cent. subsidiary of a fourth company which is resident in the United Kingdom.
- (4) In this paragraph references, in relation to any amount and any territory, to relief being given for the amount in the territory are to relief being given—
- (a) by taking the amount into account in calculating any profits, income or gains of any person chargeable to tax under the law of that territory,
  - (b) by the payment of a credit to any person under the law of that territory,
  - (c) by the elimination or reduction of a tax liability of any person under the law of that territory, or
  - (d) by any other means of any kind.
- (5) “The EEA territory concerned” means the EEA territory in which the relevant company is resident or (as the case may be) in which it carries on a trade through a permanent establishment.

---

*Status: This is the original version (as it was originally enacted).*

---

## PART 2

### APPLICATION OF UK RULES TO NON-RESIDENT COMPANY

#### *Introduction*

- 10 (1) This Part of this Schedule applies in the case of any loss or other amount (“the EEA amount”) arising to a non-resident company (“the EEA company”) in any period (“the loss period”) in so far as the EEA amount meets the conditions mentioned in subsection (2)(a) to (d) of section 403F.
- (2) In this Part of this Schedule “the EEA territory concerned” means the EEA territory in which the EEA company is resident or (as the case may be) in which it carries on a trade through a permanent establishment.
- (3) In this Part of this Schedule any reference to the appropriate part of the EEA amount is to that amount in so far as it meets the conditions mentioned in subsection (2)(a) to (d) of section 403F.

#### *Basic rules*

- 11 (1) The EEA amount must, on the relevant assumptions (see subparagraph (5)), be recalculated in accordance with the applicable UK tax rules (see paragraph 16).
- (2) The amount of the EEA amount that is available for surrender by the EEA company by way of group relief is so much of the appropriate part of it as does not exceed the relevant proportion (see subparagraph (5)) of the amount given by that recalculation.
- (3) But if the amount given by that recalculation is an amount of income or other profits, no part of the EEA amount is available for surrender by way of group relief.
- (4) So far as any part of the EEA amount is available for surrender by the EEA company by way of group relief, the provisions of this Chapter have effect in that case on the basis that the relevant assumptions are made.
- (5) In this paragraph—  
“the relevant assumptions” are the assumptions set out in paragraphs 12 to 15, and  
“the relevant proportion” means the proportion that the appropriate part of the EEA amount bears to the EEA amount.

#### *Assumptions as to UK residence*

- 12 (1) It is to be assumed that the EEA company is resident in the United Kingdom throughout the loss period.
- (2) But this does not require it to be assumed—

- (a) that there is any change in the place or places at which the EEA company carries on its activities (although see paragraph 13), or
  - (b) that the EEA company ceases to be resident in the United Kingdom at the end of the loss period.
- (3) It is to be assumed that the EEA company becomes resident in the United Kingdom (and, accordingly, within the charge to corporation tax) at the beginning of the loss period.

*Assumptions as to places in which activities carried out*

- 13
- (1) In the case of any trade carried on by the EEA company in the loss period wholly or partly in the EEA territory concerned, it is to be assumed that the trade is carried on wholly or partly in the United Kingdom.
  - (2) In the case of any estate, interest or rights in or over land in the EEA territory concerned which are held by the EEA company, it is to be assumed that the land is in the United Kingdom.
  - (3) For this purpose, the reference to domestic concepts of law in relation to the land in the EEA territory concerned is to be read so as to produce the result that most closely corresponds with that produced for Schedule A purposes in relation to land in the United Kingdom.

*Deemed accounting period*

- 14
- (1) It is to be assumed that an accounting period of the EEA company begins at the beginning of the loss period.
  - (2) It is to be assumed that the accounting period ends on the earlier of—
    - (a) the end of 12 months from the beginning of the loss period, or
    - (b) the end of the loss period.
  - (3) If an accounting period ends in accordance with sub-paragraph (2)(a), it is to be assumed that a further accounting period begins when the previous one ends.
  - (4) It is to be assumed that the further accounting period ends on the earlier of—
    - (a) the end of 12 months from the beginning of the further accounting period, or
    - (b) the end of the loss period.

*Capital allowances*

- 15
- (1) This paragraph applies if, before the beginning of the loss period, the EEA company incurs any capital expenditure on the provision of plant or machinery for the purposes of any activity.
  - (2) It is to be assumed for the purposes of Part 2 of the Capital Allowances Act that the plant or machinery—
    - (a) was provided for purposes wholly other than those of the activity, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) was not brought into use for the purposes of the activity until the beginning of the loss period, and section 13 of the Capital Allowances Act (use for qualifying activity of plant or machinery provided for other purposes) is to apply accordingly.
- (3) This paragraph is to be read as one with Part 2 of the Capital Allowances Act.

*Applicable UK tax rules*

- 16 (1) For the purposes of this Part of this Schedule references to recalculating the EEA amount in accordance with the applicable UK tax rules are to recalculating it in accordance with any provision made by or under the Corporation Tax Acts—
  - (a) which applies for the purpose of calculating for corporation tax purposes the amount of the loss or other amount to which the EEA amount corresponds, or
  - (b) which otherwise affects in any way the amount of that loss or other amount for which relief from corporation tax is available.
- (2) For the purposes of sub-paragraph (1), the Treasury may by regulations provide for the modification of any provision made by or under the Corporation Tax Acts—
  - (a) which applies as mentioned in sub-paragraph (1)(a), or
  - (b) which otherwise affects an amount as mentioned in sub-paragraph (1)(b).
- (3) Regulations under this paragraph may make provision in relation to—
  - (a) all classes of trade or business, or
  - (b) any particular class or classes of trade or business.
- (4) Regulations under this paragraph may make—
  - (a) different provision for different cases or different purposes, and
  - (b) incidental, supplemental, consequential or transitional provision and savings.
- (5) Regulations under this paragraph may make provision having effect before the date on which the regulations are made.

### PART 3

#### DEFINITIONS FOR THE PURPOSES OF THIS SCHEDULE

*Charge to tax under the law of any territory outside the United Kingdom*

- 17 (1) This paragraph applies for the purposes of this Schedule.
- (2) Any reference to a tax under a territory outside the United Kingdom is a reference to a tax chargeable under the law of that territory which—
  - (a) is charged on income and corresponds to United Kingdom income tax, or

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) is charged on income or chargeable gains or both and corresponds to United Kingdom corporation tax.
- (3) A tax chargeable under the law of a territory outside the United Kingdom is not to be regarded as failing to correspond to income or corporation tax just because—
  - (a) it is chargeable under the law of a province, state or other part of a country, or
  - (b) it is levied by or on behalf of a municipality or other local body.”.

## PART 2

### AMENDMENTS OF OTHER ENACTMENTS

#### *Claims for group relief*

8 After paragraph 77 of Schedule 18 to FA 1998 (joint amended returns) insert—

#### *“Claims in respect of overseas losses of non-resident companies*

- 77A (1) This paragraph applies if a claim for group relief is made in respect of any loss or other amount as a result of the condition in section 402(2A) of the Taxes Act 1988 being satisfied (relief in respect of overseas losses of non-resident companies).
- (2) In relation to the surrendering company, this Part of this Schedule applies as if—
- (a) references to the relief being surrendered were to the EEA amount and to the relief being claimed, and
  - (b) references to its accounting period were to its deemed accounting period under Part 2 of Schedule 18A to the Taxes Act 1988.
- (3) Notice of consent of the surrendering company—
- (a) is to be given to the officer of the Board under paragraph 70(3)(b) by the claimant company (and not by the surrendering company), and
  - (b) is to be given to the officer to whom the claimant company makes its company tax returns.
- (4) If the surrendering company is not within the charge to income or corporation tax, the requirement under paragraph 71(1)(e) for notice of consent by the surrendering company to contain details of its tax district reference is not to apply.
- (5) If notice of consent is withdrawn under paragraph 71, the notice of the withdrawal is to be given to the officer of the Board by the claimant company (and not by the surrendering company).
- (6) If notice of consent is withdrawn under paragraph 75—
- (a) the notice of withdrawal, and any copy of any new notice of consent, is to be sent to an officer of Revenue and Customs by

---

*Status: This is the original version (as it was originally enacted).*

---

- the claimant company (and not by the surrendering company),  
and
- (b) any notice containing directions by an officer of Revenue and Customs under sub-paragraph (4) of that paragraph is to be given to the claimant company (and not to the surrendering company).
- (7) The remaining provisions of that paragraph, and the rest of this Part of this Schedule, are, accordingly, to be read with the appropriate modifications (so that, in particular, it is the claimant company (and not the surrendering company) which can bring an appeal under paragraph 75(7)).
- (8) A notice under paragraph 27 (notice to produce documents etc for purposes of an enquiry) given to the claimant company may require the claimant company—
- (a) to explain why the EEA amount meets the conditions mentioned in subsection (2)(a) to (d) of section 403F of the Taxes Act 1988 and is not prevented from being surrendered by section 403G of that Act, and
- (b) to provide details of the recalculation required under Part 2 of Schedule 18A to that Act in relation to the EEA amount.
- (9) Except where expressly indicated, requirements imposed under this paragraph are in addition to those imposed apart from this paragraph.
- (10) In this paragraph “the EEA amount” has the same meaning as in Part 2 of Schedule 18A to the Taxes Act 1988.”.

### PART 3

#### COMMENCEMENT

##### *Commencement*

- 9 (1) The amendments made by this Schedule, other than those made by paragraphs 4(2) and 5, have effect—
- (a) in relation to any accounting period of a claimant company beginning on or after 1st April 2006, and
- (b) in relation to any period (“the loss period”) beginning on or after 1st April 2006 in which any loss or other amount arises to a non-resident company.
- (2) If an accounting period (a “straddling period”) of a claimant company begins before 1st April 2006 and ends on or after that date—
- (a) so much of the straddling period as falls before 1st April 2006, and
- (b) so much of the straddling period as falls on or after that date,
- are to be treated as separate accounting periods for the purposes of the amendments made by this Schedule other than those made by paragraphs 4(2) and 5.
- (3) The amount of the claimant company’s profits for the straddling period is to be attributed, on an apportionment in accordance with this paragraph, to those separate accounting periods.

- (4) If the loss period of the non-resident company begins before 1st April 2006 and ends on or after that date—
  - (a) so much of the loss period as falls before 1st April 2006, and
  - (b) so much of the loss period as falls on or after that date,are to be treated as separate periods for the purposes of the amendments made by this Schedule other than those made by paragraphs 4(2) and 5.
- (5) The amount of the loss or other amount of the non-resident company for the loss period is to be attributed, on an apportionment in accordance with this paragraph, to those separate periods.
- (6) Any apportionment under this paragraph is to be made on a just and reasonable basis.