

SCHEDULES

FOURTH SCHEDULE

Section 18.

PROVISIONS SUPPLEMENTARY TO S. 18 (RIGHT TO CARRY BACK LOSS SUSTAINED IN LAST YEAR OF BUSINESS)

- 1 The following provisions of the Income Tax Act, 1952, relating to the computation of losses or of profit or loss for the purposes of the right to carry losses forward under section three hundred and forty-two of that Act, that is to say, sections three hundred and forty-five, four hundred and twenty-eight, four hundred and thirty-one and four hundred and thirty-six shall apply to the computation thereof for any purpose of section eighteen of this Act (hereafter in this Schedule referred to as " the principal section ") as they apply to the computation thereof for the corresponding purpose of that section.
- 2 Where a trade, profession or vocation is being carried on by any persons in partnership immediately before it is permanently discontinued, relief given to one of them on the discontinuance under the principal section shall not, in relation to a claim made by another of them by virtue of subsection (2) of section nineteen of the Finance Act, 1953 (which enables relief to be given after a discontinuance in certain circumstances for capital allowances not effective before the discontinuance), be taken to affect the non-effective amount of any allowances within the meaning of the said subsection (2).
- 3 Subsection (8) of section twenty of the Finance Act, 1953 (which contains provision for adjusting relief given under section three hundred and forty-one of the Income Tax Act, 1952, in respect of a company's loss where the loss is made good by a subvention payment from another company), shall apply in relation to the principal section as it applies in relation to the said section three hundred and forty-one.
- 4 Where, on the permanent discontinuance of a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits within the meaning of Chapter III of Part X of the Income Tax Act, 1952, a claim for relief is made both under the principal section and under subsection (3) of section three hundred and twenty-three of that Act (which enables a balancing allowance falling to be made in the last year of such a trade to be carried back to previous years in certain circumstances), the balancing allowance in respect of which the claim is made under the said subsection (3) shall be left out of account for the purposes of subsection (5) of the principal section, but relief under the principal section shall be given in priority to relief under the said subsection (3).
- 5 Subsection (2) of section three hundred and fifty of the Income Tax Act, 1952 (which, among other things, provides that annual payments made out of dividends affected by double taxation relief shall be deemed to be paid out of profits or gains not brought into charge to tax), shall not affect the operation of subsection (4) of the principal section in relation to any such annual payment; and the said subsection (4) shall have effect in relation to any share or loan interest to which subsection (1) of section four hundred and forty-three (which relates to industrial and provident

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societies) of the said Act applies as if it had been treated as not falling within section four hundred and forty-two of that Act and had been dealt with accordingly.

- 6 The provisions of the Sixth Schedule to the Income Tax Act, 1952, shall apply to any claim under the principal section:

Provided that—

- (a) any such claim shall be made in such form as the Commissioners of Inland Revenue may direct, and shall be delivered to the surveyor; and
- (b) where the surveyor objects to any such claim, it shall be heard and determined by the Commissioners concerned in like manner as in the case of an appeal against an assessment under Schedule D, and the provisions of that Act relating to the statement of a case for the opinion of the High Court on a point of law shall apply; and
- (c) any such claim to which objection is made shall, if the claimant so elects when he makes the claim, be heard and determined by the Special Commissioners, and paragraph (b) of this proviso shall have effect accordingly.