



Finance Act 1940

1940 CHAPTER 29

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with Finance. [27th June 1940.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned ; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CUSTOMS AND EXCISE.

1 Beer.

- (1) The duty of excise charged in respect of beer under subsection (1) of section one of the Finance (No. 2) Act, 1939 (hereafter in this section referred to as " the Act of 1939 "), shall be charged at the increased rates set out in Part I of the First Schedule to this Act; and accordingly the said section one shall have effect as if the said Part I were substituted for Part I of the First Schedule to the Act of 1939.
- (2) In the case of beer in respect of which it is shown to the satisfaction of the Commissioners that a duty of excise at any such increased rate has been paid, the excise drawback allowed under the said subsection (1) shall be allowed at the increased rates set out in Part II of the First Schedule to this Act, subject to the provisions of that Part

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of that Schedule; and accordingly the said section one shall have effect, as respects beer in respect of which it is shown as aforesaid, as if the said Part II were substituted for Part II of the First Schedule to the Act of 1939.

- (3) The duties of customs charged under subsection (2) of the said section one in respect of beer being an Empire product and beer not being an Empire product shall respectively be charged at the increased rates set out in Parts III and IV of the First Schedule to this Act; and accordingly the said section one shall have effect as if the said Parts III and IV were respectively substituted for Parts III and IV of the First Schedule to the Act of 1939.
- (4) In the case of beer in respect of which it is shown to the satisfaction of the Commissioners that a duty of customs at any such increased rate has been paid, the customs drawback allowed under the said subsection (2) in the case of beer being an Empire product and beer not being an Empire product shall respectively be allowed at the increased rates set out in Parts V and VI of the First Schedule to this Act, subject to the provisions of those Parts of that Schedule; and accordingly the said section one shall have effect, as respects beer in respect of which it is shown as aforesaid, as if the said Parts V and VI were respectively substituted for Parts V and VI of the First Schedule to the Act of 1939.
- (5) This section shall be deemed to have had effect as from the twenty-fourth day of April, nineteen hundred and forty.

2 Spirits.

- (1) The duties of customs charged on spirits under subsection (1) of section three of the Finance Act, 1920, in addition to the duties specified in Part II of the First Schedule to that Act shall be charged at the increased rates specified, in the Second Schedule to this Act; and accordingly the said subsection (1) shall have effect as if the said Schedule to this Act were substituted for Part I of the First Schedule to that Act.
- (2) The rate of the duty of excise charged on spirits under subsection (2) of section three of the Finance Act, 1920, in addition to the duties specified in Part III of the First Schedule to that Act shall be increased to four pounds, seventeen shillings and sixpence per gallon computed at proof; and accordingly the said subsection (2) shall have effect as if for the words " four pounds, two shillings and sixpence" there were substituted the words " four pounds, seventeen shillings and sixpence ".
- (3) This section shall be deemed to have had effect as from the twenty-fourth day of April, nineteen hundred and forty.

3 Tobacco.

- (1) In lieu of the duties of customs charged on tobacco under section five of the Finance (No. 2) Act, 1939, there shall, subject to the provisions of section eight of the Finance Act, 1919, be charged on tobacco imported into the United Kingdom of the descriptions set out in the first column of Part I of the Third Schedule to this Act duties of customs at the rates respectively specified in the second column of that Part of that Schedule.
- (2) In lieu of the duties of excise charged on tobacco under the said section five there shall be charged on tobacco grown in the United Kingdom of the descriptions set out in the

first column of Part II of the Third Schedule to this Act duties of excise at the rates respectively specified in the second column of that Part of that Schedule.

- (3) The drawback allowed under section one of the Manufactured Tobacco Act, 1863, on tobacco exported from the United Kingdom or deposited in a bonded or King's warehouse shall, in cases where it is shown that the duties charged under this section have been paid, be allowed at the rates set out in Part III of the Third Schedule to this Act instead of at the rates set out in Part III of the Fourth Schedule to the Finance (No. 2) Act, 1939, but subject to the provisions affecting allowance of drawback contained in the Schedule to the Finance Act, 1904.
- (4) This section shall be deemed to have had effect as from the twenty-fourth day of April, nineteen hundred and forty.

4 Matches.

- (1) In lieu of the duties of customs charged on matches under section four of the Finance Act, 1933, there shall be charged on matches imported into the United Kingdom duties of customs at the rates specified in Part I of the Fourth Schedule to this Act.
- (2) In lieu of the duties of excise charged on matches under section eight of the Finance Act, 1927, there shall be charged on matches manufactured in the United Kingdom duties of excise at the rates specified in Part II of the Fourth Schedule to this Act.
- (3) Subsections (4) and (5) of section three of the Finance (New Duties) Act, 1916, shall apply for the purpose of the duties charged under this section as they were applied by the said sections four and eight for the purpose of the duties charged under those sections respectively.
- (4) This section shall be deemed to have had effect as from the twenty-ninth day of April, nineteen hundred and forty.

5 Mechanical lighters.

- (1) The rate of the duty of customs charged under section six of the Finance Act, 1928, on the importation into the United Kingdom of any mechanical lighter, and of any component part of a mechanical lighter other than a flint, shall be increased to three shillings and sixpence.
- (2) The rate of the duty of excise charged under the said section six on every mechanical lighter manufactured in the United Kingdom which is complete, or which could be made complete by the addition of a flint, and on every mechanical lighter sent out in an incomplete state from the premises of a manufacturer of mechanical lighters shall be increased to two shillings and sixpence.
- (3) This section shall be deemed to have had effect as from the twenty-ninth day of April, nineteen hundred and forty.

6 Extension of period of stabilisation of Imperial preference in case of sugar, and c.

Subsection (1) of section seven of the Finance Act, 1926 (which, as extended by section eight of the Finance Act, 1938, provides for the stabilisation of rates of Imperial preference, in the case of the duties of customs chargeable on sugar, molasses, glucose and saccharin, during a period ending on the nineteenth day of August, nineteen hundred and forty) shall, in so far as it relates to the said duties, have effect as if the

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said period were extended so as to expire on the thirty-first day of August, nineteen hundred and forty-two.

7 Drawback of duties under Safeguarding of Industries Act, 1921.

- (1) Drawback of any duty paid under Part I of the Safeguarding of Industries Act, 1921, may be allowed under the Second Schedule to the Import Duties Act, 1932, and section nine of the Finance Act, 1932, in like manner as if the duty had been chargeable under Part I of the Import Duties Act, 1932 :

Provided that no drawback shall be allowed by virtue of this section on the bringing of any goods into a registered shipbuilding yard within the meaning of section eleven of the Import Duties Act, 1932.

- (2) As from the date on which an order made under the said Second Schedule comes into operation with respect to goods of any class or description on which duty has been paid under Part I of the Safeguarding of Industries Act, 1921, subsection (1) of section twelve of that Act (which provides for drawing back the duties chargeable thereunder) shall cease to have effect as respects goods of that class or description.

8 Excise licences for vehicles belonging to members of forces on leave.

- (1) Where a member of any of His Majesty's naval, military or air forces is on such leave as is hereinafter mentioned there may, subject to the provisions of this section, be issued to him, in respect of any mechanically propelled vehicle, a permit authorising the use of the vehicle on roads until the end of the day after the last day of the period for which the leave was granted, notwithstanding that no licence under section thirteen of the Finance Act, 1920, is in force in respect of the vehicle :

Provided that a permit under this section shall not be issued to any person—

- (a) except in respect of a vehicle which was registered in his name under the Roads Act, 1920, during some period during which a licence under the said section thirteen was in force in respect of the vehicle; or
 - (b) in respect of more than one vehicle in any one period of leave; or
 - (c) in respect of any vehicle unless, when the last licence in respect of the vehicle under the said section thirteen expired, the vehicle was stated in the registration book thereof to be a cycle, a private vehicle or a private and goods vehicle.
- (2) The leave mentioned in the foregoing provisions of this section is leave granted for not more than twenty-one days, being—
- (a) leave from service at a place which is outside the United Kingdom, the Isle of Man and the Channel Islands;
 - (b) leave from service in the Orkneys, the Shetlands or the Hebrides;
 - (c) leave from service afloat (including leave granted on the occasion of the loss of a ship or the paying off of a ship's crew); or
 - (d) leave from service as a member of an aircraft operational crew of the Royal Air Force or as one of the flying personnel of a first line squadron of the Fleet Air Arm.
- (3) Subsection (5) of section five of the Roads Act, 1920, (which requires licences under section thirteen of the Finance Act, 1920, to be fixed to and exhibited on vehicles) and any regulations made for the purposes of that subsection, and subsection (4) of section

thirteen of the Roads Act, 1920, (which imposes penalties for forging or fraudulently using any such licence or fraudulently lending it or allowing it to be used by any other person) shall apply to permits under this section as they apply to those licences; and subsection (5) of section thirteen of the Roads Act, 1920, (which provides for the payment into the Exchequer of penalties recovered under the last mentioned Act) shall apply to penalties in respect of permits under this section as it applies to penalties recovered under that Act.

- (4) The Minister of Transport may make regulations for giving effect to the provisions of this section, and (without prejudice to the generality of the foregoing words)—
 - (a) for prescribing the form of the permits to be granted thereunder and the authorities by whom they are to be granted; and
 - (b) for requiring applicants for permits to produce such evidence as may be prescribed by the regulations that the applicant is entitled to the issue of the permit, and that there is in force, in relation to the user of the vehicle by the applicant or by other persons on his order or with his permission, such a policy of insurance or security as is necessary under Part II of the Road Traffic Act, 1930, and Part II of the Road Traffic Act, 1934.
- (5) There shall be paid on the issue of any such permit as aforesaid a fee of two shillings in the case of any vehicle which would otherwise be taxable under paragraph 1 of the Second Schedule to the Finance Act, 1920, (which relates to cycles) and of ten shillings in the case of any other mechanically propelled vehicle, and all such fees shall be paid into the Exchequer.
- (6) This section shall apply in relation to members of such women's services as may be prescribed by order of the Admiralty, the Army Council or the Air Council as it applies to members of His Majesty's naval, military or air forces; and any such order may be varied or revoked by a subsequent order of the Admiralty, the Army Council or the Air Council, as the case may be.
- (7) This section shall be deemed to have come into operation on the nineteenth day of April, nineteen hundred and forty, and shall expire, save as respects things previously done or omitted to be done, on such day as His Majesty may by Order in Council determine; and any regulations made under this section may be made to apply retrospectively as from the said nineteenth day of April.

9 Reduction of duty on certain mechanically propelled vehicles used for agricultural purposes.

- (1) Sub-paragraph (a) of paragraph 4 of the Second Schedule to the Finance Act, 1920, (which, as amended by the Seventh Schedule to the Finance Act, 1933, and section ten of the Finance Act, 1939, prescribes the rate of duty payable under section thirteen of the Finance Act, 1920, in respect of the mechanically propelled vehicles mentioned in the said paragraph 4) shall, in relation to the use on roads, during the period specified in subsection (3) of this section, of such agricultural and other tractors and engines as are mentioned in the said sub-paragraph (a), have effect as if after paragraph (ii) thereof there were inserted the following paragraph—
 - “(iii) for hauling, from any such farm to a railway station, or from a railway station to any such farm, agricultural produce of, or articles required for, the farm”.
- (2) In subsection (7) of section two of the Finance Act, 1935 (which excepts from the provisions of that section withdrawing the rebate on heavy oils used as fuel for

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mechanically propelled vehicles the vehicles mentioned in sub-paragraphs (a), (b) and (c) of the said paragraph 4) the reference to the said sub-paragraph (a) shall, in relation to the period mentioned in subsection (3) of this section, be construed as a reference to that sub-paragraph as amended by subsection (1) of this section.

- (3) The period hereinbefore referred to is the period beginning with the eleventh day of March, nineteen hundred and forty, and ending with such date as His Majesty may by Order in Council determine, and this section shall be deemed to have come into operation on the said eleventh day of March.

10 Exemption from duty in respect of trailers used for refuse collection by local authorities and their contractors.

- (1) A vehicle shall not be chargeable with duty under sub-paragraph (d) of paragraph 5 of the Second Schedule to the Finance Act, 1920, by reason of the use thereof, during the period to which this section applies, by a local authority for drawing trailers used solely in connection with the collection and disposal of refuse.
- (2) The period to which this section applies is the period beginning with the first day of June, nineteen hundred and forty, and ending with such date as His Majesty may by Order in Council determine, and this section shall be deemed to have come into operation on the said first day of June.
- (3) The foregoing provisions of this section shall apply in relation to the use of a vehicle by any person for the purpose of performing a contract with a local authority as they apply in relation to the use of a vehicle by a local authority.

PART II

INCOME TAX.

Charge of Tax.

11 Income tax for 1940-41.

- (1) Income tax for the year 1940-41 shall be charged at the standard rate of seven shillings and sixpence in the pound, and, in the case of an individual whose total income exceeds one thousand five hundred pounds, at such higher rates in respect of the excess over one thousand five hundred pounds as Parliament may hereafter determine.
- (2) All such enactments as had effect with respect to the income tax charged for the year 1939-40, other than such enactments contained in the Finance (No. 2) Act, 1939, as by their terms relate only to tax for the year 1939-40, shall, subject to the provisions of such of the enactments contained in the said Act as by their terms relate only to the year 1940-41 and subsequent years, have effect with respect to the income tax charged for the year 1940-41.

12 Higher rates of income tax for 1939-40.

Income tax for the year 1939-40 in respect of the excess of the total income of an individual over two thousand pounds shall be charged at rates in the pound which respectively exceed the standard rate by amounts equal to the amounts by which the

rates at which income tax was charged in respect of the said excess for the year 1938-39 respectively exceeded the standard rate for that year.

Rents and annual payments in respect of land.

13 Application and interpretation of provisions as to rents and annual payments.

- (1) The next five succeeding sections apply only to land in the United Kingdom chargeable to tax under Schedule A, and in this and the said next five succeeding sections the following expressions have the meanings hereby respectively assigned to them, that is to say—

" immediate lessor " means in relation to any premises—

- (a) if different parts of the premises are the subject of separate tenancies or separate occupations, a lessor of the whole or any part of the premises whose estate or interest extends to the entirety of the premises and is not subject, immediately or mediately, to a lease of the entirety thereof; and
(b) in any other case, a lessor whose immediate tenant is occupying or entitled to occupy the entirety of the premises:

Provided that if, in any case to which paragraph (a) of this definition applies, there is more than one lessor satisfying the conditions set out in that paragraph, that one of those lessors shall be deemed to be the immediate lessor whose estate or interest is not reversionary on the estate or interest of any of the others;

" land " includes tenements, hereditaments and heritages;

" lease " includes an agreement for a lease if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and " lessee " and " lessor " shall be construed accordingly and include, respectively, the successors in title of a lessee or a lessor;

" long lease " means a lease granted for a term exceeding fifty years, other than a lease which is or takes effect as a lease for a term of years determinable after the death or marriage of any person;

" short lease " means a lease which is not a long lease;

" unit of assessment " means any land which forms a unit of assessment for the purposes of Schedule A.

- (2) Where the estate or interest of any lessor of any premises is the subject of a mortgage and either the mortgagee is in possession or the rents and profits are being received by a receiver appointed by or on the application of the mortgagee, that estate or interest shall be deemed for the purposes of subsection (1) of this section and of the next five succeeding sections to be vested in the mortgagee, and references to a lessor and an immediate lessor shall be construed accordingly; but the amount of the liability to tax of any such mortgagee shall be computed as if the mortgagor were still in possession of the premises or, as the case may be, no receiver had been appointed, and as if it were the amount of the liability of the mortgagor that was being computed.
- (3) For the purposes of the foregoing definitions—
- (a) a lease granted for a term exceeding fifty years shall, if it be not terminable at the option of the lessor before the expiration of fifty years, be deemed to be such a lease notwithstanding that the lease is terminable at the option of the lessee before the expiration of that period; and

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- (b) a lease terminable at the option of the lessor before the expiration of fifty years shall be deemed to be a lease for a term not exceeding fifty years.
- (4) This section shall, in its application to Scotland, have effect as if—
- (a) in the proviso to the definition of " immediate lessor " for the words " is not reversionary on the estate or interest of any of the others " there were substituted the words " is dependent upon a lease later in date than any lease upon which the estate or interest of any of the others depends ";
 - (b) for references to a mortgage, a mortgagee and a mortgagor there were substituted respectively references to a heritable security, a creditor in a heritable security and a debtor in a heritable security, and any reference to a receiver included a reference to a judicial factor.

14 Modifications of relief from Schedule A in case of unoccupied houses.

- (1) Notwithstanding anything contained in Rule 4 of No. VII of Schedule A (which provides for relief from tax under Schedule A in respect of any house which is or becomes unoccupied for the year of assessment or for part of the year of assessment) relief from tax under Schedule A shall not be given under that Rule for any period in a year of assessment during which a house is or becomes unoccupied if rent for that period is payable to an immediate lessor in respect of the house under a short lease, and the person liable to pay the rent shall have the same right under Rule 1 of No. VIII of Schedule A of deducting tax as he would have if he were a tenant occupier:

Provided that this subsection shall not operate so as to authorise the levying of any tax for any such period as aforesaid which would fall to be ultimately borne by the person liable to pay the rent.

- (2) Where a house is or becomes unoccupied for the whole or any part of a year of assessment, any tax payable under Schedule A for that year in respect thereof which is not otherwise recovered may be recovered from the person who is for the time being the immediate lessor of the house as if he had been charged therewith and in the same way as any other tax charged on him may be recovered:

Provided that this subsection shall not operate so as to authorise the recovery from any such person—

- (a) of any tax which would fall to be ultimately borne by any person liable to pay rent to him or to any other immediate lessor of the house; or
- (b) of any tax in respect of any period in the year in question unless rent for that period was payable under a short lease.

15 Taxation of excess rents of immediate lessors arising under certain short leases.

- (1) If, as respects any year of assessment, the immediate lessor of a unit of assessment is entitled in respect of the unit to any rent payable under a lease or leases to which this section applies, he shall be chargeable to tax under Case VI of Schedule D in respect of the excess, if any, of the amount which would have been the amount of the assessment of the unit for the purposes of Schedule A, as reduced for the purpose of collection, if the annual value of the unit had been determined (in accordance, in whatever part of the United Kingdom the unit is situated, with the Rules applicable to Schedule A set out in the First Schedule to the Income Tax Act, 1918) by reference to that rent and the other terms of the lease or leases, over whichever is the greater of—

- (a) the actual amount of the assessment of the unit for the purposes of Schedule A, as reduced for the purpose of collection; or
 - (b) the amount of any rent payable by the immediate lessor in respect of the unit under any short lease or short leases.
- (2) Where the immediate lessor of any unit of assessment is occupying any part thereof, subsection (1) of this section shall apply as if the rent to which he is entitled in respect of the unit under any lease or leases to which this section applies were increased by so much of the annual value of the unit (as ascertained for the purposes of Schedule A) as is attributable to the part which he is occupying.
- (3) Where for any year an assessment has been made on an immediate lessor by virtue of this section, the amount of any relief which may be claimed by him under Rule 8 of No. V of Schedule A shall be such amount as could have been claimed by him if the annual value of the unit had been determined in the manner described in subsection (1) of this section.
- (4) A lease shall be deemed to be a lease to which this section applies if, and only if, the following conditions are fulfilled with respect to it—
- (a) that it is a short lease;
 - (b) that the land comprised in it is or forms part of a single unit of assessment;
 - (c) that the rent under it is payable to the immediate lessor of that unit;
 - (d) that the estate or interest of the immediate lessor of that unit is not, as respects any part of that unit, subject to any short lease which comprises also land not wholly within that unit, being a lease the rent under which is payable to that immediate lessor.

16 Taxation of excess rents arising under other short leases.

- (1) A lessor who, as respects any year of assessment, is entitled to any rent in respect of any land under a lease or leases to which this section applies shall be chargeable to tax under Case VI of Schedule D in respect of any excess of that rent over the aggregate of the following amounts, that is to say—
- (a) the amount, tax on which at the standard rate is equal to the amount of tax under Schedule A in respect of the land which he is liable to pay, by deduction or otherwise, under the provisions of the Income Tax Acts;
 - (b) the excess, if any, of the amount of any rent payable by him in respect of the land under any short lease or short leases over the amount referred to in the last preceding paragraph;
 - (c) if he is liable to pay tenant's rates in respect of the land, the amount borne by him in respect thereof for the year of assessment;
 - (d) any relief allowed under Rule 1 or Rule 4 of No. V of Schedule A in respect of any such outgoing in respect of the land as is mentioned in those Rules respectively, being an outgoing the burden of which would in the year of assessment fall upon him;
 - (e) if he bears the whole or any part of the burden of an annuity within the meaning of the Tithe Act, 1936, charged in respect of the land, the whole or, as the case may be, a corresponding part of any amount allowable in the year of assessment under subsection (6) of section thirteen of that Act as a deduction in respect of that annuity;
 - (f) the cost in the year of assessment of any services rendered or goods provided by him otherwise than by way of maintenance or repairs, being services or

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goods which he is legally bound under the lease or leases to render or provide but in respect of which he receives no separate consideration;

- (g) the amount of the cost to him of maintenance, repairs, insurance and management of the land according to the average of the preceding five years, in so far as relief is not given to him in respect of that cost under any other provision of the Income Tax Acts.

(2) The leases to which this section applies are—

- (a) short leases of land not wholly comprised in a single unit of assessment;
- (b) short leases of land wholly comprised in a single unit of assessment, not being leases to which the last preceding section applies.

17 Rents under long leases and other annual payments in respect of land.

(1) This section applies to the following payments, that is to say—

- (a) rents under long leases;
- (b) other annual sums as defined in paragraph (2) of Rule 4 of No. VIII of Schedule A, not being rents under a short lease or annuities within the meaning of the Tithe Act, 1936,

being payments falling due on or after the sixth day of April, nineteen hundred and forty.

(2) Rules 1 and 4 of No. VIII of Schedule A shall not apply to any payment to which this section applies, but any such payment shall, so far as it does not fall under any other Case, be charged with tax under Case VI of Schedule D and be treated for the purposes of such of the provisions of the Income Tax Acts as apply to royalties paid in respect of the user of a patent as if it were such a royalty.

(3) A deduction from a payment to which this section applies made on account of income tax at any time after the fifth day of April, nineteen hundred and forty, and before the passing of this Act which would have been a legal deduction if the provisions of this section had been in force at that time, shall be deemed for all purposes to have been a legal deduction to which all the provisions of Rule 19 or Rule 21 of the General Rules, as the case may be, were applicable; and the provisions of subsection (2) of section two hundred and eleven of the Income Tax Act, 1918, shall have effect as if this section had come into operation on the sixth day of April, nineteen hundred and forty.

(4) Notwithstanding anything in this section, sections thirty-seven and thirty-eight of the Income Tax Act, 1918, (which provide for giving relief from tax to hospitals and certain other bodies) shall be construed as if any tax chargeable by virtue of this section under Schedule D were chargeable under Schedule A.

(5) Any payment made in respect of land in Scotland for the period ending on the fifteenth day of May, nineteen hundred and forty, shall be treated for the purposes of this section as if it had become due at the commencement of that period.

18 Information.

The surveyor may, for the purpose of ascertaining whether there is any and if so what liability to tax under the last four preceding sections, give notice to any person who is entitled to any rent or other annual payment in respect of any land or is in receipt of any rent or other such annual payment belonging to any other person requiring him to deliver, within the time limited by the notice and in such form as may be prescribed

by the Commissioners of Inland Revenue, such particulars relating to the land and the rent or other annual payment as may be prescribed by those Commissioners, and the provisions of the Income Tax Acts relating to notices to deliver, the delivery of, and the penalties for neglecting to deliver, returns and statements shall apply for the purposes of, and in relation to notices under, this section.

Miscellaneous.

19 Extension of classes of income from foreign possessions taxable though not received in the United Kingdom.

- (1) In Rule 1 of the Rules applicable to Case V of Schedule D (which provides for the taxation of income arising from certain possessions out of the United Kingdom irrespective of the receipt of the income in the United Kingdom) for the words " income arising " from stocks, shares or rents in any place out of the " United Kingdom " there shall be substituted the words " income arising from possessions out of the United " Kingdom other than income which—
 - “(a) is immediately derived by a person from the " carrying on by him of any trade, profession or " vocation either solely or in partnership; or
 - (b) arises from any office, employment or pension.”
- (2) In Rule 2 of the said Rules (which provides for the taxation of income arising from certain possessions out of the United Kingdom by reference to the sums received in the United Kingdom) for the words " other than stocks, shares or rents " there shall be substituted the words " other than income to which Rule 1 applies. "
- (3) The amendment effected by subsection (2) of this section shall apply both in relation to Rule 2 as originally enacted and in relation to the Rule substituted therefor in respect of possessions in Eire by Part II of the Second Schedule to the Finance Act, 1926, but nothing in subsection (1) or subsection (2) of this section shall affect the tax chargeable in respect of the lands, tenements or hereditaments in Eire to which the proviso to the said substituted Rule 2 applies.

20 Provisions as to dividends paid without full deduction of tax.

- (1) Where any dividend from which deduction of tax is authorised by Rule 20 of the General Rules is paid without deduction of tax, the amount received in respect thereof shall, for the purposes of the Income Tax Acts, be deemed to be a net amount received in respect of a dividend from the gross amount of which such deduction as is authorised by the said Rule 20 has been made, and the provisions of—
 - (a) section thirty-three of the Finance Act, 1924 (which imposes certain obligations in relation to the form of dividend warrants, &c.);
 - (b) subsection (3) of section twelve of the Finance Act, 1930 (which relates to cases where on payment of dividends, not being preference dividends within the meaning of that section, income tax has been deducted by reference to a standard rate greater or less than the standard rate for the year); and
 - (c) subsection (2) of section seven of the Finance Act, 1931 (which directs that, subject to the provisions of that subsection, dividends are to be deemed for all the purposes of the Income Tax Acts to represent income of such an amount as would after deduction of tax be equal to the net amount received),shall apply accordingly.

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(2) A preference dividend paid without deduction of tax shall not be treated as a preference dividend within the meaning assigned to that expression by subsection (4) of the said section twelve, and, in the proviso to subsection (2) of the said section seven, the words " within the meaning assigned to that expression by " subsection (4) of section twelve of the Finance Act, " 1930 " shall be substituted for the words " to which section twelve of the Finance Act, 1930, applies. "

(3) The foregoing provisions of this section shall apply where, though a deduction is made from a dividend, that deduction is less than the full amount authorised, as it applies where no deduction is made:

Provided that nothing in this subsection shall be construed as applying the said provisions to any dividend paid before the passing of the Act imposing the tax for the year by reason only that the deduction made therefrom was made by reference to a standard rate lower than that ultimately imposed for the year.

(4) This section shall have effect with respect to the year 1939-40 and all subsequent years of assessment:

Provided that so much of this section as applies the provisions of section thirty-three of the Finance Act, 1924, shall have effect only in relation to warrants, cheques and orders drawn or made, or purporting to be drawn or made, after the expiration of one month from the date of the passing of this Act.

21 Amendment of provisions relating to tax-free income.

(1) Where a banking business, an assurance business or a business consisting wholly or partly in dealing in securities is carried on in the United Kingdom by a person not resident therein, then—

- (a) in computing the profits arising from, or loss sustained in, the business for any of the purposes of the Income Tax Acts; and
- (b) in the case of an assurance business, also in computing for the purposes of subsection (2) of section sixteen of the Finance Act, 1923, the profits or loss arising from the granting of annuities on human life,

all interest, dividends and other payments whatsoever to which paragraph (d) of Rule 2 of the General Rules applicable to Schedule C extends (whether by virtue of the terms of the said paragraph or by virtue of any other provision of the Income Tax Acts expressly or impliedly extending the operation of the said Rule 2) shall be included notwithstanding the exemption from tax conferred by the said Rule 2.

In this subsection, the expression " securities " includes stocks and shares.

(2) Where—

- (a) any such business as aforesaid is carried on in the United Kingdom by a person not ordinarily resident therein; and
- (b) in making any such computation as aforesaid with respect to that business, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest thereon for income tax purposes,

any interest on money borrowed for the purpose of acquiring the securities, any other expenses attributable to the acquisition or holding of, or to any transaction in, the securities, and any profits or losses so attributable, shall also be excluded in making that computation.

- (3) In the case of an assurance company not having its head office in the United Kingdom which carries on life assurance business through any branch or agency in the United Kingdom—
- (a) in computing for the purposes of Rule 3 of Case III of Schedule D the income from the investments of the life assurance fund of the company, any such interest, dividends or payments as are mentioned in subsection (1) of this section shall be included notwithstanding the exemption from tax referred to in that subsection ; and
 - (b) where any interest on any securities issued by the Treasury is excluded in computing the said income by virtue of a condition of the issue thereof regulating the treatment of the interest thereon for income tax purposes, the relief to be granted under section thirty-three of the Income Tax Act, 1918, in respect of expenses of management shall be reduced so as to bear to the amount of relief which would be granted but for the provisions of this paragraph the same proportion as the amount of that income, excluding the said interest, bears to the amount of that income including that interest.
- (4) The foregoing provisions of this section shall apply in relation to any computation for the purposes of tax for the year 1940-41 or any subsequent year of assessment, notwithstanding that the computation is required to be made by reference to any year or period other than the year of assessment and those provisions were not in force in that year or period or some part thereof.
- (5) For the avoidance of doubt, it is hereby declared that where any income of any person is by virtue of any provisions of the Income Tax Acts, and in particular, out without prejudice to the generality of the foregoing words, by virtue of section eighteen of the Finance Act, 1936, (which contains provisions for preventing avoidance of income tax by transactions resulting in the transfer of income to persons abroad) to be deemed to be income of any other person, that income is not exempt from income tax either—
- (a) as being derived from a security issued by the Treasury with any such condition as is mentioned in the foregoing provisions of this section; or
 - (b) by virtue of Rule 2 of the General Rules applicable to Schedule C; or
 - (c) by virtue of the said Rule 2 as extended by any provision of the Income Tax Acts which expressly or impliedly extends the operation of the said Rule 2,
- by reason of the first-mentioned person not being resident, or not being ordinarily resident, or being neither domiciled nor ordinarily resident, in the United Kingdom.

22 Deduction for wear and tear of hired machinery and plant.

The following proviso shall be inserted at the end of paragraph (2) of Rule 6 of the Rules applicable to Cases I and II of Schedule D (which provides that where machinery or plant used for the purposes of a trade is let to the person carrying on the trade on the terms of his being bound to maintain it and deliver it over in good condition at the end of the lease, the machinery or plant shall be deemed to belong to that person for the purposes of the said Rule 6) :—

“Provided that this paragraph shall not apply to any machinery or plant unless the Commissioners having jurisdiction in the matter are satisfied, having regard to all the relevant circumstances of the case, that the burden of the wear and tear of the machinery or plant will in fact fall directly upon that person.”

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23 Extension to 1940-41, and amendment, of s. 11 of Finance (No. 2) Act, 1939.

- (1) Section eleven of the Finance (No. 2) Act, 1939 (which grants relief in respect of diminution of earned income owing to circumstances directly or indirectly connected with the present war) shall apply in relation to tax for the year 1940-41 as it applies in relation to tax for the year 1939-40, with the adaptation that references to the year 1939-40 shall be construed as references to the year 1940-41 and references to the year 1938-39 shall be construed as references to the year 1939-40.
- (2) In paragraph (a) of subsection (3) of the said section eleven for the words " his income as assessed " there shall be substituted the words " his earned income as assessed. "
- (3) At the end of the said subsection (3) the following proviso shall be inserted :—

“Provided that, where the difference between the actual earned income of the individual and four-fifths of his earned income as assessed exceeds the relief to which he would have been entitled under the said paragraph (a) if his actual income had been four-fifths of his earned income as assessed, the relief from surtax to be given by virtue of this subsection shall be reduced by the amount of the excess.”
- (4) The amendments effected by subsections (2) and (3) of this section shall have effect both in relation to tax for the year 1939-40 and in relation to tax for the year 1940-41.

24 Double claims for children relief.

- (1) The provisions of this section shall have effect where, for any year of assessment, two or more individuals are, or would but for the provisions of this section be, entitled, under section twenty-one of the Finance Act, 1920, as amended by subsequent enactments, to relief in respect of the same child.
- (2) The relief to be granted to each of the individuals shall be computed as if subsection (1) of the said section twenty-one had provided—
 - (a) that the aggregate of the deductions allowable thereunder in respect of any child should not exceed the amount specified in that subsection; and
 - (b) that that amount should be apportioned between the individuals in question in such proportion as they agree or, in default of agreement, in proportion to the amount or value of the provision made by them respectively (otherwise than by way of payments deductible in computing their respective total incomes for the purposes of the Income Tax Acts) for the child's maintenance and education for the year of assessment.
- (3) Any apportionment under this section shall be made by such body of General Commissioners, being the General Commissioners for a division in which one of the individuals resides, as the Commissioners of Inland Revenue may direct, or, if none of the individuals resides in Great Britain, by the Special Commissioners.
- (4) Where a claim for relief under the said section twenty-one is delivered to the surveyor, and it appears that if the claim is allowed an apportionment will be necessary under this section, the Commissioners of Inland Revenue may, if they think fit, direct that the claim itself shall be dealt with by any specified body of Commissioners which could under this section be directed to make the apportionment, and that the same Commissioners shall also make any apportionment which proves to be necessary; and where a direction is given under this subsection no other body of Commissioners shall have jurisdiction to determine the claim.

- (5) The Commissioners making any apportionment under this section shall hear and determine the case in like manner as they hear and determine appeals against an assessment under Schedule D, and the enactments relating to such appeals shall apply accordingly with any necessary modifications, but any individual who is, or but for the provisions of this section would be, entitled to relief in respect of the child shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.
- (6) An apportionment may be made under this section notwithstanding that relief in respect of the child in question has already been allowed to any individual, and if it appears as a result of the apportionment that the individual has been allowed too much relief, the amount of the excess may, if not otherwise made good, be assessed under Case VI of Schedule D and recovered from him accordingly.

25 Postponement of quinquennial revaluation for purposes of Schedules A and B.

The years of assessment for which a revaluation of properties in Great Britain for the purposes of income tax chargeable under Schedules A and B shall be made under section twenty-seven of the Finance Act, 1930, shall, instead of being the year 1941-42 and each fifth succeeding year of assessment, be such year subsequent to the year 1941-42 as Parliament may hereafter determine and each fifth year of assessment succeeding the year so determined, and references in the Income Tax Acts to a year of revaluation shall be construed accordingly.

PART III

EXCESS PROFITS TAX AND NATIONAL DEFENCE CONTRIBUTION.

26 Raising of rate of excess profits tax.

- (1) Section twelve of the Finance (No. 2) Act, 1939, (which charges excess profits tax) shall, in relation to an excess of profits arising in any chargeable accounting period beginning on or after the first day of April, nineteen hundred and forty, have effect as if, in subsection (1) thereof, for the words " equal to three-fifths of +he excess " there were substituted the words " equal to the excess. "
- (2) Notwithstanding anything in subsection (2) of section fifteen of the said Act, a deficiency of profits occurring in a chargeable accounting period beginning on or after the first day of April, nineteen hundred and forty, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period beginning on or after the said first day of April, and a deficiency of profits occurring in a chargeable accounting period ending on or before the last day of March, nineteen hundred and forty, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period ending on or before the said last day of March; and where owing to an insufficiency of profits for chargeable accounting periods ending on or before the said last day of March, or, as the case may be, beginning on or after the said first day of April, the whole or any part of a deficiency is applied otherwise than as aforesaid—
 - (a) the application shall, either wholly or to such extent as the Commissioners think appropriate, be treated as provisional only; and

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- (b) if it thereafter appears that there is no longer such an insufficiency as aforesaid, such adjustments shall be made as the Commissioners may direct.
- (3) Where a chargeable accounting period falls partly before and partly after the end of March, nineteen hundred and forty, the foregoing provisions of this section shall apply as if so much of that chargeable accounting period as falls before, and so much of that chargeable accounting period as falls after, the said end of March, were each a separate chargeable accounting period, and as if the profits or losses of that separate chargeable accounting period were an apportioned part of the profits or losses arising in the whole period.

Any apportionment required to be made by this subsection shall be made by reference to the number of months or fractions of months in each of the parts of the whole chargeable accounting period.

27 Provisions to replace s. 13 (7) of Finance (No. 2) Act, 1939.

- (1) Subsection (7) of section thirteen of the Finance (No. 2) Act, 1939, is hereby repealed, and in lieu thereof the following provisions of this section shall have effect in the case of a trade or business commenced on or before the first day of July, nineteen hundred and thirty-six.
- (2) If, in the case of a trade or business carried on by a body corporate, the Commissioners are satisfied, on the application of the person carrying on the trade or business—
- (a) that there were no profits in the standard period; or
 - (b) that the profits of that period were so low that it would not be just to ascertain the standard profits of the trade or business by reference to the actual profits of the standard period,

they may direct that the standard profits for a full year shall be ascertained as if the profits of the standard period were of such amount or greater amount as they think just:

Provided that the said amount shall not exceed an amount equal to interest for the standard period—

- (i) on the amount of the paid-up ordinary share capital, if any, of the body corporate, at six per cent., or, in the case of a company the directors whereof had a controlling interest therein, eight per cent., per annum; and
- (ii) on the amount of any other paid-up share capital of the body corporate, at the fixed rate per annum payable in the case of dividends thereon.

If the person carrying on the trade or business is dissatisfied with any determination of the Commissioners under this subsection he may appeal to the Board of Referees.

- (3) If on the application of the person carrying on the trade or business the Board of Referees are satisfied that the condition specified in paragraph (a), or the condition specified in paragraph (b), of subsection (2) of this section is fulfilled, and also that the paid-up share capital of the body corporate in the standard period did not fully represent the net value of the assets employed in the trade or business in that period, they may direct that the standard profits for a full year shall be ascertained as if the profits of the standard period were of such amount as they think just :

Provided that the said amount shall not exceed an amount equal to interest for the standard period at six per cent., or, in the case of a company the directors whereof had a controlling interest therein, eight per cent., per annum on an amount ascertained as follows, that is to say—

- (a) by computing the value of the assets employed in the trade or business immediately before the commencement of the standard period (valued as assets of a going concern), excluding any investments which would not be included in computing capital under the provisions applicable to the computation thereof for the purposes of excess profits tax, and deducting borrowed money and debts existing immediately before the commencement of the standard period except so far as, by virtue of paragraph 3 of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939, they would not be deductible in computing capital under the said provisions; and
 - (b) by adding thereto or subtracting therefrom, as the case may be, the amount by which the average amount of the capital employed in the trade or business in the standard period exceeds or falls short of the amount of the capital employed therein immediately before the commencement of that period.
- (4) If, on an application made under the last preceding subsection, the Board of Referees are satisfied that the trade or business belongs to a class of industry which, during the years by reference to which the standard period could have been selected, was a depressed industry, the Board—
- (a) may give a direction under that subsection notwithstanding that they are not satisfied that the paid-up share capital in the standard period did not fully represent the net value of the assets employed in the trade or business in that period; and
 - (b) shall not, as respects the amount to be specified in the direction, be bound by the limitation imposed by the proviso to that subsection.
- (5) Notwithstanding anything in subsections (2) to (4) of this section, the amount which, by virtue of those subsections, is to be treated, in ascertaining the standard profits for a full year, as being the profits of the standard period shall not exceed an amount equal to interest for the standard period at the rate of six per cent., or, in the case of a company the directors whereof had a controlling interest therein, eight per cent., per annum on the average amount of the capital employed in the trade or business in the standard period, computed in accordance with the provisions applicable to the computation of capital for the purposes of excess profits tax :

Provided that if, in the opinion of the Board of Referees, the amount of capital employed in the trade or business immediately before the commencement of the standard period, computed as aforesaid, was wholly or partly represented by assets the whole or any part of the value of which for the purposes of the trade or business had at that date been permanently lost, paragraph 1 of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939, shall, for the purposes of this subsection, have effect in relation to those assets as if their price or value as from that date were deemed to be reduced by so much of the value as was in the opinion of the Board so lost.

- (6) The foregoing provisions of this section shall, with any necessary modifications, apply in relation to a trade or business carried on by any persons in partnership, or by a single individual, as they apply in relation to a trade or business carried on by a body corporate :

Provided that—

- (a) for any reference to six per cent., or, in the case of a company the directors whereof had a controlling interest therein, eight per cent., there shall be substituted a reference to eight per cent.; and

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- (b) the net amounts standing to the credit of the capital accounts of the partners or, as the case may be, of the individual, during the standard period, after setting off any amounts standing to the debit of any of those accounts, shall be treated as paid-up ordinary share capital.
- (7) An application under this section shall not be entertained unless notice thereof is given in writing to the inspector of taxes before the end of the year nineteen hundred and forty, unless, in the case of an application under subsection (2) of this section, the Commissioners, or, in the case of an application under subsection (3) of this section, the Board of Referees, allow a longer period.
- (8) A determination on an application under subsection (2) or subsection (3) of this section—
 - (a) shall have effect with respect to all chargeable accounting periods;
 - (b) shall exclude any further application under the subsection under which the application was made.

28 New provisions as to inter-connected companies.

- (1) Subsections (2) to (5) of section seventeen of the Finance (No. 2) Act, 1939, are hereby repealed and in lieu thereof the provisions of the Fifth Schedule to this Act shall have effect:

Provided that where, before the passing of this Act, any tax has been paid by any body corporate under any assessment made by virtue of the subsections repealed by this section in respect of any chargeable accounting period, the amount paid shall be deemed to have been paid on account of such tax as the Commissioners may direct, being tax charged or chargeable under any assessments made or to be made on that body corporate, by virtue of the provisions substituted for those subsections by this section, in respect of any chargeable accounting periods ending not later than the end of the said period, and no repayment thereof shall be made except in so far as the Commissioners are satisfied that the amount paid exceeds the amount payable in respect of those periods.

In this subsection and the said Schedule, the expression " a group of companies " means two or more bodies corporate of which—

- (a) one (in this subsection and in that Schedule referred to as " the principal company") is resident in the United Kingdom and is not a subsidiary of any other body corporate resident in the United Kingdom; and
- (b) the remainder (whether or not resident or carrying on business in the United Kingdom) are subsidiaries of the principal company,

and the expression " a subsidiary member " means any member of a group of companies other than the principal company.

- (2) The following subsection shall be inserted after subsection (1) of the said section seventeen :—

“(1A) Where—

- (a) any debt is owing to any body corporate by another body corporate; and
- (b) one of those bodies corporate is a subsidiary of the other, or both are subsidiaries of a third body corporate; and

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- (c) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the trade or business of the debtor body corporate,
the capital of both bodies corporate shall be computed as if the debt did not exist.”
- (3) The provisions of subsection (6) of the said section seventeen (which defines the expression " subsidiary ") shall have effect for the purposes of this section and the said Schedule as they have effect for the purposes of the said section seventeen :

Provided that a body corporate which, under the said subsection (6), is a subsidiary of two or more bodies corporate, each of which is resident in the United Kingdom and none of which is a subsidiary of any other body corporate resident in the United Kingdom, shall, for the purposes of subsection (1) of this section and of the said Schedule, be treated as a subsidiary of such one only of those bodies corporate as the Commissioners may direct.

29 Investments held by members of groups of bodies corporate.

- (1) Where a group of bodies corporate consists of or includes—
- (a) a body corporate resident in the United Kingdom (hereinafter referred to as " the co-ordinating body corporate ") which exists wholly or mainly for the purposes of co-ordinating the administration of the group; and
 - (b) one or more bodies corporate resident in the United Kingdom (hereinafter referred to as " the controlled bodies corporate") each of which is under the control of the co-ordinating body corporate,
paragraph 6 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, shall be taken to require, in all cases,—
 - (i) that in computing profits of the co-ordinating body corporate, income arising from investments held by that body corporate in share capital of the controlled bodies corporate in order to carry out, or facilitate the carrying out of, the purpose of co-ordinating the administration of the group shall not be taken into account; and
 - (ii) that in computing profits of any controlled body corporate, income arising from investments in the share capital of any of the other controlled bodies corporate or of the co-ordinating body corporate shall not be taken into account; and
 - (iii) that any income from any other investments of the co-ordinating body corporate or any of the controlled bodies corporate shall not be taken into account in computing the profits of that body corporate, except in so far as, if the trades or businesses carried on by all the members of the group were regarded as one trade or business, that income would be included in computing the profits of that one trade or business by virtue of any of the provisions of the said paragraph 6.
- (2) This section applies in relation to any group of bodies corporate whether or not it is or includes such a group of companies as is mentioned in subsection (1) of the last preceding section, but shall, in relation to the members of such a group, have effect subject to the provisions of paragraph 1 of Part IV of the Fifth Schedule to this Act.

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30 Relief in respect of excess profits tax in dominions, and c.

- (1) His Majesty may by Order in Council declare that—
- (a) under the law in force in any part of His Majesty's dominions outside the United Kingdom excess profits tax is payable in respect of any profits in respect of which excess profits tax is, or, if there were no national defence contribution, would be, payable also under the law in force in the United Kingdom; and
 - (b) arrangements have been made with the Government of that part of His Majesty's dominions providing for the giving of relief from double taxation in respect of such profits in accordance with the following principles—
 - (i) that there shall be computed the amount of excess profits tax which would be payable in each territory if excess profits tax in the other territory, and national defence contribution in the United Kingdom, were disregarded except in computing capital;
 - (ii) that such amount of relief from tax shall be given in each territory as bears to the lower of the two amounts so computed the same proportion as the amount so computed for that territory bears to the sum of the two amounts so computed; and
 - (iii) that where the amount so computed for either territory is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason) the amount so computed shall be recalculated and the relief in both territories varied accordingly.
- (2) Where any such Order in Council is made, then, if the Commissioners are satisfied that any case is one which falls within the arrangements to which the Order relates, they shall, in lieu of allowing, in computing profits for the purpose of excess profits tax or the national defence contribution, any deduction in respect of excess profits tax charged in the part of His Majesty's dominions outside the United Kingdom to which the Order relates, make such adjustment of the excess profits tax payable in the United Kingdom or the national defence contribution as may be necessary to give effect to the arrangements, and allow any necessary relief accordingly by repayment or otherwise, so, however, that the effect of the adjustment shall not be less favourable to the taxpayer than the effect of allowing the deduction.
- (3) Where under the provisions of subsection (2) of this section any adjustment of excess profits tax or national defence contribution is made for any period, a corresponding adjustment shall be made in computing for the purposes of section nineteen of the Finance (No. 2) Act, 1939, (which makes provision as to the relation between excess profits tax and the national defence contribution) both the excess profits tax chargeable for that period and the national defence contribution for that period.
- (4) Where it appears to the Commissioners that, under the arrangements to which any such Order as aforesaid relates, any relief provided for by the arrangements falls to be recalculated (whether by reason of a subsequent deficiency of profits or otherwise), the adjustments made under subsections (2) and (3) of this section shall be varied accordingly and any necessary further relief given by repayment or otherwise and, where the effect of the recalculation is to show that too much relief has been given, any necessary additional assessments shall be made.
- (5) The obligation as to secrecy imposed by paragraph 6 of Part III of the Fifth Schedule to the Finance Act, 1937, and subsection (2) of section twenty-one of the Finance (No. 2) Act, 1939, shall not prevent any authorised officer of the Commissioners from disclosing, to any authorised officer of the Government with which arrangements are

declared by an Order in Council under this section to have been made, such facts as may be necessary to enable effect to be given to the arrangements.

- (6) This section shall apply in relation to—
- (a) any British Protectorate or protected state; and
 - (b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom or the Government of any Dominion,
- as it applies to a part of His Majesty's dominions outside the United Kingdom.

31 Miscellaneous amendments as to standard profits.

- (1) For subsection (2) of section thirteen of the Finance (No. 2) Act, 1939, there shall be substituted the following subsection—

“(2) The minimum amount referred to in subsection (1) of this section is one thousand pounds, or, in the case of a trade or business carried on by a single individual, or by a partnership, or by a company the directors whereof have a controlling interest therein, such greater sum, not exceeding six thousand pounds, as is arrived at by allowing one thousand five hundred pounds for each working proprietor in the trade or business :

Provided that if, in the case of a trade or business carried on by a single individual, a partnership or such a company as aforesaid, the Commissioners, having regard to the nature of the business and the size of the business as shown by the value of the assets employed therein, are satisfied that the said greater sum is inadequate, they may, if they think fit, direct that there shall be allowed in respect of not more than four working proprietors such additional sum, not exceeding one thousand pounds for each individual working proprietor or four thousand pounds in the aggregate, as may be specified in the direction.

In this subsection—

- (a) the expression ' working proprietor ' means a proprietor who has, during more than one-half of the chargeable accounting period in question, worked full time in the actual management or conduct of the trade or business;
 - (b) the expression ' proprietor ' means, in the case of a trade or business carried on by a partnership, a partner therein, and, in the case of a company, any director thereof owning more than one-twentieth of the share capital of the company.”
- (2) The following paragraphs shall be substituted for paragraph (b) of subsection (9) of the said section thirteen (which defines the statutory percentage):—
- “(b) in relation to a trade or business carried on by a partnership of which one or more of the partners is a body corporate which is not a company the directors whereof have a controlling interest therein, such a rate per cent. as is equivalent to—
 - (i) eight per cent. on so much of the average amount of the capital employed in the trade or business in the chargeable accounting period as represents the share of any such body corporate ; and
 - (ii) ten per cent. on the remainder of that amount;

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- (c) in relation to a trade or business to which neither of the foregoing paragraphs of this subsection applies, ten per cent.”

32 Disallowance, in computing profits, of certain expenses.

- (1) In computing the profits of any trade or business for any accounting period, no deduction shall be allowed in respect of expenses in excess of the amount which the Commissioners consider reasonable and necessary, having regard to the requirements of the trade or business, and, in the case of directors' fees or other payments for services, to the actual services rendered by the person concerned.
- (2) Any person who is dissatisfied with a decision of the Commissioners under this section may appeal to the Board of Referees.

33 Miscellaneous amendments as to computation of profits for excess profits tax.

- (1) Where a trade or business has been transferred by one person to another person, any buildings, plant or machinery provided for the purposes of the trade or business by the person transferring it which were transferred with the trade or business and continue to be used for those purposes after the transfer shall, for the purposes of paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939 (which provides for an allowance for exceptional depreciation of certain assets) be deemed to have been provided for the purposes of the trade or business not only by the person transferring the trade or business but also by the person to whom the trade or business is transferred :

Provided that the amount of any allowance granted under the said paragraph 3 to the person to whom the trade or business is transferred shall, if necessary, be so reduced as to secure that the total allowances granted to the said persons in respect of any buildings, plant or machinery affected by the transfer are not greater than the total allowances which would have been granted to the person making the transfer if the transfer had not taken

The provisions of this subsection shall apply in relation to the transfer of part of a trade or business as they apply in relation to the transfer of the whole of a trade or business.

- (2) Where, in respect of any accounting period, a deduction would, apart from the provisions of this subsection, be allowable in computing profits, and, in the opinion of the Commissioners, the deduction does not represent a sum reasonably and properly attributable to that accounting period, only such part of the deduction shall be allowable as a deduction for that period as appears to the Commissioners to be reasonably and properly attributable to that period, and any balance of the deduction shall be treated as attributable to such other accounting period or periods (whether or not they include, or fall wholly or partly within, the standard period, if any, or any chargeable accounting period) as the Commissioners think proper.

Any person who is dissatisfied with a determination of the Commissioners under this subsection may appeal to the Board of Referees.

- (3) In paragraph 6 of Part I of the said Seventh Schedule (which specifies the cases in which, and the extent to which, income from investments is to be included in computing profits) the following sub-paragraph shall be inserted after sub-paragraph (2)—

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“(2A) In the case of a trade or business part of which consists in banking, assurance or dealing in investments, not being a business to which sub-paragraph (2) of this paragraph applies, the profits shall include all income received from investments held for the purposes of that part of the trade or business, being income to which the persons carrying on the trade or business are beneficially entitled,”

and in sub-paragraph (1) of the said paragraph 6 for the words " to the extent provided in sub-paragraph (2) of this paragraph " there shall be substituted the words " to the extent provided in sub-paragraphs (2) and (2A) of this paragraph.

(4) At the end of the said paragraph 6 the following words shall be inserted :—

“(4) The reference in sub-paragraphs (2) and (2A) of this paragraph to income received from investments shall not, in cases where the persons carrying on the trade or business are neither domiciled nor ordinarily resident in the United Kingdom, include any interest received from tax-free Treasury securities unless the conditions of the issue of the securities so provide; and where any interest on tax-free Treasury securities is, in accordance with the provisions of this sub-paragraph, left out of account in computing the profits of the trade or business, any expenses attributable to the acquisition or holding of, or to any transaction in, the securities and any profits or losses so attributable (but not, save as provided by sub-paragraph (3) of this paragraph, the interest on any money borrowed for the purposes of acquiring the securities) shall also be left out of account in computing the profits of the trade or business.

In this sub-paragraph the expression " tax-free Treasury securities " means any securities issued by the Treasury under the power conferred by section forty-seven of the Finance (No. 2) Act, 1915, or under the power conferred by section twenty-two of the Finance (No. 2) Act, 1931.

Any reference in this Schedule to income which is by virtue of the provisions of this paragraph not to be taken into account in computing the profits of a trade or business shall be construed as including a reference to interest left out of account in accordance with this sub-paragraph.”

(5) The following paragraph shall be substituted for paragraph 10 of Part I of the said Seventh Schedule (which relates to deductions for directors' remuneration in the case of companies controlled by the directors):—

“10 (1) In the case of a trade or business carried on, in any accounting period which constitutes or includes a chargeable accounting period, by a company the directors whereof have, throughout that accounting period, a controlling interest therein,—

- (a) in computing the profits for that accounting period; and
- (b) if the standard profits of the trade or business are computed by reference to the profits of a standard period, also in computing, in relation to any such chargeable accounting period, the profits for the standard period,

no deduction shall be made in respect of directors' remuneration.

In this sub-paragraph the expression " directors' remuneration " does not include the remuneration of any director who is required to devote substantially the whole of his time to the service of the company in a

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managerial or technical capacity, and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five per cent. of the ordinary share capital of the company.

(2) If, in the case of a trade or business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company—

- (a) have, in any part of that accounting period; or
- (b) had during the whole or any part of any previous accounting period which includes the whole or any part of any chargeable accounting period or the whole or any part of the standard period (if any),

a controlling interest therein, and the case is not one to which subparagraph (1) of this paragraph applies, then, except in so far as the Commissioners otherwise direct, no deduction shall be made in respect of directors' remuneration either in computing the profits for the first-mentioned accounting period or in computing, in relation to any chargeable accounting period wholly or partly included in that accounting period, the profits of the standard period (if any).”

(6) Paragraph 13 of Part I of the said Seventh Schedule (which allows a deduction for sinking fund purposes in the case of a trade or business carried on by a local authority) shall apply in relation to any trade or business carried on by a public authority in the case of which the following conditions are fulfilled—

- (a) that it has no share capital; and
- (b) that the interest on all its stock and other loan capital is interest at a fixed rate, as it applies in relation to a local authority :

Provided that nothing in this subsection shall be construed as authorising any deduction for an amount required to be raised for sinking fund purposes unless the requirement is imposed on the authority by or by virtue of an Act of Parliament.

34 Miscellaneous amendments as to computation of capital.

(1) If—

- (a) the Commissioners are satisfied, as respects any assets of any trade or business the standard profits of which are computed by reference to the profits of a standard period, that during that period or any part thereof those assets were inherently unproductive; and
- (b) an application that this subsection shall have effect is made by the person carrying on the trade or business,

then, in computing the average amount of the capital employed in the trade or business in the standard period and in all chargeable accounting periods, those assets, and any other assets of the trade or business, shall be treated as not having been assets thereof during any part of the period during which, in the opinion of the Commissioners, they were inherently unproductive :

Provided that in the case of a trade or business the standard profits of which depend, directly or indirectly, upon a direction of the Commissioners or the Board of Referees under the second section of this Part of this Act or under that section as applied by the

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Fifth Schedule to this Act in relation to groups of companies, the provisions of this subsection shall have effect to such extent only as the Commissioners think proper.

- (2) Where subsection (1) of this section has effect on the application of the person carrying on any trade or business, any computation of capital of the trade or business made before the making of the application, and any assessment affected by that computation, shall be revised accordingly.
- (3) After sub-paragraph (2) (b) of paragraph 1 of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939 (which specifies the deductions to be made in computing the capital value of assets) the following words shall be inserted—
 - “(c) any other such deductions in respect of reduced values of assets as are allowable in computing profits for the purposes of income tax.”
- (4) At the end of sub-paragraph (1) of paragraph 2 of Part II of the said Seventh Schedule (which directs that certain deductions shall be made in respect of borrowed money and debts) the following words shall be inserted—

“The debts to be deducted under this sub-paragraph shall include—

- (a) any such sums in respect of accruing liabilities as are allowable as a deduction in computing profits for the purposes of excess profits tax, or would have been so allowable if the period for which the amount of capital is being computed had been a chargeable accounting period; and
- (b) in the case of the business of an assurance company, also any sums representing profits of its life assurance business belonging or allocated to, or reserved for, or expended on behalf of, policy holders or annuitants (being sums which would be excluded, under subsection (1) of section sixteen of the Finance Act, 1923, in computing the profits of the company for the purposes of the Income Tax Acts),

and all the said sums shall be deducted notwithstanding that they have not become payable.”

35 Computation of profits and capital in the case of trades and businesses not falling within Case I of Schedule D.

Any reference in the Seventh Schedule to the Finance (No. 2) Act, 1939, or in the provisions of this or any other Act which relate to the computation of capital or profits for the purposes of excess profits tax, to a deduction which has been allowed, is allowable or authorised, or can be made, under any provision of the Income Tax Acts or in computing profits for the purposes of income tax, or to any additional percentage allowable under any provision of the Income Tax Acts, shall be construed, in relation to profits arising from a trade or business which are not chargeable to income tax under Case I of Schedule D, as a reference to a deduction which would have been so allowed, allowable or authorised, or could have been so made, or to an additional percentage which would have been so allowable, if those profits had been chargeable to income tax under the said Case I.

36 Provisions as to computation of losses.

All the provisions of the Finance (No. 2) Act, 1939, and of this or any other Act which relate to the computation of profits for the purposes of excess profits tax shall

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apply also to the computation of losses for those purposes, and references in any such provisions to the computation of profits shall be construed accordingly; and subsection (3) of section fourteen of the Finance (No. 2) Act, 1939 (which provides that losses shall be computed for the purposes of Part III of that Act in the same manner as under that section profits are to be computed for those purposes) is hereby repealed.

37 Amendments as to deficiencies of profits.

- (1) Subsection (2) of section fifteen of the Finance (No. 2) Act, 1939 (which provides that the profits chargeable with excess profits tax arising from a trade or business shall be deemed to be reduced where a deficiency of profits occurs in any chargeable accounting period of a trade or business) shall not apply to a deficiency of profits in so far as it occurs while the trade or business was being carried on neither in the United Kingdom nor by a person ordinarily resident in the United Kingdom.
- (2) The provisions of Part II of the Fifth Schedule to the Finance Act, 1937 (which as applied by the Finance (No. 2) Act, 1939, relate to appeals against assessments to excess profits tax) including the provisions thereof enabling the Commissioners to make regulations, shall, with the necessary modifications, apply in relation to any determination by the Commissioners as to the giving of relief from excess profits tax for any chargeable accounting period on the ground that a deficiency of profits has occurred in any chargeable accounting period as they apply in relation to assessments to excess profits tax.

38 Successions and amalgamations.

- (1) The provisions of section sixteen of the Finance (No. 2) Act, 1939 (which relate to successions and amalgamations) shall have effect subject to the following provisions of this section.
- (2) Any consideration which, under subsection (3) or subsection (4) of the said section sixteen, has to be disregarded in computing capital shall also be disregarded in considering, for the purpose of computing the profits of, and the capital employed in, any chargeable accounting period, whether any and if so what deductions are to be made in respect of wear and tear and replacement of plant and machinery, and whether any and if so what allowance is to be made in respect of depreciation.
- (3) In subsection (6) of the said section sixteen for the words " where a trade or business was carried on immediately before the first day of July, nineteen hundred and thirty-six, and that trade or business, or the main part of that trade or business, was transferred after the said day and before the first day of April, nineteen hundred and thirty-nine, by the person carrying it on to another person " there shall be substituted the following words—

“where—

- (a) a trade or business which was commenced before the first day of January, nineteen hundred and thirty-five, or the main part of such a trade or business, was transferred on or after that date and before the first day of April, nineteen hundred and thirty-nine, by the person carrying it on to another person; or
- (b) a trade or business which was commenced on or after the said first day of January but before the second day of July, nineteen hundred and thirty-six, or the main part of such a trade or business, was transferred

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before the said first day of April by the person carrying it on to another person.”

(4) Where—

- (a) a trade or business is, by virtue of subsection (2) or subsection (3) of the said section sixteen, deemed not to have been discontinued; or
- (b) a trade or business is, by virtue of subsection (4) of the said section sixteen, to be treated as if it had been in existence throughout the period during which there was in existence any other trade or business; or
- (c) a trade or business is, by virtue of subsection (5) of the said section sixteen, to be treated as a continuation of another trade or business; or
- (d) any person who is carrying on a trade or business after a transfer is treated by virtue of subsection (6) of the said section sixteen as having carried on the trade or business as from a date before the transfer,

the enactments relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Commissioners may think just, and the Commissioners may make such alterations in the periods which would otherwise be the chargeable accounting periods of the trade or business as they think proper :

Provided that if the Commissioners make any such modifications and the person carrying on the trade or business is dissatisfied with the modifications so made, he may appeal to the Board of Referees.

- (5) In subsection (5) of the said section sixteen the words " subject to any necessary modifications," and in subsection (6) thereof the words " subject, however, to such modifications (including modifications as respects the computation of capital) as may be just " and the words " or if the applicant is dissatisfied with any modifications made by the Commissioners," are hereby repealed.

39 Amendments as to relation of excess profits tax to national defence contribution.

- (1) In subsection (1) of section nineteen of the Finance (No. 2) Act, 1939 (which contains provisions as to the relation of excess profits tax to the national defence contribution) for the words " The said total excess profits tax shall be computed as if there were no national defence contribution and the said total national defence contribution shall be computed as if there were no excess profits tax " there shall be substituted the words " In computing the said total excess profits tax the national defence contribution shall be disregarded except in computing capital, and in computing the said total national defence contribution excess profits tax shall be altogether disregarded. "
- (2) In subsection (3) of the said section nineteen for the words " if this Part of this Act had not been passed " there shall be substituted the words " if the provisions of this Part of this Act, except the provisions of section twenty thereof (which abolishes armament profits duty), had not been passed. "
- (3) In the proviso to subsection (4) of the said section nineteen for the words " Provided that where a chargeable accounting period as so defined falls partly before and partly after the said date, this section shall have effect as if so much of the chargeable accounting period as falls before the said date were a separate chargeable accounting period as so defined" there shall be substituted the words " Provided that where part only of a chargeable accounting period as so defined falls before the said date, this

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section shall have effect as if that part were a separate chargeable accounting period as so defined. "

(4) Where—

- (a) part only of a chargeable accounting period (as defined for the purposes of the national defence contribution) falls after the end of March, nineteen hundred and thirty-nine; and
- (b) the amount of the national defence contribution for the period, computed without regard to excess profits tax, is increased or reduced by the operation of any of the provisions of this Act,

then, in determining for the purposes of the said section nineteen what proportion of the said amount is to be included in the total national defence contribution for any chargeable accounting periods to which that section applies,—

- (i) the amount of the increase or reduction shall not be apportioned under subsection (5) of the said section nineteen; but
- (ii) there shall be attributed to that part of the said period which falls after the end of March, nineteen hundred and thirty-nine, the amount of national defence contribution which would have been attributed thereto under the said subsection (5) if the increase or reduction had not occurred, together with the whole amount of the increase or reduction.

(5) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of facilitating the assessment and collection of the amounts due to the Crown for excess profits tax or the national defence contribution in respect of any period with respect to which both excess profits tax and the national defence contribution are in operation.

40 Amendments as to national defence contribution.

(1) In paragraph 7 of the Fourth Schedule to the Finance Act, 1937 (which specifies the cases in which, and the extent to which, income from investments and other property is to be included in computing profits for the purposes of the national defence contribution), the following sub-paragraph shall be inserted after sub-paragraph (a)—

“(aa) in the case of a trade or business part of which consists in banking, assurance or dealing in investments or other property, not being a business to which sub-paragraph (a) of this paragraph applies, the profits shall include all income received from investments or other property held for the purposes of that part of that trade or business, except—

- (i) income received directly or indirectly by way of dividend or distribution of profits from a body corporate carrying on a trade or business to which the said section applies; and
- (ii) income to which the persons carrying on the trade or business are not beneficially entitled;”

and in sub-paragraph (b) of that paragraph, for the words " in the case of any other trade or business, being a trade or business carried on by a body corporate " there shall be substituted the words " in the case of any trade or business, being a trade or business carried on by a body corporate and not being a business to which sub-paragraph (a) of this paragraph applies.

(2) At the end of the said paragraph 7 the following sub-paragraph shall be inserted :—

“(2) The references in this paragraph to income received from investments shall not, in cases where the persons carrying on the trade or business are

neither domiciled nor ordinarily resident in the United Kingdom, include any interest received from tax-free Treasury securities unless the conditions of the issue of the securities so provide; and where any interest on tax-free Treasury securities is, in accordance with the provisions of this subparagraph, left out of account in computing the profits of the trade or business, any interest on money borrowed for the purpose of acquiring the securities, any other expenses attributable to the acquisition or holding of, or to any transaction in, the securities, and any profits or losses so attributable, shall also be left out of account in computing the profits of the trade or business.

In this paragraph, the expression " tax-free Treasury securities " means any securities issued by the Treasury under the power conferred by section forty-seven of the Finance (No. 2) Act, 1915, or the power conferred by section twenty-two of the Finance (No. 2) Act, 1931."

41 Definition of ordinary share capital.

In this Part of this Act and in any other enactment relating to excess profits tax the expression " ordinary share capital " has the meaning assigned to it by subsection (3) of section forty-two of the Finance Act, 1938; and in paragraph (c) of section twenty-two of the Finance (No. 2) Act, 1939, the words " and, except in the provisions of this Part of this Act relating to subsidiary companies, the expression ' ordinary share capital ' " are hereby repealed.

42 Date from which amendments are to operate.

The amendments effected by the provisions of this Part of this Act shall, as respects excess profits tax, have effect with respect to tax for all chargeable accounting periods, whether before or after the passing of this Act, and, as respects the national defence contribution, have effect with respect to all accounting periods beginning on or after the first day of April, nineteen hundred and thirty-nine, and so much of any accounting period beginning before that date as falls on or after that date.

PART IV

ESTATE DUTY.

General.

43 Disposition or determination of life interests, and c.

- (1) Subject to the provisions of this section, where an interest limited to cease on a death has been disposed of or has determined, whether by surrender, assurance, divesting, forfeiture or in any other manner (except by the expiration of a fixed period at the expiration of which the interest was limited to cease), whether wholly or partly, and whether for value or not, after becoming an interest in possession,—
 - (a) if apart from the disposition or determination the property in which the interest subsisted would have passed on the death under section one of the Finance Act, 1894, that property shall be deemed by virtue of this section to be included as to the whole thereof in the property passing on the death; or

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- (b) if apart from the disposition or determination the property in which the interest subsisted would have been deemed by virtue of paragraph (b) of subsection (1) of section two of the said Act to be included to a particular extent in the property passing on the death, the property in which the interest subsisted shall be deemed by virtue of this section to be included to that extent in the property passing on the death.
- (2) Where the relevant disposition or determination was bona fide effected or suffered three years before the death (or, if it was effected or suffered for public or charitable purposes, one year before the death), the preceding subsection shall not have effect—
- (a) if bona fide possession and enjoyment of the property in which the interest subsisted was assumed immediately thereafter by the person becoming entitled by virtue of or upon the disposition or determination and thenceforward retained to the entire exclusion of the person who had the interest and of any benefit to him by contract or otherwise; or
 - (b) in the case of a partial determination, if the conditions specified, in the preceding paragraph were not satisfied by reason only of the retention or enjoyment by the deceased of possession of some part of the property, or of some benefit, by virtue of the provisions of the instrument under which he had the interest:

Provided that nothing in this subsection shall be construed as affecting any charge of estate duty arising otherwise than by virtue of the provisions of the preceding subsection.

- (3) In the application of subsection (1) of this section to a case in which an incumbrance on the property in which the interest in question subsisted has been created by associated operations which included a disposition of that interest, references to that property shall be construed as references to that property free from the incumbrance, except in a case in which the incumbrance was created for consideration in money or money's worth which was applied for purposes calculated to maintain or increase the value of that property, and, in that case, shall be construed as references to that property subject to the incumbrance to the extent to which the consideration was so applied.
- (4) In subsection (3) of section fifty-nine of the Finance (1909-10) Act, 1910 (which relates to a subsequent surrender of a benefit reserved), for the words " property taken under such a disposition or affected by " such a surrender, assurance, divesting, or disposition " as aforesaid" there shall be substituted the words " property taken under such a disposition as aforesaid " or affected by such a disposition or determination as is " mentioned in section forty-three of the Finance Act, " 1940 ", for the words " the disposition, surrender, assurance, or divesting " there shall be substituted the words " the disposition or determination " , and at the end of the subsection there shall be inserted the words " or the said section forty-three ".
- (5) This section shall not apply to any such surrender, assurance, divesting or disposition, as is mentioned in proviso (c) to section fourteen of the Finance Act, 1914, so as to make any estate duty payable which would not have been payable but for the provisions of that section.
- (6) This section shall have effect only in relation to a person dying after the commencement of this Act, and section eleven of the Finance Act, 1900, and sections thirty-five and thirty-nine of the Finance Act, 1930, shall not have effect in relation to such a person.

- (7) This section shall inter alia apply in Scotland to the conveyance or discharge of any life rent, and to the propulsion of the fee under any tailzied destination, and for the purposes of this section the interest of an institute or heir of entail in Scotland shall be deemed to be an interest limited to cease on a death.

44 Purchases of annuities, and c, from relatives.

- (1) Where a person dying after the commencement of this Act has made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of section three, or of subsection (1) of section seven, of the Finance Act, 1894, as consideration for the disposition made by the deceased.
- (2) In this section the expression " relative " means, in relation to the deceased,—
- (a) the wife or husband of the deceased;
 - (b) the father, mother, children, uncles and aunts, of the deceased; and
 - (c) any issue of any person falling within either of the preceding paragraphs and the other party to a marriage with any such person or issue;
- and references to " children " and " issue " include references to illegitimate children and to adopted children.
- (3) In this section the expression " annuity " includes any series of payments, whether inter-connected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise, and payments of dividends or interest on shares in or debentures of a company shall be treated for the purposes of this section as a series of payments constituting an annuity limited to cease on a death if the payments are liable to cease on the death, or the amounts thereof are liable to be reduced on the death, by reason directly or indirectly of the extinguishment or any alteration of rights attaching to, or of the issue of, any shares in or debentures of a company.
- (4) If the deceased has made in favour of a company to which this section applies a disposition which, if it had been made in favour of a relative of his, would have fallen within subsection (1) of this section, this section shall have effect in like manner as if the disposition had been made in favour of a relative of his, unless it is shown to the satisfaction of the Commissioners that no relative of the deceased was, at the time of the disposition or subsequently during the life of the deceased, a member of the company.
- For the purposes of this subsection a person who is, or is deemed by virtue of this provision to be, a member of a company to which this section applies and which is a member of another such company shall be deemed to be a member of that other company.
- (5) Where there have been associated operations effected with reference to the receiving by the deceased of any payment in respect of such an annuity or other interest as is mentioned in subsection (1) of this section, or effected with a view to enabling him to receive or to facilitating the receipt by him of any such payment, this section shall have effect in relation to each of those associated operations as it has effect in relation to the creation or disposition in favour of the deceased of such an annuity or other interest.

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45 Gifts by way of creation of burden or release of right.

- (1) The creation by a person or with his consent of a debt or other right enforceable against him personally or against property of which he was or might become competent to dispose, or to charge or burden for his own benefit, shall be deemed for the purposes of the enactments relating to estate duty, including this Part of this Act, to have been a disposition made by that person, and in relation to such a disposition the expression "property" in the said enactments shall include the debt or right created.
- (2) The extinguishment at the expense of the deceased of a debt or other right shall be deemed for the purposes of the said enactments to have been a disposition made by the deceased in favour of the person for whose benefit the debt or right was extinguished, and in relation to such a disposition the expression "property" in the said enactments shall include the benefit conferred by the extinguishment of the debt or right.
- (3) The proviso to section four of the Finance Act, 1894 (which excepts from aggregation property in which the deceased never had an interest) shall not have effect in relation to property passing on the death of the deceased which consists of a debt or right or benefit that is treated as property by virtue of this section.

Estate duty in respect of deceased's benefits from certain companies.

46 Charge on company's assets in respect of deceased's benefits therefrom.

- (1) Where a person dying after the commencement of this Act has made to a company to which this section applies a transfer of any property (other than an interest limited to cease on his death or property which he transferred in a fiduciary capacity), and any benefits accruing to the deceased from the company accrued to him in the three years ending with his death, the assets of the company shall be deemed for the purposes of estate duty to be included in the property passing on his death to an extent determined, in accordance with subsection (2) of this section, by reference to the proportion that the aggregate amount of the benefits accruing to the deceased from the company bore to the net income of the company.
- (2) The proportion aforesaid shall be ascertained for each accounting year that fell wholly or partly within the three years ending with the death, by comparing the aggregate amount of the benefits accruing to the deceased from the company which accrued to him in that year with the net income of the company for that year, and the extent to which the assets of the company are to be deemed to be included in the property passing on the death shall be the average of the proportions so ascertained:

Provided that, if the company came into existence in the last but one, or in the last, of the accounting years aforesaid, the extent to which the assets of the company are to be deemed to be included as aforesaid shall be the average of the proportions ascertained under this subsection for the last two of those years, or shall be the proportion so ascertained for the last of those years, as the case may require.

- (3) The assets of the company which are deemed to be included in the property passing on the death of the deceased by virtue of this section shall include any assets thereof which have been disposed of or distributed by the company at any time between the beginning of the first of the accounting years aforesaid and the death of the deceased, either—
 - (a) in or towards satisfaction of rights attaching to shares in or debentures of the company, or

- (b) otherwise howsoever except as follows, that is to say, by way of sale for full consideration in money or money's worth received by the company for its own use and benefit, or in or towards discharge of taxes or rates or other liability imposed by or under an enactment, or in or towards discharge of a fine or penalty or of a liability for tort incurred without collusion with the injured party,

including assets which have been so disposed of or distributed in a winding up, whether continuing at or completed before the death :

Provided that this subsection shall not apply to assets disposed of or distributed by way of payments from which income tax was deductible, or which were assessable to income tax, of amounts not exceeding in the aggregate, as respects payments made in any accounting year or in the period between the end of the last accounting year and the death of the deceased, the amount of the income of the company for that year or period.

- (4) This section shall have effect subject to and in accordance with the succeeding provisions of this Part of this Act, and the provisions contained in the Seventh Schedule to this Act shall have effect for the purpose of supplementing and interpreting this section and the succeeding provisions of this Part of this Act.
- (5) Sections thirty-four, thirty-six, and thirty-eight, of the Finance Act, 1930, shall not have effect in relation to a person dying after the commencement of this Act.

47 Matters to be treated as benefits to deceased from company.

- (1) The following shall be treated as benefits accruing to the deceased from the company, that is to say—
- (a) any income of the company, and any periodical payment out of the resources or at the expense of the company, which the deceased received for his own benefit whether directly or indirectly, and any enjoyment in specie of land or other property of the company or of a right thereover which the deceased had for his own benefit whether directly or indirectly;
- (b) any such income or payment or enjoyment which the deceased was entitled to receive or have as aforesaid; and
- (c) any such income or payment or enjoyment which the deceased could have become entitled to receive or have as aforesaid by an exercise in the three years ending with his death of any power exercisable by him or with his consent;
- and where the deceased could, by an exercise in the said three years of any such power as aforesaid, have become entitled to receive as aforesaid any payment out of the resources or at the expense of the company not being a periodical payment, but did not in fact receive or become entitled to receive that payment, there shall be treated as a benefit accruing to the deceased from the company interest on that payment at the average rate from the earliest date on which he could have become entitled to receive it.
- (2) In this Part of this Act the expression " periodical payment " means a payment by way of dividend or interest, a payment by way of remuneration not being a single lump sum payment, and any other payment being one of a series of payments, whether interconnected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise.
- (3) The amounts to be taken into account for the purposes of subsection (2) of section forty-six of this Act in respect of benefits accruing to the deceased from the company,

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and the time at which such a benefit is to be treated for the purposes of that section as having accrued to him, shall be determined in accordance with the provisions of paragraphs 1 and 2 respectively of the Seventh Schedule to this Act.

48 Surrender of title to, or of power to obtain, benefits.

- (1) Subject to the provisions of subsection (3) of this section, if the deceased has made, whether for value or not, a surrender of his title to receive any such income or payment or enjoyment as is mentioned in the last preceding section, or of any such power as is therein mentioned, the last preceding section shall have effect as if the surrender had not been made.
- (2) The deceased shall be deemed to have made such a surrender as aforesaid if a right which he had to receive any such income or payment or enjoyment as aforesaid, or if any such power as aforesaid, has been extinguished or suspended by the effect solely or partly of any disposition made by him or with his consent of shares in or debentures of a company or of any other property or right, or of the exercise or the leaving unexercised by him or with his consent of any power or right, or of the extinguishment or suspension by him or with his consent of any power or right, otherwise than in a fiduciary capacity, or if apart from such a disposition or other act or omission he would have become entitled to receive any such income or payment or enjoyment as aforesaid but by the effect solely or partly thereof he did not become entitled to receive it.
- (3) This section shall not apply to a surrender made bona fide before the beginning of the three years ending with the death of the deceased (or, if it was made for public or charitable purposes, before the beginning of the year ending with his death) if the deceased was at all times during those three years, or during that year, as the case may be, entirely excluded from receiving, or being entitled to receive, or having any capacity by an exercise of any power exercisable by him or with his consent to receive, any periodical payment by virtue of the surrender or of any associated operations of which the surrender was one.

49 Determination of net income of company.

The income of the company for any accounting year, or for the period between the end of the last accounting year and the death of the deceased, shall be determined by computing the amount of the income of the company from each source in accordance with the provisions of the Income Tax Acts relating to the computation of income from such a source (subject to the modification that the computation shall be made by reference to the actual income for that year or period, and not by reference to the income for any other period), and the net income of the company for any accounting year shall be determined by deducting from the income of the company for that year the aggregate of the amounts of—

- (a) the liabilities of the company for that year in respect of any kind of payment from which income tax is deductible, or which is assessable to income tax, but excluding liabilities in respect of any dividend on shares of or interest on debentures in the company and liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively;
- (b) any income of the company for that year of a kind in respect of which repayment of income tax can be claimed under section thirty-three of the Income Tax Act, 1918, or otherwise; and

- (c) any deduction or set off that could have been claimed for income tax purposes if the computation of the income of the company had been made by reference to the assessable income for that year and not to the actual income :

Provided that there shall be excluded from the computation of the income of the company any income thereof which was neither bona fide earned in the ordinary course of business nor the produce of income-yielding assets held by it.

50 Determination of value of assets of company.

- (1) In determining the value of the estate for the purpose of estate duty the provisions of subsection (1) of section seven of the Finance Act, 1894, as to making allowance for debts and incumbrances shall not have effect as respects any debt or incumbrance to which assets of the company passing on the death by virtue of section forty-six of this Act were liable, but the Commissioners shall make an allowance from the principal value of those assets for all liabilities of the company (computed, as regards liabilities which have not matured at the date of the death, by reference to the value thereof at that date, and, as regards contingent liabilities, by reference to such estimation as appears to the Commissioners to be reasonable) other than—
 - (a) Liabilities in respect of shares in or debentures of the company; and
 - (b) liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively.
- (2) In estimating the principal value of the said assets the Commissioners shall fix the price thereof on the basis of a sale of the business of the company as a going concern.
- (3) Where the said assets include any distributed assets, if partial consideration (other than the extinguishment, or an alteration, of rights attaching to shares in or debentures of a company to which section forty-six of this Act applies) was given for the distribution in money or money's worth received by the company for its own use and benefit, a further allowance shall be made, in addition to the allowances specified in subsection (1) of this section, of an amount equal to the value of the consideration given.
- (4) For the purpose of the estimation of the principal value of any distributed assets subsection (5) of section seven of the Finance Act, 1894, and subsection (2) of section sixty of the Finance (1909-10) Act, 1910, shall have effect with the substitution for the reference therein to the time of the death of the deceased of a reference to the time of the distribution, and effect shall be given to the proviso to the said subsection (2) (which relates to depreciation by reason of the death of the deceased) as at the time of the distribution only, due regard being had to the expectation of life of the deceased at that time.

51 Limitation on, and prevention of duplication of, charge.

- (1) If it is shown to the satisfaction of the Commissioners that—
 - (a) the value of all such property as is mentioned in subsection (1) of section forty-six of this Act, of which the deceased made a transfer to the company, together with an amount equal to any excess of interest at the average rate on the value thereof from the date or respective dates of transfer to the death of the deceased over the aggregate amount of the benefits received by the deceased by virtue of the transfer, is less than—

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- (b) the value on which estate duty would be chargeable on the death under the said section if all benefits accruing to him from the company other than the benefits received by him by virtue of the transfer were disregarded,

an amount equal to the deficiency shall be deducted from the proportion of the value of the company's assets that corresponds to the benefits received by him by virtue of the transfer.

References in this subsection to benefits received by the deceased by virtue of a transfer shall be construed as references to benefits accruing to him from the company which he received or had as consideration for the transfer, or in consequence of his having received as consideration therefor shares or debentures or other property which produced any of those benefits.

- (2) Where any benefits accrued to the deceased from the company by virtue of any interest that he at any time had in shares in or debentures of the company, or by virtue of a power's having at any time been exercisable by him or with his consent in relation to shares in or debentures of the company, and apart from this subsection estate duty would be payable on the death both on the value of those shares or debentures by virtue of any of the enactments relating to that duty other than section forty-six of this Act and on the proportion of the value of the company's assets that corresponds to the benefits that so accrued to him by virtue of that section,—
- (a) if the value of the shares or debentures is equal to or greater than the said proportion, or if the Commissioners are satisfied that the said value and the said proportion would not if fully ascertained be found to be substantially different, the duty on the value of the shares or debentures shall be payable, and the duty on the said proportion shall not be payable;
- (b) in any other case the duty on the said proportion shall be payable, and the duty on the value of the shares or debentures shall not be payable, so however that it shall, for the purposes of the said other enactments, be deemed to have been paid by virtue of the payment of the duty on the said proportion.
- (3) References in this section to the proportion of the value of the company's assets that corresponds to any particular benefits shall be construed as references to so much of the value on which estate duty is chargeable on the death by virtue of section forty-six of this Act as is chargeable by reason of the bringing of those benefits into the computation made under subsection (2) of that section.
- (4) So much of any income or periodical payment or enjoyment of a kind mentioned in section forty-seven of this Act as is shown to the satisfaction of the Commissioners to have represented, or to have been such that it would if received have represented, reasonable remuneration to the deceased for any services rendered by him as the holder of an office under the company shall, notwithstanding anything in that section, not be treated for the purposes of this Part of this Act as a benefit accruing to the deceased from the company; and any liability of the company in respect of the remuneration of any person as the holder of an office under the company shall be treated for the purposes of this Part of this Act as incurred for the purposes of the business of the company wholly and exclusively to the extent to which it is shown to the satisfaction of the Commissioners that the amount thereof was reasonable, and to that extent only.

52 Aggregation.

For the purposes of section four of the Finance Act, 1894, the deceased shall be deemed to have had an interest in the property deemed by virtue of section forty-six of this Act to be included in the property passing on his death.

53 Duty to give information to Commissioners on death.

- (1) The company shall be under obligation to inform the Commissioners, within one month from the date of the death of the deceased, of the death, of the fact that the deceased made a transfer of property to the company, and of the fact that benefits accrued to the deceased from the company, and every person who was an officer of the company at that date, or, if the company has been wound up and dissolved before that date, who was an officer of the company at any time, shall be under the like obligation as respects such of the facts aforesaid as are within his knowledge, unless he knows, or has reasonable cause for believing, that the information in question has already been given to the Commissioners by the company or some other person.
- (2) If the company or any such person as aforesaid who is under obligation by virtue of the preceding subsection to give any information to the Commissioners makes default in the performance of that obligation, the defaulter shall be liable to a penalty not exceeding five hundred pounds.

54 Collection and incidence of duty under s. 46.

- (1) The following persons shall be accountable for the duty payable on the death of the deceased by virtue of section forty-six of this Act, that is to say:—
 - (a) the company;
 - (b) any person (other than a bona fide purchaser for full consideration in money or money's worth received by the company for its own use and benefit) who receives, whether directly from the company or otherwise, or disposes of, any assets which the company had, whether as capital or as income, at the death or at any time thereafter ;
 - (c) any person who received any distributed assets of the company on their distribution :

Provided that a person shall not,—

- (i) by virtue of paragraph (b) of this subsection, be accountable in respect of any assets for any duty in excess of the value of those assets, or
- (ii) by virtue of paragraph (c) of this subsection, be accountable in respect of any assets for more than a part of the duty bearing to the whole thereof the same proportion that the value of the distribution of those assets bears to the principal value of the assets of the company passing on the death by virtue of section forty-six of this Act after making the allowances to be made under section fifty of this Act.

For the purposes of this subsection the expressions " distributed assets " and " assets of the company passing on the death " do not include any distributed assets of the company which the deceased received on their distribution; and a person who, having received any distributed assets of the company, has died before the deceased shall be deemed to have been a person accountable by virtue of paragraph (c) of this subsection.

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- (2) Where a company incorporated outside the United Kingdom is accountable for any duty by virtue of the preceding subsection or of this subsection, every person who is a member of that company at the death shall also be accountable for a rateable part of that duty in proportion to the value of his interest in that company.
- (3) A person accountable for any duty by virtue of this section shall, for the purpose of raising and paying the duty, have all the powers conferred on accountable parties by Part I of the Finance Act, 1894.
- (4) On a winding up of the company subsection (1) of section two hundred and sixty-four of the Companies Act, 1929 (which determines what debts shall have priority over other debts in a winding up) shall have effect as if there were included in paragraph (a) of that subsection a reference to any duty payable in respect of assets of the company passing on a death by virtue of section forty-six of this Act, and section seventy-eight of the Companies Act, 1929, shall have effect accordingly.
- (5) The duty payable on the death of the deceased by virtue of section forty-six of this Act shall be a first charge by way of floating security on the assets which the company had at the death or has at any time thereafter, and any part of the duty for which by virtue of paragraph (c) of subsection (1) of this section any person is accountable in respect of any distributed assets shall be a first charge also on those assets :

Provided that nothing in this subsection shall operate to make any property chargeable as against a bona fide purchaser thereof for valuable consideration without notice.

- (6) Where any duty has been—
- (a) paid by a person accountable therefor by virtue only of paragraph (c) of subsection (1) of this section; or
 - (b) raised by virtue of subsection (5) of this section out of any distributed assets charged therewith;

that person or, as the case may be, the person who was entitled to those assets subject to the charge, may (without prejudice to any right of contribution or indemnity which he may have apart from this subsection) recover the amount of the duty so paid or raised as aforesaid from any person who is accountable therefor otherwise than by virtue of the said paragraph (c).

- (7) No part of the duty paid by the company shall be recoverable by it from any person on the ground only that he is entitled to any interest in, or to any sum charged on, the assets which the company had at the death of the deceased.
- (8) The following provisions of the Finance Act, 1894, shall not have effect in relation to the duty payable by virtue of section forty-six of this Act, that is to say—
- (a) so much of subsection (2) of section six as relates to payment of estate duty on personal property of which the deceased was competent to dispose at his death; and
 - (b) so much of subsection (3) of section eight as relates to the accountability of the executor of the deceased in respect of personal property of which the deceased was competent to dispose at his death, and subsection (4) of that section;
- and subsection (1) of section nine of the said Act shall have effect in relation to the estate as if the property passing by virtue of section forty-six of this Act had been property passing to the executor as such.

- (9) Subsection (5) of this section in its application to Scotland shall have effect as if the provisions thereof relating to a charge by way of floating security on the assets of the company were omitted.

General provisions as to certain companies.

55 Valuation for estate duty of shares and debentures of certain companies.

- (1) Where for the purposes of estate duty there pass, on the death of a person dying after the commencement of this Act, shares in or debentures of a company to which this section applies, then if—

- (a) the deceased had the control of the company at any time during the three years ending with his death; or
- (b) dividends which were declared by the company for any period falling wholly or partly within those three years, or which, not having been declared for any particular period, were declared at a time within those three years, together with any amounts which accrued due during any period falling wholly or partly within those three years for interest on debentures of the company, are, as to amounts forming in the aggregate more than one-half of the total amount of such dividends and interest, to be treated by virtue of any of the provisions of sections forty-seven and forty-eight of this Act as benefits accruing to the deceased from the company, or would have fallen to be so treated if the deceased had made a transfer of property to the company; or
- (c) the deceased had at any time during those three years a beneficial interest in possession in shares in or debentures of the company, or in both, of an aggregate nominal amount representing one-half or more of the aggregate nominal amount of the shares in and debentures of the company then issued and outstanding, and no one other person had at that time the control of the company;

the principal value of the shares or debentures, in lieu of being estimated in accordance with the provisions of subsection (5) of section seven of the Finance Act, 1894, shall be estimated by reference to the net value of the assets of the company in accordance with the provisions of the next succeeding subsection.

- (2) For the purposes of such ascertainment as aforesaid—

- (a) the net value of the assets of the company shall be taken to be the principal value thereof estimated in accordance with the said subsection (5), less the like allowance for liabilities of the company as is provided by subsection (1) of section fifty of this Act in relation to the assets of a company passing on a death by virtue of section forty-six of this Act, but subject to the modification that allowance shall be made for such a liability as is mentioned in paragraph (b) of that subsection unless it also falls within paragraph (a) thereof;
- (b) the aggregate value of all the shares and debentures of the company issued and outstanding at the death of the deceased shall be taken to be the same as the net value of the assets of the company;
- (c) in a case in which there are both shares in and debentures of the company issued and outstanding at the death, or different classes of either, the net value of the assets of the company shall be apportioned between them with due regard to the rights attaching thereto respectively ; and

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- (d) the value of any share, or of any debenture, or of a share or debenture of any class, shall be a rateable proportion, ascertained by reference to nominal amount, of the net value of the assets of the company as determined under paragraph (a) of this subsection, or, in the case mentioned in paragraph (c) of this subsection, of the part thereof apportioned under that paragraph to the shares of the company, or to its debentures, or to that class thereof, as the case may be.
- (3) For the purposes of this section a person shall be deemed to have had control of a company at any time if he then had—
- (a) the control of powers of voting on all questions, or on any particular question, affecting the company as a whole which if exercised would have yielded a majority of the votes capable of being exercised thereon; or
- (b) the capacity to exercise, or to control the exercise of any of the following powers, that is to say, the powers of a board of directors or of a governing director of the company, power to nominate a majority of directors or a governing director thereof, power to veto the appointment of a director thereof, or powers of a like nature ;
- or if he could have obtained such control or capacity by an exercise at that time of a power exercisable by him or with his consent.
- (4) This section shall not apply to the valuation of shares or debentures of a class as to which permission to deal has been granted by the committee of a recognised stock exchange in the United Kingdom and dealings in the ordinary course of business on that stock exchange have been recorded during the year ending with the death of the deceased, and, in making an apportionment under paragraph (c) of subsection (2) of this section in the case of a company having shares or debentures of such a class, the part of the value of the assets of the company to be apportioned to shares or debentures of that class shall be determined by reference to the prices recorded on such dealings.
- (5) Control of a company which a person had in a fiduciary capacity shall be disregarded for the purposes of this section.
- (6) In this section references to the assets of a company shall be construed as references to the assets that it had at the death of the deceased.
- (7) Section thirty-seven of the Finance Act, 1930, shall not have effect in relation to a person dying after the commencement of this Act.

56 Limitation of exceptions for consideration, and for exclusion of deceased, where company concerned.

- (1) For the purposes of section three of the Finance Act, 1894 (which relates to exceptions for transactions for money consideration), if a company to which this section applies was concerned in a transaction in relation to which it is claimed that the provisions of that section have effect, or in any one or more of associated operations of which that transaction formed one, those provisions shall have effect in relation thereto if and only if, and to the extent only to which, the Commissioners are satisfied that those provisions would have had effect in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred, and if the company had acted in the capacity of a trustee

only with power to carry on the business of the company and to employ the assets of the company therein.

- (2) Where a company to which this section applies was concerned in the disposition or determination of an interest limited to cease on a death effected or suffered as mentioned in subsection (2) of section forty-three of this Act, or in a surrender made as mentioned in subsection (3) of section forty-eight of this Act, or was concerned in any one or more of associated operations of which the disposition or determination or surrender formed one, the conditions as to the entire exclusion of the person who had the interest or of the deceased, and of any benefit to him, specified in the said subsection (2) or in the said subsection (3) as the case may be, shall be treated as having been satisfied if and only if they would have been so treated in the circumstances aforesaid.

57 Information for purposes of s. 46 and s. 55.

- (1) The provisions of subsection (5) of section eight of the Finance Act, 1894 (which relate to the delivery of particulars relating to property forming part of an estate in respect of which estate duty is leviable on a death) shall, on a death on which it appears to the Commissioners that section forty-six or fifty-five of this Act has effect, apply to the company, and to any other company to which the said section forty-six or fifty-five, as the case may be, applies, and to every person who is or was at any time an officer or auditor of that company or of any such other company, as those provisions apply to a person who has administered any part of the estate.
- (2) Subsection (6) of section eight of the Finance Act, 1894 (which relates to the penalty for a failure to comply with any of the provisions of subsection (5) of that section) shall have effect as respects a failure to comply with any of the said provisions as applied by the preceding subsection with the substitution of five hundred pounds for one hundred pounds.
- (3) An order may be made against any person who fails to comply with any of the provisions of subsection (5) of section eight of the Finance Act, 1894, as applied by subsection (1) of this section requiring him to comply with those provisions, in like manner as an order to deliver an account may be made against any person who is accountable for succession duty or legacy duty, and the provisions of section fifty-five of the Crown Suits, &c. Act, 1865, and in Scotland the provisions of section forty-seven of the Succession Duty Act, 1853, shall apply accordingly subject to the necessary modifications.

Interpretation and definitions.

58 Interpretation of estate duty provisions.

- (1) The companies to which sections forty-four, forty-six, fifty-five and fifty-six of this Act respectively apply are any company which, at any relevant time, was, or would on the assumptions hereinafter mentioned have been, deemed for the purposes of subsection (6) of section twenty-one of the Finance Act, 1922, to be under the control of not more than five persons, and for the purposes of this subsection—
 - (a) the expression " relevant time " means any time during the period ending with the death of the deceased and beginning, as respects the said section fifty-five, three years before his death, and, as respects each of the others of the said sections of this Act, at the date of the disposition transfer or other transaction

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or event relevant for the purposes of that section, or, if that disposition transfer or other transaction or event was one of associated operations, at the date of the earliest of those operations; and

- (b) the assumptions hereinbefore mentioned are—
- (i) that subsection (3) of section nineteen of the Finance Act, 1936, had, with any necessary adaptations, applied in relation to companies incorporated outside the United Kingdom as it applies in relation to companies other than companies within the meaning of the Companies Act, 1929, or any corresponding enactment in force in Northern Ireland, and
 - (ii) that, subject as aforesaid, the provisions of section twenty-one of the Finance Act, 1922, and of any other Act relating to the said section twenty-one, as those provisions were in force immediately before the passing of this Act, had always been in force and so in force and had remained so in force until the date of the death.

(2) A person shall be deemed for the purposes of this Part of this Act to have made a transfer of property to a company if the property came to be included in the resources of the company by the effect of a disposition made by him or with his consent or of any associated operations of which such a disposition formed one.

(3) A person shall be deemed to have received or had any payment, income, enjoyment, assets, or interest, the receipt or having whereof by him is relevant for the purposes of this Part of this Act, if any of the following conditions have been satisfied in relation thereto, that is to say,—

- (a) if the relevant payment or other matter has been applied in any manner for the benefit of that person, or has been dealt with by that or any other person in any manner calculated to cause it to inure for the benefit of that person at any time, whether in the form of income or not, or if any property which was or would be available for the purpose by reason of the effect or successive effects of any one or more of associated operations relating to the relevant payment or other matter has been so applied or dealt with;
- (b) if any advantages received or to be received at any time by that person have been provided out of that payment or other matter, or out of any such property as aforesaid;
- (c) if that person became able in any manner to control the application of the relevant payment or other matter, or of any such property as aforesaid, otherwise than in a fiduciary capacity;
- (d) if the relevant payment or other matter, or any such property as aforesaid, has been applied in any manner so as to increase the value to that person of any property in which he was beneficially interested; or
- (e) as respects such income as is mentioned in subsection (1) of section forty-seven of this Act, if the receipt by, or accrual to, the company of that income operated in any manner so as to increase the value to that person of any property in which that person was beneficially interested, so however that the amount of the income which that person is to be treated as having received by virtue of this paragraph shall be limited to the amount of the increase in value of the property in question;

and references in this Part of this Act to the deceased's receiving or having, or being or becoming entitled to receive or have, any such payment or other matter as aforesaid shall be construed accordingly.

- (4) References in this Part of this Act to a disposition's being made by any person, to a power's being exercised or exercisable by any person, or to any other act's being done by any person, include references to its being made, or being exercised or exercisable, or being done, by him and another jointly or by another at his direction or by a company of which he had control within the meaning of subsection (3) of section fifty-five of this Act, whether with or without the consent of any other person; references importing an omission on the part of any person in relation to any such matter as aforesaid shall be construed in like manner; and references in relation to any such matter as aforesaid to its being made, or being exercised or exercisable, or being done or omitted, with the consent of any person include references to its being made, or being exercised or exercisable, or being done or omitted, at his request or with or subject to his acquiescence.
- (5) References in this Part of this Act to a person having any power or control or doing any act in a fiduciary capacity shall be construed as references to his having that power or control or doing that act in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only.
- (6) References in the enactments relating to estate duty (including this Part of this Act) to an interest's being limited to cease on a death shall be construed as including references to its being subject to a limitation, in whatsoever form, having the effect of providing in the alternative for its cesser on the death or on the occurrence of some event, or the expiration of some period, before the death.

59 Definitions for purposes of Part IV.

In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

" Accounting year " has the meaning assigned to it by paragraph 6 of the Seventh Schedule to this Act;

" Assets " includes goodwill;

" Associated operations " means any two or more operations of any kind being,—

(a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income; or

(b) any two operations of which one is effected with reference to the other, or with a view to enabling it to be effected or to facilitating its being effected, and any third operation having a like relation to either of those two, and any fourth operation having a like relation to any of those three, and so on;

whether those operations are effected by the same person or by different persons, whether they are connected otherwise than as aforesaid or not, and whether they are contemporaneous or any of them precedes or follows any other;

" Average rate " means, in relation to a company, the rate per annum which, when expressed as a percentage in pounds, equals the average of the proportions respectively ascertained by comparing the net income of the company for each of the relevant accounting years with the principal value of the assets of the

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company passing on the death of the deceased by virtue of section forty-six of this Act after making the allowances to be made under section fifty of this Act;

" Company " includes any body corporate, wheresoever incorporated;

" Debenture " means, in relation to a company, any obligation of the company in respect of any loan capital issued by the company otherwise than as consideration for a loan made to it in the ordinary course of a banking business, or in respect of any debt incurred by the company—

- (a) for any money borrowed by the company, otherwise than by way of temporary loan made in the ordinary course of a banking business;
- (b) for any transfer of capital assets made to the company by any person, unless the obligation is one resulting from a dealing with a person who transferred such assets to the company in, and on terms consistent with, the ordinary course of a business carried on by him;
- (c) without consideration, or for consideration the value of which to the company at the time when the debt was incurred was substantially less than the value at that time of the debt (including any premium thereon); or
- (d) where the debt was of such a nature that it would, in the ordinary course of business and apart from some special arrangement, have carried interest, if the debt did not carry interest or carried interest at a rate which was either unreasonably high or unreasonably low;

" Disposition " includes any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations, and also, in relation to shares in or debentures of a company, the extinguishment or any alteration of rights attaching thereto, whether effected by a single operation or by associated operations;

" Distributed assets " means, in relation to a company, assets of the company to which subsection (3) of section forty-six of this Act applies which were disposed of or distributed by the company as mentioned in that subsection, and " value of the distribution " means, in relation to any distributed assets, the value thereof or, if partial consideration (other than the extinguishment, or an alteration, of rights attaching to shares in or debentures of a company to which that section applies) was given for the distribution in money or money's worth received by the company for its own use and benefit, the value thereof less the value of the consideration given;

" Dividend " includes a bonus which would be treated as income for the purposes of the Income Tax Acts;

" Member " means, in relation to a company, a holder in his own right of any share in or debenture of the company, and a person interested in any share in or debenture of the company held, whether by himself or another, otherwise than in the holder's own right;

" Officer " means, in relation to a company, any person who exercises the functions of a director, manager, secretary or liquidator of the company;

" Payment " includes a transfer of property and a set-off or release of an obligation, and references to the amount of a payment include, in relation to property transferred or to an obligation set-off or released, references to the value thereof;

" Periodical payment " has the meaning assigned to it by subsection (2) of section forty-seven of this Act;

" Power " includes any right or power exercisable by virtue of the holding of shares in or debentures of a company, and any right or power to procure an issue of shares in or debentures of a company; and

" Tort " in relation to Scotland means delict or quasi delict.

PART V

MISCELLANEOUS.

60 Extension of power of Treasury to attach exemptions from taxation to securities.

- (1) The power of the Treasury under section twenty-two of the Finance (No. 2) Act, 1931, to issue securities with the condition as to exemption from taxation specified in that section shall extend to the issuing of securities with that condition so modified, whether as to the extent of the exemption or the cases in which the exemption is to operate, as the Treasury may specify in the terms of the issue.
- (2) For the purposes of subsections (2) and (3) of section forty-six of the Income Tax Act, 1918 (which relates to securities issued free of tax), any securities issued by the Treasury under the said section twenty-two, as extended by the provisions of subsection (1) of this section, shall, save in so far as the terms of the issue otherwise provide, be deemed to be such securities as are mentioned in subsection (1) of the said section forty-six.

61 Provisions as to permanent annual charge for the National Debt.

- (1) The permanent annual charge for the National Debt for the financial year ending with the thirty-first day of March, nineteen hundred and forty-one, shall be the sum of two hundred and thirty million pounds instead of the sum of three hundred and fifty-five million pounds.
- (2) The Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, for providing any sums required during the said financial year for the purposes mentioned in paragraph (a) or paragraph (b) of subsection (4) of section twenty-three of the Finance Act, 1928, and the amount required by the said subsection (4) to be issued from the permanent annual charge for the National Debt for the purposes aforesaid in that year shall be decreased by the amount raised under this subsection.
- (3) Any securities created and issued to raise money under the last preceding subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939.

62 Amendment as to deficit for 1939-40.

No issue shall be made out of the Consolidated Fund under section forty-eight of the Finance Act, 1930 (which provides in the case of a deficit in any year for the redemption in the next year of a corresponding amount of debt), in respect of the deficit for the financial year ending with the thirty-first day of March, nineteen hundred and forty.

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63 Suspension of enactments relating to Post Office Fund.

- (1) The following enactments, that is to say—
- (a) section thirty-eight of the Finance Act, 1933 (which directs the preparation of a statement with a view to the ascertainment of the Post Office net surplus for each financial year);
 - (b) so much of section thirty-nine of that Act and of section thirty-one of the Finance Act, 1936, as authorises or directs the making of payments into or out of the Post Office Fund by reason of any actual or anticipated excess or deficiency of the Post Office net surplus for any financial year as compared with the fixed contribution to the Exchequer; and
 - (c) subsection (8) of the said section thirty-nine (which directs the preparation of accounts of the receipts of, and issues out of, the Post Office Fund in each financial year),

shall not have effect in relation to any financial year to which this section applies.

- (2) This section applies to the financial year ending with the thirty-first day of March, nineteen hundred and forty-one, and every subsequent financial year until Parliament otherwise determines.

64 Remission of death duties in cases of members of the crews of vessels killed in war.

- (1) Subsection (1) of section thirty-eight of the Finance Act, 1924, (which relates to relief in respect of death duties payable on the deaths of members of His Majesty's Forces who die from wounds inflicted while on active service or from any of the other causes therein mentioned) shall have effect in relation to masters and members of the crews of ships and fishing boats, and pilots, dying (whether before or after the commencement of this Act) from causes arising during the period of the present emergency out of the operations of war, as it has effect in relation to members of His Majesty's Forces dying from such wounds or other causes as are therein mentioned, with this qualification, that the Treasury shall act on the recommendation of the Minister of Shipping instead of that of the Secretary of State or the Admiralty.
- (2) In the case of deaths from such causes as are mentioned in the said section thirty-eight arising during the period of the present emergency of persons to whom that section applies, and of deaths from such causes as are mentioned in the preceding subsection arising during that period of persons to whom that subsection applies, where the Commissioners of Inland Revenue are satisfied that estate duty has become chargeable on any property passing on such a death and that subsequently estate duty has again become chargeable on the same property or any part thereof on another such death, being the death of a person to whom that property or that part thereof passed on the earlier death, the whole of the death duties payable on the later death on that property or that part thereof shall be remitted or, if paid, shall be repaid, and that property or that part thereof shall not be aggregated with any other property passing on the later death for the purpose of determining the rate of estate duty.
- (3) In this section the expression " pilot " has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, and " the period of the present emergency " means the period beginning on the third day of September, nineteen hundred and thirty-nine and ending on such date as may be declared by His Majesty under the Courts (Emergency Powers) Act, 1939, to be the date on which the emergency that was the occasion of the passing of that Act came to an end.

65 Short title, construction, extent and repeal.

- (1) This Act may be cited as the Finance Act, 1940.
- (2) Part I of this Act—
 - (a) so far as it relates to duties of customs shall be construed as one with the Customs Consolidation Act, 1876, except that the expression " the United Kingdom " shall not include the Isle of Man; and
 - (b) so far as it relates to duties of excise shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties; and in the said Part I, the expression " the Commissioners " means the Commissioners of Customs and Excise.
- (3) Part II of this Act shall be construed as one with the Income Tax Acts.
- (4) Part III of this Act shall, so far as it relates to excess profits tax or the relation of excess profits tax to the national defence contribution, be construed as one with Part III of the Finance (No. 2) Act, 1939.
- (5) Part IV of this Act shall be construed as one with Part I of the Finance Act, 1894.
- (6) Any reference in this Act to any other enactment shall, unless the contrary is expressly provided or the context otherwise requires, be construed as a reference to that enactment as amended by any subsequent enactment, including this Act.
- (7) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.
- (8) The enactments set out in the Eighth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

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

SCHEDULES.

FIRST SCHEDULE

Section 1.

BEER (RATES OF DUTY AND DRAWBACK).

PART I

RATE OF EXCISE DUTY.

		£	s.	d.
For every 36 gallons of worts of a specific gravity of 1,027 degrees or less	3		5	0
For every 36 gallons of worts of a specific gravity exceeding 1,027 degrees—				
For the first 1,027 degrees	3		5	0
For every additional degree in excess of 1,027	0		2	6

and so in proportion for any less number of gallons.

PART II

RATE OF EXCISE DRAWBACK.

		£	s.	d.
For every 36 gallons of beer of an original gravity of 1,027 degrees or less	3		5	2
For every 36 gallons of beer of an original gravity exceeding 1,027 degrees—				

As respects beer of an original gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed by more than twopence for every 36 gallons the amount of duty which is shown to the satisfaction of the Commissioners to have been paid.

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

	£	s.	d.
For the first 1,027 degrees	3	5	2
For every additional degree in excess of 1,027	0	2	6

and so in proportion for any less number of gallons.

As respects beer of an original gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed by more than twopence for every 36 gallons the amount of duty which is shown to the satisfaction of the Commissioners to have been paid.

PART III

RATE OF CUSTOMS DUTY IN CASE OF BEER BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons, where the worts thereof were, before fermentation, of a specific gravity of 1,027 degrees or less	3	5	5
For every 36 gallons, where the worts thereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	3	5	5
For every additional degree in excess of 1,027	0	2	6

and so in proportion for any less number of gallons.

PART IV

RATE OF CUSTOMS DUTY IN CASE OF BEER NOT BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons, where the worts thereof were, before fermentation, of a	4	5	5

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

	£	s.	d.
specific gravity of 1,027 degrees or less			
For every 36 gallons, where the worts thereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	4	5	5
For every additional degree in excess of 1,027	0	2	6

and so in proportion for any less number of gallons.

PART V

RATE OF CUSTOMS DRAWBACK IN CASE OF BEER BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons of an original gravity of 1,027	3	5	2
For every 36 gallons of an original gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	3	5	2
For every additional degree in excess of 1,027	0	2	6

and so in proportion for any less number of gallons.

As respects beer of an original gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less threepence for every 36 gallons.

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

PART VI

RATE OF CUSTOMS DRAWBACK IN CASE OF BEER NOT BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons of an original gravity of 1,027 degrees or less	4	5	2
For every 36 gallons of an original gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	4	5	2
For every additional degree in excess of 1,027 degrees	0	2	6

and so in proportion for any less number of gallons.

As respects beer of an original gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less threepence for every 36 gallons.

SECOND SCHEDULE

Section 2.

SPIRITS (RATES OF ORDINARY CUSTOMS DUTY).

1 Description of Spirits.	2 Preferential Rates.						3 Full Rates.					
	In cask.			In bottle.			In cask.			In bottle.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
For every gallon computed at proof of—												
Brandy or rum	4	17	10	4	18	10	5	0	4	5	1	4
Imitation rum	4	17	11	4	18	11	5	0	5	5	1	5

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

1 Description of Spirits. or geneva	2 Preferential Rates.					3 Full Rates.						
	In cask.		In bottle.			In cask.			In bottle.			
Unsweetened spirits other than those already enumerated	17	11	4	17	11	5	0	5	5	0	5	
For every gallon of perfumed spirits	7	16	0	7	17	0	8	0	0	8	1	0
For every gallon of liqueurs, cordials, mixtures and other preparations in bottle entered in such manner as to indicate that the strength is not to be tested		—	6	12	10		—	6	16	2		
For every gallon computed at proof of	4	17	11	4	18	11	5	0	5	5	1	5

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

1 Description of Spirits.	2 Preferential Rates.		3 Full Rates.	
	In cask.	In bottle.	In cask.	In bottle.
spirits of any description not heretofore mentioned, including naphtha and methylic alcohol purified so as to be potable, and mixtures and preparations containing spirits				

THIRD SCHEDULE

Section 3.

TOBACCO (RATES OF DUTY AND DRAWBACK).

PART I

CUSTOMS DUTIES.

Description of Tobacco	Rate of duty per pound.		
	£	s.	d.
Tobacco unmanufactured— containing 10 lbs. or more of moisture in every 100 lbs. weight thereof—			
unstripped	0	17	6
stripped	0	17	6 ½

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

Description of Tobacco	Rate of duty per pound.		
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof—			
unstripped	0	18	6
stripped	0	18	6 ½
Tobacco manufactured, viz. : —			
Cigars	1	6	1
Cigarettes	1	2	7
Cavendish or Negrohead	1	1	9
Cavendish or Negrohead manufactured in bond	1	0	0
Other manufactured tobacco	1	0	0
Snuff—			
containing more than 13 lbs. of moisture in every 100 lbs. weight thereof	0	19	4
containing not more than 13 lbs. of moisture in every 100 lbs. weight thereof	1	1	9
and so in proportion for any less quantity.			

PART II

EXCISE DUTIES.

Description of Tobacco	Rate of duty per pound.	
	s.	d.
Tobacco unmanufactured— containing 10 lbs. or more of moisture in every 100 lbs. weight thereof	15	3 ½

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

Description of Tobacco		Rate of duty per pound.
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof	16	0 ⁷ / ₈
Tobacco manufactured, viz. : —		
Cavendish or Negrohead manufactured in bond	17	4 ⁷ / ₈

and so in proportion for any less quantity.

PART III

DRAWBACK.

Description of Tobacco.	Rate per pound.			
	In respect of tobacco on which full customs duty has been paid.		In respect of tobacco on which customs duty at a preferential rate or excise duty has been paid.	
	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>
Cigars	18	9	16	7
Cigarettes	18	6	16	4
Cut, roll, cake or other manufactured tobacco	18	3	16	1 ¹ / ₂
Snuff (not being offal snuff)	18	0	15	11
Stalks, shorts, or other refuse of tobacco, including offal snuff	17	9	15	8

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

FOURTH SCHEDULE

Section 4.

MATCHES (RATES OF DUTY).

PART I

RATES OF CUSTOMS DUTIES.

	£	s.	d.
For every 1,000 containers in which there are not more	0	12	9
For every 1,000 containers in which there are more than 10 matches, but not more than 30 matches	1	18	3
For every 144 containers in which there are more than 30 matches, but not more than 50 matches	0	9	0
For every 144 containers in which there are more than 50 matches:—			
For the first 50 matches	0	9	0
For every additional 5 matches or part of 5 matches in excess of 50 matches	0	0	11
and so in proportion for any less number of containers			

PART II

RATES OF EXCISE DUTIES.

	£	s.	d.
For every 1,000 containers in which there are not more	0	12	0
For every 1,000 containers in which there are more than	1	16	0

	£	s.	d.
10 matches, but not more than 30 matches			
For every 144 containers in which there are more than 30 matches, but not more than 50 matches	0	8	4
For every 144 containers in which there are more than 50 matches :—			
For the first 50 matches	0	8	4
For every additional 5 matches or part of 5 matches in excess of 50 matches	0	0	10

and so in proportion for any less number of containers.

FIFTH SCHEDULE

Sections 28, 29 & 34.

PROVISIONS AS TO EXCESS PROFITS TAX AND NATIONAL DEFENCE CONTRIBUTION IN THE CASE OF INTERCONNECTED COMPANIES.

PART I

Assessment of excess profits tax.

- 1 (1) If, for any period after the end of March, nineteen hundred and thirty-nine, a body corporate is a member of a group of companies, assessments shall be made in respect of its excess profits for all chargeable accounting periods during that period in accordance with the provisions of this Schedule.
- (2) Such assessments shall be made in respect of any trade or business carried on by a subsidiary member of a group of companies whether or not the trade or business is carried on in the United Kingdom and whether or not the subsidiary member is ordinarily resident in the United Kingdom.
- 2 Every assessment to excess profits tax made in respect of the trade or business of a body corporate which, in the chargeable accounting period for which the assessment is made, is a member of a group of companies, shall be made on the then principal company of the group, but the tax shall, in the case of an assessment in respect of the trade or business of a subsidiary member, be recoverable from the principal company and the subsidiary member jointly and severally :

Provided that if the Commissioners think fit and the principal company does not object, one assessment for any particular period may be made on the principal

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company in respect of the trades or businesses of all or any of the members of the group, but the amount of tax, and the incidence of the burden of tax, shall not be affected, and the Commissioners may, if they think fit, discharge any such assessment, and make separate assessments in lieu thereof.

- 3 Paragraph 1 of Part III of the Fifth Schedule to the Finance Act, 1937 (which, as applied to excess profits tax by subsection (2) of section twenty-one of the Finance (No. 2) Act, 1939, provides for the making, by the person who carries on or has carried on any trade or business, of returns for the purposes of excess profits tax of profits and other particulars of the trade or business) shall, as so applied, have effect in relation to any trade or business carried on by a subsidiary member of a group of companies as if the references in that paragraph to the person who carries on or has carried on the trade or business included references to the principal company, and shall so have effect whether or not the subsidiary member carries on business in the United Kingdom or is ordinarily resident therein.

PART II

The group standard period and the group standard profits.

- 1 (1) This Part of this Schedule shall have effect with respect to any group of companies existing in any period after the end of March, nineteen hundred and thirty-nine.
- (2) For the purposes of this Part of this Schedule a group of companies shall be deemed to be the same group so long as the same body corporate is the principal company thereof.
- (3) The matters required by the subsequent provisions of this Part of this Schedule to be ascertained in relation to a group of companies, and the powers conferred on the principal company of a group of companies, shall, save as hereinafter provided, be ascertained and exercised once and for all in relation to each period after the end of March, nineteen hundred and thirty-nine, during which the composition of the group remains unchanged, or is changed only by the loss or addition of a new subsidiary, and any such period is in the subsequent provisions of this Part of this Schedule referred to as a "relevant period".
- 2 (1) If the trade or business of any of the members of the group was being carried on on or before the first day of July, nineteen hundred and thirty-six, the principal company shall select a period to be the standard period of the group.
- (2) The said period shall be selected in accordance with the provisions of subsections (4) to (6) of section thirteen of the Finance (No. 2) Act, 1939, subject, however, to the following modifications—
- (a) the references to the person carrying on the trade or business shall be construed as references to the principal company; and
- (b) the trade or business of the principal company shall be deemed to have been commenced at the earliest date on which any of the trades or businesses carried on by any of the members of the group was commenced.
- 3 (1) If the group is one to which the last preceding paragraph applies, there shall be ascertained the standard profits of the group in accordance with the provisions of this paragraph :

Provided that the standard profits of the group need not be ascertained in relation to any relevant period if an election under the next succeeding paragraph has effect with respect to the whole of that period.

- (2) The standard profits of the group shall, where the standard period of the group is one year, be an amount arrived at by aggregating the profits and losses arising in the standard period of the group in the trades and businesses of all the members of the group, other than new subsidiaries, and shall, where the standard period of the group is two years, be half the amount arrived at as aforesaid :

Provided that the second section of Part III of this Act shall, with the adaptations and modifications specified in the next succeeding sub-paragraph, have effect in relation to the ascertainment of the standard profits of the group as it has effect in relation to the ascertainment of the standard profits of the trade or business of a body corporate which is not a member of any group of companies.

- (3) The said adaptations and modifications are as follows, that is to say—
- (a) references to the person carrying on the trade or business shall be construed as references to the principal company;
 - (b) references to the paid-up share capital of the person carrying on the trade or business shall be construed as references to the paid-up share capital of the principal company together with so much as the Commissioners or the Board of Referees, as the case may be, think just of such part of the paid-up share capital of the other members of the group, not being new subsidiaries, as appears to them to have been, in the standard period, owned neither directly nor indirectly by the principal company;
 - (c) other references to the trade or business shall be construed as references to all the trades or businesses of all the members of the group, other than new subsidiaries;
 - (d) references to the standard period shall be construed as references to the standard period of the group;
 - (e) references to the standard profits for a full year shall be construed as references to the standard profits of the group ;
 - (f) references to the provisions applicable to the computation of capital for the purposes of excess profits tax shall be construed as references to those provisions as applicable to a member of a group of companies;
 - (g) in arriving at the sum to be ascertained under paragraph (a) of the proviso to subsection (3) of the said second section, an additional deduction shall be made equal to the aggregate amount of the deductions which would, under sub-paragraph (2) of paragraph 3 of Part IV of this Schedule, fall to be made in computing the amount of the capital employed, immediately before the commencement of the standard period of the group, in the trades or businesses of the subsidiary members thereof, not being new subsidiaries;
 - (h) references to a chargeable accounting period shall be construed as references to a relevant period; but
 - (i) notwithstanding anything in subsection (8) of the said section, on the termination of a relevant period—
 - (i) the Commissioners may, either on the application of the principal company or of their own motion, vary, as respects subsequent relevant periods, any determination in force under subsection (2) of the said section with respect to that period, whether given originally

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or on appeal, if it appears to them that the circumstances have materially changed, and any decision of the Commissioners so to vary or not so to vary a determination shall be subject to an appeal by the principal company to the Board of Referees; and

- (ii) the Board of Referees may, either on the application of the Commissioners or on that of the principal company, vary, as respects subsequent relevant periods, any determination under subsection (3) or subsection (4) of the said section, if it appears to them that the circumstances have materially changed.

- (4) The references in this paragraph to the members of a group shall be construed as references to the bodies -corporate which are members thereof in the relevant period, not being new subsidiaries, whether or not they were members of the group for the whole or any part of the standard period of the group.
- 4 (1) Whether the group is or is not such a group as is mentioned in the last two foregoing paragraphs, the principal company of the group may elect that the standard profits of every member of the group shall be ascertained by reference to the minimum standard, that is to say, by reference to the sum of one thousand pounds, or, if the principal company is a company the directors whereof have a controlling interest therein, by reference to such greater sum as might be allowed in relation to the principal company under the provisions of subsection (2) of section thirteen of the Finance (No. 2) Act, 1939.

- (2) The question what is the amount of the minimum standard in relation to the group shall be decided from time to time for the periods falling within the relevant period which are chargeable accounting periods of the principal company, and shall be so decided by the Commissioners :

Provided that if the principal company is dissatisfied with any determination by the Commissioners of any such question, it may appeal to the Special Commissioners.

- (3) An election under this paragraph—
- (a) shall have effect as from such date as may be specified by the principal company in making the election;
 - (b) may be revoked by the principal company as from such date as may be specified by the principal company in making the revocation; and
 - (c) shall, unless revoked, continue to have effect for the remainder of the relevant period,

and where an election is revoked a new election may be made as from any date subsequent to the date as from which the revocation has effect.

- (4) In this paragraph the expression " working proprietor " has the same meaning as it has in subsection (2) of section thirteen of the Finance (No. 2) Act, 1939.

PART III

Ascertainment of standard profits of members and ascertainment of excesses and deficiencies of profits.

- 1 The standard profits of a body corporate which is a member of a group of companies in a chargeable accounting period shall, in relation to that period, be ascertained in accordance with the provisions of the next three succeeding paragraphs.

- 2 (1) If the group is such a group as is mentioned in paragraph 2 of Part II of this Schedule and the body corporate is not a new subsidiary, the standard profits thereof shall, unless by virtue of an election of the principal company under the said Part II the profits of the body corporate are to be ascertained by reference to the minimum standard, be taken to be an amount ascertained in accordance with the subsequent provisions of this paragraph :

Provided that if the chargeable accounting period is less than twelve months, the standard profits, as ascertained under those provisions, shall be proportionately reduced so as to correspond with the length of the period.

- (2) The standard profits of the body corporate shall—
- (a) where the standard profits of the group would have been less if the trade or business of the body corporate had been left out of account in the calculation thereof, be taken, subject to the adjustment provided for in sub-paragraph (3) of this paragraph, to be an amount equal to the difference;
 - (b) where the standard profits of the group would have been greater if the trade or business of the body corporate had been left out of account in the calculation thereof, be taken, subject to the said adjustment, to be a negative amount equal to the difference; and
 - (c) where no difference would have been made to the standard profits of the group if the trade or business of the body corporate had been left out of account (whether because that trade or business was not in existence in the standard period or because no profits and no loss arose therein in that period), be taken, subject to the said adjustment, to be nil:

Provided that where the standard profits of the group are determined in accordance with the second section of Part III of this Act (as applied with adaptations by Part II of this Schedule), the standard profits of the body corporate shall, subject to the said adjustment, be such part of the standard profits of the group as may be determined by reference to an apportionment made by the Commissioners or, if any member of the group (other than a new subsidiary) so requires, by the Board of Referees.

- (3) If the average amount of the capital employed in the trade or business of the body corporate is greater or less in the chargeable accounting period than in the standard period of the group, the standard profits as ascertained under sub-paragraph (2) of this paragraph shall be adjusted by being increased or, as the case may be, decreased by the statutory percentage of the increase or decrease in the average amount of the capital employed in the trade or business.
- (4) In sub-paragraph (3) of this paragraph, the expression " the statutory percentage " has the meaning assigned to it by subsection (9) of section thirteen of the Finance (No. 2) Act, 1939 :

Provided that the proviso to the said subsection (9) (which prescribes that six per cent. shall be the statutory percentage in all cases in relation to any decrease of capital) shall have effect only in relation to such part of any decrease as is shown to be the proper proportion of any decrease in the average amount of the capital employed in all the trades or businesses of all the bodies corporate which are members of the group in the chargeable accounting period, other than new subsidiaries, and any question what is the said proper proportion shall be decided by the Commissioners whose decision shall be final.

- 3 (1) If the group is not such a group as is mentioned in paragraph 2 of Part II of this Schedule or if the body corporate is a new subsidiary, the standard profits shall, unless

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by virtue of an election by the principal company under the said Part II the standard profits of the body corporate are to be ascertained by reference to the minimum standard, be ascertained in accordance with section thirteen of the Finance (No. 2) Act, 1939, and the second section of Part III of this Act, subject to the modifications specified in this paragraph.

- (2) Subsection (2) of the said section thirteen, and in subsection (1) thereof the words " if the person carrying on the trade " or business so elects, to be the minimum amount specified in " subsection (2) of this section, and, in the absence of such an " election " shall be deemed to be omitted.
- (3) If the standard profits are to be computed by reference to the profits of a standard period, and in that period there is a loss, the profits of that period shall be deemed to be a negative amount equal to the loss.
- (4) If the standard profits for a full year are by virtue of subsection (8) of the said section thirteen to be taken to be the statutory percentage of the average amount of the capital employed in the trade or business in the chargeable accounting period, and in that period the average amount of capital employed is a negative amount, the standard profits for a full year shall be deemed to be a negative amount equal to the statutory percentage of that negative amount of capital.
- (5) An application with respect to a new subsidiary under the second section of Part III of this Act, as applied by sub-paragraph (1) of this paragraph shall be made by the principal company and not otherwise and where a new subsidiary became a member of the group after the end of March, nineteen hundred and thirty-nine, and the standard profits thereof for any chargeable accounting period ending before it became a member of the group fall to be computed by reference to a direction given with respect to it under the said second section, that direction shall not have effect as respects the period during which it is a member of the group, unless the Board of Referees, on the application of the principal company, confirm the direction :

Provided that on any such application for the confirmation of a direction the Board of Referees may, in lieu of refusing to confirm the direction, confirm it subject to such diminution of the amount specified therein as they think fit.

- 4 If by virtue of an election of the principal company under Part II of this Schedule the standard profits of the body corporate are to be ascertained by reference to the minimum standard, the standard profits of the body corporate shall be such apportioned part of the minimum standard as may be determined by reference to an apportionment made by the Commissioners, or, if any member of the group so requires, by the Special Commissioners :

Provided that if the chargeable accounting period is less than twelve months, the standard profits shall be taken to be the said apportioned part proportionately reduced so as to correspond with the length of the period.

- 5 (1) If in the case of the trade or business of a body corporate there is a loss in any chargeable accounting period, and in that period the body corporate is a member of a group of companies, there shall, for the purposes of determining whether there is an excess or deficiency of profits, be deemed to be a profit of a negative amount equal to the loss.
- (2) If in the case of any member of a group of companies the average amount of the gross capital employed in the trade or business of the member in any period is less

than the deductions from capital allowable in that period, the average amount of the capital employed in that period shall be taken to be a negative amount equal to the

In this sub-paragraph the expression " gross capital " means the capital computed without making the deductions specified in Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939, and the expression " deductions from capital" means the deductions so specified.

- (3) In determining in the case of any member of a group of companies—
- (a) what was the amount of any increase or decrease in capital; and
 - (b) what adjustment of the standard profits is to be made by reason of any increase or decrease in capital; and
 - (c) whether there is any and if so what excess or deficiency of profits,
- the following rules shall be applied—
- (i) a negative amount shall be deemed to exceed a greater negative amount, and to fall short of a less negative amount, by the amount of the difference; and
 - (ii) a positive amount shall be deemed to exceed a negative amount, and a negative amount to fall short of a positive amount, by the amount which would be the sum of those amounts if they were both positive; and
 - (iii) so much of subsection (1) of section fifteen of the Finance (No. 2) Act, 1939, as relates to the computation of deficiencies where a loss has been made shall not have effect.

PART IV

Miscellaneous Provisions.

- 1 (1) Subsection (1) of section seventeen of the Finance (No. 2) Act, 1939 (which directs that certain payments passing between interconnected companies shall be disregarded) shall, in relation to any payment passing between members of a group of companies, only apply if the Commissioners so direct; and any payment with respect to which no such direction is given, being a payment to which subsection (1) of the said section seventeen would apply but for the provisions of this paragraph, shall be included in the profits of the body corporate to which it is payable, notwithstanding that it has arisen from an investment, and the investment shall be taken into account accordingly in computing capital.
- (2) Subsection (1A) of the said section seventeen (which directs that certain debts not bearing interest which are due between interconnected companies shall be left out of account in computing capital) shall, if the bodies corporate concerned are members of a group of companies, apply in computing the capital of either of those bodies corporate only in relation to such debts, if any, as may be specified in a direction of the Commissioners.
- (3) Where, in the case of any debt to which subsection (1) or subsection (1A) of the said section seventeen would otherwise apply, no direction under this paragraph is given by the Commissioners, the debt shall not be treated, for the purposes of the borrowed money rules, or, as the case may be, of the second of the borrowed money rules, as borrowed money the principal of which is liable to be reduced by the value of any investments.

In this sub-paragraph, the expression " the borrowed money rules " means sub-paragraph (3) of paragraph 6 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and paragraph 3 of Part II of that Schedule, and the expression " the second of the borrowed money rules " means the said paragraph 3.

- (4) Dividends received by a member of a group of companies from holdings of share capital of other members of the group shall, in all cases, be left out of account in computing profits, and holdings of such capital shall, in all cases, be left out of account in computing capital, but no reduction shall, in any case, be treated as made in the principal of any borrowed money by virtue of any such holding, either in computing profits or in computing capital.
- 2 (1) In this paragraph, the expression " the borrowed money rules " means sub-paragraph (3) of paragraph 6 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and paragraph 3 of Part II of the said Schedule, and for the purposes of this paragraph a member of a group of companies shall be deemed to have an excess of excluded investments or an excess of borrowed money if and to the extent that the value of any investments which it has, being investments the income from which is not to be taken into account in computing the profits of its trade or business, exceeds or falls short of the principal of its borrowed money.

In this sub-paragraph, references to income from investments do not include, in relation to any member, income to which that member is not beneficially entitled.

- (2) If any members of a group of companies have at any time an excess of excluded investments and at the same time any other member of that group has an excess of borrowed money, the borrowed money rules shall, in relation to that other member, have effect as if the reduction in the principal of the borrowed money of that member required by those rules were increased by the amount of the aggregate of the said excess of excluded investments :
- Provided that—
- (a) if there is more than one member with an excess of borrowed money, the said aggregate excess of excluded investments shall be applied first in relation to one of those members, and if and to the extent that it is greater than the excess of borrowed money of that member, then in relation to another of those members, and so on; and
- (b) the order in which those members are to be selected shall be, first, the principal company (if it is one of those members) but, subject to the principal company being the first of the members as aforesaid, shall be such as the principal company may require, or as the Commissioners may, in the absence of such a requirement, direct.
- 3 (1) This paragraph applies to a subsidiary member of a group of companies which neither is resident in the United Kingdom, nor carries on any trade or business therein, and in this paragraph, the expression " the subsidiary member " shall be construed accordingly.
- (2) Where part of the share capital of the subsidiary member (not being ordinary share capital) is owned neither directly nor indirectly by the principal company, then—
- (a) in computing the capital of the subsidiary member, a deduction shall be made equal to the paid-up amount of that part of its share capital; and

- (b) in computing the profits of the subsidiary member, a deduction shall be made equal to interest on the said amount at the fixed rate per annum payable in the case of dividends on that part of that share capital.
 - (3) Where in any chargeable accounting period any part of the ordinary share capital of the subsidiary member is owned neither directly nor indirectly by the principal company, any excess profits or deficiency of profits occurring in the trade or business of the subsidiary member for that period shall be reduced by an amount bearing to the full amount thereof the same proportion that the paid-up amount of that part of the subsidiary member's ordinary share capital bears to the whole paid-up amount of its ordinary share capital.
 - (4) The provisions of Part I of the Fourth Schedule to the Finance Act, 1938, shall apply for determining, for the purposes of this paragraph, how much of any share capital of a subsidiary member is owned directly or indirectly by the principal company, and shall so apply in relation to share capital of the subsidiary member which is not ordinary share capital as if it were ordinary share capital.
- 4 (1) In this paragraph—
- (a) the expression " period of charge " means, in relation to the trade or business of a body corporate, a chargeable accounting period the excess or deficiency of profits for which is to be ascertained for the purposes of excess profits tax;
 - (b) the expression " period of computation " means, in relation to a period of charge, any period the profits or the capital of which are relevant for the purposes of ascertaining the excess or deficiency of profits for that period of charge.
- (2) The foregoing provisions of this Part of this Schedule shall have effect for the purposes of computing the excess or deficiency of profits of the trade or business of any body corporate in any period of charge if and only if in that period the body corporate was a member of a group of companies, but shall, for that purpose, apply to the computation of profits and capital during all periods of computation, notwithstanding that that body corporate was not a member of the group in or throughout any of those periods.
- (3) References in the said provisions to a group of companies, or to a member, a subsidiary member, or the principal company, of a group of companies, shall be construed by reference to the facts of the period of computation, or, where there is more than one such period, to the facts of each of those periods respectively.
- 5 If at any time after the thirty-first day of March, nineteen hundred and thirty-nine, a body corporate is a member of a group of companies, there shall be made such alteration, if any, of the periods which would otherwise be chargeable accounting periods thereof (whether for the purposes of excess profits tax or those of the national defence contribution) as the Commissioners may direct.
- 6 (1) Subject to the provisions of sub-paragraph (2) of this paragraph, if a body corporate becomes or ceases to be a subsidiary member of a particular group of companies—
- (a) no relief shall be given in respect of deficiencies of profits occurring before that event by any reduction of any profits arising after that event; and
 - (b) no relief shall be given in respect of deficiencies of profits occurring after that event by any reduction of any profits arising before that event.
- (2) If it is established in the case of a body corporate that it has a deficiency of profits for any chargeable accounting period during which it was a member of a group of

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companies, the principal company of the group may require that the deficiency, so far as it is not absorbed in reducing the aggregate amount of the profits chargeable to excess profits tax of that member for previous chargeable accounting periods, shall be applied in whole or in part in reducing any other profits on which the principal company is assessable to excess profits tax, and relief from excess profits tax shall be given accordingly; and to the extent that any deficiency is so applied, it shall not be available for reducing any profits chargeable to excess profits tax of the said member for any

The reference in this sub-paragraph to profits on which the principal company is assessable includes profits on which it is assessable for any chargeable accounting period, whether or not in that chargeable accounting period the principal company is the principal company of the group.

- (3) So much of any provision of Part III of this Act as prevents a deficiency of profits being taken into account in so far as it occurs while the trade or business was being carried on neither in the United Kingdom nor by a person ordinarily resident in the United Kingdom shall not apply if the trade or business was being carried on by a body corporate which was then a member of a group of companies.
- (4) For the purposes of this paragraph a group of companies shall be deemed to be the same group notwithstanding any changes in the members thereof so long as, and only so long as, the same body corporate remains the principal company of the group.
- 7 (1) Neither section nineteen of the Finance (No. 2) Act, 1939 (which contains provisions as to the relation of excess profits tax and the national defence contribution) nor the Sixth Schedule to this Act shall apply in the case of any body corporate as respects any period during which it is a member of a group of companies, and the national defence contribution shall be charged in respect of any profits of the trade or business of the body corporate arising during that period as if there were no excess profits tax.
- (2) The Commissioners shall from time to time make—
- (a) such reductions, if any, of excess profits tax chargeable in respect of the trades or businesses of the members of a group of companies; and
 - (b) such repayments, if any, of the excess profits tax paid in respect of those trades or businesses,

as appear to the Commissioners to be such as will secure that over the whole period during which both excess profits tax and the national defence contribution are in operation the total sum payable by way of excess profits tax in respect of the trades or businesses of all the members of the group does not exceed the excess, if any, of—

- (i) the total amount of excess profits tax which would be chargeable in respect of those trades or businesses over that period if the national defence contribution were disregarded except in computing capital,

over—

- (ii) the total amount of the national defence contribution chargeable in respect of those trades or businesses over the said period.

In this sub-paragraph, the references to amounts payable in respect of the trades or businesses of members of a group of companies shall be construed as references to the sums payable in respect of the trades or businesses of all bodies corporate who were members of the group at any time during the period or part of the period in question, being sums payable in respect of profits arising while they were members of that group, and for the purposes of this sub-paragraph a group of companies shall be deemed to be the same group notwithstanding any changes in the members thereof so

long as, and only so long as, the same body corporate remains the principal company of the group.

- 8 (1) For each subsidiary member of a group of companies, there shall, in the case of each chargeable accounting period, be computed the total excess profits tax which would have been chargeable for that period and for any previous chargeable accounting periods during which it was a member of the group if—
- (a) all deficiencies of profits occurring in its own trade or business in those periods, and no deficiencies occurring otherwise, had been applied in reducing its profits chargeable with excess profits tax; and
 - (b) any credit to be given under the last preceding paragraph in respect of the payment of the national defence contribution had been given in respect of all the national defence contribution chargeable for those periods in respect of its own trade or business, and no credit had been given for any national defence contribution chargeable otherwise.
- (2) The principal company may demand that the subsidiary member shall pay to it the whole or any part—
- (a) in the case of the first chargeable accounting period in which the subsidiary member is a member of the group, of the amount calculated for that period under sub-paragraph (1) of this paragraph;
 - (b) in the case of any subsequent accounting period, of the excess, if any, of the amount so computed for that period over the amount computed for the last preceding chargeable accounting period in which it was a member of the group;

and the subsidiary member shall comply with the demand :

Provided that if any excess profits tax charged on the principal company in respect of the trade or business of the subsidiary member has not been paid, that member may, to the extent that the tax remains unpaid, make payment in respect of the sum demanded to the Commissioners instead of to the principal company.

- (3) If, in the case of any chargeable accounting period, the total amount of excess profits tax computed therefor falls short of the amount computed for the last preceding chargeable accounting period in which the subsidiary member was a member of the group, the amount of the difference shall, in so far as it exceeds any amount which could have been, but was not, demanded by the principal company under the last preceding sub-paragraph from that member, be paid by the principal company to that member.
- (4) For the purposes of this paragraph a group of companies shall be deemed to be the same group notwithstanding any changes in the members thereof so long as, and only so long as, the same body corporate remains the principal company of the group.
- 9 (1) Section eighteen of the Finance (No. 2) Act, 1939, (which contains provisions as to the relation of excess profits tax to income tax) shall, in relation to the trade or business of any member of a group of companies, have effect subject to the provisions of this paragraph.
- (2) The excess profits tax payable in respect of the trade or business of a subsidiary member for any chargeable accounting period shall, in lieu of being deducted as an expense in computing the profits and gains arising from that trade or business, be deducted in computing the profits and gains arising from the trade or business of the principal company as an expense incurred on the last day of the said chargeable accounting period.

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- (3) The proviso to subsection (1) of the said section eighteen shall not have effect, but where relief from excess profits tax in respect of the trade or business of any member of a group of companies for any chargeable accounting period is given as the result of any deficiency of profits or any liability to the national defence contribution of any member of the group occurring in any chargeable accounting period—
- (a) the amount of the deduction provided for by subsection (1) of the said section eighteen or by the last preceding sub-paragraph shall not be altered; but
 - (b) the amount of the relief shall be taken into account in computing for the purposes of income tax the profits and gains arising from the trade or business of the principal company as if it were a profit of that trade or business arising—
 - (i) on the last day of the chargeable accounting period from excess profits tax for which relief is given, or
 - (ii) on the last day of the chargeable accounting period in which the deficiency of profits occurred or for which the liability to the national defence contribution arose,
 whichever day is the later.
- (4) Where in the case of any chargeable accounting period of a subsidiary member an amount falls to be paid by the subsidiary member to the principal company or the Commissioners under sub-paragraph (2) of the last preceding paragraph, that amount—
- (a) shall be deducted in computing for the purposes of income tax the profits and gains arising from the trade or business of the subsidiary member as an expense incurred in that chargeable accounting period; and
 - (b) shall be taken into account in computing for those purposes the profits and gains arising from the trade or business of the principal company as if it were a profit of that trade or business arising on the last day of the said chargeable accounting period.
- (5) Where, in the case of a chargeable accounting period of a subsidiary member, an amount falls to be paid by the principal company to the subsidiary member under sub-paragraph (3) of the last preceding paragraph, that amount—
- (a) shall be deducted in computing for the purposes of income tax the profits and gains arising from the trade or business of the principal company as an expense incurred on the last day of the said chargeable accounting period; and
 - (b) shall be taken into account in computing for the said purposes the profits and gains arising from the trade or business of the subsidiary member as if it were a profit of the trade or business arising in the said chargeable accounting period.
- (6) If—
- (a) in any such case as is mentioned in sub-paragraph (3) or paragraph (b) of sub-paragraph (4) of this paragraph, the trade or business of the principal company; or
 - (b) in any such case as is mentioned in paragraph (b) of sub-paragraph (5) of this paragraph, the trade or business of the subsidiary member,
- is a business of life assurance or a business consisting wholly or mainly in the holding of investments or other property, the amount which would under those provisions respectively be taken into account in computing for the purposes of income tax the

profits and gains arising from the trade or business of the principal company or, as the case may be, the subsidiary member, shall be assessable to income tax under Case VI of Schedule D.

- (7) The provisions of this paragraph shall, in relation to any body corporate, have effect with respect to any year of assessment income tax for which is, in the case of that body corporate, affected by the profits or gains of any period any part of which falls within any chargeable accounting period to which the provision in question relates.
- 10 (1) In the case of a member of a group of companies the following provisions of this paragraph shall have effect, for the purposes of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939 (which contains provisions for computing capital for the purposes of excess profits tax),—
- (a) in lieu of the provisions of the proviso to sub-paragraph (1) of paragraph 2 of the said Part II, in so far as those provisions relate to debts for excess profits tax; and
 - (b) also in lieu of the provisions of sub-paragraph (2) of the said paragraph 2.
- (2) A debt for excess profits tax payable in respect of the trade or business of any member of a group of companies shall be deemed for the purposes of paragraph 2 of the said Part II—
- (a) to be a debt of the principal company and not of any other company; and
 - (b) to have become due on the first day after the end of the chargeable accounting period in respect of which the tax is assessable, notwithstanding that the tax may not have been assessed until after the said day.
- (3) Where any debt for excess profits tax for any chargeable accounting period in respect of the trade or business of a member of a group of companies is to be deducted under paragraph 2 of the said Part II, the amount thereof shall not be reduced by reason of any relief given as the result of any deficiency of profits or any liability to the national defence contribution of any member of the group occurring in any chargeable accounting period, but the amount of the relief shall be treated as having become an asset of the trade or business of the principal company on—
- (a) the first day after the end of the chargeable accounting period from excess profits tax for which relief is given; or
 - (b) the first day after the end of the chargeable accounting period in which the deficiency of profits occurred or for which the liability to the national defence contribution arose,
- whichever day is the later.
- (4) If, in relation to any chargeable accounting period of a subsidiary member, an amount becomes payable under sub-paragraph (2) or sub-paragraph (3) of the last but one preceding paragraph from the subsidiary member or the principal company, that amount shall, for the purpose of computing the capital of the principal company and the subsidiary member, be deemed—
- (a) to be a debt which became due from the subsidiary member or the principal company, as the case may be, on the first day after the end of that chargeable accounting period; and
 - (b) to have become an asset of the principal company or the subsidiary member, as the case may be, on that day.
- 11 Any appeal from any assessment to, or determination with respect to, excess profits tax in respect of the trade or business of a body corporate for any chargeable accounting period during which it is a member of a group of companies,

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which would, but for the provisions of this paragraph, have lain either to the General Commissioners or the Special Commissioners shall lie to the Special Commissioners only, and accordingly, in relation to any such assessment or determination, Part II of the Fifth Schedule to the Finance Act, 1937, as applied for the purposes of excess profits tax, shall have effect as if the references to the General Commissioners were omitted therefrom.

- 12 Any dispute arising between any bodies corporate with respect to the proper allocation, as between those bodies, of the burden of any excess profits tax, or the benefit of any repayment of, or relief from, excess profits tax, shall, if the tax was assessed for a chargeable accounting period when those bodies were members of a group of companies, or the repayment or relief was made or allowed against tax assessed for, or by reason of a deficiency of profits in, such a chargeable accounting period, be decided—

- (a) if all the bodies corporate concerned so require, by the Commissioners; and
- (b) in any other case, by the Special Commissioners,

and any decision of the Commissioners or the Special Commissioners under this paragraph shall be final.

- 13 (1) In this Schedule, the expression " new subsidiary," in relation to any chargeable accounting period of a body corporate which in that period is a member of a group of companies to which this sub-paragraph applies, means a body corporate which was a subsidiary member of the group in that period but which was at no time during the standard period of the group a member of that or of any other group of companies :

Provided that any other body corporate which is a subsidiary member of the group in the said chargeable accounting period but, in the standard period of the group, was a member of some other group shall, in relation to the said chargeable accounting period, be deemed to be a new subsidiary if the Commissioners are satisfied that there is no substantial degree of connection or continuity between the two groups.

The groups of companies to which this sub-paragraph applies are all groups of companies the trades or businesses of any of the members of which were being carried on on the first day of July, nineteen hundred and thirty-six.

- (2) It is hereby declared that the provisions of section sixteen of the Finance (No. 2) Act, 1939 (which relates to successions and amalgamations) which are expressed to have effect for the purposes of the provisions of that Act, or of Part III of that Act, relating to the computation of standard profits have effect also for the purposes of Parts II and III of this Schedule.

SIXTH SCHEDULE

Section 39.

ADDITIONAL PROVISIONS AS TO ASSESSMENT AND COLLECTION OF EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

- 1 On an appeal against an assessment to excess profits tax for any period, the amount of the assessment shall not, except with the concurrence of the Commissioners, be reduced below the excess of—

- (a) the amount of the national defence contribution which would have been assessable for that period if no excess profits tax had been assessable therefor;

- over—
- (b) the amount of any subsisting assessment to the national defence contribution for that period.
- 2 Where an appeal is pending against an assessment to excess profits tax for any period, the Commissioners may treat as not being in dispute at least so much of the amount of the assessment as is equal to the excess of—
- (a) the amount of the national defence contribution which, if no excess profits tax were assessable for that period, would, in the opinion of the Commissioners, be payable therefor and would not be in dispute;
- over—
- (b) the amount of any subsisting assessment to the national defence contribution for that period.
- 3 The provisions of paragraphs 1 and 2 of this Schedule shall apply in relation to appeals against assessments to the national defence contribution as they apply in relation to appeals against assessments to excess profits tax, with the substitution—
- (a) for the references to excess profits tax, of references to the national defence contribution; and
- (b) for the references to the national defence contribution, of references to excess profits tax.
- 4 Where, for any period, excess profits tax would be assessable if there were no national defence contribution assessable and the national defence contribution would be assessable if there were no excess profits tax assessable, the Commissioners may, notwithstanding anything in section nineteen' of the Finance (No. 2) Act, 1939, make an assessment either to excess profits tax or to the national defence contribution, or assessments both to excess profits tax and to the national defence contribution; and where the Commissioners make an assessment by virtue of this paragraph, they may, if they think fit, discharge the whole or any part of any assessment already made for that period (whether or not confirmed on appeal) and, to the extent that any tax so discharged has already been paid, shall treat the amount of that tax as paid on the new assessment:
- Provided that nothing in this paragraph shall authorise the making of any assessment to excess profits tax or to the national defence contribution so that the amount thereof, together with the amount of any subsisting assessment for the period (whether to excess profits tax or the national defence contribution) exceeds—
- (i) the amount of excess profits tax which would be assessable for that period if no national defence contribution were assessable therefor; or
- (ii) the amount of the national defence contribution which would be assessable for that period, if no excess profits tax were assessable therefor,
- whichever is the higher.
- 5 Any payment made under an assessment to excess profits tax or the national defence contribution for any period shall be treated for all purposes as a payment on account of the total tax or contribution ultimately found to be assessable for that period.
- 6 In this Schedule the expression " subsisting assessment " means an assessment which has been made and not discharged, and the expression " the amount of any subsisting assessment " means, in relation to any subsisting assessment which has been reduced, the amount of that assessment as reduced.

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7 Where the chargeable accounting periods for the purposes of excess profits tax do not coincide with those for the purposes of the national defence contribution, the foregoing provisions of this Schedule shall have effect subject to the following adaptations—

- (a) references to the amount which would have been assessable, the amount of any subsisting assessment or the amount which would be payable, for any period, shall be construed as references to an amount ascertained by apportioning and aggregating the amounts assessable, assessed, or payable, as the case may be, for all periods falling wholly or partly within that period;
- (b) in applying the provisions of paragraphs 1 and 2 of this Schedule to the case of an assessment to excess profits tax for a period part of which falls before, and part of which falls after, the end of March, nineteen hundred and forty-two, there shall be deemed to be added to the amount of the national defence contribution which would have been assessable or payable, as the case may be, for the part of the period before the said end of March an amount equal to so much of the excess profits tax for the whole period as is apportionable to the part thereof falling after the said end of March;
- (c) in applying the provisions of paragraphs 1 to 3 of this Schedule to the case of an assessment to the national defence contribution for any period falling partly before and partly after the end of March, nineteen hundred and thirty-nine, there shall be added to the amount of excess profits tax which would have been assessable or payable, as the case may be, for the part of the period after the said end of March an amount equal to so much of the national defence contribution for the whole period as is apportionable to the part thereof falling before the said end of March.

8 Any apportionment required to be made by the last preceding paragraph shall be made by reference to the number of months or fractions of months in the period to which the apportionment relates :

Provided that, in the case of the national defence contribution, where—

- (a) part of the period falls before and part falls after the end of March, nineteen hundred and thirty-nine; and
- (b) the amount of the national defence contribution for the period, computed as if there were no excess profits tax, is increased or reduced by the operation of any of the provisions of this Act,

the amount of the increase or reduction shall not be so apportioned but there shall be attributed to the part of the said period falling after the said end of March the amount which would have been attributable thereto if the increase or reduction had not occurred, together with the whole amount of the increase or reduction.

SEVENTH SCHEDULE

Sections 46 & 47.

PROVISIONS SUPPLEMENTARY TO SECTION FORTY-SIX
AND SUCCEEDING PROVISIONS OF PART IV.*Amounts to be taken into account in respect of benefits,
and time when benefits are to be treated as accruing.*

- 1 (1) The provisions of this paragraph shall have effect for the purpose of determining the amounts to be taken into account, for the purposes of subsection (2) of section forty-six of this Act, as the amounts of benefits accruing to the deceased from the company.
- (2) No amount shall be taken into account more than once.
- (3) Where an amount is taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, due regard shall be had to the effect that his receiving the benefit, or the power's being exercised, would have had in relation to other benefits.
- (4) The amounts that are to be taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, shall be such as would have fallen to be taken into account as benefits received by the deceased if he had acted in relation to the claiming of benefits and the exercise of powers during the three years ending with his death to his greatest financial advantage, due regard being had to any consideration which he would have had to give in respect of a claim to any benefit or the exercise of any power.
- (5) In making for the purposes of the last preceding sub-paragraph a computation of any diminution of income which the deceased would have sustained by giving any such consideration as is therein mentioned, or of any increase of income which the company would have obtained from any such consideration to be given to the company, it shall be assumed that the consideration would have yielded income equal to interest at the average rate on the amount or value thereof.
- (6) The amounts to be taken into account shall include any income tax which the deceased paid or bore in respect of the benefits in question.
- (7) The amount to be taken into account in respect of a benefit consisting of any enjoyment in specie of land or other property of the company or of a right thereover shall be the value of the enjoyment thereof for the period during which the benefit subsisted, and that value shall be calculated in the case of land by reference to the annual value of the land as ascertained for the purposes of income tax chargeable under Schedule A.
- 2 (1) The provisions of this paragraph shall have effect for the purpose of determining—
- (a) whether a benefit accruing to the deceased from the company is to be treated as having accrued to him during the three years ending with his death, or during a particular accounting year, or at any other relevant time; and
 - (b) the period during which a benefit consisting of any enjoyment in specie of land or other property of the company or of a right thereover is to be treated as having subsisted.

- (2) A benefit consisting of income of the company or a periodical payment which the deceased received, or became entitled to (but did not in fact) receive, shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof.
- (3) A benefit consisting of income of the company or a periodical payment which the deceased could have become entitled to receive by an exercise in the three years ending with his death of a power which was not in fact exercised or was surrendered shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof if he had acted as mentioned in sub-paragraph (4) of paragraph 1 of this Schedule.
- (4) A benefit consisting of interest on such a payment other than a periodical payment as is mentioned in subsection (1) of section forty-seven of this Act which the deceased could have become entitled to receive shall be treated as having accrued to him in any accounting year to the extent to which the period during which the interest is to be treated as accruing fell within that year.
- (5) A benefit consisting of any such enjoyment in specie as aforesaid shall be treated as having accrued to the deceased in the said three years if any part of the period during which it subsisted fell within those years, and shall be treated as having accrued to him in any accounting year to the extent to which the period during which it subsisted fell within that year.
- (6) A benefit consisting of any such enjoyment in specie as aforesaid shall be treated as having subsisted during the following period, that is to say—
 - (a) in the case of enjoyment that the deceased had, during the period for which he had it;
 - (b) in the case of enjoyment which he became entitled to (but did not in fact) have, during the period for which he could have had it;
 - (c) in the case of enjoyment which he could have become entitled to have by an exercise in the three years ending with his death of a power which was not in fact exercised or was surrendered, during the period for which he could have had it if he had acted as mentioned in sub-paragraph (4) of paragraph 1 of this Schedule.

Adjustments as to Distributed Assets and Additions to Assets.

- 3 (1) Where the assets of the company passing on the death of the deceased by virtue of section forty-six of this Act include any distributed assets, or by reason of the company's having been wound up or dissolved before the death consist of distributed assets, the following provisions of this paragraph shall have effect.
 - (2) The net income of the company shall be determined as if the income of the company had included, or the company had had income equal to, interest on a sum equal to the value of each distribution at the average rate from the date thereof.
 - (3) If on any distribution the deceased received beneficially an interest in any of the distributed assets, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of the company under the last preceding sub-paragraph by reference to the value of the distribution of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or, where the interest in those assets which the deceased received was less than an absolute interest, had been such income to an

extent corresponding to the proportion which the value of the interest in those assets received by him bore to the value of those assets.

- (4) Where sub-paragraph (3) of this paragraph has effect—
- (a) the value on which, apart from this provision, estate duty would be payable on the death of the deceased by virtue of section forty-six of this Act shall be reduced by an amount equal to the value of the distribution of the assets in question, or, where the interest in those assets which the deceased received was less than an absolute interest, by an amount equal to the proportion aforesaid of that value; and
 - (b) any amount which is treated as a benefit accruing to the deceased from the company by virtue of that sub-paragraph shall be treated for the purposes of subsection (1) of section fifty-one of this Act as a benefit received by him.
- 4 (1) Where the principal value of the assets of the company passing on the death of the deceased by virtue of section forty-six of this Act is increased by reason of an addition's having been made to the assets of the company, otherwise than by way of receipts representing income in respect of which the company was liable to pay or bear income tax, between the beginning of the first of the relevant accounting years and the death of the deceased, either—
- (a) in consideration of an issue of shares in or debentures of the company, or
 - (b) otherwise howsoever, except by way of purchase for full consideration in money or money's worth given by the company,
- the following provisions of this paragraph shall have effect in relation to the added assets.
- (2) The net income of the company shall be determined as if the income of the company had included interest on a sum equal to the value of the addition at the average rate from the beginning of the first of the relevant accounting years to the date of the addition.
- (3) If a transfer of any of the added assets or of any interest in any of them was made to the company by the deceased, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of the company under the last preceding sub-paragraph by reference to the value of the addition of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or had been such income to an extent corresponding to the proportion which the value of the interest transferred bore to the value of those assets, as the case may be.
- (4) Where sub-paragraph (3) of this paragraph has effect, if the deceased received as consideration for the addition of the assets in question an interest in any shares in or debentures of the company in respect of which estate duty would be payable on his death apart from anything in subsection (2) of section fifty-one of this Act, any amount which is treated as a benefit accruing to him from the company by virtue of that sub-paragraph shall be treated for the purposes of the said subsection (2) as a benefit accruing to him by virtue of his interest in those shares or debentures.
- (5) In this paragraph the expression " value of the addition " means, in relation to any added assets, the value thereof or, if partial consideration (other than an issue of, or an alteration of rights attaching to, shares in or debentures of the company) was given therefor in money or money's worth out of the resources or at the expense of the company, the value thereof less the value of the consideration given.

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

Prevention of duplication of charge in respect of benefits and charge in respect of shares.

- 5 For the purposes of subsection (2) of section fifty-one of this Act, where the benefits that accrued to the deceased from the company in the relevant accounting years included benefits that accrued to him otherwise than as mentioned in that subsection, but the deceased had at any time an interest in, or a power was at any time exercisable in relation to, shares in or debentures of the company in respect of which estate duty would be payable on his death apart from anything in that subsection, and by virtue of that interest or power benefits accrued to the deceased from the company in those years, or would so have accrued to him if any payments had been made by virtue of rights attached to those shares or debentures, then—
- (a) if the first-mentioned benefits consisted to any extent of payments made out of moneys which, if not so applied, could have been applied in increasing the last-mentioned benefits, or as payments which would have constituted such benefits; or
 - (b) if the first-mentioned benefits are brought into the computation made under subsection (2) of section forty-six of this Act to the exclusion to any extent of the last-mentioned benefits ;
- the first-mentioned benefits shall to that extent be treated as if they had accrued to the deceased by virtue of his interest in, or of the power exercisable in relation to, the said shares or debentures.

" Accounting year. "

- 6 (1) The expression " accounting year " means if the company has, before the death of the deceased, made up accounts for a period of twelve months ending in the last year of his life, that period and each previous period of twelve months ending on the date corresponding to that to which the accounts were made up, or, if not, a period of twelve months ending on such date in the last year of his life as the Commissioners may determine and each previous period of twelve months ending on the date corresponding to the date determined.
- (2) The expression " relevant accounting years " means the accounting years by reference to which the extent of the passing of the assets of the company is to be determined under section forty-six of this Act.
- (3) Where an accounting year does not coincide with a period for which accounts of the company were made up, the Commissioners may, for the purpose of determining the income or net income of the company for that accounting year, divide any such period and make such apportionments and aggregations of the income of the company as may be necessary, so, however, that any apportionments so made shall be made in proportion to the number of months or fractions of months in the respective periods for which the apportionment is made.

EIGHTH SCHEDULE

Section 65.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
63 & 64 Vict. c. 7.	The Finance Act, 1900.	Section eleven (except as regards persons dying before

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

Session and Chapter.	Short Title.	Extent of Repeal.
10 Edw. 7. & 1 Geo. 5. c. 8.	The Finance (1909-10) Act, 1910.	the commencement of this Act). In section fifty-nine, in subsection (1), the words " or a " surrender, assurance, divesting, or disposition must have been made or effected " the words " or affected by the surrender, assurance, divesting, or disposition ", the words " and section eleven of the " Finance Act, 1900 ", and in the proviso the words " surrender, assurance, divesting " or disposition" and the words " or effected " (except as regards persons dying before the commencement of this Act).
17 & 18 Geo.5. c 10.	The Finance Act, 1927.	Subsections (2) and (3) of section eight and Part II of the Third Schedule.
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	Sections thirty-four to thirty-nine (except as regards persons dying before the commencement of this Act).
23 & 24 Geo.5. c. 19.	The Finance Act, 1933.	Section four, subsections (1) and (2) of section five and the Third Schedule.
1 & 2 Geo. 6. c. 46.	The Finance Act, 1938.	Section forty-nine (except as regards persons dying before the commencement of this Act).
2 & 3 Geo. 6. c. 109.	The Finance (No. 2) Act, 1939.	Subsections (1) and (2) of section five and Parts I and II of the Fourth Schedule.